RICHLAND COUNTY

DEVELOPMENT & SERVICES COMMITTEE AGENDA

Tuesday, SEPTEMBER 28, 2021

5:00 PM

COUNCIL CHAMBERS

The Honorable Allison Terracio, Chair	**County Council District 5**
The Honorable Derrek Pugh	**County Council District 2**
The Honorable Gretchen Barron	**County Council District 7**
The Honorable Cheryl English	**County Council District 10**
The Honorable Chakisse Newton	**County Council District 11**

RICHLAND COUNTY COUNCIL 2021

Bill Malinowski
District 1
2018-2022

Derrek Pugh
District 2
2020-2024

Yvonne McBride
District 3
2020-2024

Paul Livingston
District 4
2018-2022

Allison Terracio
District 5
2018-2022

Joe Walker III
District 6
2018-2022

Gretchen Barron
District 7
2020-2024

Overture Walker
District 8
2020-2024

Jesica Mackey
District 9
2020-2024

Cheryl English
District 10
2020-2024

Chakisse Newton
District 11
2018-2022

Richland County Development & Services Committee

September 28, 2021 - 5:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29201

1. CALL TO ORDER — The Honorable Allison Terracio

2. APPROVAL OF MINUTES — The Honorable Allison Terracio

a. Regular Session: July 27, 2021 **[PAGES 7-9]**

3. ADOPTION OF AGENDA — The Honorable Allison Terracio

4. ITEMS FOR ACTION — The Honorable Allison Terracio

a. Move to direct staff to evaluate current zoning laws that permit zoning designations for large residential developments to remain in perpetuity and present options to re-evaluate and/or rezone those properties if they are not developed within 7 years. Recommendations should include processes to ensure that zoning and the comprehensive plan remain consistent with the lived character of the community **[PAGES 10-442]**

b. Division of Solid Waste & Recycling - RC Code of Ordinances, Chapter 12 Re-Write **[PAGES 443-489]**

c. Division of Solid Waste & Recycling - Solid Waste Management Plan **[PAGES 490-583]**

5. ITEMS PENDING ANALYSIS: NO ACTION REQUIRED — The Honorable Allison Terracio

a. I move to direct the County Attorney to work with the County Administrator to research and draft an absentee landlord ordinance. The ordinance should provide potential remedies for individuals who violate county ordinances and provide, via supplemental documentation, a comprehensive

review of the legal impacts [potentially] associated with the adoption of such an ordinance.
[NEWTON and DICKERSON] **[PAGES 584-585]**

**This item is pending a written update from the staff working group. The working group met with Councilmember Newton on Tuesday, August 10, 2021.

6. 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
Development & Service
July 27, 2021 –5:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29201

COMMITTEE MEMBERS PRESENT: Allison Terracio, Chair, Derrek Pugh, Cheryl English and Chakisse Newton

OTHERS PRESENT: Paul Livingston, Yvonne McBride, Bill Malinowski, Jesica Mackey, Michelle Onley, Angela Weathersby, Tamar Black, Leonard Brown, Elizabeth McLean, Sandra Haynes, Stacey Hamm, Dwight Hanna, Mike Zaprzalka, Zachary Cavanaugh, Mike Maloney, Lori Thomas, Geo Price, Chris Eversmann, Ashiya Myers, Randy Pruitt, Dale Welch, Kyle Holsclaw, Dante Roberts, Ronaldo Myers and John Thompson

1. **CALL TO ORDER** – Ms. Terracio called the meeting to order at approximately 5:03PM.

2. **APPROVAL OF MINUTES**

   a. Regular Session: June 22, 2021 – Mr. Pugh moved, seconded by Ms. Newton, to approve the minutes as distributed.

      In Favor: Pugh, Terracio, English, and Newton

      Not Present: Barron

      The vote in favor was unanimous.

3. **ADOPTION OF AGENDA** – Ms. English moved, seconded by Ms. Newton, to adopt the agenda as published.

   In Favor : Pugh, Terracio, English and Newton

   Not Present: Barron

   The voted in favor was unanimous.

   Ms. Newton inquired if there was an update on the work session referenced in the minutes.

   Mr. Brown responded he would follow-up with Ms. Watson to determine when the Recreation Commission would be available to meet with Council.

4. **ITEMS FOR ACTION**

a. **Adoption of the Jim Hamilton – LB Owens Airport Runway Extension Justification Study** – Ms. Newton requested a brief overview of the recommendation.

Mr. Eversmann responded this dates back to the airport's master plan from approximately 10 years ago. This is a first step in what would be a series of projects that would eventually expand the runway by about 780 feet. It will have an impact on the utility of the airport. He noted, if the expansion project is approved, 90% of the cost would be funded by the FAA, 5% by the State and 5% would be locally funded.

Mr. Malinowski inquired if there were any mishaps that could be attributed to marginal weather, and, if so, how many.

Mr. Eversmann responded, in his 11 years onsite, there was 1 incident. However, it was still under investigation by the NTSB, and the final cause has not been determined.

Mr. Malinowski inquired if Mr. Brown had any comments.

Mr. Brown responded the runway expansion has been on the County's plan for a while, and he did not see any issue with it. He noted, when they met with the FAA, the FAA thought it was a worthwhile project. He believes it would be a positive step.

Mr. Pugh moved, seconded by Ms. English, to forward to Council with a recommendation to adopt the Jim Hamilton-LB Owens Runway Extension Justification Study.

In Favor: Pugh, Terracio, English, and Newton

Not Present: Barron

The vote in favor was unanimous.

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

a. **I move to direct the County Attorney to work with the County Administrator to research and draft an absentee landlord ordinance. The ordinance should provide potential remedies for individuals who violate county ordinances and provide, via supplemental documentation, a comprehensive review of the legal impacts [potentially] associated with the adoption of such an ordinance. [NEWTON and DICKERSON]** – Ms. Terracio stated she would like to schedule a meeting. She has had some requests from constituents about this item.

Ms. Newton inquired, since the last meeting, if there were any changes or recommendations have been made to simply the remedy process.
if there were any changes or recommendation since the last meeting to achieve a simplification in achieving some remedies.

Mr. Zaprzalka responded the modified language was sent to Ms. Terracio and Ms. Newton, but staff would need the Committee's guidance on how to modify the intent of the ordinance.

Ms. Newton stated she would like for landlords/owners to have "skin" in the game when it comes to

enforcement. She noted that adding staff and vehicles was not what she originally thought would be needed. She stated staff should not respond until a complaint has been filed, and put the landlord/owner on notice about the violations.

Mr. Zaprzalka responded there are potentially over 20,000 rental proprieties in unincorporated Richland County. Any time there is a violation someone would have to make a visit. He noted, with the current system, they would log a complaint, the system would automatically send an email to the owners about the violations and there would be a record of it.

6. **ADJOURNMENT** – The meeting adjourned at approximately 5:29PM.

RICHLAND COUNTY ADMINISTRATION
2020 Hampton Street, Suite 4069
Columbia, SC 29204
803-576-2050

Agenda Briefing

Prepared by:	Planning & Development Services Staff	**Title**:	
Department:	Community Planning & Development	**Division:**	Planning & Development
Date Prepared:	September 14, 2021	**Meeting Date:**	September 28, 2021
Legal Review	Elizabeth McLean via email	**Date:**	September 21, 2021
Budget Review	James Hayes via email	**Date:**	September 17, 2021
Finance Review	Stacey Hamm via email	**Date:**	September 17, 2021
Approved for consideration:	Assistant County Administrator	Aric A Jensen, AICP	
Committee	Development & Services		
Subject:	Reverting Previously Approved Map Amendments after a Period of Non-Development		

STAFF'S RECOMMENDED ACTION:

Staff recommends taking no action in regards to the proposed motion and continuing with current initiatives and processes in conducting a continual planning program for the County.

Request for Council Reconsideration: ☐ Yes

FIDUCIARY:

Are funds allocated in the department's current fiscal year budget?	☐	Yes	☐	No
If no, is a budget amendment necessary?	☐	Yes	☐	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

There are no fiscal/budgetary implications related to this motion other than costs for posting of properties related to a map amendment.

COUNTY ATTORNEY'S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

This is a "working" copy. The County Attorney's office may have additional suggested changes as the readings move forward and will provided its comments under separate cover.

REGULATORY COMPLIANCE:

Enacting zoning or making amendments to zoning is a legislative function of County Council as part of its police power. As such, it cannot delegate its power to approve zoning changes to a board, commission, or as an administrative function. Similarly, zoning cannot be exercised arbitrarily. Section 26-52(b) (2) a of the Richland Code of Ordinances, Land Development Code (2005 version), specifies that County Council can initiate map amendments through the adoption of a motion, among other parties.

Zoning ordinances must follow the comprehensive plan for that jurisdiction as it is the primary tool for carrying out the land use element of the comprehensive plan. Per Section 26-4 of the Richland County Code of Ordinances, Land Development Code (2005 version), "Any amendments to or actions pursuant to this chapter shall be consistent with the comprehensive plan. The comprehensive plan may be amended and the Land Development Code for Richland County shall reflect and incorporate those amendments." Further, in Section 26-52(a) of the Code of Ordinances, Land Development Code (2005 version), it is noted amendments to the text or map of the zoning ordinance "shall be made in accordance with the county's comprehensive plan."

Per Section 6-29-510(E) of the SC Code of Laws, local governments must reevaluate comprehensive plan elements at least every five years; local governments must enact changes to, or update, the comprehensive plan at least every ten years. A comprehensive plan older than ten years may be subject to a legal challenge. This section falls under the function and purpose of the Planning Commission in having a continual planning program and process.

MOTION OF ORIGIN:

"Move to direct staff to evaluate current zoning laws that permit zoning designations for large residential developments to remain in perpetuity and present options to re-evaluate and or rezone those properties if they are not developed within 7 years. Recommendations should include processes to ensure that zoning and the comprehensive plan remain consistent with the lived character of the community."

Council Member	Chakisse Newton, District 11; Bill Malinowski, District 1; and Paul Livingston, District 4
Meeting	Special Called Meeting
Date	July 13, 2021

STRATEGIC & GENERATIVE DISCUSSION:

County Council currently has the authority and ability to do as suggested via the motion. Per Section 26-52, requests for map amendments, or rezonings as it is informally known, can be initiated via four ways: 1) Through an adopted motion by the Planning Commission; 2) Through an adopted motion by County Council; 3) Through the Planning Director or Administrator; or 4) by a property owner or their representative. Council can initiate a map amendment through their normal motion process. However, if the motion were to be adopted, it would then go through the standard map amendment procedure, i.e., including staff and Planning Commission review and recommendation and the required public postings and public hearing.

The zoning of a property stays in place until such time as it is changed. Per the code, and as a planning practice, a property should only be rezoned if it is consistent, or in compliance, with the policies set forth in the comprehensive plan. For map amendments, this primarily entails consistency with the Future Land Use Map [FLUM]. The FLUM is a direct translation of the vision and goals of the comprehensive plan into a graphic map for where and how growth and development should be occurring in order to support policies of the plan. It is the primary tool utilized in review of map amendments as requests are made. The FLUM proposes the way that an area should be growing and developing to match the vision as adopted in the plan: what the FLUM proposes may not necessarily match what an area currently is but what it should become over a ten- to twenty-year period. Ultimately, the FLUM is set up with regard to future needs and available capacity to support various needs, e.g., population and housing demand, as identified in the plan.

Per the SC Comprehensive Planning Act, the comprehensive plan and/or particular elements of it need to be reviewed periodically. As part of this review, revisions may be necessary or warranted. SC Code of Law §6-29-510(E) requires that the comprehensive plan be evaluated at least once every five years to determine whether any changes are needed; additionally, the comprehensive plan, including all elements as a whole, must be updated at least every ten years. Revisions may be recommended as necessary and warranted but are not required as part of the interim update between plans. The update process itself will inherently include changes and revisions. Similarly, as an outcome of new plan or changes to plan elements, amendments should also occur to other planning programs and tools associated with the comprehensive plan, i.e., the land development code.

The motion as stated is ultimately unnecessary and, if followed through upon as worded, problematic.

As stated above, a map amendment should only be approved where consistent with the comprehensive plan. For example, if an applicant were to request to rezone from RS-MD to NC and that request were to be approved, it should have been consistent or in compliance with the comprehensive plan. As such, that change in zoning from one district to another is in itself an appropriate zoning district for that location. Likewise, the date of when the approval was made or who the original applicant was does not matter and has no bearing for determining the appropriateness of an approval. Similarly, any request should automatically be taking into consideration the full gambit of potential uses that can be developed under that zoning versus what an applicant may claim is their intent. An applicant can express intent to establish a specific use or create a certain type of development, however, there is not guarantee that the use, development, product, etc., as proposed is what will or has to be developed. In regards to this,

any approval done by Council cannot be made contingent on that proposal or certain use being developed; this is known as contract zoning and is illegal. So, whether or not an applicant stated "this" was the plan or "that" is the use for the site, whatever is allowed is allowed and should otherwise be consistent with the comprehensive plan and FLUM for the area.

A problem with the motion arises with the follow through to rezone properties that received prior approval. Again, assuming that rezoning approvals were made where consistent with the comprehensive plan, then the zoning is appropriate as is. The zoning would be in character with the desired development and land use character for the future growth of that area, whether or not any use has been established on that property. Similarly, a connected problem exists with how, or which, properties are eyed to be rezoned. This has the potential to single out only certain properties versus looking at an area as a whole, again assuming an approval was made where consistent with the comprehensive plan. If the intent is to re-evaluate prior approvals for cases that were recommended for denial, where an approval would not have been consistent or in compliance with the comprehensive plan, then such would be an appropriate response; or the inverse.

For example, if "Land Developer and Home Builder, LLC" were to request to rezone one hundred acres in an area and would be consistent with the comprehensive plan, it should be approved. Similarly, if "Mindy Silverstone" made the same request, as long as it is consistent with the comprehensive plan it should be approved. In either example, the requests to rezone would be appropriate for the area per the comprehensive plan. Using the same examples, if an approval was thirty-five years ago, and still is consistent with the comprehensive plan, then it is appropriate whether or not development has taken place, who the original applicant was, or even who the current owner of a property is; zoning carries forward with the land through time in perpetuity. As long as it is consistent with the comprehensive plan it should not be reverted to the prior zoning due to the absence of establishing a use.

Another problem with the motion involves vested rights, and development rights more generally, and, would normally only apply where an attempt to establish a use is being pursued. In general, a vested right is a right or entitlement of a property owner to use property in a certain way or to undertake and complete the development of a property despite a zoning change that would otherwise prohibit such a use or development.

The LDC Rewrite, which is scheduled for first reading on September 28, is one of a few initiatives that will address some of the potential mismatches for how areas are zoned. The current draft of the proposed LDC includes similar language (see Sections 26-1.6, 21-1.10, 26-2.4(d) (2) c, and 26-2.5(b) of the draft) of the current LDC regarding compliance/consistency with the comprehensive plan and Council authority to initiate a map amendment. The proposed code does give slightly more liberal ability for providing approvals to map amendments than the standards within the current LDC. Specifically, these are found in Section 26-4.2(b)(4) of the draft code and allow other reasons, in addition to the comprehensive plan, for why or why not a map amendment should be approved.

In addition to the language change for map amendment decision standards, the LDC Rewrite will be looking at the remapping of the entire county. This will require that every property in the county receive a new zoning found within the regulations of the draft code. As noted during the Remapping work session and in discussion with Councilmembers individually, staff is utilizing an iterative process

following specific principles and technical rules. In general, the principles and the derivative rules seek to implement the comprehensive plan and zone properties as appropriate per the FLUM. This inherently, as a primary focus, seeks to establish consistency with where and how zoning districts are applied. Likewise, the principles also look at maintaining equivalent districts, as appropriate, at their present location where land use controls are suitable for current development. As such, the remapping process may provide for the reversal of some approved map amendments to a less intense or alternate district, though seldom likely cause a harsh change in intensities, e.g., current RS-HD to proposed RT, except for those that could be argued as spot zonings.

As noted previously, the comprehensive plan must undergo an update every ten years. PLAN Richland County was adopted in March of 2015. Staff began performing an evaluation of the comprehensive plan in the fall of 2019, but was interrupted due to the COVID-19 pandemic. The primary focus of the evaluation had been to analyze map amendments since the adoption of the 2015 plan. This has looked at how consistency has been applied through the approval or disapproval of rezonings. As an outcome of this, staff has determined that the FLUM needs to be revised to include greater prescription to the map than the blobby application it currently provides. This enhanced specificity will still allow for flexibility with the FLUM, while also giving it greater predictability for how that area should be growing regarding development. Similarly, an update to the plan in its entirety will be forthcoming in the next few years. With both the revision to the FLUM and the eventual full update, staff will be looking to implement "degree of change" as a planning tool when looking at the future growth for an area as part of the FLUM designations.

ADDITIONAL COMMENTS FOR CONSIDERATION:

Consistency is a term that staff often uses in its reports related to map amendments. It is a concept, and a specific doctrine in planning, ensuring land use decisions such as zoning decisions are congruous with the recommendations set forth in the comprehensive plan. Ultimately, consistency presents itself in the form of how the comprehensive plan is being implemented, especially in zoning. Zoning is the primary tool for implementing the vision of the comprehensive plan. Since it is the specific law for the type of development, how that development may be created and function, and, importantly, where development can occur, it plans a critical role in bringing the comprehensive plan to life. Consistency, in relation to rezoning cases, works by looking at the recommendations of the comprehensive plan and what the zoning can achieve. If the type of development that will be allowed matches the policy guidance set forth in the FLUM, such as desired development and/or land use and character, then that decision would be deemed consistent or in compliance. This makes the FLUM a key piece of policy that staff utilizes in making its recommendations and that Council should be relying upon for how it is making its decisions in regards to map amendments, among others.

As noted earlier, the County's FLUM could be strengthened; this is not to say the map is unfunctional or inappropriate or out of date. Simply, it is too far in one type than another. It is a demonstration of one style of FLUM, blobby, that provides greater flexibility with land use decisions. This has often been referred to as "the broad brush of the plan". Here, the FLUM seeks to allow for flexibility when needed versus being overly prescriptive in nature, the opposite spectrum to blobby. In any event, it still presents the vision for where and how an area should grow and develop over a long-term time horizon. As noted above, staff will be looking to make modifications to the FLUM to help provide an additional

layer of prescription to continue allowing for flexibility and adding greater predictability for the overall FLUM.

One potential element of this includes adding a "degree of change" framework. Degree of change is a planning tool that corresponds to the pace at which an area should grow according to the established vision and policy elements. This has been a relatively new feature in helping guide plan implementation related to land use and other policy investments related to comprehensive plans. This a key feature in the City of Memphis's award winning, "Memphis 3.0 Comprehensive Plan", as well as other recent award winning plans. Ultimately, this looks at the level, intensity, scale, etc., of how an area should be growing in order to meet the vision and recommendations of the plan. This is not a tool which will stop development, it simply helps provide clarity on how quickly (rate of change) it should be occurring. Usually, these are different indicators, all of which would allow for growth and development, e.g., nurture, evolve, and transform - low, medium, and high. As part of the revisions to the FLUM staff will be looking to include a similar framework for the County.

With the LDC Rewrite entering into the Remapping process over the coming months, it will allow Council the ability to potentially look at how areas should be mapped in conjunction to the pace of growth while still being consistent with the comprehensive plan. Likewise, the Remapping process, and the described outcome of the motion, would be beneficial in addressing an inconsistent approval that has occasionally occurred. Generally, this has been an approval where a small area is zoned out of context and is not in compliance with the FLUM. Often, this would be where a property is singled out for a zoning district that is not compatible with adjacent districts and would not provide larger benefit to the community as a whole but only the property owner directly. This is often done akin to spot zoning, but would otherwise meet all criteria for moving forward with a map amendment request. As such, where there have been approvals made to allow for zoning districts in areas that would not be consistent with the comprehensive plan, those areas should be looked at as to whether they need to be rezoned to be in compliance with the FLUM and growth in that location.

One additional item that needs consideration is any sharp reversal or cumulative diminishing of adopted land use policy, e.g., changing the FLUM designation of an area from Neighborhood Medium Density to Rural. While this could serve to achieve less development or limit growth in an area, it should be looked at with how the overall area is functioning and the ultimate needs of a County as whole. Essentially, it needs to be looked at how this will impact various components related to development, e.g., water, sewer, and roadways, among others, that may have been planned or programmed to take place. Likewise, it future population and housing demands need consideration and how that would be impacted by effectively shortening and limiting the absorption potential. Essentially, sharp reversals or cumulative diminishment need to be considered carefully for how those decisions may impact the system and plan as a whole.

ATTACHMENTS:

1. South Carolina Code of Laws, "South Carolina Comprehensive Planning Act", §6-29-310 et seq.
2. Richland County Land Development Code (2005), Chapter 26, Richland County Code of Ordinances [Abridged]
3. PLAN Richland County 2015 Comprehensive Plan
4. 2018 Comprehensive Planning Guide for Local Governments, Municipal Assocation of SC
5. Flummoxed by FLUMs, National Planning Conference 2018 Presentation

6. Reconsidering the Role of Consistency in PLan Implementation, Zoning Practice 2021-02
7. Guiding Plan Implemention with Degree of Change, American Planning Assoication Planning Advisory Service Memo, July/August 2021

CHAPTER 29
South Carolina Local Government Comprehensive Planning Enabling Act of 1994

ARTICLE 1
Creation of Local Planning Commission

SECTION 6-29-310. "Local planning commission" defined.

For purposes of this chapter, "local planning commission" means a municipal planning commission, a county planning commission, a joint city-county planning commission, or a consolidated government planning commission.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-320. Bodies authorized to create local planning commissions.

The city council of each municipality may create a municipal planning commission. The county council of each county may create a county planning commission. The governing body of a consolidated government may create a planning commission. Any combination of municipal councils and a county council or any combination of municipal councils may create a joint planning commission.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-330. Areas of jurisdiction; agreement for county planning commission to act as municipal planning commission.

(A) A municipality may exercise the powers granted under the provisions of this chapter in the total area within its corporate limits. A county may exercise the powers granted under the provisions of this chapter in the total unincorporated area or specific parts of the unincorporated area. Unincorporated areas of the county or counties adjacent to incorporated municipalities may be added to and included in the area under municipal jurisdiction for the purposes of this chapter provided that the municipality and county councils involved adopt ordinances establishing the boundaries of the additional areas, the limitations of the authority to be exercised by the municipality, and representation on the boards and commissions provided under this chapter. The agreement must be formally approved and executed by the municipal council and the county councils involved.

(B) The governing body of a municipality may designate by ordinance the county planning commission as the official planning commission of the municipality. In the event of the designation, and acceptance by the county, the county planning commission may exercise the powers and duties as provided in this chapter for municipal planning commissions as are specified in the agreement reached by the governing authorities. The agreement must specify the procedures for the exercise of powers granted in the chapter and shall address the issue of equitable representation of the municipality and the county on the boards and commissions authorized by this chapter. This agreement must be formally stated in appropriate ordinances by the governing authorities involved.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-340. Functions, powers, and duties of local planning commissions.

(A) It is the function and duty of the local planning commission, when created by an ordinance passed by the municipal council or the county council, or both, to undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the area within its jurisdiction. The plans and programs must be designed to promote public health, safety, morals, convenience, prosperity, or the general welfare as well as the efficiency and economy of its area of jurisdiction. Specific planning elements must be based upon careful and comprehensive surveys and studies of existing conditions and probable future development and include recommended means of implementation. The local planning

commission may make, publish, and distribute maps, plans, and reports and recommendations relating to the plans and programs and the development of its area of jurisdiction to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens. All public officials shall, upon request, furnish to the planning commission, within a reasonable time, such available information as it may require for its work. The planning commission, its members and employees, in the performance of its functions, may enter upon any land with consent of the property owner or after ten days' written notification to the owner of record, make examinations and surveys, and place and maintain necessary monuments and marks on them, provided, however, that the planning commission shall be liable for any injury or damage to property resulting therefrom. In general, the planning commission has the powers as may be necessary to enable it to perform its functions and promote the planning of its political jurisdiction.

(B) In the discharge of its responsibilities, the local planning commission has the power and duty to:

(1) prepare and revise periodically plans and programs for the development and redevelopment of its area as provided in this chapter; and

(2) prepare and recommend for adoption to the appropriate governing authority or authorities as a means for implementing the plans and programs in its area:

(a) zoning ordinances to include zoning district maps and appropriate revisions thereof, as provided in this chapter;

(b) regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that may be adopted as provided in this chapter;

(c) an official map and appropriate revision on it showing the exact location of existing or proposed public street, highway, and utility rights-of-way, and public building sites, together with regulations to control the erection of buildings or other structures or changes in land use within the rights-of-way, building sites, or open spaces within its political jurisdiction or a specified portion of it, as set forth in this chapter;

(d) a landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;

(e) a capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the governmental bodies responsible for implementation prior to preparation of their capital budget; and

(f) policies or procedures to facilitate implementation of planning elements.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-350. Membership; terms of office; compensation; qualifications.

(A) A local planning commission serving not more than two political jurisdictions may not have less than five nor more than twelve members. A local planning commission serving three or more political jurisdictions shall have a membership not greater than four times the number of jurisdictions it serves. In the case of a joint city-county planning commission the membership must be proportional to the population inside and outside the corporate limits of municipalities.

(B) No member of a planning commission may hold an elected public office in the municipality or county from which appointed. Members of the commission first to serve must be appointed for staggered terms as described in the agreement of organization and shall serve until their successors are appointed and qualified. The compensation of the members, if any, must be determined by the governing authority or authorities creating the commission. A vacancy in the membership of a planning commission must be filled for the unexpired term in the same manner as the original appointment. The governing authority or authorities creating the commission may remove any member of the commission for cause.

(C) In the appointment of planning commission members the appointing authority shall consider their professional expertise, knowledge of the community, and concern for the future welfare of the total community and its citizens. Members shall represent a broad cross section of the interests and concerns within the jurisdiction.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-360. Organization of commission; meetings; procedural rules; records; purchases.

(A) A local planning commission shall organize itself electing one of its members as chairman and one as vice-chairman whose terms must be for one year. It shall appoint a secretary who may be an officer or an employee of the governing authority or of the planning commission. The planning commission shall meet at the call of the chairman and at such times as the chairman or commission may determine.

(B) The commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The planning commission may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-370. Referral of matters to commission; reports.

The governing authority may provide for the reference of any matters or class of matters to the local planning commission, with the provision that final action on it may not be taken until the planning commission has submitted a report on it or has had a reasonable period of time, as determined by the governing authority to submit a report.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-380. Funding of commissions; expenditures; contracts.

A local planning commission may cooperate with, contract with, or accept funds from federal government agencies, state government agencies, local general purpose governments, school districts, special purpose districts, including those of other states, public or eleemosynary agencies, or private individuals or corporations; it may expend the funds; and it may carry out such cooperative undertakings and contracts as it considers necessary.

HISTORY: 1994 Act No. 355, Section 1.

ARTICLE 3

Local Planning — The Comprehensive Planning Process

Editor's Note

2007 Act No. 31, Section 6, provides as follows:

"All local governments that have adopted a local comprehensive plan in compliance with the provisions of Article 3, Chapter 29, Title 6 of the 1976 Code shall revise their local comprehensive plans to comply with the provisions of this act at the local government's next review of its local comprehensive plan as provided in Section 6-29-510(E) following the effective date of this act."

SECTION 6-29-510. Planning process; elements; comprehensive plan.

(A) The local planning commission shall develop and maintain a planning process which will result in the systematic preparation and continual re-evaluation and updating of those elements considered critical, necessary, and desirable to guide the development and redevelopment of its area of jurisdiction.

(B) Surveys and studies on which planning elements are based must include consideration of potential conflicts with adjacent jurisdictions and regional plans or issues.

(C) The basic planning process for all planning elements must include, but not be limited to:

(1) inventory of existing conditions;

(2) a statement of needs and goals; and

(3) implementation strategies with time frames.

(D) A local comprehensive plan must include, but not be limited to, the following planning elements:

(1) a population element which considers historic trends and projections, household numbers and sizes, educational levels, and income characteristics;

(2) an economic development element which considers labor force and labor force characteristics, employment by place of work and residence, and analysis of the economic base;

(3) a natural resources element which considers coastal resources, slope characteristics, prime agricultural and forest land, plant and animal habitats, parks and recreation areas, scenic views and sites, wetlands, and soil types. Where a separate board exists pursuant to this chapter, this element is the responsibility of the existing board;

(4) a cultural resources element which considers historic buildings and structures, commercial districts, residential districts, unique, natural, or scenic resources, archaeological, and other cultural resources. Where a separate board exists pursuant to this chapter, this element is the responsibility of the existing board;

(5) a community facilities element which considers water supply, treatment, and distribution; sewage system and wastewater treatment; solid waste collection and disposal, fire protection, emergency medical services, and general government facilities; education facilities; and libraries and other cultural facilities;

(6) a housing element which considers location, types, age, and condition of housing, owner and renter occupancy, and affordability of housing. This element includes an analysis to ascertain nonessential housing regulatory requirements, as defined in this chapter, that add to the cost of developing affordable housing but are not necessary to protect the public health, safety, or welfare and an analysis of market-based incentives that may be made available to encourage development of affordable housing, which incentives may include density bonuses, design flexibility, and streamlined permitting processes;

(7) a land use element which considers existing and future land use by categories, including residential, commercial, industrial, agricultural, forestry, mining, public and quasi-public, recreation, parks, open space, and vacant or undeveloped;

(8) a transportation element that considers transportation facilities, including major road improvements, new road construction, transit projects, pedestrian and bicycle projects, and other elements of a transportation network. This element must be developed in coordination with the land use element, to ensure transportation efficiency for existing and planned development;

(9) a priority investment element that analyzes the likely federal, state, and local funds available for public infrastructure and facilities during the next ten years, and recommends the projects for expenditure of those funds during the next ten years for needed public infrastructure and facilities such as water, sewer, roads, and schools. The recommendation of those projects for public expenditure must be done through coordination with adjacent and relevant jurisdictions and agencies. For the purposes of this item, "adjacent and relevant jurisdictions and agencies" means those counties, municipalities, public service districts, school districts, public and private utilities, transportation agencies, and other public entities that are affected by or have planning authority over the public project. For the purposes of this item, "coordination" means written notification by the local planning commission or its staff to adjacent and relevant jurisdictions and agencies of the proposed projects and the opportunity for adjacent and relevant jurisdictions and agencies to provide comment to the planning commission or its staff concerning the proposed projects. Failure of the planning commission or its staff to identify or notify an adjacent or relevant jurisdiction or agency does not invalidate the local comprehensive plan and does not give rise to a civil cause of action;

(10) a resiliency element that considers the impacts of flooding, high water, and natural hazards on individuals, communities, institutions, businesses, economic development, public infrastructure and facilities, and public health, safety and welfare. This element includes an inventory of existing resiliency conditions, promotes resilient planning, design and development, and is coordinated with adjacent and relevant jurisdictions and agencies. For the purposes of this item, "adjacent and relevant jurisdictions and agencies" means those counties, municipalities, public service districts, school districts, public and private utilities, transportation agencies, and other public entities that are affected by or have planning authority over the public project. For the purposes of this item, "coordination" means written notification by the local planning commission or its staff to adjacent and relevant jurisdictions and agencies of the proposed projects and the opportunity for adjacent and relevant jurisdictions and agencies to provide comment to the planning

commission or its staff concerning the proposed projects. Failure of the planning commission or its staff to identify or notify an adjacent or relevant jurisdiction or agency does not invalidate the local comprehensive plan and does not give rise to a civil cause of action. This element shall be developed in coordination with all preceding elements and integrated into the goals and strategies of each of the other plan elements.

(E) All planning elements must be an expression of the planning commission recommendations to the appropriate governing bodies with regard to the wise and efficient use of public funds, the future growth, development, and redevelopment of its area of jurisdiction, and consideration of the fiscal impact on property owners. The planning elements whether done as a package or in separate increments together comprise the comprehensive plan for the jurisdiction at any one point in time. The local planning commission shall review the comprehensive plan or elements of it as often as necessary, but not less than once every five years, to determine whether changes in the amount, kind, or direction of development of the area or other reasons make it desirable to make additions or amendments to the plan. The comprehensive plan, including all elements of it, must be updated at least every ten years.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 2, eff May 23, 2007; 2020 Act No. 163 (S.259), Section 2, eff September 29, 2020.

Effect of Amendment

The 2007 amendment, in subsection (D), in paragraph (5) deleted "transportation network;" following "considers", in paragraph (6) added the second sentence, added paragraph (8) pertaining to transportation elements, and added paragraph (9) pertaining to priority investment elements analyzing likely federal, state, and local funds available.

2020 Act No. 163, Section 2, in (D), added (10), requiring local comprehensive plans to include a resilience element.

SECTION 6-29-520. Advisory committees; notice of meetings; recommendations by resolution; transmittal of recommended plan.

(A) In the preparation or periodic updating of any or all planning elements for the jurisdiction, the planning commission may use advisory committees with membership from both the planning commission or other public involvement mechanisms and other resource people not members of the planning commission. If the local government maintains a list of groups that have registered an interest in being informed of proceedings related to planning, notice of meetings must be mailed to these groups.

(B) Recommendation of the plan or any element, amendment, extension, or addition must be by resolution of the planning commission, carried by the affirmative votes of at least a majority of the entire membership. The resolution must refer expressly to maps and other descriptive matter intended by the planning commission to form the whole or element of the recommended plan and the action taken must be recorded in its official minutes of the planning commission. A copy of the recommended plan or element of it must be transmitted to the appropriate governing authorities and to all other legislative and administrative agencies affected by the plan.

(C) In satisfying the preparation and periodic updating of the required planning elements, the planning commission shall review and consider, and may recommend by reference, plans prepared by other agencies which the planning commission considers to meet the requirements of this article.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-530. Adoption of plan or elements; public hearing.

The local planning commission may recommend to the appropriate governing body and the body may adopt the plan as a whole by a single ordinance or elements of the plan by successive ordinances. The elements shall correspond with the major geographical sections or divisions of the planning area or with functional subdivisions of the subject matter of the comprehensive plan, or both. Before adoption of an element or a plan as a whole, the governing authority shall hold a public hearing on it after not less than

thirty days' notice of the time and place of the hearings has been given in a newspaper having general circulation in the jurisdiction.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-540. Review of proposals following adoption of plan; projects in conflict with plan; exemption for utilities.

When the local planning commission has recommended and local governing authority or authorities have adopted the related comprehensive plan element set forth in this chapter, no new street, structure, utility, square, park, or other public way, grounds, or open space or public buildings for any use, whether publicly or privately owned, may be constructed or authorized in the political jurisdiction of the governing authority or authorities establishing the planning commission until the location, character, and extent of it have been submitted to the planning commission for review and comment as to the compatibility of the proposal with the comprehensive plan of the community. In the event the planning commission finds the proposal to be in conflict with the comprehensive plan, the commission shall transmit its findings and the particulars of the nonconformity to the entity proposing the facility. If the entity proposing the facility determines to go forward with the project which conflicts with the comprehensive plan, the governing or policy making body of the entity shall publicly state its intention to proceed and the reasons for the action. A copy of this finding must be sent to the local governing body, the local planning commission, and published as a public notice in a newspaper of general circulation in the community at least thirty days prior to awarding a contract or beginning construction. Telephone, sewer and gas utilities, or electric suppliers, utilities and providers, whether publicly or privately owned, whose plans have been approved by the local governing body or a state or federal regulatory agency, or electric suppliers, utilities and providers who are acting in accordance with a legislatively delegated right pursuant to Chapter 27 or 31 of Title 58 or Chapter 49 of Title 33 are exempt from this provision. These utilities must submit construction information to the appropriate local planning commission.

HISTORY: 1994 Act No. 355, Section 1.

ARTICLE 5
Local Planning — Zoning

SECTION 6-29-710. Zoning ordinances; purposes.

(A) Zoning ordinances must be for the general purposes of guiding development in accordance with existing and future needs and promoting the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare. To these ends, zoning ordinances must be made with reasonable consideration of the following purposes, where applicable:

(1) to provide for adequate light, air, and open space;

(2) to prevent the overcrowding of land, to avoid undue concentration of population, and to lessen congestion in the streets;

(3) to facilitate the creation of a convenient, attractive, and harmonious community;

(4) to protect and preserve scenic, historic, or ecologically sensitive areas;

(5) to regulate the density and distribution of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports and approaches thereto, water supply, sanitation, protection against floods, public activities, and other purposes;

(6) to facilitate the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks, and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements. "Other public requirements" which the local governing body intends to address by a particular ordinance or action must be specified in the preamble or some other part of the ordinance or action;

(7) to secure safety from fire, flood, and other dangers; and

(8) to further the public welfare in any other regard specified by a local governing body.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-715. Church-related activities; zoning ordinances for single family residences.

(A) For purposes of this section, "church-related activities" does not include regularly scheduled worship services.

(B) Notwithstanding any other provision of law, no zoning ordinance of a municipality or county may prohibit church-related activities in a single-family residence.

HISTORY: 1998 Act No. 276, Section 2.

SECTION 6-29-720. Zoning districts; matters regulated; uniformity; zoning techniques.

(A) When the local planning commission has prepared and recommended and the governing body has adopted at least the land use element of the comprehensive plan as set forth in this chapter, the governing body of a municipality or county may adopt a zoning ordinance to help implement the comprehensive plan. The zoning ordinance shall create zoning districts of such number, shape, and size as the governing authority determines to be best suited to carry out the purposes of this chapter. Within each district the governing body may regulate:

(1) the use of buildings, structures, and land;

(2) the size, location, height, bulk, orientation, number of stories, erection, construction, reconstruction, alteration, demolition, or removal in whole or in part of buildings and other structures, including signage;

(3) the density of development, use, or occupancy of buildings, structures, or land;

(4) the areas and dimensions of land, water, and air space to be occupied by buildings and structures, and the size of yards, courts, and other open spaces;

(5) the amount of off-street parking and loading that must be provided, and restrictions or requirements related to the entry or use of motor vehicles on the land;

(6) other aspects of the site plan including, but not limited to, tree preservation, landscaping, buffers, lighting, and curb cuts; and

(7) other aspects of the development and use of land or structures necessary to accomplish the purposes set forth throughout this chapter.

(B) The regulations must be made in accordance with the comprehensive plan for the jurisdiction, and be made with a view to promoting the purposes set forth throughout this chapter. Except as provided in this chapter, all of these regulations must be uniform for each class or kind of building, structure, or use throughout each district, but the regulations in one district may differ from those in other districts.

(C) The zoning ordinance may utilize the following or any other zoning and planning techniques for implementation of the goals specified above. Failure to specify a particular technique does not cause use of that technique to be viewed as beyond the power of the local government choosing to use it:

(1) "cluster development" or the grouping of residential, commercial, or industrial uses within a subdivision or development site, permitting a reduction in the otherwise applicable lot size, while preserving substantial open space on the remainder of the parcel;

(2) "floating zone" or a zone which is described in the text of a zoning ordinance but is unmapped. A property owner may petition for the zone to be applied to a particular parcel meeting the minimum zoning district area requirements of the zoning ordinance through legislative action;

(3) "performance zoning" or zoning which specifies a minimum requirement or maximum limit on the effects of a land use rather than, or in addition to, specifying the use itself, simultaneously assuring compatibility with surrounding development and increasing a developer's flexibility;

(4) "planned development district" or a development project comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed-use

developments. A planned development district is established by rezoning prior to development and is characterized by a unified site design for a mixed use development;

(5) "overlay zone" or a zone which imposes a set of requirements or relaxes a set of requirements imposed by the underlying zoning district when there is a special public interest in a particular geographic area that does not coincide with the underlying zone boundaries;

(6) "conditional uses" or zoning ordinance provisions that impose conditions, restrictions, or limitations on a permitted use that are in addition to the restrictions applicable to all land in the zoning district. The conditions, restrictions, or limitations must be set forth in the text of the zoning ordinance; and

(7) "priority investment zone" in which the governing authority adopts market-based incentives or relaxes or eliminates nonessential housing regulatory requirements, as these terms are defined in this chapter, to encourage private development in the priority investment zone. The governing authority also may provide that traditional neighborhood design and affordable housing, as these terms are defined in this chapter, must be permitted within the priority investment zone.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 3, eff May 23, 2007.
Effect of Amendment
The 2007 amendment added paragraph (C)(7) relating to "priority investment zone".

SECTION 6-29-730. Nonconformities.

The regulations may provide that land, buildings, and structures and the uses of them which are lawful at the time of the enactment or amendment of zoning regulations may be continued although not in conformity with the regulations or amendments, which is called a nonconformity. The governing authority of a municipality or county may provide in the zoning ordinance or resolution for the continuance, restoration, reconstruction, extension, or substitution of nonconformities. The governing authority also may provide for the termination of a nonconformity by specifying the period or periods in which the nonconformity is required to cease or be brought into conformance, or by providing a formula where the compulsory termination of nonconformities may be so fixed as to allow for the recovery or amortization of the investment in the nonconformity.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-740. Planned development districts.

In order to achieve the objectives of the comprehensive plan of the locality and to allow flexibility in development that will result in improved design, character, and quality of new mixed use developments and preserve natural and scenic features of open spaces, the local governing authority may provide for the establishment of planned development districts as amendments to a locally adopted zoning ordinance and official zoning map. The adopted planned development map is the zoning district map for the property. The planned development provisions must encourage innovative site planning for residential, commercial, institutional, and industrial developments within planned development districts. Planned development districts may provide for variations from other ordinances and the regulations of other established zoning districts concerning use, setbacks, lot size, density, bulk, and other requirements to accommodate flexibility in the arrangement of uses for the general purpose of promoting and protecting the public health, safety, and general welfare. Amendments to a planned development district may be authorized by ordinance of the governing authority after recommendation from the planning commission. These amendments constitute zoning ordinance amendments and must follow prescribed procedures for the amendments. The adopted plan may include a method for minor modifications to the site plan or development provisions.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-750. Special development district parking facility plan; dedication.

In accordance with a special development district parking facility plan and program, which includes guidelines for preferred parking locations and indicates prohibited parking areas, the planning commission may recommend and the local governing body may adopt regulations which permit the reduction or waiver of parking requirements within the district in return for cash contributions or dedications of land earmarked for provision of public parking or public transit which may not be used for any other purpose. The cash contributions or the value of the land may not exceed the approximate cost to build the required spaces or provide the public transit that would have incurred had not the reduction or waiver been granted.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-760. Procedure for enactment or amendment of zoning regulation or map; notice and rights of landowners; time limit on challenges.

(A) Before enacting or amending any zoning regulations or maps, the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing on it, which must be advertised and conducted according to lawfully prescribed procedures. If no established procedures exist, then at least fifteen days' notice of the time and place of the public hearing must be given in a newspaper of general circulation in the municipality or county. In cases involving rezoning, conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. If the local government maintains a list of groups that have expressed an interest in being informed of zoning proceedings, notice of such meetings must be mailed to these groups. No change in or departure from the text or maps as recommended by the local planning commission may be made pursuant to the hearing unless the change or departure be first submitted to the planning commission for review and recommendation. The planning commission shall have a time prescribed in the ordinance which may not be more than thirty days within which to submit its report and recommendation on the change to the governing authority. If the planning commission fails to submit a report within the prescribed time period, it is deemed to have approved the change or departure. When the required public hearing is held by the planning commission, no public hearing by the governing authority is required before amending the zoning ordinance text or maps.

(B) If a landowner whose land is the subject of a proposed amendment will be allowed to present oral or written comments to the planning commission, at least ten days' notice and an opportunity to comment in the same manner must be given to other interested members of the public, including owners of adjoining property.

(C) An owner of adjoining land or his representative has standing to bring an action contesting the ordinance or amendment; however, this subsection does not create any new substantive right in any party.

(D) No challenge to the adequacy of notice or challenge to the validity of a regulation or map, or amendment to it, whether enacted before or after the effective date of this section, may be made sixty days after the decision of the governing body if there has been substantial compliance with the notice requirements of this section or with established procedures of the governing authority or the planning commission.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-770. Governmental entities subject to zoning ordinances; exceptions.

(A) Agencies, departments, and subdivisions of this State that use real property, as owner or tenant, in any county or municipality in this State are subject to the zoning ordinances.

(B) A county or agency, department or subdivision of it that uses any real property, as owner or tenant, within the limits of any municipality in this State is subject to the zoning ordinances of the municipality.

(C) A municipality or agency, department or subdivision of it, that uses any real property, as owner or tenant, within the limits of any county in this State but not within the limits of the municipality is subject to the zoning ordinances of the county.

(D) The provisions of this section do not require a state agency, department, or subdivision to move from facilities occupied on June 18, 1976, regardless of whether or not their location is in violation of municipal or county zoning ordinances.

(E) The provisions of this section do not apply to a home serving nine or fewer mentally or physically handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency or department or under contract with the agency or department for that purpose. A home is construed to be a natural family or such similar term as may be utilized by any county or municipal zoning ordinance to refer to persons related by blood or marriage. Prior to locating the home for the handicapped persons, the appropriate state agency or department or the private entity operating the home under contract must first give prior notice to the local governing body administering the pertinent zoning laws, advising of the exact site of any proposed home. The notice must also identify the individual representing the agency, department, or private entity for site selection purposes. If the local governing body objects to the selected site, the governing body must notify the site selection representative of the entity seeking to establish the home within fifteen days of receiving notice and must appoint a representative to assist the entity in selection of a comparable alternate site or structure, or both. The site selection representative of the entity seeking to establish the home and the representative of the local governing body shall select a third mutually agreeable person. The three persons have forty-five days to make a final selection of the site by majority vote. This final selection is binding on the entity and the governing body. In the event no selection has been made by the end of the forty-five day period, the entity establishing the home shall select the site without further proceedings. An application for variance or special exception is not required. No person may intervene to prevent the establishment of a community residence without reasonable justification.

(F) Prospective residents of these homes must be screened by the licensing agency to ensure that the placement is appropriate.

(G) The licensing agency shall conduct reviews of these homes no less frequently than every six months for the purpose of promoting the rehabilitative purposes of the homes and their continued compatibility with their neighborhoods.

(H) The governing body of a county or municipality whose zoning ordinances are violated by the provisions of this section may apply to a court of competent jurisdiction for injunctive and such other relief as the court may consider proper.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-775. Use of property obtained from federal government.

Notwithstanding the provisions of Section 6-29-770 of the 1976 Code or any other provision of law, a state agency or entity that acquires real property from the federal government or from a state instrumentality or redevelopment agency that received it from the federal government shall be permitted to use the property in the same manner the federal government was permitted to use the property. Further, the property in the hands of the state agency or entity shall be subject only to the same restrictions, if any, as it was in the hands of the federal government, and no county or municipality of this State by zoning or other means may restrict this permitted use or enjoyment of the property.

HISTORY: 2002 Act No. 256, Section 3.
Code Commissioner's Note—
Codified as Section 6-29-775 at the direction of the Code Commissioner.

SECTION 6-29-780. Board of zoning appeals; membership; terms of office; vacancies; compensation.

(A) As a part of the administrative mechanism designed to enforce the zoning ordinance, the zoning ordinance may provide for the creation of a board to be known as the board of zoning appeals. Local governing bodies with a joint planning commission and adopting a common zoning ordinance may create a board to be known as the joint board of appeals. All of these boards are referred to as the board.

(B) The board consists of not less than three nor more than nine members, a majority of which constitutes a quorum, appointed by the governing authority or authorities of the area served. The members shall serve for overlapping terms of not less than three nor more than five years or after that time until their successors are appointed. A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment. The governing authority or authorities creating the board of zoning appeals may remove any member of the board for cause. The appointing authorities shall determine the amount of compensation, if any, to be paid to the members of a board of zoning appeals. None of the members shall hold any other public office or position in the municipality or county.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-790. Board of zoning appeals; officers; rules; meetings; notice; records.

The board shall elect one of its members chairman, who shall serve for one year or until he is re-elected or his successor is elected and qualified. The board shall appoint a secretary who may be an officer of the governing authority or of the zoning board. The board shall adopt rules of procedure in accordance with the provisions of an ordinance adopted pursuant to this chapter. Meetings of the board must be held at the call of the chairman and at such other times as the board may determine. Public notice of all meetings of the board of appeals shall be provided by publication in a newspaper of general circulation in the municipality or county. In cases involving variances or special exceptions conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. The chairman or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which must be immediately filed in the office of the board and must be a public record.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-800. Powers of board of appeals; variances; special exceptions; remand; stay; hearing; decisions and orders.

(A) The board of appeals has the following powers:

(1) to hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;

(2) to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

(a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;

(b) these conditions do not generally apply to other property in the vicinity;

(c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

(d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

(i) The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two-thirds of the local adjustment board members

present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.

(ii) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare;

(3) to permit uses by special exception subject to the terms and conditions for the uses set forth for such uses in the zoning ordinance; and

(4) to remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review. A party's motion for remand may be denied if the board determines that the record is sufficient for review. The board must set a rehearing on the remanded matter without further public notice for a time certain within sixty days unless otherwise agreed to by the parties. The board must maintain a list of persons who express an interest in being informed when the remanded matter is set for rehearing, and notice of the rehearing must be mailed to these persons prior to the rehearing.

(B) Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality or county. The appeal must be taken within a reasonable time, as provided by the zoning ordinance or rules of the board, or both, by filing with the officer from whom the appeal is taken and with the board of appeals notice of appeal specifying the grounds for the appeal. If no time limit is provided, the appeal must be taken within thirty days from the date the appealing party has received actual notice of the action from which the appeal is taken. The officer from whom the appeal is taken immediately must transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(C) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In that case, proceedings may not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(D) The board must fix a reasonable time for the hearing of the appeal or other matter referred to the board, and give at least fifteen days' public notice of the hearing in a newspaper of general circulation in the community, as well as due notice to the parties in interest, and decide the appeal or matter within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney.

(E) In exercising the above power, the board of appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end, has all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. The board, in the execution of the duties specified in this chapter, may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction.

(F) All final decisions and orders of the board must be in writing and be permanently filed in the office of the board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the board which must be delivered to parties of interest by certified mail.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 2, eff June 2, 2003.
Effect of Amendment
The 2003 amendment rewrote this section.

SECTION 6-29-810. Contempt; penalty.

In case of contempt by a party, witness, or other person before the board of appeals, the board may certify this fact to the circuit court of the county in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-820. Appeal from zoning board of appeals to circuit court; pre-litigation mediation; filing requirements.

(A) A person who may have a substantial interest in any decision of the board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the board to the circuit court in and for the county, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty days after the decision of the board is mailed.

(B) A property owner whose land is the subject of a decision of the board of appeals may appeal either:

(1) as provided in subsection (A); or

(2) by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-825.

Any notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is postmarked.

(C) Any filing of an appeal from a particular board of appeals decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(C)(1).

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 3, eff June 2, 2003.

Effect of Amendment

The 2003 amendment added subsections (B) and (C) and designated the existing paragraph as subsection (A).

SECTION 6-29-825. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

(A) If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the board of appeals.

(B) The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (A) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

(C) Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

(D) Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

(1) the local legislative governing body in public session; and

(2) the circuit court as provided in subsection (G).

(E) Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

(F) If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of:

(1) the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

(2) the failure to approve the settlement by the local governing body.

(G) The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

(1) in the same manner as provided by law for appeals from other judgments of the circuit court; or

(2) by filing an appeal pursuant to subsection (F).

HISTORY: 2003 Act No. 39, Section 4, eff June 2, 2003.

SECTION 6-29-830. Notice of appeal; transcript; supersedeas.

(A) Upon the filing of an appeal with a petition as provided in Section 6-29-820(A) or Section 6-29-825(F), the clerk of the circuit court must give immediate notice of the appeal to the secretary of the board and within thirty days from the time of the notice, the board must file with the clerk a duly certified copy of the proceedings held before the board of appeals, including a transcript of the evidence heard before the board, if any, and the decision of the board including its findings of fact and conclusions.

(B) The filing of an appeal in the circuit court from any decision of the board does not ipso facto act as a supersedeas, but the judge of the circuit court may in his discretion grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 5, eff June 2, 2003.

Effect of Amendment

The 2003 amendment, in subsection (A) inserted "with a petition as provided in Section 6-29-820(A) or Section 6-29-825(F)" preceding ", the clerk of circuit court", substituted "the appeal" for "it", inserted "duly" preceding "certified copy", and substituted "the board" for "it", in subsection (B) substituted "any" for "a" and "does" for "shall", and in subsections (A) and (B) made nonsubstantive changes.

SECTION 6-29-840. Determination of appeal; costs; trial by jury.

(A) At the next term of the circuit court or in chambers, upon ten days' notice to the parties, the presiding judge of the circuit court of the county must proceed to hear and pass upon the appeal on the certified record of the board proceedings. The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the zoning board of appeals for rehearing. In determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law. In the event that the decision of the board is reversed by the circuit court, the board is charged with the costs, and the costs must be paid by the governing authority which established the board of appeals.

(B) When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the board of appeals, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 6, eff June 2, 2003.

Effect of Amendment

The 2003 amendment added subsection (B), designated the existing paragraph as subsection (A), and made nonsubstantive changes.

SECTION 6-29-850. Appeal to Supreme Court.

A party in interest who is aggrieved by the judgment rendered by the circuit court upon the appeal may appeal in the manner provided by the South Carolina Appellate Court Rules.

HISTORY: 1994 Act No. 355, Section 1; 1999 Act No. 55, Section 10.

SECTION 6-29-860. Financing of board of zoning appeals.

The governing authority may appropriate such monies, otherwise unappropriated, as it considers fit to finance the work of the board of appeals and to generally provide for the enforcement of any zoning regulations and restrictions authorized under this chapter which are adopted and may accept and expend grants of money for those purposes from either private or public sources, whether local, state, or federal.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-870. Board of architectural review; membership; officers; rules; meetings; records.

(A) A local government which enacts a zoning ordinance which makes specific provision for the preservation and protection of historic and architecturally valuable districts and neighborhoods or significant or natural scenic areas, or protects or provides, or both, for the unique, special, or desired character of a defined district, corridor, or development area or any combination of it, by means of restriction and conditions governing the right to erect, demolish, remove in whole or in part, or alter the exterior appearance of all buildings or structures within the areas, may provide for appointment of a board of architectural review or similar body.

(B) The board shall consist of not more than ten members to be appointed by the governing body of the municipality or the governing body of the county which may restrict the membership on the board to those professionally qualified persons as it may desire. The governing authority or authorities creating the board may remove any member of the board which it has appointed.

(C) The appointing authorities shall determine the amount of compensation, if any, to be paid to the members of a board of architectural review. None of the members may hold any other public office or position in the municipality or county.

(D) The board shall elect one of its members chairman, who shall serve for one year or until he is re-elected or his successor is elected and qualified. The board shall appoint a secretary who may be an officer of the governing authority or of the board of architectural review. The board shall adopt rules of procedure in accordance with the provisions of any ordinance adopted pursuant to this chapter. Meetings of the board must be held at the call of the chairman and at such other times as the board may determine. The chairman or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which immediately must be filed in the office of the board and must be a public record.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-880. Powers of board of architectural review.

The board of architectural review has those powers involving the structures and neighborhoods as may be determined by the zoning ordinance. Decisions of the zoning administrator or other appropriate administrative official in matters under the purview of the board of architectural review may be appealed to the board where there is an alleged error in any order, requirement, determination, or decision.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-890. Appeal to board of architectural review.

(A) Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality or county. The appeal must be taken within a reasonable time, as provided by the zoning ordinance or rules of the board, or both, by filing with the officer from whom the appeal is taken

and with the board of architectural review notice of appeal specifying the grounds of it. The officer from whom the appeal is taken immediately must transmit to the board all the papers constituting the record upon which the action appealed from was taken. Upon a motion by a party or the board's own motion, the board may remand a matter to an administrative official if the board determines the record is insufficient for review. A party's motion for remand may be denied if the board determines that the record is sufficient for review. The board must set a rehearing on the remanded matter without further public notice for a time certain within sixty days unless otherwise agreed to by the parties. The board must maintain a list of persons who express an interest in being informed when the remanded matter is set for rehearing, and notice of the rehearing must be mailed to these persons prior to the rehearing.

(B) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In that case, proceedings may not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application, upon notice to the officer from whom the appeal is taken, and on due cause shown.

(C) The board must fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice of the hearing, as well as due notice to the parties in interest, and decide the appeal or other matter within a reasonable time. At the hearing, any party may appear in person, by agent, or by attorney.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 7, eff June 2, 2003.
Effect of Amendment
The 2003 amendment, in subsection (A) added the last four sentences relating to remand procedures, in subsection (C) substituted "the hearing" for "it" and "appeal or other matter" for "same", and in subsections (A),(B), and (C) made nonsubstantive changes.

SECTION 6-29-900. Appeal from board of architectural review to circuit court; pre-litigation mediation; filing requirements.

(A) A person who may have a substantial interest in any decision of the board of architectural review or any officer, or agent of the appropriate governing authority may appeal from any decision of the board to the circuit court in and for the county by filing with the clerk of court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty days after the affected party receives actual notice of the decision of the board of architectural review.

(B) A property owner whose land is the subject of a decision of the board of architectural review may appeal either:

(1) as provided in subsection (A); or

(2) by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-915.

A notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is postmarked.

(C) Any filing of an appeal from a particular board of architectural review decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(C)(1).

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 8, eff June 2, 2003.
Effect of Amendment
The 2003 amendment added subsections (B) and (C) and designated the existing paragraph as subsection (A).

SECTION 6-29-910. Contempt; penalty.

In case of contempt by a party, witness, or other person before the board of architectural review, the board may certify the fact to the circuit court of the county in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-915. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

(A) If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the board of architectural review.

(B) The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (A) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

(C) Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

(D) Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

(1) the local legislative governing body in public session; and

(2) the circuit court as provided in subsection (G).

(E) Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

(F) If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of:

(1) the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

(2) the failure to approve the settlement by the local governing body.

(G) The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

(1) in the same manner as provided by law for appeals from other judgments of the circuit court; or

(2) by filing an appeal pursuant to subsection (F).

HISTORY: 2003 Act No. 39, Section 9, eff June 2, 2003.

SECTION 6-29-920. Notice of appeal; transcript; supersedeas.

(A) Upon filing of an appeal with a petition as provided in Section 6-29-900(A) or Section 6-29-915(F), the clerk of the circuit court must give immediate notice of the appeal to the secretary of the board and within thirty days from the time of the notice, the board must file with the clerk a duly certified copy of the proceedings held before the board of architectural review, including a transcript of the evidence heard before the board, if any, and the decision of the board including its findings of fact and conclusions.

(B) The filing of an appeal in the circuit court from any decision of the board does not ipso facto act as a supersedeas, but the judge of the circuit court may in his discretion grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 10, eff June 2, 2003.
Effect of Amendment
The 2003 amendment, in subsection (A) inserted "with a petition as provided in Section 6-29-900(A) or Section 6-29-915(F)" preceding ", the clerk of circuit court", and in subsections (A) and (B) made clarifying and nonsubstantive changes.

SECTION 6-29-930. Determination of appeal; costs; trial by jury.

(A) At the next term of the circuit court or in chambers upon ten days' notice to the parties, the resident presiding judge of the circuit court of the county must proceed to hear and pass upon the appeal on the certified record of the board proceedings. The findings of fact by the board of architectural review are final and conclusive on the hearing of the appeal, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter must be remanded to the board of architectural review for rehearing. In determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law. In the event that the decision of the board is reversed by the circuit court, the board must be charged with the costs which must be paid by the governing authority which established the board of architectural review.

(B) When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the board of architectural review, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 11, eff June 2, 2003.
Effect of Amendment
The 2003 amendment added subsection (B), designated the existing paragraph as subsection (A), and made nonsubstantive changes.

SECTION 6-29-940. Appeal to Supreme Court.

A party in interest who is aggrieved by the judgment rendered by the circuit court upon the appeal may appeal in the manner provided by the South Carolina Appellate Court Rules.

HISTORY: 1994 Act No. 355, Section 1; 1999 Act No. 55, Section 11.

SECTION 6-29-950. Enforcement of zoning ordinances; remedies for violations.

(A) The governing authorities of municipalities or counties may provide for the enforcement of any ordinance adopted pursuant to the provisions of this chapter by means of the withholding of building or zoning permits, or both, and the issuance of stop orders against any work undertaken by an entity not having a proper building or zoning permit, or both. It is unlawful to construct, reconstruct, alter, demolish, change the use of or occupy any land, building, or other structure without first obtaining the appropriate permit or permit approval. No permit may be issued or approved unless the requirements of this chapter or any ordinance adopted pursuant to it are complied with. It is unlawful for other officials to issue any permit for the use of any land, building, or structure, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure without the approval of the zoning administrator. A violation of any ordinance adopted pursuant to the provisions of this chapter is a misdemeanor. In case a building, structure, or land is or is proposed to be used in violation of any ordinance adopted pursuant to this chapter, the zoning administrator or other appropriate administrative officer, municipal or county attorney, or other appropriate authority of the municipality or county or an adjacent or neighboring property owner who would be specially damaged by the violation may in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful

erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure, or land. Each day the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues is considered a separate offense.

(B) In case a building, structure, or land is or is proposed to be used in violation of an ordinance adopted pursuant to this chapter, the zoning administrator or other designated administrative officer may in addition to other remedies issue and serve upon a person pursuing the activity or activities a stop order requiring that entity stop all activities in violation of the zoning ordinance.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-960. Conflict with other laws.

When the regulations made under authority of this chapter require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under another statute, or local ordinance or regulation, the regulations made under authority of this chapter govern. When the provisions of another statute require more restrictive standards than are required by the regulations made under authority of this chapter, the provisions of that statute govern.

HISTORY: 1994 Act No. 355, Section 1.

ARTICLE 7
Local Planning — Land Development Regulation

SECTION 6-29-1110. Definitions.

As used in this chapter:

(1) "Affordable housing" means in the case of dwelling units for sale, housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than twenty-eight percent of the annual household income for a household earning no more than eighty percent of the area median income, by household size, for the metropolitan statistical area as published from time to time by the U.S. Department of Housing and Community Development (HUD) and, in the case of dwelling units for rent, housing for which the rent and utilities constitute no more than thirty percent of the annual household income for a household earning no more than eighty percent of the area median income, by household size for the metropolitan statistical area as published from time to time by HUD.

(2) "Land development" means the changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sale, lease, or any combination of owner and rental characteristics.

(3) "Market-based incentives" mean incentives that encourage private developers to meet the governing authority's goals as developed in this chapter. Incentives may include, but are not limited to:

(a) density bonuses, allowing developers to build at a density higher than residential zones typically permit, and greater density bonuses, allowing developers to build at a density higher than residential affordable units in development, or allowing developers to purchase density by paying into a local housing trust fund;

(b) relaxed zoning regulations including, but not limited to, minimum lot area requirements, limitations of multifamily dwellings, minimum setbacks, yard requirements, variances, reduced parking requirements, and modified street standards;

(c) reduced or waived fees including those fees levied on new development projects where affordable housing is addressed, reimburse permit fees to builder upon certification that dwelling unit is affordable and waive up to one hundred percent of sewer/water tap-in fees for affordable housing units;

(d) fast-track permitting including, but not limited to, streamlining the permitting process for new development projects and expediting affordable housing developments to help reduce cost and time delays;

(e) design flexibility allowing for greater design flexibility, creating preapproved design standards to allow for quick and easy approval, and promoting infill development, mixed use and accessory dwellings.

(4) "Subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivision which would involve the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record; however, the following exceptions are included within this definition only for the purpose of requiring that the local planning agency be informed and have a record of the subdivisions:

(a) the combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the governing authority;

(b) the division of land into parcels of five acres or more where no new street is involved and plats of these exceptions must be received as information by the planning agency which shall indicate that fact on the plats; and

(c) the combination or recombination of entire lots of record where no new street or change in existing streets is involved.

(5) "Traditional neighborhood design" means development designs intended to enhance the appearance and functionality of the new development so that it functions like a traditional neighborhood or town. These designs make possible reasonably high residential densities, a mixture of residential and commercial land uses, a range of single and multifamily housing types, and street connectivity both within the new development and to surrounding roadways, pedestrian, and bicycle features.

(6) "Nonessential housing regulatory requirements" mean those development standards and procedures that are determined by the local governing body to be not essential within a specific priority investment zone to protect the public health, safety, or welfare and that may otherwise make a proposed housing development economically infeasible. Nonessential housing regulatory requirements may include, but are not limited to:

(a) standards or requirements for minimum lot size, building size, building setbacks, spacing between buildings, impervious surfaces, open space, landscaping, buffering, reforestation, road width, pavements, parking, sidewalks, paved paths, culverts and storm water drainage, and sizing of water and sewer lines that are excessive; and

(b) application and review procedures that require or result in extensive submittals and lengthy review periods.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 4, eff May 23, 2007.

Effect of Amendment

The 2007 amendment added item (1) defining "Affordable housing", item (3) defining "Market-based incentives" and item (5) defining "Traditional neighborhood design" and redesignated item (1), "Land development", as item (2) and item (2), "Subdivision", as item (4).

SECTION 6-29-1120. Legislative intent; purposes.

The public health, safety, economy, good order, appearance, convenience, morals, and general welfare require the harmonious, orderly, and progressive development of land within the municipalities and counties of the State. In furtherance of this general intent, the regulation of land development by municipalities, counties, or consolidated political subdivisions is authorized for the following purposes, among others:

(1) to encourage the development of economically sound and stable municipalities and counties;

(2) to assure the timely provision of required streets, utilities, and other facilities and services to new land developments;

(3) to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;

(4) to assure the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational, transportation, and other public purposes; and

(5) to assure, in general, the wise and timely development of new areas, and redevelopment of previously developed areas in harmony with the comprehensive plans of municipalities and counties.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1130. Regulations.

(A) When at least the community facilities element, the housing element, and the priority investment element of the comprehensive plan as authorized by this chapter have been adopted by the local planning commission and the local governing body or bodies, the local planning commission may prepare and recommend to the governing body or bodies for adoption regulations governing the development of land within the jurisdiction. These regulations may provide for the harmonious development of the municipality and the county; for coordination of streets within subdivision and other types of land developments with other existing or planned streets or official map streets; for the size of blocks and lots; for the dedication or reservation of land for streets, school sites, and recreation areas and of easements for utilities and other public services and facilities; and for the distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, appearance, prosperity, or the general welfare. In particular, the regulations shall prescribe that no land development plan, including subdivision plats, will be approved unless all land intended for use as building sites can be used safely for building purposes, without danger from flood or other inundation or from other menaces to health, safety, or public welfare.

(B) These regulations may include requirements as to the extent to which and the manner in which streets must be graded, surfaced, and improved, and water, sewers, septic tanks, and other utility mains, piping, connections, or other facilities must be installed as a condition precedent to the approval of the plan. The governing authority of the municipality and the governing authority of the county are given the power to adopt and to amend the land development regulations after a public hearing on it, giving at least thirty days' notice of the time and place by publication in a newspaper of general circulation in the municipality or county.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 5, eff May 23, 2007.

Effect of Amendment

The 2007 amendment, in subsection (A) in the first sentence added ", the housing element, and the priority investment element" and substituted "have" for "has".

SECTION 6-29-1140. Development plan to comply with regulations; submission of unapproved plan for recording is a misdemeanor.

After the local governing authority has adopted land development regulations, no subdivision plat or other land development plan within the jurisdiction of the regulations may be filed or recorded in the office of the county where deeds are required to be recorded, and no building permit may be issued until the plat or plan bears the stamp of approval and is properly signed by the designated authority. The submission for filing or the recording of a subdivision plat or other land development plan without proper approval as required by this chapter is declared a misdemeanor and, upon conviction, is punishable as provided by law.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1145. Determining existence of restrictive covenant; effect.

(A) In an application for a permit, the local planning agency must inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.

(B) If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:

(1) in the application for the permit;

(2) from materials or information submitted by the person or persons requesting the permit; or

(3) from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

(C) As used in this section:

(1) "actual notice" is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants;

(2) "permit" does not mean an authorization to build or place a structure on a tract or parcel of land; and

(3) "restrictive covenant" does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land.

HISTORY: 2007 Act No. 45, Section 3, eff June 4, 2007, applicable to applications for permits filed on and after July 1, 2007; 2007 Act No. 113, Section 2, eff June 27, 2007.

Effect of Amendment

The 2007 amendment, in subsection (A), substituted "in the application or by written instructions to an applicant whether" for "if", rewrote subsection (B); and in subsection (C), added paragraph (1) defining "actual notice" and redesignated paragraphs (1) and (2) as paragraphs (2) and (3).

SECTION 6-29-1150. Submission of plan or plat to planning commission; record; appeal.

(A) The land development regulations adopted by the governing authority must include a specific procedure for the submission and approval or disapproval by the planning commission or designated staff. These procedures may include requirements for submission of sketch plans, preliminary plans, and final plans for review and approval or disapproval. Time limits, not to exceed sixty days, must be set forth for action on plans or plats, or both, submitted for approval or disapproval. Failure of the designated authority to act within sixty days of the receipt of development plans or subdivision plats with all documentation required by the land development regulations is considered to constitute approval, and the developer must be issued a letter of approval and authorization to proceed based on the plans or plats and supporting documentation presented. The sixty-day time limit may be extended by mutual agreement.

(B) A record of all actions on all land development plans and subdivision plats with the grounds for approval or disapproval and any conditions attached to the action must be maintained as a public record. In addition, the developer must be notified in writing of the actions taken.

(C) Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the planning commission by any party in interest. The planning commission must act on the appeal within sixty days, and the action of the planning commission is final.

(D)(1) An appeal from the decision of the planning commission must be taken to the circuit court within thirty days after actual notice of the decision.

(2) A property owner whose land is the subject of a decision of the planning commission may appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-1155.

A notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is mailed.

(3) Any filing of an appeal from a particular planning commission decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(C)(1).

(4) When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the planning commission, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 12, eff June 2, 2003.
Effect of Amendment
The 2003 amendment substituted "considered" for "deemed" in subsection (A), made nonsubstantive changes in subsection (C), added subsections (D)(2), (D)(3), and (D)(4), redesignated subsection (D) as (D)(1), and in newly designated (D)(1) substituted "must' for "may" and inserted "the" preceding "circuit court".

SECTION 6-29-1155. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

(A) If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the planning commission.

(B) The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (A) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

(C) Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

(D) Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

(1) the local legislative governing body in public session; and

(2) the circuit court as provided in subsection (G).

(E) Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

(F) If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of:

(1) the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

(2) the failure to approve the settlement by the local governing body.

(G) The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

(1) in the same manner as provided by law for appeals from other judgments of the circuit court; or

(2) by filing an appeal pursuant to subsection (F).

HISTORY: 2003 Act No. 39, Section 13, eff June 2, 2003.

SECTION 6-29-1160. Recording unapproved land development plan or plat; penalty; remedies.

The county official whose duty it is to accept and record real estate deeds and plats may not accept, file, or record a land development plan or subdivision plat involving a land area subject to land development regulations adopted pursuant to this chapter unless the development plan or subdivision plat has been properly approved. If a public official violates the provisions of this section, he is, in each instance, subject to the penalty provided in this article and the affected governing body, private individual, or corporation has rights and remedies as to enforcement or collection as are provided, and may enjoin any violations of them.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1170. Approval of plan or plat not acceptance of dedication of land.

The approval of the land development plan or subdivision plat may not be deemed to automatically constitute or effect an acceptance by the municipality or the county or the public of the dedication of any street, easement, or other ground shown upon the plat. Public acceptance of the lands must be by action of the governing body customary to these transactions.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1180. Surety bond for completion of site improvements.

In circumstances where the land development regulations adopted pursuant to this chapter require the installation and approval of site improvements prior to approval of the land development plan or subdivision plat for recording in the office of the county official whose duty it is to accept and record the instruments, the developer may be permitted to post a surety bond, certified check, or other instrument readily convertible to cash. The surety must be in an amount equal to at least one hundred twenty-five percent of the cost of the improvement. This surety must be in favor of the local government to ensure that, in the event of default by the developer, funds will be used to install the required improvements at the expense of the developer.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1190. Transfer of title to follow approval and recording of development plan; violation is a misdemeanor.

The owner or agent of the owner of any property being developed within the municipality or county may not transfer title to any lots or parts of the development unless the land development plan or subdivision has been approved by the local planning commission or designated authority and an approved plan or plat recorded in the office of the county charged with the responsibility of recording deeds, plats, and other property records. A transfer of title in violation of this provision is a misdemeanor and, upon conviction, must be punished in the discretion of the court. A description by metes and bounds in the instrument of transfer or other document used in the process of transfer does not exempt the transaction from these penalties. The municipality or county may enjoin the transfer by appropriate action.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1200. Approval of street names required; violation is a misdemeanor; changing street name.

(A) A local planning commission created under the provisions of this chapter shall, by proper certificate, approve and authorize the name of a street or road laid out within the territory over which the commission has jurisdiction. It is unlawful for a person in laying out a new street or road to name the street or road on

a plat, by a marking or in a deed or instrument without first getting the approval of the planning commission. Any person violating this provision is guilty of a misdemeanor and, upon conviction, must be punished in the discretion of the court.

(B) A commission may, after reasonable notice through a newspaper having general circulation in which the commission is created and exists, change the name of a street or road within the boundary of its territorial jurisdiction:

(1) when there is duplication of names or other conditions which tend to confuse the traveling public or the delivery of mail, orders, or messages;

(2) when it is found that a change may simplify marking or giving of directions to persons seeking to locate addresses; or

(3) upon any other good and just reason that may appear to the commission.

(C) On the name being changed, after reasonable opportunity for a public hearing, the planning commission shall issue its certificate designating the change, which must be recorded in the office of the register of deeds or clerk of court, and the name changed and certified is the legal name of the street or road.

HISTORY: 1994 Act No. 355, Section 1; 1997 Act No. 34, Section 1.

SECTION 6-29-1210. Land development plan not required to execute a deed.

Under this chapter, the submission of a land development plan or land use plan is not a prerequisite and must not be required before the execution of a deed transferring undeveloped real property. A local governmental entity may still require the grantee to file a plat at the time the deed is recorded.

HISTORY: 2016 Act No. 144 (H.3972), Section 1, eff March 14, 2016.

ARTICLE 9

Educational Requirements for Local Government Planning or Zoning Officials or Employees

SECTION 6-29-1310. Definitions.

As used in this article:

(1) "Advisory committee" means the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees;

(2) "Appointed official" means a planning commissioner, board of zoning appeals member, or board of architectural review member;

(3) "Clerk" means the clerk of the local governing body;

(4) "Local governing body" means the legislative governing body of a county or municipality;

(5) "Planning or zoning entity" means a planning commission, board of zoning appeals, or board of architectural review;

(6) "Professional employee" means a planning professional, zoning administrator, zoning official, or a deputy or assistant of a planning professional, zoning administrator, or zoning official.

HISTORY: 2003 Act No. 39, Section 14, eff June 2, 2003.

SECTION 6-29-1320. Identification of persons covered by act; compliance schedule.

(A) The local governing body must:

(1) by no later than December 31st of each year, identify the appointed officials and professional employees for the jurisdiction and provide a list of those appointed officials and professional employees to the clerk and each planning or zoning entity in the jurisdiction; and

(2) annually inform each planning or zoning entity in the jurisdiction of the requirements of this article.

(B) Appointed officials and professional employees must comply with the provisions of this article according to the following dates and populations based on the population figures of the latest official United States Census:

(1) municipalities and counties with a population of 35,000 and greater: by January 1, 2006; and

(2) municipalities and counties with a population under 35,000: by January 1, 2007.

HISTORY: 2003 Act No. 39, Section 14, eff June 2, 2003; 2004 Act No. 287, Section 3, eff July 22, 2004.
Effect of Amendment
The 2004 amendment, in paragraph (B)(1), substituted "of 35,000 and greater" for "above 70,000".

SECTION 6-29-1330. State Advisory Committee; creation; members; terms; duties; compensation; meetings; fees charged.

(A) There is created the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees.

(B) The advisory committee consists of five members appointed by the Governor. The advisory committee consists of:

(1) a planner recommended by the South Carolina Chapter of the American Planning Association;

(2) a municipal official or employee recommended by the Municipal Association of South Carolina;

(3) a county official or employee recommended by the South Carolina Association of Counties;

(4) a representative recommended by the University of South Carolina's Institute for Public Service and Policy Research; and

(5) a representative recommended by Clemson University's Department of Planning and Landscape Architecture. Recommendations must be submitted to the Governor not later than the thirty-first day of December of the year preceding the year in which appointments expire. If the Governor rejects any person recommended for appointment, the group or association who recommended the person must submit additional names to the Governor for consideration.

(C) The members of the advisory committee must serve a term of four years and until their successors are appointed and qualify; except that for the members first appointed to the advisory committee, the planner must serve a term of three years; the municipal official or employee and the county official or employee must each serve a term of two years; and the university representatives must each serve a term of one year. A vacancy on the advisory committee must be filled in the manner of the original appointment for the remainder of the unexpired term. The Governor may remove a member of the advisory committee in accordance with Section 1-3-240(B).

(D) The advisory committee's duties are to:

(1) compile and distribute a list of approved orientation and continuing education programs that satisfy the educational requirements in Section 6-29-1340;

(2) determine categories of persons with advanced degrees, training, or experience, that are eligible for exemption from the educational requirements in Section 6-29-1340; and

(3) make an annual report to the President of the Senate and Speaker of the House of Representatives, no later than April fifteenth of each year, providing a detailed account of the advisory committee's:

(a) activities;

(b) expenses;

(c) fees collected; and

(d) determinations concerning approved education programs and categories of exemption.

(E) A list of approved education programs and categories of exemption by the advisory committee must be available for public distribution through notice in the State Register and posting on the General Assembly's Internet website. This list must be updated by the advisory committee at least annually.

(F) The members of the advisory committee must serve without compensation and must meet at a set location to which members must travel no more frequently than quarterly, at the call of the chairman selected by majority vote of at least a quorum of the members. Nothing in this subsection prohibits the chairman from using discretionary authority to conduct additional meetings by telephone conference if

necessary. These telephone conference meetings may be conducted more frequently than quarterly. Three members of the advisory committee constitute a quorum. Decisions concerning the approval of education programs and categories of exemption must be made by majority vote with at least a quorum of members participating.

(G) The advisory committee may assess by majority vote of at least a quorum of the members a nominal fee to each entity applying for approval of an orientation or continuing education program; however, any fees charged must be applied to the operating expenses of the advisory committee and must not result in a net profit to the groups or associations that recommend the members of the advisory committee. An accounting of any fees collected by the advisory committee must be made in the advisory committee's annual report to the President of the Senate and Speaker of the House of Representatives.

HISTORY: 2003 Act No. 39, Section 14, eff June 2, 2003; 2008 Act No. 273, Section 2, eff June 4, 2008; 2019 Act No. 1 (S.2), Sections 32, 33, eff January 31, 2019.

Effect of Amendment

The 2008 amendment, in subsection (B), in the introductory paragraph deleted "with the advice and consent of the Senate" from the end of the first sentence; and in paragraph (B)(5) deleted "or the Governor's appointment is not confirmed by the Senate" following "appointment".

2019 Act No. 1, Section 32, in (D)(3), substituted "President of the Senate" for "President Pro Tempore of the Senate".

2019 Act No. 1, Section 33, in (G), in the second sentence, substituted "President of the Senate" for "President Pro Tempore of the Senate".

SECTION 6-29-1340. Educational requirements; time-frame for completion; subjects.

(A) Unless expressly exempted as provided in Section 6-29-1350, each appointed official and professional employee must:

(1) no earlier than one hundred and eighty days prior to and no later than three hundred and sixty-five days after the initial date of appointment or employment, attend a minimum of six hours of orientation training in one or more of the subjects listed in subsection (C); and

(2) annually, after the first year of service or employment, but no later than three hundred and sixty-five days after each anniversary of the initial date of appointment or employment, attend no fewer than three hours of continuing education in any of the subjects listed in subsection (C).

(B) An appointed official or professional employee who attended six hours of orientation training for a prior appointment or employment is not required to comply with the orientation requirement for a subsequent appointment or employment after a break in service. However, unless expressly exempted as provided in Section 6-29-1350, upon a subsequent appointment or employment, the appointed official or professional employee must comply with an annual requirement of attending no fewer than three hours of continuing education as provided in this section.

(C) The subjects for the education required by subsection (A) may include, but not be limited to, the following:

(1) land use planning;
(2) zoning;
(3) floodplains;
(4) transportation;
(5) community facilities;
(6) ethics;
(7) public utilities;
(8) wireless telecommunications facilities;
(9) parliamentary procedure;
(10) public hearing procedure;
(11) administrative law;
(12) economic development;

(13) housing;
(14) public buildings;
(15) building construction;
(16) land subdivision; and
(17) powers and duties of the planning commission, board of zoning appeals, or board of architectural review.

(D) In order to meet the educational requirements of subsection (A), an educational program must be approved by the advisory committee.

HISTORY: 2003 Act No. 39, Section 14, eff June 2, 2003.

SECTION 6-29-1350. Exemption from educational requirements.

(A) An appointed official or professional employee who has one or more of the following qualifications is exempt from the educational requirements of Section 6-29-1340:

(1) certification by the American Institute of Certified Planners;
(2) a masters or doctorate degree in planning from an accredited college or university;
(3) a masters or doctorate degree or specialized training or experience in a field related to planning as determined by the advisory committee;
(4) a license to practice law in South Carolina.

(B) An appointed official or professional employee who is exempt from the educational requirements of Section 6-29-1340 must file a certification form and documentation of his exemption as required in Section 6-29-1360 by no later than the first anniversary date of his appointment or employment. An exemption is established by a single filing for the tenure of the appointed official or professional employee and does not require the filing of annual certification forms and conforming documentation.

HISTORY: 2003 Act No. 39, Section 14, eff June 2, 2003.

SECTION 6-29-1360. Certification.

(A) An appointed official or professional employee must certify that he has satisfied the educational requirements in Section 6-29-1340 by filing a certification form and documentation with the clerk no later than the anniversary date of the appointed official's appointment or professional employee's employment each year.

(B) Each certification form must substantially conform to the following form and all applicable portions of the form must be completed:

EDUCATIONAL REQUIREMENTS
CERTIFICATION FORM
FOR LOCAL GOVERNMENT PLANNING OR ZONING
OFFICIALS OR EMPLOYEES

To report compliance with the educational requirements, please complete and file this form each year with the clerk of the local governing body no later than the anniversary date of your appointment or employment. To report an exemption from the educational requirements, please complete and file this form with the clerk of the local governing body by no later than the first anniversary of your current appointment or employment. Failure to timely file this form may subject an appointed official to removal for cause and an employee to dismissal.

Name of Appointed Official or Employee: _____
Position: _____
Initial Date of Appointment or Employment: _____
Filing Date: _____

I have attended the following orientation or continuing education program(s) within the last three hundred and sixty-five days. (Please note that a program completed more than one hundred and eighty days prior to the date of your initial appointment or employment may not be used to satisfy this requirement.):

Program Name Sponsor Location Date Held Hours of Instruction

Also attached with this form is documentation that I attended the program(s).

OR

I am exempt from the orientation and continuing education requirements because (Please initial the applicable response on the line provided):

____ I am certified by the American Institute of Certified Planners.

____ I hold a masters or doctorate degree in planning from an accredited college or university.

____ I hold a masters or doctorate degree or have specialized training or experience in a field related to planning as determined by the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees. (Please describe your advanced degree or specialty on the line provided.)

_____

____ I am licensed to practice law in South Carolina.

Also attached with this form is documentation to confirm my exemption.

I certify that I have satisfied or am exempt from the educational requirements for local planning or zoning officials or employees.

Signature: _____

(C) Each appointed official and professional employee is responsible for obtaining written documentation that either:

(1) is signed by a representative of the sponsor of any approved orientation or continuing education program for which credit is claimed and acknowledges that the filer attended the program for which credit is claimed; or

(2) establishes the filer's exemption.

The documentation must be filed with the clerk as required by this section.

HISTORY: 2003 Act No. 39, Section 14, eff June 2, 2003.

SECTION 6-29-1370. Sponsorship and funding of programs; compliance and exemption; certification as public records.

(A) The local governing body is responsible for:

(1) sponsoring and providing approved education programs; or

(2) funding approved education programs provided by a sponsor other than the local governing body for the appointed officials and professional employees in the jurisdiction.

(B) The clerk must keep in the official public records originals of:

(1) all filed forms and documentation that certify compliance with educational requirements for three years after the calendar year in which each form is filed; and

(2) all filed forms and documentation that certify an exemption for the tenure of the appointed official or professional employee.

HISTORY: 2003 Act No. 39, Section 14, eff June 2, 2003.

SECTION 6-29-1380. Failure to complete training requirements; false documentation.

(A) An appointed official is subject to removal from office for cause as provided in Section 6-29-350, 6-29-780, or 6-29-870 if he:

(1) fails to complete the requisite number of hours of orientation training and continuing education within the time allotted under Section 6-29-1340; or

(2) fails to file the certification form and documentation required by Section 6-29-1360.

(B) A professional employee is subject to suspension or dismissal from employment relating to planning or zoning by the local governing body or planning or zoning entity if he:

(1) fails to complete the requisite number of hours of orientation training and continuing education within the time allotted under Section 6-29-1340; or

(2) fails to file the certification form and documentation required by Section 6-29-1360.

(C) A local governing body must not appoint a person who has falsified the certification form or documentation required by Section 6-29-1360 to serve in the capacity of an appointed official.

(D) A local governing body or planning or zoning entity must not employ a person who has falsified the certification form or documentation required by Section 6-29-1360 to serve in the capacity of a professional employee.

HISTORY: 2003 Act No. 39, Section 14, eff June 2, 2003.

ARTICLE 11
Vested Rights

SECTION 6-29-1510. Citation of article.

This article may be cited as the "Vested Rights Act".

HISTORY: 2004 Act No. 287, Section 2, eff July 1, 2005.

SECTION 6-29-1520. Definitions.

As used in this article:

(1) "Approved" or "approval" means a final action by the local governing body or an exhaustion of all administrative remedies that results in the authorization of a site specific development plan or a phased development plan.

(2) "Building permit" means a written warrant or license issued by a local building official that authorizes the construction or renovation of a building or structure at a specified location.

(3) "Conditionally approved" or "conditional approval" means an interim action taken by a local governing body that provides authorization for a site specific development plan or a phased development plan but is subject to approval.

(4) "Landowner" means an owner of a legal or equitable interest in real property including the heirs, devisees, successors, assigns, and personal representatives of the owner. "Landowner" may include a person holding a valid option to purchase real property pursuant to a contract with the owner to act as his agent or representative for purposes of submitting a proposed site specific development plan or a phased development plan pursuant to this article.

(5) "Local governing body" means: (a) the governing body of a county or municipality, or (b) a county or municipal body authorized by statute or by the governing body of the county or municipality to make land-use decisions.

(6) "Person" means an individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any legal entity as defined by South Carolina laws.

(7) "Phased development plan" means a development plan submitted to a local governing body by a landowner that shows the types and density or intensity of uses for a specific property or properties to be developed in phases, but which do not satisfy the requirements for a site specific development plan.

(8) "Real property" or "property" means all real property that is subject to the land use and development ordinances or regulations of a local governing body, and includes the earth, water, and air, above, below, or on the surface, and includes improvements or structures customarily regarded as a part of real property.

(9) "Site specific development plan" means a development plan submitted to a local governing body by a landowner describing with reasonable certainty the types and density or intensity of uses for a specific property or properties. The plan may be in the form of, but is not limited to, the following plans or approvals: planned unit development; subdivision plat; preliminary or general development plan; variance; conditional use or special use permit plan; conditional or special use district zoning plan; or other land-use approval designations as are used by a county or municipality.

(10) "Vested right" means the right to undertake and complete the development of property under the terms and conditions of a site specific development plan or a phased development plan as provided in this article and in the local land development ordinances or regulations adopted pursuant to this chapter.

HISTORY: 2004 Act No. 287, Section 2, eff July 1, 2005.

SECTION 6-29-1530. Two-year vested right established on approval of site specific development plan; conforming ordinances and regulations; renewal.

(A)(1) A vested right is established for two years upon the approval of a site specific development plan.

(2) On or before July 1, 2005, in the local land development ordinances or regulations adopted pursuant to this chapter, a local governing body must provide for:

(a) the establishment of a two-year vested right in an approved site specific development plan; and

(b) a process by which the landowner of real property with a vested right may apply at the end of the vesting period to the local governing body for an annual extension of the vested right. The local governing body must approve applications for at least five annual extensions of the vested right unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval.

(B) A local governing body may provide in its local land development ordinances or regulations adopted pursuant to this chapter for the establishment of a two-year vested right in a conditionally approved site specific development plan.

(C) A local governing body may provide in its local land development ordinances or regulations adopted pursuant to this chapter for the establishment of a vested right in an approved or conditionally approved phased development plan not to exceed five years.

HISTORY: 2004 Act No. 287, Section 2, eff July 1, 2005.

SECTION 6-29-1540. Conditions and limitations.

A vested right established by this article and in accordance with the standards and procedures in the land development ordinances or regulations adopted pursuant to this chapter is subject to the following conditions and limitations:

(1) the form and contents of a site specific development plan must be prescribed in the land development ordinances or regulations;

(2) the factors that constitute a site specific development plan sufficient to trigger a vested right must be included in the land development ordinances or regulations;

(3) if a local governing body establishes a vested right for a phased development plan, a site specific development plan may be required for approval with respect to each phase in accordance with regulations in effect at the time of vesting;

(4) a vested right established under a conditionally approved site specific development plan or conditionally approved phased development plan may be terminated by the local governing body upon its determination, following notice and public hearing, that the landowner has failed to meet the terms of the conditional approval;

(5) the land development ordinances or regulations amended pursuant to this article must designate a vesting point earlier than the issuance of a building permit but not later than the approval by the local governing body of the site specific development plan or phased development plan that authorizes the developer or landowner to proceed with investment in grading, installation of utilities, streets, and other infrastructure, and to undertake other significant expenditures necessary to prepare for application for a building permit;

(6) a site specific development plan or phased development plan for which a variance, regulation, or special exception is necessary does not confer a vested right until the variance, regulation, or special exception is obtained;

(7) a vested right for a site specific development plan expires two years after vesting. The land development ordinances or regulations must authorize a process by which the landowner of real property

with a vested right may apply at the end of the vesting period to the local governing body for an annual extension of the vested right. The local governing body must approve applications for at least five annual extensions of the vested right unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval. The land development ordinances or regulations may authorize the local governing body to:

(a) set a time of vesting for a phased development plan not to exceed five years; and

(b) extend the time for a vested site specific development plan to a total of five years upon a determination that there is just cause for extension and that the public interest is not adversely affected. Upon expiration of a vested right, a building permit may be issued for development only in accordance with applicable land development ordinances or regulations;

(8) a vested site specific development plan or vested phased development plan may be amended if approved by the local governing body pursuant to the provisions of the land development ordinances or regulations;

(9) a validly issued building permit does not expire or is not revoked upon expiration of a vested right, except for public safety reasons or as prescribed by the applicable building code;

(10) a vested right to a site specific development plan or phased development plan is subject to revocation by the local governing body upon its determination, after notice and public hearing, that there was a material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval;

(11) a vested site specific development plan or vested phased development plan is subject to later enacted federal, state, or local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and nonconforming structure and use regulations which do not provide for the grandfathering of the vested right. The issuance of a building permit vests the specific construction project authorized by the building permit to the building, fire, plumbing, electrical, and mechanical codes in force at the time of the issuance of the building permit;

(12) a vested site specific development plan or vested phased development plan is subject to later local governmental overlay zoning that imposes site plan-related requirements but does not affect allowable types, height as it affects density or intensity of uses, or density or intensity of uses;

(13) a change in the zoning district designation or land-use regulations made subsequent to vesting that affect real property does not operate to affect, prevent, or delay development of the real property under a vested site specific development plan or vested phased development plan without consent of the landowner;

(14) if real property having a vested site specific development plan or vested phased development plan is annexed, the governing body of the municipality to which the real property has been annexed must determine, after notice and public hearing in which the landowner is allowed to present evidence, if the vested right is effective after the annexation;

(15) a local governing body must not require a landowner to waive his vested rights as a condition of approval or conditional approval of a site specific development plan or a phased development plan; and

(16) the land development ordinances or regulations adopted pursuant to this article may provide additional terms or phrases, consistent with the conditions and limitations of this section, that are necessary for the implementation or determination of vested rights.

HISTORY: 2004 Act No. 287, Section 2, eff July 1, 2005.

SECTION 6-29-1550. Vested right attaches to real property; applicability of laws relating to public health, safety and welfare.

A vested right pursuant to this section is not a personal right, but attaches to and runs with the applicable real property. The landowner and all successors to the landowner who secure a vested right pursuant to this article may rely upon and exercise the vested right for its duration subject to applicable federal, state, and local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and nonconforming structure and use regulations which do not provide for the grandfathering of the vested right. This article does not preclude judicial determination that

a vested right exists pursuant to other statutory provisions. This article does not affect the provisions of a development agreement executed pursuant to the South Carolina Local Government Development Agreement Act in Chapter 31 of Title 6.

HISTORY: 2004 Act No. 287, Section 2, eff July 1, 2005.

SECTION 6-29-1560. Establishing vested right in absence of local ordinances providing therefor; significant affirmative government acts.

(A) If a local governing body does not have land development ordinances or regulations or fails to adopt an amendment to its land development ordinances or regulations as required by this section, a landowner has a vested right to proceed in accordance with an approved site specific development plan for a period of two years from the approval. The landowner of real property with a vested right may apply at the end of the vesting period to the local governing body for an annual extension of the vested right. The local governing body must approve applications for at least five annual extensions of the vested right unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval. For purposes of this section, the landowner's rights are considered vested in the types of land use and density or intensity of uses defined in the development plan and the vesting is not affected by later amendment to a zoning ordinance or land-use or development regulation if the landowner:

(1) obtains, or is the beneficiary of, a significant affirmative government act that remains in effect allowing development of a specific project;

(2) relies in good faith on the significant affirmative government act; and

(3) incurs significant obligations and expenses in diligent pursuit of the specific project in reliance on the significant affirmative government act.

(B) For the purposes of this section, the following are significant affirmative governmental acts allowing development of a specific project:

(1) the local governing body has accepted exactions or issued conditions that specify a use related to a zoning amendment;

(2) the local governing body has approved an application for a rezoning for a specific use;

(3) the local governing body has approved an application for a density or intensity of use;

(4) the local governing body or board of appeals has granted a special exception or use permit with conditions;

(5) the local governing body has approved a variance;

(6) the local governing body or its designated agent has approved a preliminary subdivision plat, site plan, or plan of phased development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; or

(7) the local governing body or its designated agent has approved a final subdivision plat, site plan, or plan of phased development for the landowner's property.

HISTORY: 2004 Act No. 287, Section 2, eff July 1, 2005.

ARTICLE 13

Federal Defense Facilities Utilization Integrity Protection

Code Commissioner's Note

Redesignated as Article 13 at the direction of the Code Commissioner.

SECTION 6-29-1610. Short title.

This article may be cited as the "Federal Defense Facilities Utilization Integrity Protection Act".

HISTORY: 2005 Act No. 1, Section 1, eff October 28, 2004.

Code Commissioner's Note

Redesignated from Section 6-29-1510 to Section 6-29-1610 at the direction of the Code Commissioner.

SECTION 6-29-1620. Legislative purpose.

The General Assembly finds:

(1) As South Carolina continues to grow, there is significant potential for uncoordinated development in areas contiguous to federal military installations that can undermine the integrity and utility of land and airspace currently used for mission readiness and training.

(2) Despite consistent cooperation on the part of local government planners and developers, this potential remains for unplanned development in areas that could undermine federal military utility of lands and airspace in South Carolina.

(3) It is, therefore, desirous and in the best interests of the people of South Carolina to enact processes that will ensure that development in areas near federal military installations is conducted in a coordinated manner that takes into account and provides a voice for federal military interests in planning and zoning decisions by local governments.

HISTORY: 2005 Act No. 1, Section 1, eff October 28, 2004.
Code Commissioner's Note
Redesignated from Section 6-29-1520 to Section 6-29-1620 at the direction of the Code Commissioner.

SECTION 6-29-1625. Definitions.

(A) For purposes of this article, "federal military installations" includes Fort Jackson, Shaw Air Force Base, McEntire Air Force Base, Charleston Air Force Base, Beaufort Marine Corps Air Station, Beaufort Naval Hospital, Parris Island Marine Recruit Depot, and Charleston Naval Weapons Station.

(B) For purposes of this article, a "federal military installation overlay zone" is an "overlay zone" as defined in Section 6-29-720(C)(5) in a geographic area including a federal military installation as defined in this section.

HISTORY: 2005 Act No. 1, Section 1, eff October 28, 2004.
Code Commissioner's Note
Redesignated from Section 6-29-1525 to Section 6-29-1625 at the direction of the Code Commissioner.

SECTION 6-29-1630. Local planning department investigations, recommendations and findings; incorporation into official maps.

(A) In any local government which has established a planning department or other entity, such as a board of zoning appeals, charged with the duty of establishing, reviewing, or enforcing comprehensive land use plans or zoning ordinances, that planning department or other entity, with respect to each proposed land use or zoning decision involving land that is located within a federal military installation overlay zone or, if there is no such overlay zone, within three thousand feet of any federal military installation, or within the three thousand foot Clear Zone and Accident Potential Zones Numbers I and II as prescribed in 32 C.F.R. Section 256, defining Air Installation Compatible Use Zones of a federal military airfield, shall:

(1) at least thirty days prior to any hearing conducted pursuant to Section 6-29-530 or 6-29-800, request from the commander of the federal military installation a written recommendation with supporting facts with regard to the matters specified in subsection (C) relating to the use of the property which is the subject of review; and

(2) upon receipt of the written recommendation specified in subsection (A) (1) make the written recommendations a part of the public record, and in addition to any other duties with which the planning department or other entity is charged by the local government, investigate and make recommendations of findings with respect to each of the matters enumerated in subsection (C).

(B) If the base commander does not submit a recommendation pursuant to subsection (A)(1) by the date of the public hearing, there is a presumption that the land use plan or zoning proposal does not have any adverse effect relative to the matters specified in subsection (C).

(C) The matters the planning department or other entity shall address in its investigation, recommendations, and findings must be:

(1) whether the land use plan or zoning proposal will permit a use that is suitable in view of the fact that the property under review is within the federal military installation overlay zone, or, if there is no such overlay zone located within three thousand feet of a federal military installation or within the three thousand foot Clear Zone and Accident Potential Zones Numbers I and II as prescribed in 32 C.F.R. Section 256, defining Air Installation Compatible Use Zones of a federal military airfield;

(2) whether the land use plan or zoning proposal will adversely affect the existing use or usability of nearby property within the federal military installation overlay zone, or, if there is no such overlay zone, within three thousand feet of a federal military installation, or within the three thousand foot Clear Zone and Accident Potential Zones Numbers I and II as prescribed in 32 C.F.R. Section 256, defining Air Installation Compatible Use Zones of a federal military airfield;

(3) whether the property to be affected by the land use plan or zoning proposal has a reasonable economic use as currently zoned;

(4) whether the land use plan or zoning proposal results in a use which causes or may cause a safety concern with respect to excessive or burdensome use of existing streets, transportation facilities, utilities, or schools where adjacent or nearby property is used as a federal military installation;

(5) if the local government has an adopted land use plan, whether the zoning proposal is in conformity with the policy and intent of the land use plan given the proximity of a federal military installation; and

(6) whether there are other existing or changing conditions affecting the use of the nearby property such as a federal military installation which give supporting grounds for either approval or disapproval of the proposed land use plan or zoning proposal.

(D) Where practicable, local governments shall incorporate identified boundaries, easements, and restrictions for federal military installations into official maps as part of their responsibilities delineated in Section 6-29-340.

HISTORY: 2005 Act No. 1, Section 1, eff October 28, 2004.
Code Commissioner's Note
Redesignated from Section 6-29-1530 to Section 6-29-1630 at the direction of the Code Commissioner.

SECTION 6-29-1640. Application to former or closing military installations.

Nothing in this article is to be construed to apply to former military installations, or approaches or access related thereto, that are in the process of closing or redeveloping pursuant to base realignment and closure proceedings, including the former naval base facility on the Cooper River in and near the City of North Charleston, nor to the planned uses of, or construction of facilities on or near, that property by the South Carolina State Ports Authority, nor to the construction and uses of transportation routes and facilities necessary or useful thereto.

HISTORY: 2005 Act No. 1, Section 1, eff October 28, 2004.
Code Commissioner's Note
Redesignated from Section 6-29-1540 to Section 6-29-1640 at the direction of the Code Commissioner.

ARTICLE I. GENERAL PROVISIONS

Sec. 26-1. Title.

This chapter shall be known and may be cited as the Land Development Code of Richland County, South Carolina.

(Ord. No. 074-04HR, § V, 11-9-04)

Sec. 26-2. Purpose and scope.

(a) *Purpose.* The regulations contained in this chapter have been adopted in accordance with the comprehensive plan for Richland County, South Carolina, and for the general purposes of guiding development in accordance with existing and future needs and promoting the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare. Furthermore, this chapter has been adopted with reasonable consideration of the following purposes:

(1) To provide for adequate light, air, and open space;

(2) To prevent the overcrowding of land, to avoid undue concentration of population and to lessen congestion in the roads;

(3) To facilitate the creation of a convenient, attractive, and harmonious community;

(4) To protect and preserve scenic, historic, cultural, or ecologically sensitive areas;

(5) To regulate the density and distribution of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports and approaches thereto, water supply, sanitation, protection against floods, public activities and other purposes;

(6) To facilitate the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements as are set forth in this chapter;

(7) To secure safety from fire, flood, and other dangers;

(8) To encourage the development of an economically sound and stable county;

(9) To assure the timely provision of required roads, utilities, and other facilities and service to new land developments;

(10) To assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;

(11) To assure the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational, and/or transportation purposes;

(12) To assure, in general, the wise and timely development of new areas, and redevelopment of previously developed areas in harmony with the comprehensive plans of Richland County and its municipalities;

(13) To assure compatibility between neighboring properties and adjacent zoning districts; and

(14) To further the public welfare in any other regard specified by the Richland County Council.

(b) *Scope.* The regulations set forth herein shall apply to all land and improvements thereon in the unincorporated portion of Richland County, South Carolina.

(Ord. No. 074-04HR, § V, 11-9-04)

Sec. 26-3. Statutory authority.

This chapter has been adopted pursuant to the authority conferred by the South Carolina Code of Laws, as amended. Specifically, authorization comes in Title 6, Chapter 29, of the South Carolina Code of Laws (South Carolina Local Government Comprehensive Planning Enabling Act of 1994). The Land Development Code of Richland County, South Carolina also uses powers granted in other sections of the South Carolina Code of Laws relating to particular types of development or particular development issues.

(Ord. No. 074-04HR, § V, 11-9-04)

Sec. 26-4. Comprehensive plan.

Pursuant to Title 6, Chapter 29, of the South Carolina Code of Laws, this chapter is intended to implement the goals, objectives and purposes of the comprehensive plan for Richland County. Any amendments to or actions pursuant to this chapter shall be consistent with the comprehensive plan. The comprehensive plan may be amended and the Land Development Code for Richland County shall reflect and incorporate those amendments.

(Ord. No. 074-04HR, § V, 11-9-04)

Secs. 26-5 - 26-20. Reserved.

Sec. 26-52. Amendments.

(a) *General.* The Richland County Council may from time to time amend any part of the text of this chapter or amend the zoning map of the county. Such amendments shall be made in accordance with the county's comprehensive plan.

(b) *Initiation of proposals.*

(1) *Text amendments.* Amendments to the text of this chapter may be initiated by:

a. Adoption of a motion by the Richland County Planning Commission.

b. Adoption of a motion by the Richland County Council.

c. Initiation by the Richland County Planning Director or the Richland County Administrator.

(2) *Zoning map amendments.*

a. *Initiation.* Amendments to the zoning map of the county may be initiated by:

1. Adoption of a motion by the Richland County Planning Commission.

2. Adoption of a motion by the Richland County Council.

3. Initiation by the Richland County Planning Director or the Richland County Administrator.

4. The filing of an application by the property owner(s) or their authorized agent.

b. *Minimum area for zoning map amendment application.* No request for a change in zoning classification shall be considered that involves an area of less than two (2) acres, except changes that involve one of the following:

1. An extension of the same existing zoning district boundary.

2. An addition or extension of RM-MD zoning contiguous to an existing RM-HD or RS-HD zoning district.

3. An addition of OI zoning contiguous to an existing commercial or residential zoning district.

4. An addition of NC zoning contiguous to an existing commercial or residential zoning district.

5. An addition of GC zoning contiguous to an existing industrial zoning district.

6. An addition of LI zoning contiguous to an existing industrial zoning district.

7. A zoning change where property is contiguous to a compatible zoning district lying within another county or jurisdiction.

8. A zoning change for a non-conforming use created by this chapter that is contiguous to compatible land uses.

9. A zoning change for a parcel located within an adopted neighborhood master plan area and which has a compatible adopted neighborhood zoning district.

(c) *Petition submittal by property owners (map amendments only).*

(1) *Application.* A petition for an amendment to the zoning map shall be filed on a form provided by the Richland County Planning and Development Services Department. Such application shall contain all the information required on the form. The filing of a petition is not needed for a proposal for a text amendment. In addition to the application, a digital plat representing the proposed change shall be submitted in a format specified by the county, if deemed necessary by the zoning administrator.

(2) *Conference.* Every applicant for a zoning map amendment is required to meet with the planning director, in a pre-application conference, prior to or at the time of, the submittal of the petition for amendment. The purpose of this conference is to provide additional information regarding the review process and to provide assistance in the preparation of the application.

(3) *Fees.* An application fee, established by the Richland County Council shall be submitted with the petition.

(d) *Staff review.* The planning department shall review any petition for a zoning map amendment and determine if it is complete within ten (10) days of its submittal. If the application is complete, the planning department shall schedule the matter for consideration at the next available meeting of the Richland County Planning Commission. For text amendments, the department shall schedule the matter for consideration by the planning commission when the staff review of the proposal is complete. For all amendments, the planning department shall prepare a staff evaluation and recommendation. Only complete application packages received prior to the first day of the month shall be scheduled for the following month’s planning commission meeting. The schedule for meetings of the planning commission shall be kept and maintained in the office of the Richland County Planning and Development Services Department.

(e) *Planning commission review and action.*

(1) *Review.* All proposed amendments shall be submitted to the planning commission for study and recommendation. The planning commission shall study each proposal to determine:

a. The need and justification for the change.

b. When pertaining to a change in the district classification of the property, the effect of the change, if any, on the property and any surrounding properties.

c. When pertaining to a change in the district classification of the property, the amount of land in the general area having the same district classification as that being requested.

d. The relationship of the proposed amendment to the purposes of the general planning program, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and the purposes of the comprehensive plan.

(2) *Action.* Within thirty (30) days from the date that any proposed zoning amendment is first considered by the planning commission at a scheduled meeting, unless a longer period of time has been mutually agreed upon between the county council and the planning commission in a particular case, the planning commission shall submit its report and recommendation to the county council. The recommendation of the planning commission is advisory only, and shall not be binding on county council. If the planning commission does not submit its report within the prescribed time, the county council may proceed to act on the amendment without further awaiting the recommendations of the planning commission.

(f) *Notification of public hearing.*

(1) *Publication.* Fifteen (15) days in advance of the first reading on any proposed map amendment, and fifteen (15) days in advance of the first or second reading of any proposed text amendment (whichever is applicable), the county council (or its designee) shall publish notice of the time and place of the public hearing on the matter in a newspaper of general circulation within the county. Such notices shall contain the date, time, and place of the public hearing, and the nature and character of the proposed action. In addition, the hearing notice shall also identify any property affected, and whenever practical, identify the general location where affected property lines intersect the frontage road. The notice shall further inform the public where information may be examined and when and how written comment may be submitted on the proposed matter.

(2) *Posting.* When a proposed amendment affects the district classification of a particular piece of property, the planning department shall cause to be conspicuously located on or adjacent to the property affected hearing notices that shall be posted as follows:

a. Hearing notices shall indicate the nature of the change proposed, identification of the property affected, and the time, date, and place of the public hearing. Whenever practical, the hearing notices shall identify the general location where property lines intersect the frontage road.

b. Hearing notices shall be posted at least fifteen (15) days prior to the hearing.

c. Hearing notices shall be located as follows:

1. For lots or parcels with road frontage of 100 feet or less, one (1) hearing notice shall be placed on each lot or parcel.

2. For lots or parcels with road frontage greater than one hundred (100) feet but less than five hundred (500) feet, one (1) hearing notice shall be placed for every one hundred (100) feet of road frontage or portion thereof.

3. For lots or parcels with road frontage greater than five hundred (500) feet but less than one thousand (1,000) feet, one (1) hearing notice shall be placed for every two hundred (200) feet of road frontage or portion thereof.

4. For lots or parcels of land with road frontage of one thousand (1,000) feet or greater, one (1) hearing notice shall be placed for every three hundred (300) feet of road frontage or portion thereof.

5. When multiple parcel rezonings are initiated by the county council, the planning commission, the planning director, or the county administrator, posting of property is not required. However, written notice of the hearing shall be mailed to affected property owners in accordance with Section 26-52(f)(3) below.

(3) *Mailed notice.*

a. *General.* Before holding a public hearing required by this chapter for a zoning map amendment, written notice of the hearing shall be mailed by the planning department, by first class mail, at least fifteen (15) days prior to the day of the hearing. Notice shall be mailed to all owners of property within, contiguous to, or directly across the road from the area proposed for rezoning. The notice shall be sent to the address of such owners appearing on the latest published tax listing. The failure to deliver notice as provided in this subsection shall not invalidate any such amendment nor delay the hearing. The notice shall contain the same information as required of notices published in newspapers (Section 26-52(f)(1) above).

b. *Notice to groups.* Neighborhood associations and other groups as specified by the Richland County Council shall be provided notice also. Such notice shall be mailed at least fifteen (15) days before the day of the public hearing and shall contain the same information as required of notices published in newspapers (Section 26-52(f)(1) above). The failure to deliver notice as provided in this subsection shall not invalidate any such amendment, nor delay the hearing.

(g) *County Council review and action.*

(1) *General.* Following receipt of a recommendation on a proposed amendment, the Richland County Council shall set a date for a public hearing on the proposed amendment. Notice shall be provided as set forth in Section 26-52(f) above. Public hearings on zoning map amendments shall be held prior to the first reading on the matter and public hearings for text amendments shall be held prior to first or second reading. In no event shall a public hearing on a specific question be held contemporaneously with the third reading of said question.

(2) *Action.* Within one hundred eighty (180) days after the public hearing on a proposed zoning map or text amendment, the county council shall either adopt or deny the amendment. If no action is taken by the county council within one hundred eighty (180) days after the public hearing, the proposed amendment shall be considered denied.

(h) *Withdrawal or reconsideration of proposed amendments.*

(1) *Withdrawal.* An applicant may only withdraw an amendment application (which has been submitted to the Richland County Council with planning commission recommendation) not less than fifteen (15) days prior to the scheduled County Council Zoning Public

Hearing. Less than fifteen (15) days before the Zoning Public Hearing, the applicant may only request a withdrawal by appearing before the County Council at the scheduled zoning public hearing. A withdrawal shall be considered a termination of the application. Resubmission shall be processed as a new application and all applicable fees will be assessed.

(2) *Major change to a proposed map amendment shall be considered a withdrawal.* A major change to a proposed map amendment application is any change initiated by the applicant or property owner that would result in a different zoning district classification than initially requested, or would result in a significant alteration in the requested zoning district boundary, or would result in a major amendment to a Planned Development District. Any major change in a proposed map amendment application, prior to enactment of the map amendment at third reading by County Council, shall be considered a withdrawal. A new application shall be submitted and all applicable fees will be assessed.

(3) *Reconsideration after denial.*

a. *Waiting period.* When an application for a change in land use classification has been disapproved by the county council, reapplication for the same change, for the same parcel of land, in whole or in part, shall not be permitted until twelve (12) months from the date of final determination or action of the council.

b. *Waiting period waiver.* The waiting period required by this subsection shall be waived if the planning commission recommends to the county council that reconsideration be given, after the planning commission has found that either:

1. There has been substantial change in the character of the area; or

2. Evidence of factors or conditions exist (that were not considered by the planning commission or the county council in previous deliberations), which might substantially alter the basis upon which the previous determination was reached.

(Ord. No. 074-04HR, § V, 11-9-04; Ord. No. 065-05HR, § I, 9-20-05; Ord. No. 023-06HR, § I, 3-21-06; Ord. No. 064-08HR, § I, 10-21-08; Ord. No. 038-09HR, § III, 7-21-09; Ord. No. 028-13HR, § I, 6-18-13)

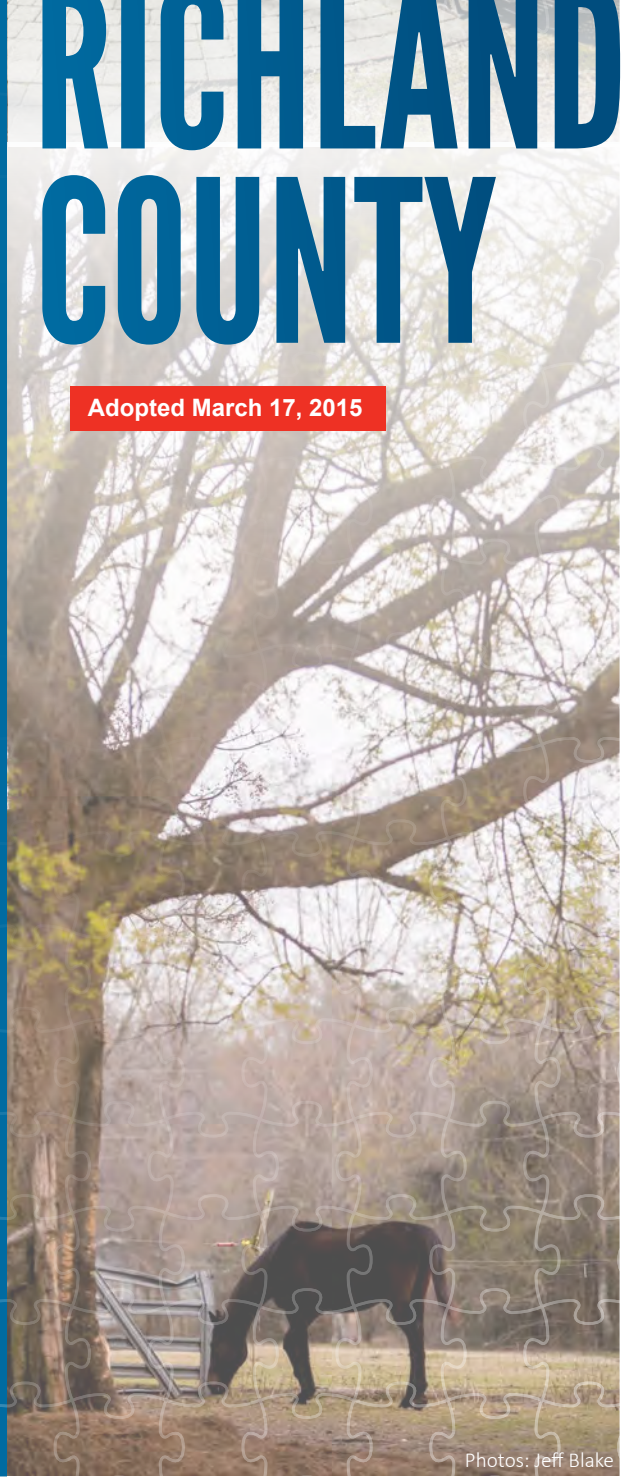
COMPREHENSIVE

PLAN

putting the pieces in place

RICHLAND COUNTY

Adopted March 17, 2015



Photos: Jeff Blake

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Acknowledgments

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1. Guiding Principles

Guiding Principles guide an organization throughout its life in all circumstances, irrespective of changes to its goals, strategies and management. These guiding principles articulate the planning policy "mission" for Richland County and are listed here in no particular order.

In the future, as it assesses new opportunities and coordinates with local and regional partners, Richland County will…

…Balance land planning and development goals with private property rights

Upholding the private property rights of landowners in Richland County is just as important as achieving long range planning goals for the County and its municipalities. Opportunities affecting both planning goals and private property rights should be weighed carefully, and decisions should attempt to achieve a balance between the two factors.

...Support the Midlands Regional Vision for Growth within Richland County

Community leaders will continue to engage in and support the eight-county Midlands regional planning effort for growth. "Growing by choice and not by chance," the Midlands Regional Vision supports a growth pattern built around "community centers" that is guided by the need to enhance the region's economic drivers, to make better use of existing infrastructure, and to promote communities that are greener and more transit friendly.[1]

...Promote Investment in Existing Communities and Support Redevelopment Opportunities

Established neighborhoods and commercial centers are the backbone of Richland County. The success of these communities has a direct impact on the success of the County. To counteract the cycle of disinvestment and decline that can occur in aging communities, the County will promote investment and redevelopment through its land planning and capital investment decisions.

...Coordinate Land Planning and Infrastructure Planning to Efficiently Provide Public Services and to Support a Preferred Growth Pattern

To achieve its Future Land Use vision and to maximize use of existing resources and infrastructure, Richland County will coordinate with utility partners to support development of efficient and well-defined plans for new facilities and services, such as public water, sewer, roads, and public transportation service.

...Coordinate Land Planning with Columbia and Other Jurisdictions, with a Focus on Areas of Common Interest

Many communities in Richland County are intersected by jurisdictional lines. To achieve cohesive community character, and to support consistent land planning across jurisdictions, Richland County will work with its municipalities, military installations, school districts, and neighboring communities to plan for areas of common interest.

...Support the Continued Viability of Agricultural, Horticultural and Forestry Operations

Richland County has a long "working lands" legacy. Working lands in Richland County today include those used for agriculture, horticulture and forestry activities. The County will support the continued viability of these operations.

...Support Military Installations and Their Operations through Land Planning

Fort Jackson, McCrady Training Center, and McEntire Joint National Guard Base are important to our nation's defense system, and also to our local and regional economy. These military installations are important partners and neighbors. The long-term success of the military operations at these bases can be impacted by land planning in Richland County; therefore, Richland County will consider the military installations when making decisions within areas of common interest surrounding the bases.

[1] For more information on the Midlands Regional Vision for Growth and the Midlands ULI Reality Check Initiative, go to http://southcarolina.uli.org/midlandsrealitycheck/

...SUPPORT ECONOMIC DEVELOPMENT BY INVESTING IN TARGETED AREAS

Public investments in infrastructure, facilities, and programs are an important component to economic development strategies. These public investments often are the catalyst for future private investments. To achieve its economic development goals, Richland County will focus public investments in targeted locations as identified by Priority Investment Areas outlined in the Priority Investment Element of this Comprehensive Plan.

...IMPROVE QUALITY OF LIFE BY FOSTERING DEVELOPMENT OF LIVABLE COMMUNITIES

Communities are being designed to reflect the lifestyle preferences of the nation's changing population. The retirement of the baby boomer generation and the introduction of the millennial generation into the workforce may mark the first time in our nation's history when older and younger generations are desiring a similar type of lifestyle that is focused on achieving greater accessibility between where people live, work, shop, and recreate. In essence – more people want to be more connected, and they want a lifestyle that makes it easier to be connected. To address these changing needs, Richland County will improve quality of life in the County by fostering development of livable communities. Livable community design is defined as development that supports diverse housing choices, provides access to multiple forms of transportation, offers increased accessibility to services and shopping, promotes the health benefits of open space protection, and provides access to recreational amenities.

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2. The Planning Process

This Comprehensive Plan is a "blueprint" that provides guidance as to where and how Richland County will grow in the next 20 years. It provides direction for shaping future decisions so that the County can achieve its vision – one that values its history, environment, and culture, all the while harnessing the new energy and vision for growth in the 21st century.

Purpose of Plan Update

In 2013, the Richland County Council directed the County Planning Department to undertake an update to the Comprehensive Plan with a focus on updating the Land Use and Priority Investment Elements. With new regional focus on land planning in the Midlands, and increases in development activity in the County and the greater region, the time was ripe to take a new look at the land use vision for Richland County.

The objectives are for the plan to provide greater guidance for the type of character that the citizens of the County want to protect and create, to set out specific strategies for creating these uniquely urban, suburban, and rural communities, and to reassess priority areas for capital improvements and public investments. This plan sets out to achieve those objectives.

The way people experience their environment transcends jurisdictional boundaries. Whether you live in Columbia, Irmo, or Eastover, you are a Richland County citizen. Decisions made on lands in the unincorporated portions of the County have an impact not only on residents of the unincorporated portions of the County, but also on its neighboring jurisdictions.

Plan Together, Put the Pieces in Place was the signature designed for this planning process - a joint effort to update the Comprehensive Plans for both Richland County and the City of Columbia. This year long process is the first opportunity the City and County have had to undertake a joint planning effort. The two jurisdictions coordinated planning efforts at key points during the process. This resulted in a coordinated Future Land Use map and many strategies to maintain joint planning efforts.

Richland County citizens, business and property owners had four opportunities to voice their aspirations for the future of the County. A series of reports were generated that document the outcomes of each of these sessions, and are available on the County's website.

1. COMMUNITY CONVERSATIONS

Five meetings, one in each of the County's planning areas, were held to learn about the aspirations of the community with respect to land use, development, and conservation. Mapping exercises provided opportunities for participants to identify places to protect from change and the type of development they would prefer to see in the future.

2. CHOICES WORKSHOPS

At five Choices Workshops, community members were given opportunities to respond to initial ideas for amending the Land Use and Priority Investment elements through a series of anonymous polling exercises and mapping activities.

3. PUBLIC REVIEW OF PLAN

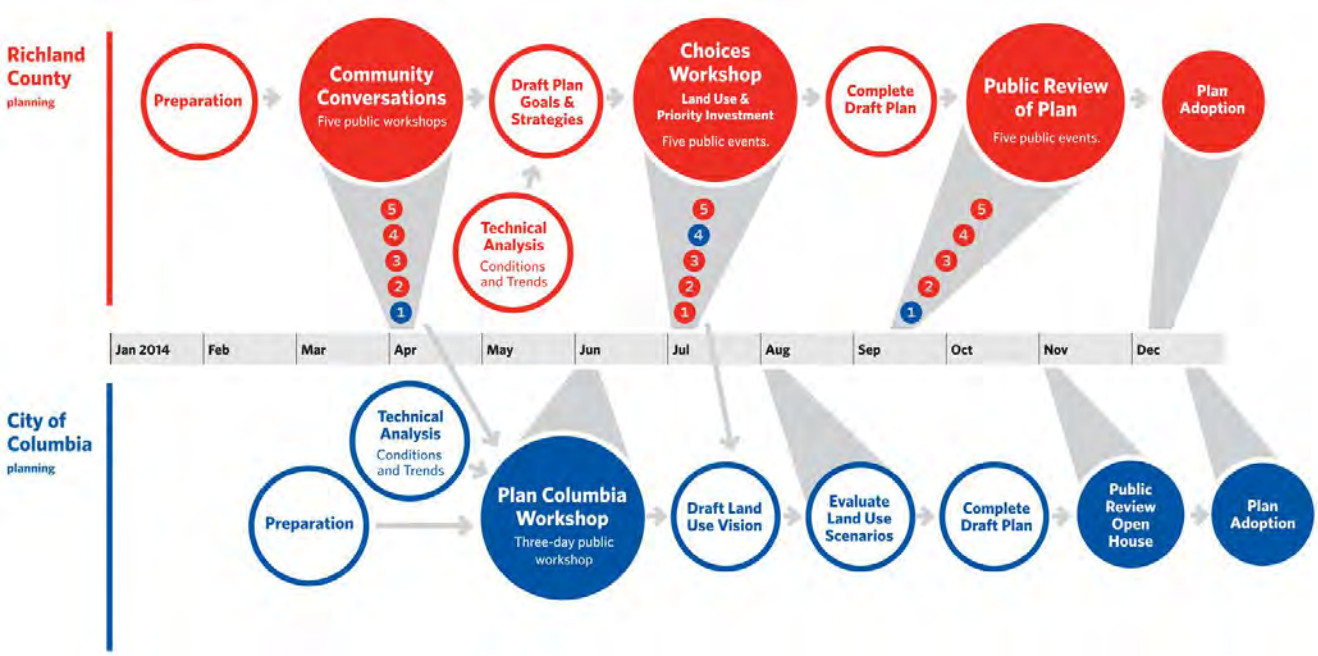
Five meetings were held to offer the public the opportunity to review the draft sections of the plan and to provide comment on the goals and strategies that should be priorities for the County.

4. PLAN ADOPTION HEARINGS

Formal adoption hearings with the Planning Commission and the County Council offered a final opportunity to provide input on the draft Plan.

The Plan Together Process

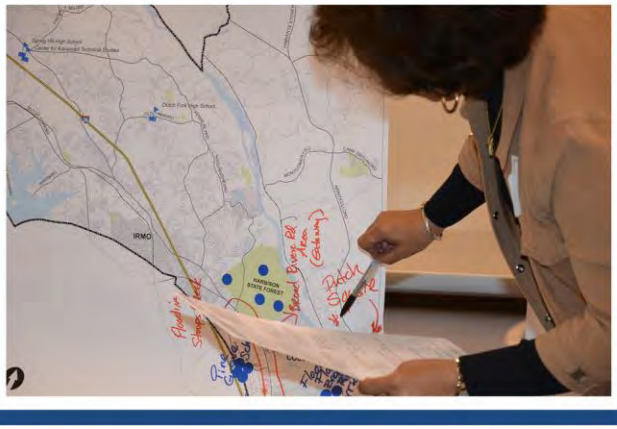
The following diagram and anticipated timeline illustrates the year-long coordinated planning approach jointly undertaken by Richland County and the City of Columbia.

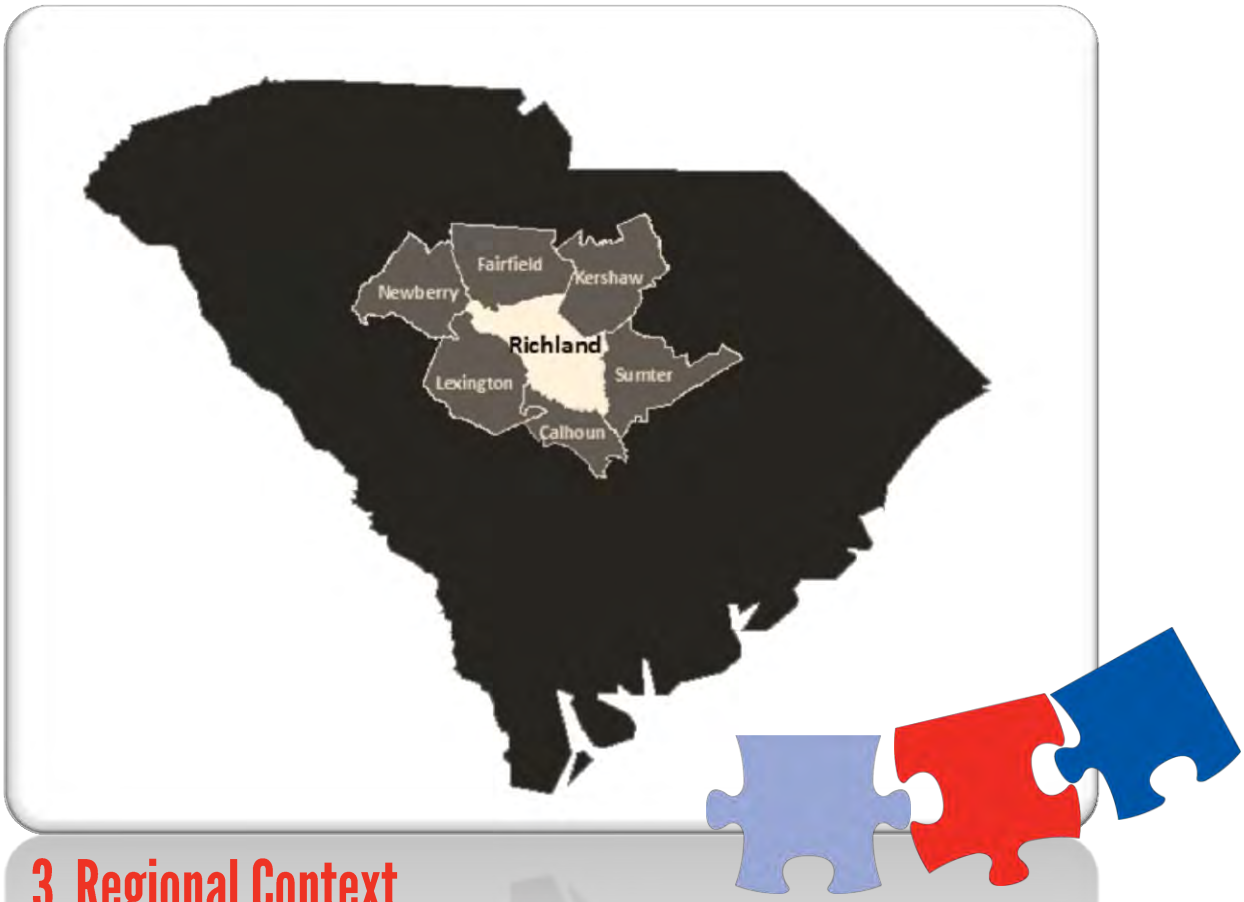


PLAN TOGETHER

put the pieces in place

Richland County





3. Regional Context

Richland County lies at the heart of the Midlands Region. Decisions made in Richland County have an impact on surrounding communities and the greater region, just as community decisions made by neighboring jurisdictions have an impact on Richland County. Regional planning initiatives have begun in the Midlands to plan for a prosperous future for all communities in the region.

Position in Region

Richland County lies in the heart of the Midlands Region of South Carolina, at the halfway point between the South Carolina uplands and the coast. Richland County is home to the state's largest city – Columbia – and the center of state government.

Surrounding Richland County are Fairfield, Newberry, Lexington, Calhoun, Kershaw and Sumter Counties. The Midlands Region is defined differently depending on the source. For the purposes of this plan, the region is considered the counties mentioned above.

Reasons for Pursuing Regional Collaboration

One reason for communities in the Midlands Region to collaborate is to achieve economic success. The Midlands is a successful region with a fairly stable economy, the largest state university, an array of rich cultural and arts institutions, and an abundance of natural resources. According to 2010 census data compiled by the Urban Land Institute, the population of the Midlands region is currently 860,000, and within the next 30 years, the region may grow to add 450,000 more people.

The biggest challenges for the region are to (1) remain competitive and successful in an uncertain and ever-changing global and national economy, and (2) to address changes in demographics and lifestyle preferences of future generations. The solutions to these challenges lie in local policies and regional collaboration to make the Midlands a premier region for growth and investment in the 21st century.

Regional Economic Drivers

The Central Midlands Regional Council of Governments defines the Midlands Region as including Fairfield, Newberry, Richland, and Lexington Counties. Over the last three decades, this region was successful at achieving sustained growth. Recent years have seen a slowing of regional growth, including the closing of many manufacturing plants. The Services sector was the largest growth sector between 2000 and 2010. Manufacturing and Government sectors have both declined both in terms of total number of jobs and proportion of employment in the region.

The vast majority of jobs in the region are located in the urbanized areas. However, in comparing job growth between 2000 and 2009, Richland County had the second lowest percentage of job growth, trailed by Fairfield County, which experienced a decline in jobs. Lexington County led job growth during this period.

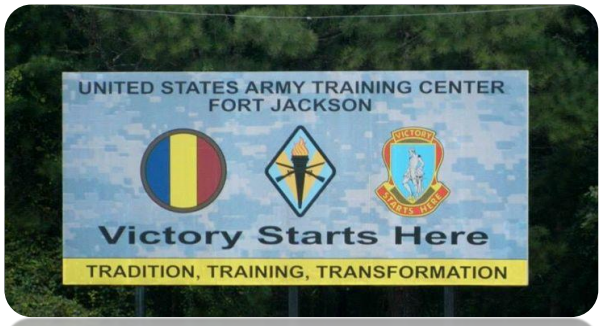
It will be important for Richland County to develop new opportunities to secure a proportion of expected job growth in the region. Several economic clusters are targets for expanding the regional economy, including insurance, nuclear power, transportation and logistics, and hydrogen fuel cell technology. Maintaining the established military installations in the region is another important goal for capturing regional job growth. Important considerations for attracting new industries to Richland County are the quality of life offered to its residents, including housing choices, transportation options, recreational amenities and healthy lifestyle options, access to cultural events and activities, and access to healthcare.

Importance of Military Installations

Acclaimed by Victory Media as the "most military friendly community in America," the City of Columbia and the greater Midlands Region are home to five military installations, and three are located in Richland County: Fort Jackson Army Base, McEntire Joint National Guard Base, and the McCrady Training Center at Fort Jackson.

As the U.S. Army's main production center for Basic Combat Training, Fort Jackson trains 50 percent of the Army's Basic Combat Training load and 60 percent of the women entering the Army

each year. Accomplishing that mission means training in excess of 36,000 basic training and 8,000 advanced individual training Soldiers every year.



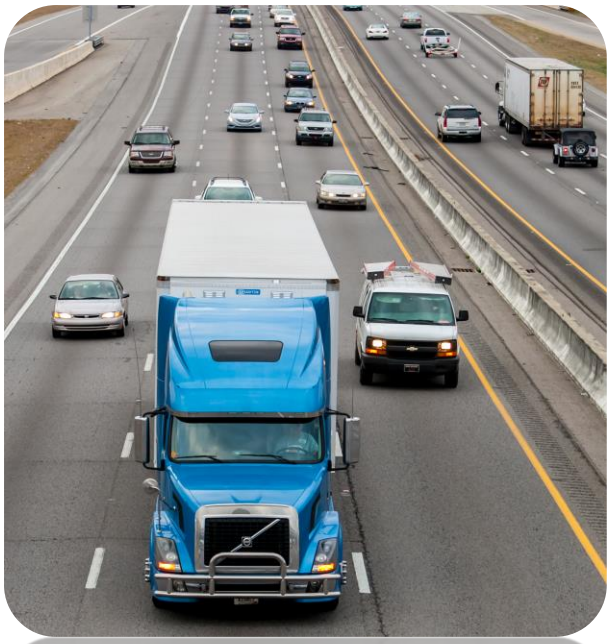
Fort Jackson is not only important to our nation's security but also to the economic health of Richland County and the region.

The Midlands Region recognizes Fort Jackson as a major economic engine and a good community partner. In the 2011 fiscal year, Fort Jackson generated a total of $2.012 billion in economic activity statewide and supported 19,834 jobs. These jobs earned approximately $941 million in annual employee compensation. The McEntire Joint National Guard Base generated a total of $296 million in economic activity and supported 2,303 jobs. These jobs earned approximately $61 million in annual employee compensation. Economists' estimates suggest that every ten full-time positions on these installations supported approximately 13 full-time, non-Department of Defense civilian positions. The bases are not without challenges. In the past and currently, Fort Jackson has been recommended as a potential base for closing or for a reduction of operations as part of the Department of Defense's approach to make national defense operations more efficient. Strong community sentiment in support of maintaining the base has gone far to counteract these recommendations.

Another challenge to military installations in the region is encroachment of incompatible land uses near base operations. In 2007, the Midlands Area Joint Installation Consortium (MAJIC) was established to educate the regional about the pressing need to protect training resources at Fort Jackson, Shaw Air Force Base, McEntire Joint National Guard Base, Poinsett Bombing Range, and McCrady Training Center. A Joint Land Use Study developed for Fort Jackson, McEntire, and McCrady in 2013 provides several strategic solutions for protecting military operations from impacts of neighboring development.

Regional Commuting

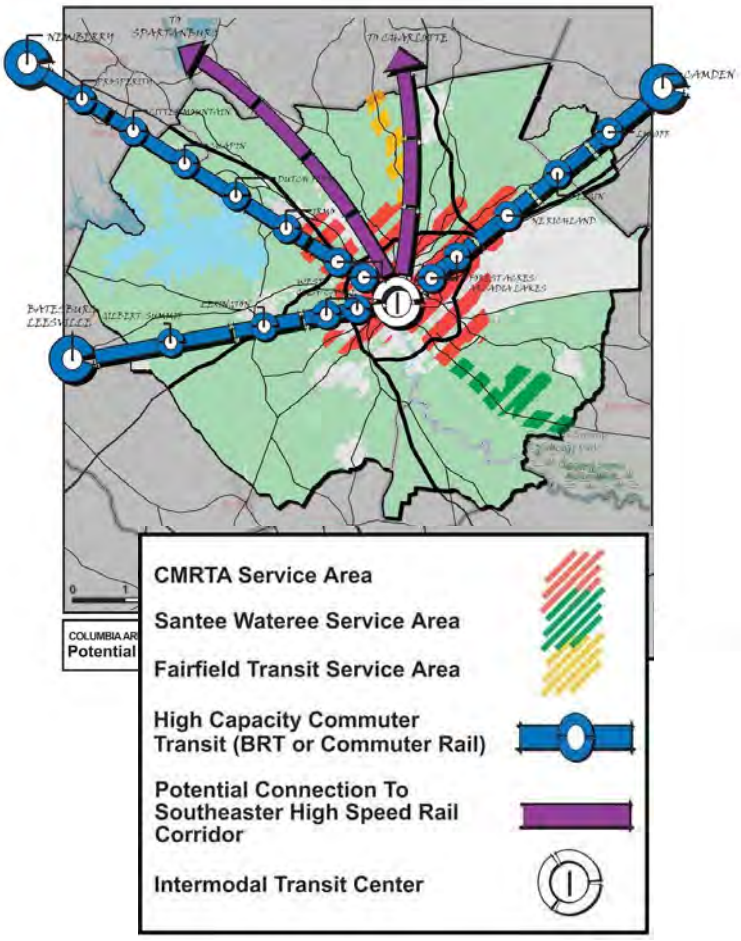
Transportation planning is another opportunity for regional collaboration. In 2011 more than 56 percent of workers employed in Richland County lived outside of the County. During that same period, more than 35 percent of workers that reside in Richland County worked in a neighboring county. As the regional grows, commuting will increase and congestion on regional roadways could have a significant negative impact on air quality through increased vehicle emissions, increased fuel costs, increased road maintenance and improvement costs, and effects on local business productivity because of increased commuting times. Planning efforts are underway to evaluate transportation models that can provide more options for future regional commutes and reduce the negative impacts that traffic congestion can generate.



With increasing regional population growth comes an increase in regional commuting. How the Midlands Region plans for future development and the transportation systems to support that development will have an impact on quality of life in the region.

Commuter rail has been a regional topic for discussion over the last two decades. Advocates have been successful in realizing several recent studies that have considered the feasibility of commuter rail. In 2006, the CMCOG adopted the Commuter Rail Feasibility Study for the Central Midlands Region of South Carolina (2006 Commuter Rail Plan) to espouse a framework for future commuter rail connections, both locally and regionally. The 2006 Commuter Rail Plan highlighted five potential corridors, two for connecting to future high speed rail and three for potential commuter rail service. These corridors are depicted in the graphic to the right.

While these plans are conceptual and no formal plans are being developed at this time, it is important to consider the impact of land use and capital improvement decisions and how they may support or challenge future regional rail efforts.



The Central Midlands Council of Governments has assessed the opportunity and feasibility to develop a regional commuter rail system utilizing existing railroad lines. This map identifies potential opportunities for these commuter corridors and rail stations to serve them.

Midlands Regional Planning

Several regional planning efforts set the context for planning in Richland County.

2012-2017 Comprehensive Economic Development Strategy for the Central Midlands Region

Prepared by the Central Midlands Council of Governments in 2012, the 2012-2017 Comprehensive Economic Development Strategy for the Central Midlands Region evaluates important trends and conditions in the region,

including natural assets, transportation and infrastructure, economic trends, and demographic trends. The report documents a SWOT (strengths, weaknesses, opportunities, and threats) analysis conducted to help identify the region's economic development priorities. It includes an action plan and performance measures , as well as strategic projects for each of the four counties in the CMCOG region. Richland County projects include commercial and business revitalization projects, industrial park development, transportation and utility infrastructure improvements, and fostering development of alternative fuel technologies and businesses.

Midlands Region Reality Check

Led by the South Carolina Chapter of the Urban Land Use Institute, a Reality Check "game day" regional visioning exercise was conducted in October 2013 to focus on land use and growth in the Midlands region. Bringing together more than 300 regional leaders including business, government, economic development, and concerned citizen perspectives, this exercise provided a collaborative and multi-disciplinary environment to assess opportunities for how and where projected growth should occur in the region.

The Reality Check "Game Day" brought together leaders from across the Midlands to envision the pattern of future growth in the region.

After analyzing the results of the Reality Check exercises, a set of guiding principles and regional growth concepts were developed to articulate the region's new approach to growth.

Midlands Reality Check Guiding Principles

- Utilize existing infrastructure
- Protect and enhance the region's economic drivers
- Promote healthy vibrant neighborhoods

Vision for the Midlands of the Future

- Support mixed use developments where residents can live and work
- Healthy and safe communities
- Facilitate cooperation among regional leaders to create a shared common vision

The implementation of the Midlands Regional vision is underway with a focus on encouraging local governments to incorporate the guiding principles and regional vision into their policies and ordinances.

Green Infrastructure Plan

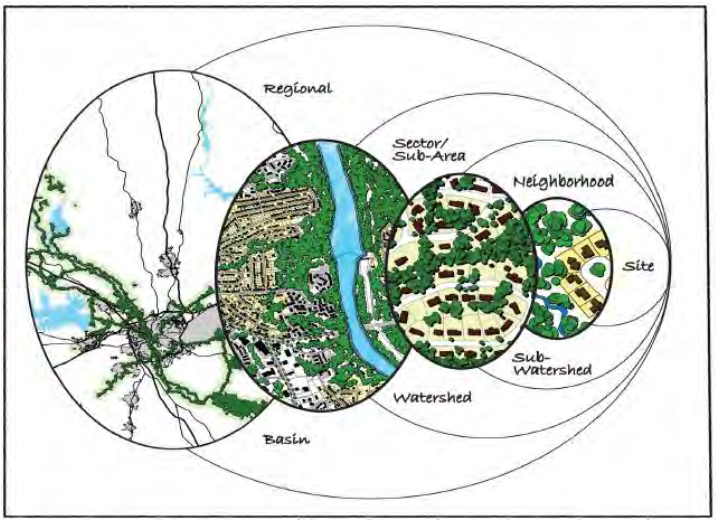
In 2011, the Central Midlands Council of Governments published a Green Infrastructure Plan for the Midlands Region. This plan seeks to create an interconnected network of green space that conserves natural ecosystems and functions and provides associated benefits to human populations.

Taking a watershed approach to regional land planning, this plan is ultimately implemented through a combination of land and water

stewardship efforts and local government land planning policies and regulations.

The plan focuses on conserving in their natural state three components: large hubs, smaller sites, and linkages between hubs and sites. This design promotes plant and species preservation and maintenance of ecological processes in order to carry and filter stormwater runoff, store and clean fresh water, clean urban air, and prevent – or ameliorate the effects of – habitat fragmentation.

The Central Midlands Green Infrastructure Plan sets out a strategy for protecting the region's land and water resources in the form of a connected network that can serve as ecologically functional systems and places for people to commune with nature.



4. Population Element

Richland County is home to a growing and diverse population. College students, new professionals, young families, empty nesters, and retirees all work, live, and play in Richland County. Ensuring that future populations of the County have adequate housing options, recreational opportunities, and a good quality of life is an important policy consideration for the County's leaders.

Issues and Opportunities

Richland County is growing and is expected to continue to grow into the future. How the County plans for this future population growth is the key question to address in this Comprehensive Plan update. For additional data and information on the following topics, please refer to the Comprehensive Plan Appendix A.

The Largest Increase in Population Growth Has Occurred Recently

Historically, population growth in Richland County has occurred at a reasonably constant rate.

However, in the last two decades, Richland County has seen its fastest population growth to date. This new population growth has generally been concentrated in the Northwest and Northeast Planning areas (see page 17 of Appendix A). Urban areas within the Beltway have experienced population loss, as people move away from the city center, and into new housing provided by the Northwest and Northeast Planning areas.

Population Density is Decreasing

While total population in Richland County has been increasing, the density of the population is generally decreasing. This may be attributed to two major trends: The first is that the American public is generally moving towards smaller household sizes, meaning fewer people per individual house. This is compounded by the prevalence of low density residential development in the County. The end result is fewer people living in houses that are spaced farther apart. The one exception to this trend is the Northeast Planning area, which has seen increased population density due to the existence of higher density residential developments.

Population Growth is Expected to Slow in the Future

The high population growth of recent decades is expected to slow down in the future. Population projections vary by source, but generally show a slowing of population growth back down to pre-1990's levels. However, even with a decreasing rate of growth expected, the County will likely add another 41,000-162,000 additional residents in by the year 2040. See Appendix A of the Comprehensive Plan for more information.

Demographics are Changing

National demographic trends are playing out in Richland County. Across the U.S. the aging baby boomers and the millennial (those born between 1980 and 2000) generations are having a large impact on housing markets, retail, technology, and workplace environments. These are the two largest generations alive. These two generations have different lifestyle preferences than previous generations. They are demanding smaller homes, better access to shopping and recreation, opportunities to get around without a personal car, and ways to stay better connected with their communities and the world. Between 2000 and 2010, the number of future retirees aged 45-64 increased from 20 percent to 24 percent. While the percentage of persons aged 20-44 declined between 2000 and 2010, the percent of people age 20-25 increased, largely due to USC student enrollment increases and the millenial demographic trends. Providing choices to the County's changing population is an important policy consideration for the County.

Goals and Implementation Strategies

To address current and projected demographic and population trends, Richland County's land use goals are…

P Goal #1: To provide a variety of housing choices accommodating increasing household numbers and types

Strategy 1.1: Land Development code updates
Continue enabling a range of housing densities in the Land Development Code.

Strategy 1.2: Support higher densities
Support higher residential densities in priority development areas.

Strategy 1.3: Incentivize land conservation
Provide residential density bonuses for conservation subdivisions.

Strategy 1.4: Promote accessory dwelling units
Continue to permit accessory dwellings in most residential zoning districts.

P Goal #2: To plan for a range of desirable urban, suburban, and rural communities with varied lifestyles and landscapes

Strategy 2.1: Zoning
Reform the zoning maps to facilitate planned future land uses.

Strategy 2.2: Capital Improvements Program
Develop a capital improvements program that aligns community infrastructure investments with planned future land use.

P Goal #3: To encourage mixed use development and redevelopment, especially in priority investment areas

Strategy 3.1: Community centers
Create centers of community with recreational, cultural, and civic opportunities for engaged senior citizens.

Strategy 3.2: Multigenerational housing
Support a variety of nearby housing choices that enable aging in place.

Strategy 3.3: Efficient land use
Increase the proximity of residential, commercial, office, and civic land uses reduce trip distances, automobile travel, and air pollution.

Strategy 3.4: Context-sensitive transportation
Develop a network of pedestrian, bicycle, and traffic-calming streetscapes for active lifestyles and neighborhood interactions.

Strategy 3.5: Public transportation
Improve transit services for reduced automobile dependency.

Strategy 3.6: Encourage infill development
Promote and enable residential infill development and redevelopment and mixed use development over retail.

P Goal #4: To target underserved communities with neighborhood master plans, community infrastructure improvements, affordable housing and neighborhood retail infill and redevelopment, and transportation connections to jobs

Strategy 4.1: Neighborhood Master Plans
Add additional underserved communities to the list of pending Neighborhood Master Plans.

Strategy 4.2: Public-private partnerships

Create public-private partnerships for planned neighborhood revitalization projects.

Strategy 4.3: HUD grants

Maintain eligibility for Community Development Block Grant and HOME Investment Grant funding from the US Department of Housing and Urban Development.

Strategy 4.4: Affordable housing

Include affordable housing in Planned Development District rezoning applications.

Strategy 4.5: Expand transit

Expand the Central Midlands Regional Transit Authority bus routes and facilities to more transit-dependent neighborhoods.

P Goal #5: To collaborate with school districts strengthening the physical and social connections between schools and their communities

Strategy 5.1: Centralize small schools

Locate, design, renovate and operate schools as centers of community, with limited student population sizes.

Strategy 5.2: Collaborate with SCDOT in the Safe Routes to Schools program

Participate in SCDOT's Safe Routes to School Program to provide safe routes to schools for pedestrians and bicyclists.

Strategy 5.3: Promote schools as community centers

Foster multiple uses of public school facilities, including after school mentoring programs, and evening and weekend access for continuing education and community activities.

Strategy 5.4: Coordination

Foster an environment of cooperation among local planners and school officials.

5. Land Use Element

Richland County has a wide range of development patterns. As attested by its citizens, the County is a mix of rural, suburban, and urban land uses. This Land Use element sets out a course for maintaining the unique character of Richland County. It also delineates strategies for working with neighboring jurisdictions to "PLAN TOGETHER" for the County's future.

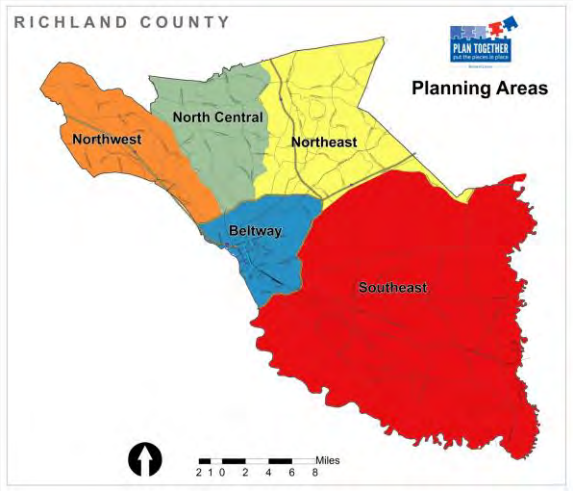
Issues and Opportunities

The Land Use goals and implementation strategies set out in this element are supported by key findings that arose during the planning process. For additional data and information on the following topics, please refer to the Comprehensive Plan Appendix A.

Large Planning Area that Includes Numerous Planning Jurisdictions

Richland County encompasses more than 770 square miles of land. It is the largest county in the Midlands Region and is home to seven incorporated municipalities (Arcadia Lakes,

Blythewood, Cayce, Columbia, Eastover, Forest Acres, and Irmo) and many suburban and rural communities in the unincorporated areas of the County. Three school districts plan for schools in the County, and multiple utility providers provide services within Richland County. The County is divided into five planning areas to better address the broad range of planning issues that arise: Beltway, North Central, Northeast, Northwest, and Southeast. These planning areas often include a mix of urban, suburban, and rural development, but they are distinctive in terms of how they physically appear in each planning area and the issues they face.



Richland County is divided into five planning areas.

The County has an opportunity to increase coordination between the multiple jurisdictions operating in the County to ensure that planning goals are consistent.

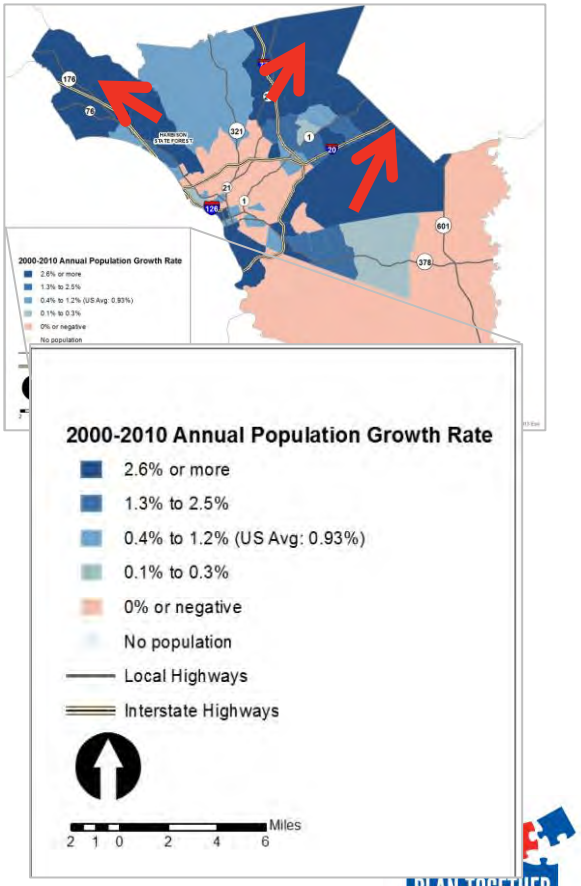
Significant Population Growth is Expected to Continue

Between 2000 and 2010, Richland County had an annual average compounded population growth rate of 1.83%. This is a very healthy rate of growth, especially considering the time period and the impact of the recession on the region and the nation. During this time, population grew by nearly 64,000 and 15,400 housing units were added in the County. Estimates for population in 2012 suggest that Richland County was home to 384,596 residents.

Even though the rate of population growth is projected to decrease, future projections show that the County may gain another 41,000 to 162,000 new residents between 2010 and 2040.

History of Expanding Growth Pattern and New Emphasis on Redevelopment

Over the last decade, much of the new development occurred within the unincorporated portions of the County, primarily in the Northeast and Northwest planning areas on formerly undeveloped lands.



This dispersed pattern of growth in the County resulted in a net decrease in population density for most planning areas, except the Northeast. This means that as growth was occurring, it was spreading outward, away from the City of Columbia and into the farther reaches of the County.

While development of vacant lands is expected to continue there is support for the redevelopment of and reinvestment in existing developed County lands. Aging commercial corridors and blighted neighborhoods experiencing disinvestment are critical areas for focusing redevelopment. When asked what the preferred patterns for growth were in the County, residents responded first with a focus on redevelopment (50%), then on infill (25%) and greenfield (25%) development.

> *When asked what the preferred patterns for growth were in the County, residents responded first with a focus on redevelopment, then on infill and greenfield development.*

Citizens Support Protecting Rural Character

As of 2014, nearly 50% of the lands in Richland County are estimated to be in agricultural or other working lands use. This includes farm properties that contain a primary residence. Approximately 18% of the County lands are in a use that is exempt from property taxes, such as the Congaree National Park, Harbison State Forest, Fort Jackson, government buildings, schools, churches, and other similar tax exempt land uses. Residential land uses account for approximately 17% of the County's land area, and about 10% is in an undeveloped state that is not actively in agricultural use. Only a small proportion of land is dedicated to institutional (2.84%), commercial (1.65%), and industrial (1.6%) uses. See Appendix A for Existing Land Use statistics and maps for the County and its five planning areas.

Photo: Jeff Blake

Residents want to protect the uniquely rural character found in Richland County.

Citizen input suggests strong interest to protect the unique rural character in Richland County, as evidenced by polling feedback provided at the July, 2014 Community Choices workshops. The challenge is to maintain this uniquely rural character in a way that upholds private property interests.

Water Resources Should Be Preserved

Richland County is rich in water resources, including the Broad, Congaree, Saluda, and Wateree Rivers. There is also an abundance of creeks, ponds, and lakes, including Lake Murray. Nearly 9,800 acres (2 percent of the County) is covered by water, including more than 1,100 miles of perennial streams and 400 miles of intermittent streams that hold water during the

wet portions of the year. Gills Creek, Wateree Creek, Rocky Creek and Mill Creek are several creeks that are identified for restoration. Feeding these water bodies are floodplains that absorb stormwater and are prone to rising waters. Over 97,000 acres of 100-year floodplains (nearly 20% of the County's land area) exist in Richland County.

The protection of water resources and floodplains in the County are critical to maintaining water quality. When asked "what to protect from change" in Richland County, residents resoundingly responded that protection of water resources should be a priority for the County. Watershed protection should also include the ability for residents to gain better access to water bodies for recreational use.

Working Lands Are Valued for Contributing to the Local Economy and for Maintaining Rural Character

Richland County is believed to be named after its abundance of "rich land." The County has a long agricultural legacy that continues to thrive today.

Between 2007 and 2012, the number of farms and the number of acres in farm production in Richland County increased. Nearly 400 farms operated in Richland County in 2012, up 9% from 2007. The total market value of products sold from Richland County farms increased nearly 200% from $10,164,000 in 2007 to $30,038,000 in 2012.

Photo: Jeff Blake

Nearly 50% of the land in Richland County today is in some agricultural or other working lands use.

Citizens want to see locally-owned, agricultural farming operations in Richland County continue to succeed. One of the challenges to maintain active farm operations in the County is that the average age of farmers in Richland County is 59. National trends show that many independent farm operators sell their land for development because their children are not interested in taking over the family business. There are opportunities for the County to play a role in bringing together aging farmers and unrelated, younger generation farmers.

Another challenge to maintaining farming in the County is encroachment by development. As land is developed around the edges of prime agricultural lands, it can become more and more difficult to maintain farming operations. Many new homeowners may be unaware that land is actively farmed near their new home and may see farming as incompatible with their neighborhood. Some don't like sharing the roads with farm equipment, or being located near farms where heavy farm equipment is in use. These incompatible development issues can be addressed through education of landowners near farming operations, and through land planning.

Market for Suburban Residential Development is Expected to Continue, and is Changing

Over the last two decades, the majority of development occurring in Richland County has occurred in the Northeast, Northwest and Beltway Planning Areas. The Beltway planning area accounts for just over 40% of the County's total housing inventory. The Northwest and Northeast planning areas display suburban housing development patterns and together account for 43% of the County's total housing inventory. While it is likely that these trends will continue, housing markets are changing nationally and regionally which will have an impact on the density and design of new suburban developments. Current real estate trends show a growing market demand for smaller lot single-family housing and multi-family housing. The Richland County housing market reflects these trends.

Photo: Jeff Blake

While suburban development is expected to continue in Richland County, the type and design of new suburban development being demanded by the housing market is changing both locally and nationally.

Development Regulations Primarily Support a Suburban Development Pattern

Richland County's Land Development Code is similar to many municipal codes across the nation, in that it supports a suburban development pattern within its 18 zoning districts and is limited in terms of promoting redevelopment in urbanizing areas, protecting community character in rural areas of the County, and providing a range of suburban development options that support changing demographics. Recent updates to the Richland County Land Development Code include the Open Space Code that provides incentives for conservation subdivision designs that protect important natural areas and farmlands. More can be done to expand the types of development that are encouraged through the ordinance.

Coordinated Land Planning and Transportation Planning is Needed

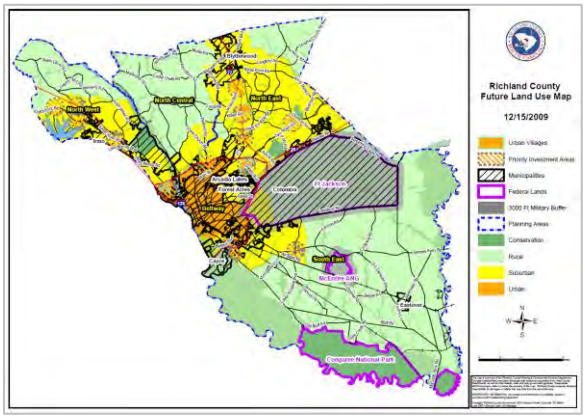
Transportation Penny

On November 6, 2012, a county-wide one cent on the dollar sales tax was passed that will ultimately generate $1billion over a 22 year period for transportation improvement throughout Richland County. This includes 14 road widening projects on roads maintained by the South Carolina Department of Transportation. These widening projects are in response to historical and projected traffic volume pressures They also have the potential to change the land use patterns along widened roadways. As roads get wider, development pressures usually follow. Wider roads encourage more traffic, which attracts more commercial development, which creates more traffic It is essential to plan for growth along these key improvement corridors.

Potential for Commuter Rail

The County also has an opportunity to plan for future commuter rail service through the County. The Central Midlands Regional Council of Governments has been assessing commuter rail feasibility within the region for more than a decade. In 2006, they identified five corridors for connecting to high speed rail and potential commuter rail service. Station areas were defined in this study and are addressed in this planning effort.

Future Land Use



The 2009 Future Land Use map (shown above) has been updated as part of the 2014 Comprehensive Plan update.

Future Land Use Map – Growth Vision for Community

The following Future Land Use map and categories reflect the current vision for Richland County. The map categories provide a framework for urban redevelopment, for development of neighborhoods, commercial and employment centers, and rural lands, and rural and environmental preservation. The future land use vision for the County has been updated to provide a more refined land use framework that sets out uniquely urban, suburban, and rural areas.

This vision also sets out strategies to protect lands around military installations and to coordinate with the land use plans of municipalities in the County. The development of this update to the County's Comprehensive Plan occurred concurrently with the update to the City of Columbia's Comprehensive Plan, providing a unique opportunity to jointly plan for areas of common interest and shared boundaries.

Purpose of Future Land Use Map and Categories

The Future Land Use map and categories are used during rezoning requests to make recommendations and decisions regarding the appropriateness of different aspects of proposed developments. The Future Land Use map and categories provide guidance when making decisions about zoning and infrastructure investments by identifying the type and character of development that should occur in specific areas.

The Future Land Use categories and the Future Land Use map are provided solely with the intention of offering guidance to local decision-makers. This plan does not make formal recommendations to rezone properties to align with these Future Land use designations, but provides support for these Future Land Use designations during a rezoning case evaluation.

Using the Future Land Use Map and Categories

Each rezoning proposal needs to be evaluated using the land use category, goals and implementation strategies outlined in this Comprehensive Plan. Because this is a

Comprehensive Plan and not intended to provide site level guidance with regard to development decisions, discretion should be used when evaluating a proposed rezoning using the Future Land Use Map and related categories.

Future Land Use category lines were developed by considering development character, utility service areas, lines of natural features, and roadways. Particularly for areas near or on the boundaries of Future Land Use categories, discretion by the Richland County Planning Department staff is needed to determine the appropriate Future Land Use category that should be applied based on:

- Existing development context of property
- Environmental context of the property
- Development activity or proposed activity occurring within a sphere of influence of the property
- Future plans to construct utility infrastructure, roadways, or other public facilities

Ultimately, rezoning decisions are legislative decisions made by the County Council. This means that the decisions are a policy choice, and that the Comprehensive Plan helps to inform these choices.

Relationship to Neighborhood and Community Plans

The Richland County Comprehensive Plan incorporates, by reference, nine adopted neighborhood plans developed for areas in Richland County's jurisdiction, including:

- Broad River Corridor Master Plan
- Broad River Neighborhood Master Plan
- Candlewood Master Plan
- Crane Creek Master Plan
- Lower Richland Community Strategic Master Plan
- Spring Hill Community Strategic Master Plan
- Southeast Richland Neighborhood Master Plan
- The Renaissance Plan: Decker Boulevard / Woodfield Park Area
- Trenholm Acres/Newcastle Master Plan

These plans are noted in the relevant draft Future Land Use category descriptions and the Planning Areas where they are located. This Comprehensive Plan also acknowledges the Comprehensive Plans of its seven municipalities (Arcadia Lakes, Blythewood, Cayce, Columbia, Eastover, Forest Acres and Irmo), including direct coordination with the City of Columbia during the update to the City's Land Use Plan element.

The County's Future Land Use map also takes into account the recent Midlands Reality Check Regional Visioning Initiative and its support of a community centers-based development framework. This development form focuses on development in and around existing communities and supports opportunities for strengthening connections between those centers. To reinforce that connectivity, the Commuter Rail Feasibility Studies prepared by the Central Midlands Council of Governments was also an important input into the updating of the Future Land Use map.

Relationship to Priority Investment Areas

The 2007 South Carolina Priority Investment Act requires that local Comprehensive Plans include a Priority Investment Element. The element serves

as a linkage between long range planning and plans for public investments by identifying priority projects, key funding sources, and priority investment areas. The intent of the Act is to preserve and enhance the quality of life in South Carolina communities by planning and coordinating public infrastructure decisions and by encouraging the development of affordable housing and traditional neighborhood design.

The Future Land Use map for Richland County includes 11 Priority Investment Areas. These areas consist of key transportation intersections and surrounding development patterns. This approach for identifying key areas for community investment aligns with current regional planning (i.e., Midlands Reality Check Initiative) to create a "centers" based regional network that can better support regional transit, encourage redevelopment of existing developed areas, and better utilize public infrastructure investments to targeted areas. For more information on the Priority Investment Areas, refer to Chapter 12: Priority Investment Element.

Amendments to the Future Land Use Map

The Future Land Use text and map may be amended as provided by the Richland County Land Development Code. Proposed amendments to the Comprehensive Plan shall be recommended by the Planning Commission and approved by County Council, and should be internally consistent with the other components of the Comprehensive Plan, including the Future Land Use Map, and the goals and strategies of the plan. Plan amendments are also designed to change goals and strategies in such a way as to maintain internal consistency.

Coordination with City of Columbia's Future Land Use Map

The County's Future Land Use map is designed to coordinate with the Future Land Use Map of the City of Columbia. The Mixed Residential Future Land Use category is located around the City's corporate limits and incorporates the eight Development Types set out in the City's Future Land Use Map. The intent is to encourage a cohesive development pattern in these areas by coordinating land planning in areas of common interest or shared boundaries. As the County considers future growth patterns in Mixed Residential areas, it can also assess the City's plans for adjacent areas to ensure that proposed projects are achieving the objectives of both jurisdictions. This coordination also opens up opportunities to make land development regulations more consistent across jurisdictional boundaries, which may help to overcome regulatory conflicts that occur in some neighborhoods.

Future Land Use Categories and Map

The map and table on the following pages summarize the Future Land Use categories and the areas where they apply in Richland County. The color coding of the categories listed in the tables matches the map areas. The Future Land Use map identifies 11 categories:

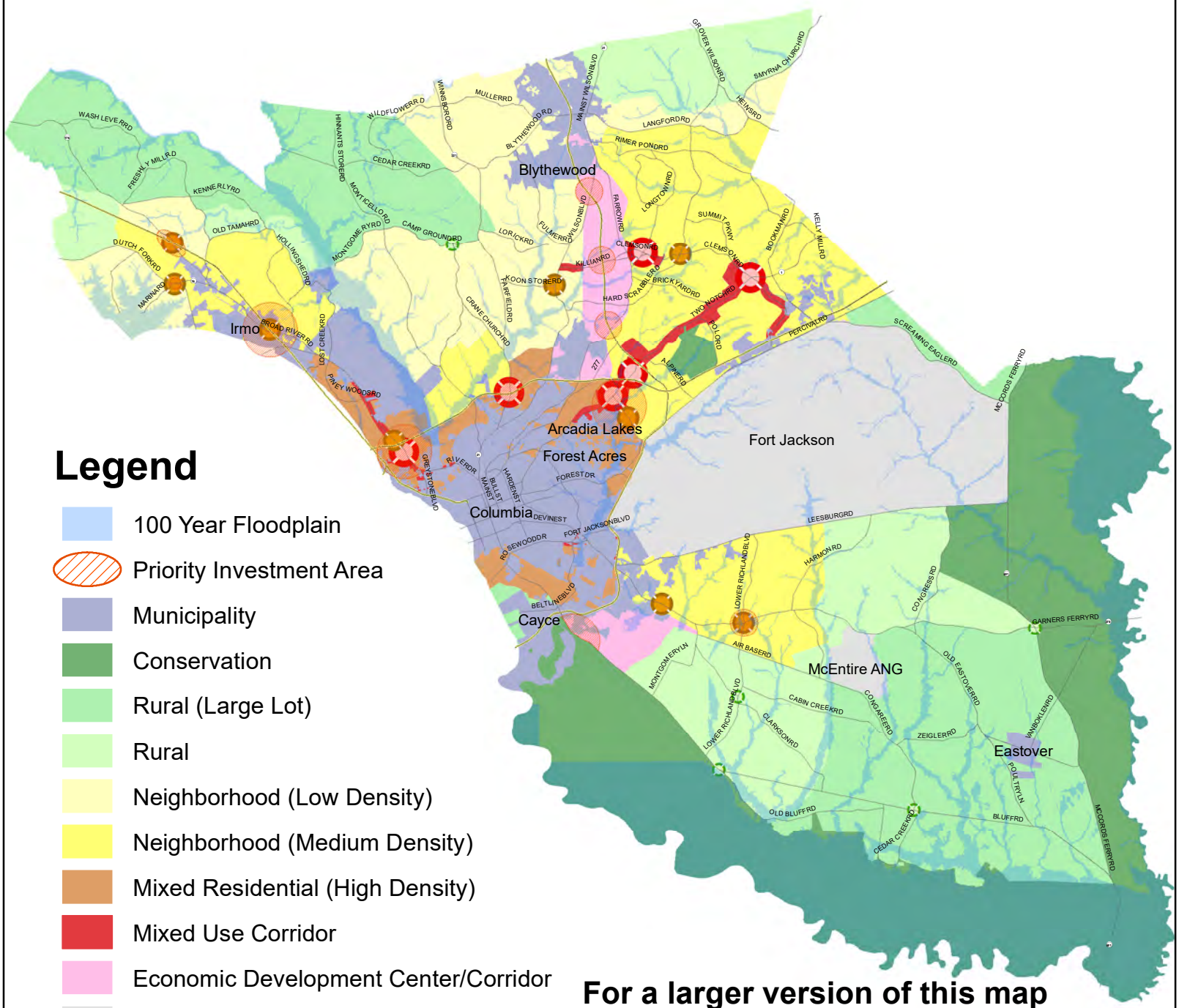
- Conservation
- Rural (Large Lot)
- Rural

- Neighborhood (Low-Density)
- Neighborhood (Medium-Density)
- Mixed Residential (High-Density)
- Mixed Use Corridor
- Economic Development Center/Corridor
- Military Installations
- Activity Centers (Rural, Neighborhood, and Community)
- Municipality

RICHLAND COUNTY

FUTURE LAND USE & PRIORITY INVESTMENT AREAS

PLAN TOGETHER
put the pieces in place
Richland County



Legend

- 100 Year Floodplain
- Priority Investment Area
- Municipality
- Conservation
- Rural (Large Lot)
- Rural
- Neighborhood (Low Density)
- Neighborhood (Medium Density)
- Mixed Residential (High Density)
- Mixed Use Corridor
- Economic Development Center/Corridor
- Military Installation

Activity Center

- Community Activity Center
- Neighborhood Activity Center
- Rural Activity Center

For a larger version of this map refer to Appendix C

For more information on Priority Investment Areas refer to the Priority Investment Area Map in Section 12.

Miles

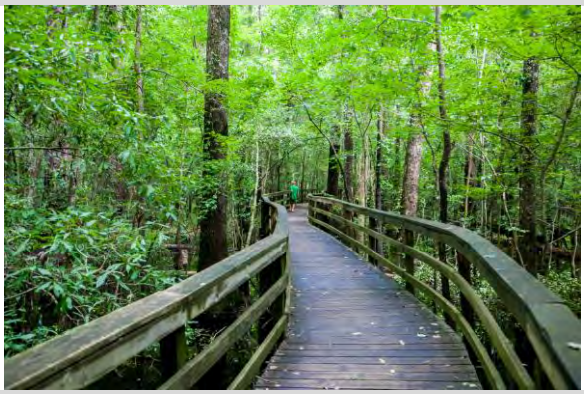
0 1 2 4 6 8 10 12 14 16 18 20

Adopted March 17, 2015

CONSERVATION

Land Use and Character

Environmentally sensitive development that supports agricultural, horticultural, forestry, and related working lands uses, educational and research practices, recreational areas, and natural open spaces. This includes Harbison State Forest, Sesquicentennial State Park, Clemson Extension, and Congaree National Park.



Desired Development Pattern

Limited development using low-impact designs to support environmental preservation, tourism, recreation, research, education, and active working lands uses. Subdivision of land for commercial and residential development is discouraged within these areas.

Recommended Land Uses

Primary Land Uses: Natural parks, educational and research facilities, agricultural uses, forestry, and related agricultural/forestry support uses.

Transportation

Rural roadways that provide access to public lands and educational centers. Trail and greenway access and on-road biking is the preferred form of alternative transportation.

Policy Guidance

1. Development should incorporate best management practices for protecting environmentally sensitive areas.
2. If the County pursues the development of a Transfer of Development Rights program, Conservation areas should be identified as "sending" areas for transferring out development rights to higher density "receiving" areas.

Relevant Plans

Lower Richland Community Strategic Master Plan (Cowasee Corridor)

Priority Investment Areas	Existing Zoning Districts of Similar Character
Portion of the #10 I-77 Bluff Road Interchange (Bluff Road Exit)	C, TROS, PR

RURAL (Large Lot)

Land Use and Character

These are areas of mostly active agricultural uses and some scattered large-lot rural residential uses. Limited rural commercial development occurs as Rural Activity Centers located at rural crossroads, and does not require public wastewater utilities. Some light industrial and agricultural support services are located here. These areas are targets for future land conservation efforts, with a focus on prime and active agricultural lands and important natural resources. Historic, cultural, and natural resources are conserved through land use planning and design that upholds these unique attributes of the community.

Desired Development Pattern

Active working lands, such as farms and forests, and large lot rural residential development are the primary forms of development that should occur in Rural (Large Lot) areas. Residential development should occur on very large, individually-owned lots or as family subdivisions. Master planned, smaller lot subdivisions are not an appropriate development type in Rural (Large Lot) areas. These areas are not appropriate for providing public wastewater service, unless landowners are put at risk by failing septic systems. Commercial development is appropriately located within Rural Activity Centers.

Recommended Land Uses

Primary Land Uses: Crop and animal production uses, forestry, single-family detached houses on individual large lots
Secondary Land Uses: Animal and crop production support services, agritourism uses, produce stands, veterinary services, places of worship, and riding stables.

Transportation

The primary form of transportation is personal vehicles. Greenways and natural foot paths are the preferred form of local recreational access for pedestrians. Bicycle access is made via shared roads or possibly by wide shoulders on main roadways.

Policy Guidance

1. Protect active agricultural operations and other working lands through improved notification and real estate disclosure to surrounding property owners and developers about rural character and working lands operations in area.
2. Rural (Large Lot) areas are targets for conservation easements and purchases of development rights programs undertaken by the Richland County Conservation Commission and the Soil and Water Conservation District.
3. Developments should protect important natural features such as Carolina Bays, wetlands, creek banks, and floodplains to maintain the integrity and natural function of the County's green infrastructure systems, active agricultural lands, prime farmlands, and erodible soils.
4. Improvements to bicycle access are needed.
5. If the County pursues the development of a Transfer of Development Rights program, Rural (Large Lot) areas should be identified as "sending" areas for transferring out development rights to higher density "receiving" areas.

Relevant Plans

Lower Richland Community Strategic Master Plan (Agriculture) and Spring Hill Community Strategic Master Plan

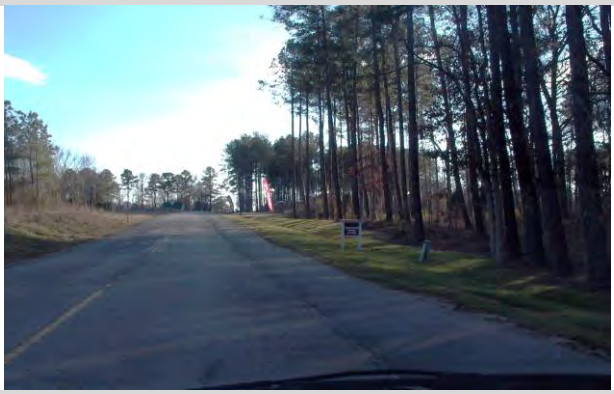
Priority Investment Areas

Opportunity to consider larger Priority Investment Area for working lands in support of agribusinesses and agritourism in Lower Richland. See Additional Priority Investment Opportunities in the Priority Investment Element.

RURAL

Land Use and Character

Areas where rural development and smaller agricultural operations are appropriate. These areas serve as a transition between very low density rural areas and suburban neighborhood developments. The areas could include rural subdivisions and open space subdivisions. These subdivisions would support lots that are smaller than the Rural Large Lot land use, but larger than lots characteristic of neighborhood low density. Rural areas should be designed to maintain large tracts of undisturbed land, particularly areas of prime environmental value. Rural developments should provide natural buffering between adjacent uses. Appropriate roadway buffers should result in creating a natural road corridor with limited visibility into developed areas.



Desired Development Pattern

Rural areas should be designed to accommodate single-family residential developments in a rural setting. This includes master planned, rural subdivisions. Open space developments that set aside open space and recreational areas are an alternative form of Rural development. Open space developments are a land development design tool that provides a means of both preserving open space and allowing development to be directed away from natural and agricultural resources. These designs often allow for flexibility in lot sizes and dimensions in trade for the protection of surrounding, larger open spaces. Commercial development should be limited to Rural Activity Centers.

Transportation

The primary form of transportation is personal vehicles. Greenways and trails are the preferred form of local recreational access for pedestrians. Bicycle access is made via shared roads or wide shoulders on main roadways.

Recommended Land Uses

Primary Land Uses: Single-family detached houses on rural, individual lots

Secondary Land Uses: Rurally appropriate produce stands, places of worship, public or private parks, public recreation facilities, schools, and governmental facilities, such as fire stations. If not integrated as part of residential developments, non-residential uses may be considered for location along a main road corridor and within a contextually-appropriate distance from the intersection of a primary arterial road. Commercial development should not promote a strip commercial development pattern or fragmented “leap frog” development pattern along road corridors. Non-residential development should mitigate any noise, light, and traffic impacts on nearby residential areas, and should not negatively impact the surrounding rural character.

Policy Guidance

1. New developments should be designed to be respectful of existing neighborhoods and proximate farming operations by limiting stormwater runoff to adjacent properties, buffering between adjacent incompatible uses and utilizing designs that uphold the rural character of the area.
2. Consider providing incentives through the County's Land Development Code to encourage new developments to create truly "rural" development, not conventional suburban development placed in a rural setting.
3. Developments should protect important natural features such as Carolina Bays, wetland, creek banks, and floodplains to maintain the integrity and natural function of the County's green infrastructure systems, active agricultural lands, prime farmland, and erodible soils.

Relevant Plans

Lower Richland Community Strategic Master Plan (Rural Residential)

Priority Investment Areas

None

NEIGHBORHOOD (LOW-DENSITY)

Land Use and Character

Areas where low-density residential is the primary use. These areas serve as a transition between Rural and Neighborhood (Medium-Density) areas, and are opportunities for low-density traditional neighborhood development and open space developments that preserve open spaces and natural features. Commercial development should be located within nearby Neighborhood Activity Centers, and may be considered for location along main road corridors and within a contextually-appropriate distance from the intersection of a primary arterial. Places of worship and parks are appropriate institutional uses, but should be designed to mitigate impacts on surrounding neighborhoods. Industrial development with significant community impacts (i.e., noise, exhaust, odor, heavy truck traffic) is discouraged in these areas.

Desired Development Pattern

Lower-density, single-family neighborhood developments are preferred. Open space developments that provide increased densities in trade for the protection of open spaces and recreational areas are also encouraged (see Desired Pattern for Rural areas for more information on open space developments). Residential developments that incorporate more open spaces and protection of natural areas through the use of natural stormwater management techniques, such as swales, are encouraged. Homes in neighborhoods can be supported by small-scale neighborhood commercial establishments located at primary arterial intersections, preferably within Neighborhood Commercial Activity Centers.

Transportation

The primary form of transportation is personal vehicles. Sidewalks, greenways and trails are the preferred form of local recreational access for pedestrians. Bicycle access is made via shared roads or wide shoulders on main roadways.

Recommended Land Uses

Primary Land Uses: Single-family detached houses

Secondary Land Uses: Places of worship, public or private parks, public recreation facilities, small format neighborhood serving commercial (such as small scale drycleaners, professional offices, coffee shops, bakeries and restaurants), schools, and governmental uses, such as a fire station. Neighborhood scale commercial development may be considered for location along main road corridors and within a contextually-appropriate distance from the intersection of a primary arterial. Non-residential development should be integrated to better serve surrounding residential properties through pedestrian access, and mitigation of any noise, light, or traffic impacts on neighborhoods. Commercial development should not promote a strip commercial development pattern or fragmented "leap frog" development pattern along road corridors. High traffic uses such as fast-food restaurants, convenience marts, and gasoline stations should be limited to identified Activity Centers.

Policy Guidance

1. The density of new developments and the design of new subdivisions should uphold and respect the unique rural character of surrounding areas.
2. New residential developments should be served by adequately supplied public water and sanitary sewer service.
3. Buffer developments from adjacent areas, unless the developments are deemed similar in design and density. This includes buffers between adjacent historic and cultural assets to protect the visual experience of these unique places from incompatible development.
4. New residential developments should be buffered from major roadways by tree stands and natural areas to buffer neighborhoods from noise and other impacts.

5. Open space developments that allow for higher density development in trade for permanent protection of open spaces, natural features, and farmlands are encouraged.
6. New developments should provide a variety of housing options to accommodate changing housing preferences.
7. Amenities such as trails, greenways, neighborhood parks and open spaces are encouraged as part of new developments.
8. Redevelopment is encouraged within existing neighborhoods to address properties in need of reinvestment.
9. Commercial developments at primary arterial intersections should limit vehicle access points and utilize access management best practices.
10. Developments should protect natural features such as Carolina Bays, wetlands, creek banks, and floodplains to maintain the natural function of the County's green infrastructure systems, agricultural lands, prime farmlands, and erodible soils.

Relevant Plans

Eastover Comprehensive Plan, Crane Creek Master Plan

Priority Investment Areas

Portion of #1 I-26 Broad River Road (north) interchange

Areas of Common Interest

Proposed projects in the Northwest and Northeast Planning areas should be coordinated with adjacent municipalities when located in areas of common interest near jurisdictional lines.

Existing Zoning Districts of Similar Character

RU,RR, RS-E

NEIGHBORHOOD (MEDIUM-DENSITY)

Land Use and Character

Areas include medium-density residential neighborhoods and supporting neighborhood commercial scale development designed in a traditional neighborhood format. These neighborhoods provide a transition from Neighborhood (Low-Density) to more intense Mixed Residential (High-Density) urban environments. Multi-family development should occur near activity centers and within Priority Investment Areas with access to roadways with adequate capacity and multimodal transportation options. Non-residential development may be considered for location along main road corridors and within a contextually-appropriate distance from the intersection of a primary arterial.

Desired Development Pattern

The primary use within this area is medium density residential neighborhoods designed to provide a mix of residential uses and densities within neighborhoods. Neighborhoods should be connected and be designed using traditional grid or modified grid designs. Non-residential uses should be designed to be easily accessible to surrounding neighborhoods via multiple transportation modes.

Transportation

Upgrades to arterial and collector roads should include the full range of transportation options – driving, transit, walking, and biking. Connectivity between adjacent developments is encouraged. Subdivisions should be designed to provide vehicular, bicycle, and pedestrian access and connectivity throughout, either through conventional sidewalks or through greenway and trail access.

Recommended Land Uses

Primary Land Uses: Single-family detached houses, duplexes, townhomes

Secondary Land Uses: Multi-family development, neighborhood serving services, such as small scale drycleaners, professional offices, coffee shops, bakeries and restaurants, drug-stores, and convenience stores should be located within Neighborhood Activity Centers or may be considered for location along main road corridors and within a contextually-appropriate distance from the intersection of a primary arterial. These land uses should not result in strip commercial development or fragmented "leapfrog" development patterns along corridors. Places of worship, public or private parks, and public recreation facilities are also appropriate uses. These uses should be integrated to better serve surrounding residential properties through pedestrian access, and mitigation of any noise, light, or traffic impacts on neighborhoods.

Policy Guidance

1. Neighborhood densities should be based on allowing higher densities that include single-family attached housing near major corridors and activity centers and lower densities that include only single-family detached housing near open space developments, low-density residential, and rural areas.
2. Master planning of neighborhoods is encouraged and should include neighborhood parks and open spaces as part of the development program. A mix of housing types is encouraged within individual developments. Neighborhood scale commercial centers are also an appropriate amenity to include in master planned developments.
3. Traditional neighborhood designs should be facilitated by development of a new zoning district that allows for a mix of housing types and lot sizes within a single development.
4. Developments should connect to adjacent neighborhoods and commercial/employment areas, and be supported by multiple modes of transportation.

5. The protection of mature tree canopy is encouraged for areas surrounding developments and on private residential lots, as feasible.
6. Environmentally sensitive areas, such as floodplains, wetlands, and lands along creeks and surface waters should be protected or developed using best management practices to maintain the areas green infrastructure system, and to ensure long-term water quality. Providing public recreational access to these features, as feasible, is preferred.

Relevant Plans

Broad River Road Corridor and Neighborhood Master Plan, Candlewood Master Plan, Crane Creek Master Plan, Lower Richland Community Strategic Master Plan, The Renaissance Plan: Decker Boulevard/Woodfield Park Area

Priority Investment Areas

#2 Ballentine at Dutch Fork Road, Marina, and Broad River Road, Portion of #5 I-20 Fairfield Interchange, Portion of #9 Decker Boulevard and Two Notch Road, Portion of #8 I-77 Farrow Road Interchange

Areas of Common Interest

Proposed projects in the Northwest, North Central, Northeast, and Southeast Planning areas should be coordinated with adjacent municipalities when located in areas of common interest near jurisdictional lines.

Existing Zoning Districts of Similar Character

RS-LD, RS-MD,MH,PDD

MIXED RESIDENTIAL

Land Use and Character

Areas include much of the urban and suburban developed areas in the County as well as edge areas adjacent to other jurisdictions in the County. These are densely developed urban and suburban areas, or opportunities for dense suburban development. Mixed residential areas include the full range of uses supportive of neighborhood, community, and regional commercial and employment needs. Residential single-family, multi-family, office and institutional, general and neighborhood commercial, and recreational uses are appropriate for this area. Some light industrial uses are also found today in these areas, but additional industrial development with significant community impacts (i.e., noise, exhaust, odor, heavy truck traffic) is discouraged, unless the area is identified specifically for these uses. Schools, churches, parks, and other institutional uses help support the full service nature of Mixed Residential areas. **See Appendix B for more detailed guidance for this category.**

Desired Development Pattern

Developments should reinforce the guiding principle of making neighborhoods and communities in Richland County more livable. Mixed Residential areas should provide a mix of housing opportunities within individual developments, preferably organized around a neighborhood center or public space. To the extent possible, commercial and office development should be located in Activity Centers and in Mixed Use Corridors. High density residential uses should be located proximate to or incorporated within Activity Centers, increasing existing and future opportunities for transit service to these locations. Grid and modified grid development patterns are preferred over curvilinear and cul-de-sac designs to support connectivity.

Transportation

Upgrades to roads should include the full range of transportation options – driving, transit, walking, and biking. Connectivity between adjacent developments is encouraged. New neighborhoods should include the full range of transportation options, including recreational sidewalks, trails and greenways, as possible.

Recommended Land Uses

Primary, Secondary, and Tertiary Land Uses: See Appendix B for the map and Handbook that identify recommended Development Types and Primary, Secondary, and Tertiary Uses that are encouraged for these areas.

Policy Guidance

1. See Appendix B for the map that identifies the recommended Development Types for Mixed Residential areas, and references specific design guidance for each Development Type.

Relevant Plans

Broad River Neighborhood Master Plan, Broad River Corridor and Community Master Plan, Lower Richland Community Strategic Master Plan, Trenholm Acres/Newcastle Master Plan, Arcadia Lakes Comprehensive Plan, Blythewood Comprehensive Plan, Cayce Comprehensive Plan, Columbia Comprehensive Plan, Forest Acres Comprehensive Plan

Priority Investment Areas

1 I-26 Broad River Road interchange (south), Portion of #5 I-20 Fairfield Interchange, Most of #9 Decker Boulevard and Two Notch Road, Portion of #10 I-77 Bluff Road Interchange (Bluff Road Exit)

Areas of Common Interest

Proposed projects in the Northwest, North Central, Northeast, Beltway, and Southeast Planning areas should be coordinated with adjacent municipalities when located in areas of common interest near jurisdictional lines.

MIXED-USE CORRIDOR

Land Use and Character

Areas include established commercial, office, and medium-density residential developments located along principal arterial roads, and exclude established single-family residential subdivisions that may be located in the corridor. Mixed-use corridor areas should provide a vertical and horizontal mix of suburban scale retail, commercial, office, high-density residential, and institutional land uses. Open spaces and parks are also important uses within Mixed-Use Corridors. These corridors are punctuated by higher intensity development located at "nodes" called Activity Centers where the highest density and integration of mixed uses occurs.

Desired Development Pattern

Suburban commercial corridors should be transformed over time from traditional strip commercial development to Mixed-Use Corridors connecting Activity Centers. Between Activity Centers, corridors should be redeveloped to convert single story, single use developments on individual lots to multi-story, mixed use formats that organize uses in a pedestrian-friendly format.

Transportation

Developments are encouraged to be planned as larger master planned developments to increase access management opportunities and reduce the number of driveways on serving roads. Internal connectivity between commercial, office, and residential developments should occur. As feasible, new road improvements and suburban commercial centers should provide safe and easy access to travelers riding the bus and walking from adjacent developments. Long term strategies should be developed to assess necessary adjustments to accommodate future rail transit.

Recommended Land Uses

Primary Land Uses: Multi-family housing, professional offices, restaurants and bars, financial institutions, medical offices, personal services, drug stores, smaller-scale retail shopping, parks and recreational facilities are appropriate along the corridor, and are preferably developed within mixed-use centers.

Secondary Land Uses: Other commercial uses such as drive-through restaurants, convenience stores and gasoline stations, and other more intensive commercial uses are more appropriate proximate to and within Activity Centers.

Policy Guidance

1. Access management techniques that consolidate methods of ingress and egress as a means to preserve transportation system capacity are encouraged.
2. To increase the vitality of corridors and their adjacent Activity Centers, new development should be sited with fronts facing the road or other site orientations to create a "main street" pattern of development.
3. Vertical mixing of uses ("stacking") is the preferred form of development along the corridor and generally should range from 2-5 stories, with the tallest buildings in transition areas outside of activity centers and lower heights along the central portions of the corridor.
4. New development and redevelopment within aging commercial corridors should improve visual character along the corridor through site orientation, tree plantings and landscaping, architectural features, location of parking, and signage.
5. Larger master-planned developments are encouraged to use consistent design themes throughout, including architectural features and signage.
6. The location of parking to the side or rear of developments is encouraged. Consideration should be given to reduce parking requirements to facilitate redevelopment of underutilized properties.

MIXED-USE CORRIDOR

7. Internal circulation for vehicles and pedestrians should be provided between uses, and connectivity with adjacent developments is preferred.
8. Public-private partnerships should be undertaken on catalyst projects to trigger the redevelopment process in underutilized commercial corridors. Public investments may include the sale or conveyance of lands and public infrastructure improvements.

Relevant Plans

Broad River Road Corridor Master Plan, Lower Richland Community Strategic Master Plan, Southeast Richland Neighborhood Master Plan, The Renaissance Plan: Decker Boulevard/Woodfield Park Area, Trenholm Acres Master Plan

Priority Investment Areas

#9 Decker Boulevard and Two Notch Road

Areas of Common Interest

Proposed projects in the Northwest, Northeast, Beltway, and Southeast Planning areas should be coordinated with adjacent municipalities when located in areas of common interest near jurisdictional lines.

Existing Zoning Districts of Similar Character

OI, NC, GC, RS-HS, RM-MD, RM-HD, PDD, RD, CRD, DBWP

Community Activity Center

Land Use and Design

Community Activity Centers provide the goods, services, and facilities which are possible only with the critical mass of population provided by a larger community-scale marketshed. These centers supply anchor and junior retailers, smaller retail establishments, office space, and high-density residential uses. Mixed-use developments that integrate higher-density residential uses with nonresidential uses, such as developments that place dwellings over shops, are encouraged. The integration of public spaces within these centers is encouraged. A Community Activity Center may also include uses typical of both neighborhood and community centers, since it may also serve these functions for the surrounding neighborhood or community. Centers should be master-planned and designed in a manner that provides a vertical (multi-story) or horizontal (multiple-uses on a site) mix of uses.

Transportation

Developments are encouraged to be planned as larger master planned developments to increase access management opportunities, reduce the number of driveways on serving roads , and support use of bus transit. Internal connectivity between commercial, office, and residential developments is encouraged. As feasible, new road improvements and suburban commercial centers should use the "complete streets" approach to provide safe and easy access to travelers riding the bus and walking from adjacent developments. Long term strategies should be developed to assess necessary adjustments for future rail transit.

Recommended Land Uses

Primary Land Uses: Large and small format retail centers and shops, grocery stores, restaurants, bars, personal services, multifamily housing located above non-residential uses on ground floor, and public gathering spaces such as plazas.
Secondary Land Uses: Stand-alone multi-family housing, professional offices, and other commercial uses such as drive-through restaurants, convenience stores and gasoline stations.

Policy Guidance

1. Development or redevelopment of existing commercial corridors should promote the modern "centers" based pattern of development to make them accessible by car, bike, and foot, to make them more visually appealing from the road, and to make corridors safer and less stressful to navigate.
2. Access management techniques that consolidate methods of ingress and egress as a means to preserve transportation system capacity are encouraged.
3. To increase the vitality of Community Activity Centers, these developments should be sited with fronts facing the major road corridor or other site orientations to create more of a "main street" form of development.
4. New development and redevelopment within aging commercial corridors should improve visual character along the corridor through site orientation, tree plantings and landscaping, architectural features, location of parking, and signage.
5. Larger master-planned developments are encouraged to use consistent design themes throughout, including architectural features and signage.
6. The location of parking to the side or rear of developments , or through structured parking, is encouraged.
7. Density bonuses and reduced development standards, such as parking, should be considered to encourage focused development within Community Activity Centers.
8. Internal circulation for vehicles and pedestrians should be provided between uses, and connectivity with adjacent developments is preferred.
9. Public-private partnerships should be undertaken on catalyst projects to trigger the redevelopment process in underutilized commercial corridors. Public investments may include the sale or conveyance of lands and public infrastructure improvements.
10. Centers should use context sensitive designs that locate more intensive uses away from adjacent residential neighborhoods and protect adjacent residential properties from negative impacts such as light, sound, and traffic.

Relevant Plans

Broad River Road Corridor Master Plan, The Renaissance Plan: Decker Boulevard/Woodfield Park Area, Trenholm Acres Master Plan

Priority Investment Areas	Existing Zoning Districts of Similar Character
#4 at Broad River and Bush River and #9 at Decker Boulevard and Two Notch Road	OI, NC, GC, RS-HS, RM-MD, RM-HD, PDD

Neighborhood Activity Center

Land Use and Design

A Neighborhood Activity Center should provide the commercial and institutional uses necessary to support the common day-to-day demands of the surrounding neighborhood for goods and services. The Neighborhood Activity Center should also supply limited local office space demanded by neighborhood businesses, and may provide medium-density housing for the neighborhood, conveniently located near the center's shopping and employment. A grocery store or drug store will normally be the principal establishment in neighborhood activity centers, but could also include restaurants, coffee shops, dry cleaners, small banking facilities, and other convenience retail.

Transportation

Developments are encouraged to be planned as cohesive planned developments to increase access management opportunities and reduce the number of driveways on serving roads. Internal connectivity between uses is encouraged. As feasible, new road improvements should use the "complete streets" approach to provide safe and easy access to travelers riding the bus and walking from adjacent developments.

Recommended Land Uses

Primary Land Uses: Grocery store, restaurant, bar, personal service, professional office, financial institution, small format medical office, personal service, drug store, and smaller-scale retail shopping are appropriate within Neighborhood Activity Centers.
Secondary Land Uses: Multi-family housing and commercial uses such as drive-through restaurants, convenience stores and gasoline stations.

Policy Guidance

1. Neighborhood Activity Centers should be designed to integrate with adjacent neighborhoods, providing safe and convenient bicycle and pedestrian access, as well as accessibility to automobiles.
2. Neighborhood Activity Centers should use context sensitive designs that locate more intensive uses away from adjacent residential neighborhoods and protect adjacent residential properties from negative impacts such as light, sound, and traffic.
3. Access management techniques that consolidate methods of ingress and egress as a means to preserve transportation system capacity are encouraged.
4. To increase the vitality of Neighborhood Activity Center, these nodes should be oriented to face the fronting road corridor, and provide a "face" to neighboring developments.
5. Density bonuses and reduced development standards should be considered to encourage focused development within Neighborhood Activity Centers.
6. New development and redevelopment within aging commercial corridors should improve visual character along the corridor through tree plantings and landscaping, architectural features, location of parking, and signage.
7. Internal circulation for vehicles and pedestrians should be provided between uses, and connectivity with adjacent developments is preferred.

Relevant Plans

Broad River Road Corridor Master Plan, Southeast Richland Neighborhood Master Plan

Priority Investment Areas

#1 I-26 Broad River Road (north) Interchange, #2 Ballentine at Dutch Fork Road, Marina Road, and Broad River Road, #4 Broad River and Bush River, #11 Lower Richland Boulevard and Garners Ferry

Existing Zoning Districts of Similar Character

OI, NC, RS-HD, RM-MD, RM-HD, PDD

Rural Activity Center

Land Use and Design

A Rural Activity Center provides opportunities at rural crossroad locations for commercial development to serve the surrounding rural community. This can include small feed stores, restaurants, convenience grocery markets, and similar smaller scale retail uses. These are not mixed-use developments and should not include residential development; however, small bed and breakfasts, or other smaller scale tourism operations are appropriate.

Transportation

The primary form of transportation is personal vehicles. Greenways and natural foot paths are the preferred form of local recreational access for pedestrians. Bicycle access is made via shared roads or possibly by wide shoulders on main roadways.

Recommended Land Uses

Primary Land Uses: Small feed stores, restaurants, convenience grocery marts, gasoline and automobile service stations, and produce stands.

Policy Guidance

1. Development should be limited to one or two story commercial establishments on individual lots. Large scale commercial development that requires significant road capacity and other public facilities are not appropriate.
2. Rural Activity Centers should incorporate context sensitive designs that locate more intensive uses away from adjacent residential properties, and protect these residential properties from negative impacts, such as light, sound, and traffic.
3. Developments should be designed to reflect the unique rural character of the area.
4. To the extent possible, siting and orientation of buildings should maximize road frontage, while also protecting environmentally sensitive areas.
5. Developments will not likely receive water and wastewater service from private or public utilities.

Relevant Plans

Southeast Richland Neighborhood Master Plan

Priority Investment Areas

None

Existing Zoning Districts of Similar Character

RC

ECONOMIC DEVELOPMENT CENTER/CORRIDOR

Land Use and Character

Concentrated areas of high quality employment facilities, integrated with or adjacent to complementary retail and commercial uses and/or medium-and high-density residential uses. This category encourages development of manufacturing, industrial, flex space, and office uses in locations that will minimally affect surrounding properties. Commercial and residential uses are secondary to employment uses

Desired Development Pattern

Master planned industrial and business parks should include a mix of uses within single developments, including employment, convenience commercial and dining, and housing. These mixed-use employment "campuses" provide opportunities for employees to conveniently shop and dine during normal business hours. Smaller scale, single-use employment developments located along major roads should be designed to appropriately buffer manufacturing and industrial uses from adjacent properties. Secondary commercial and residential uses should be located along primary road corridors proximate to employment centers.

Transportation

Maintaining vehicular access and capacity is the primary goal within these areas to ensure that trucks and industrial vehicles have adequate road capacity to and from employment centers.

Recommended Land Uses

Primary Land Uses: Manufacturing, warehousing and logistics centers, light and heavy industrial, research and development facilities, business parks, and other employment uses.

Secondary Land Uses: Multi-family housing, restaurant, bar, personal service, financial institution, small format medical office, personal service, drug store, smaller-scale retail shopping, parks and recreational facilities are appropriate within Employment Centers/Corridors. Commercial uses such as drive-through restaurants, convenience stores and gasoline stations, are more appropriate near highway interchanges.

Policy Guidance

1. Industrial and business park uses are the preferred land use for these areas. Other developments should be adequately buffered from industrial uses to eliminate incompatibility issues.
2. To the extent possible, employment centers should be designed to function as "campuses" with integrated pedestrian facilities and transitions to adjacent, less intensive uses.
3. Light and heavy industrial and manufacturing uses should be designed to mitigate impacts on adjoining lower intensity uses, such as business parks.

Relevant Plans

Blythewood Comprehensive Plan

Priority Investment Areas

I-77 Wilson Road Interchange, I-77 Killian Road Interchange, I-77 Farrow Road, Portions of Decker Boulevard and Two Notch Road

Areas of Common Interest

Proposed projects in the Northeast, North Central, and Southeast Planning areas should be coordinated with adjacent municipalities when located in areas of common interest near jurisdictional lines.

Existing Zoning Districts of Similar Character

OI, GC, LI, HI, RS-MD, RS-HD, RM-MD, RM-HD, PDD

MILITARY INSTALLATION

Land Use and Character

Areas where established military installations exist. These include Fort Jackson and the McCrady Training Center located at Fort Jackson, and the McEntire Joint National Guard Station. Uses on these sites include flight and artillery training facilities, military housing, commercial and public service uses, and other uses necessary to support military operations.

Desired Development Pattern

Traditional military complex of uses organized to best serve the mission of the installation.

Transportation

Controlled access onto military installations is designated at identified gateways. Transportation improvements will be identified as necessary to improve mobility and accessibility of base operations.

Policy Guidance

1. Support the compatibility of land uses near military installations and reduce the operational impacts and hazards of incompatible land uses through implementation of the 2013 Joint Land Use Study.
2. Establish a formal multi-jurisdictional land use coordinating body, such as the Regional Land Use Advisory Commission established by Fort Bragg, focused on land compatibility issues that cross jurisdictional lines. Consider preparing formal agreements for information sharing and review on proposed projects within areas of common interest and along shared borders.
3. Consider a process to evaluate and update the County's zoning ordinance to ensure compatible development within the Military Activity Zones identified in the Joint Land Use Study.
4. Explore opportunities for incentive-based programs that support land use strategies encouraged by the 2013 Joint Land Use Study.
5. Protect active military operations through improved notification and real estate disclosure to surrounding property owners and developers about impacts of proximate military operations.

Relevant Plans

Joint Land Use Study (2013)

Priority Investment Areas

None

MUNICIPALITY

Jurisdiction

The Municipality Future Land Use category identifies the locations of incorporated municipalities in Richland County. These incorporated communities control planning and zoning decisions within their jurisdiction. The County will work to coordinate with these communities to plan in areas of common interest along the edges of jurisdictional lines.

Goals and Implementation Strategies

To support the implementation of the Future Land Use framework for the County, Richland County's land use goals are…

LU Goal #1: To reduce challenges to redevelopment efforts in urban and suburban communities

To maintain and to improve the quality of life in Richland County's developed communities and to efficiently use existing infrastructure in developed areas, the County will reduce challenges to redevelopment efforts in urban and suburban communities.

LU Strategy 1.1: Comprehensive development incentives

The County will work with developers to identify barriers to redevelopment, such as parking requirements, and to develop a comprehensive, incentives-based approach for encouraging redevelopment that addresses all aspects of the development review and approval process.

LU Strategy 1.2: Historic preservation tax incentives

When working with property owners and developers of historic structures, the County should educate and encourage the use of historic preservation tax credits that promote the reuse of existing buildings and the preservation of the historic character in the County.

LU Strategy 1.3: Land Development Code updates

Following work on LU Strategy 1.1, the County will assess ways to amend its Land Development Code to remove barriers and to create incentives that will support redevelopment of existing properties.

LU Strategy 1.4: Priority Investment targets in redevelopment areas

There are several opportunities for redevelopment of aging commercial centers/corridors and blighted neighborhoods. For example (but not limited to), Decker Boulevard and Two Notch Road are included within Priority Investment Areas identified in the Priority Investment Element of this Comprehensive Plan. The County should look for opportunities to improve these areas and others when assessing capital improvement priorities.

LU Goal #2: To increase the number of successful urban and suburban infill development projects

To maximize the use of existing infrastructure and to create a more cohesive development framework in urbanizing areas, the County will support the development of infill properties. These are undeveloped properties surrounded by development that are served by infrastructure and do not have any significant open space, recreational, or natural resource value.

LU Strategy 2.1: Assess infrastructure capacity to infill sites

The County should develop a property list of infill sites in and around Priority Investment Areas, and assess the infrastructure capacity to serve these sites. If infrastructure is not available to serve these sites, this should be brought to the attention of the appropriate departments/ utility providers to discuss options for increasing capacity that can encourage appropriate infill development.

LU Strategy 2.2: Land Development Code updates

The County will assess ways to amend its Land Development Code to remove barriers and to create incentives that will support infill development, particularly in Priority Investment Areas.

LU Strategy 2.3: Capital improvement planning

When updating the County's Capital Improvement Plan, consideration should be given to capital projects, such as transportation improvements, water, sewer, and other utilities needed to support development at infill locations, particularly in Priority Investment Areas.

LU Goal #3: For new neighborhood developments to include a mix of housing types and commercial and recreational amenities

New residential developments in Neighborhood (medium-density) and Mixed Residential Future Land Use categories should be encouraged to include a mix of housing types, recreational amenities, and neighborhood scale shopping.

LU Strategy 3.1: Land Development Code updates

The County will assess ways to amend its Land Development Code to remove barriers and to create incentives that will support mixed-use residential developments in Neighborhood (medium-density) and Mixed Residential Future Land Use categories. This should include the addition of new zoning districts that are designed to encourage mixed-use developments and traditional neighborhood development designs. Coordination should occur with the City of Columbia for creating development standards that may apply to lands in areas of common interest.

LU Goal #4: To have higher density residential and commercial uses within a walkable distance of current and future transit stations

To foster development that will support future commuter rail and bus transit service and to encourage higher-density development to occur in locations where infrastructure already exists, the County supports a "community centers-based" development pattern that focuses higher density residential and commercial uses within a walkable distance of future transit stations.

LU Strategy 4.1: Capital Improvement planning

When updating the County's Capital Improvement Plan, consideration should be given to capital projects, such as transportation improvements, water, sewer, and other utilities, needed to support development at targeted commuter rail station areas identified within Priority Investment Areas.

LU Strategy 4.2: Land Development Code updates

The County will assess ways to amend its Land Development Code to remove barriers and to create incentives that will support higher-density, transit-oriented development. This includes housing, commercial, and office development in and around future transit stations. New zoning districts should be developed in coordination with the City of Columbia and Forest Acres to support future transit-oriented development near identified transit station sites.

LU Goal #5: For rural communities to maintain true rural character

As the County grows, rural areas designated on the Future Land Use map can be developed, but the rural character of these areas should be maintained.

LU Strategy 5.1: Evaluate the Potential for a Transfer of Development Rights Program

The County should conduct a real estate market analysis to determine the feasibility of implementing a transfer of development rights program in Richland County. This is a voluntary market based program that allows property owners to sell development rights in "sending areas" typically located in rural area, for use in

"receiving areas" or areas where urban development opportunities exist. The County should collaborate with Columbia and other jurisdictions to assess the development of a true county-wide program.

LU Strategy 5.2: Increase funding for purchase of development rights

The County should evaluate opportunities to increase funding for purchases of development rights by the Richland County Conservation Commission within Rural and Conservation Future Land Use categories. This is a tool that allows landowners to maintain ownership of their property and sell property development rights to the County for land conservation purposes. The benefit is that land can be maintained in an "undeveloped" state and also provide economic value to the landowner. This is a voluntary and incentive-based tool.

LU Strategy 5.3: Increase efforts to establish conservation easements

The County should consider increasing capacity of the Conservation Commission to work with landowners to establish conservation easements on priority conservation areas in Conservation and Rural Future Land Use categories. This is a tool that allows landowners to maintain ownership of their property and sell an easement on their land that reduces development rights and in trade provides tax incentives for land conservation purposes. This is a voluntary and incentive-based tool.

LU Strategy 5.4: Land Development Code updates

The County will assess ways to amend its Land Development Code to develop true rural zoning districts and development standards that can be applied to lands in Conservation and Rural Future Land Use categories. This should include incentives for developing very low density development, conservation subdivisions under the existing Open Space Code, and low-impact development that utilizes natural means for managing stormwater and protects environmentally sensitive lands.

LU Strategy 5.5: Coordination with utility providers

The County will work with utility providers to steer infrastructure investments that will generate development pressures away from rural areas. The development of public water, sanitary sewer, and stormwater should be discouraged in rural areas, except when this infrastructure is needed to ensure public health and safety.

LU Goal #6: To protect areas surrounding military installations from encroachment by development that could hinder military operations

Richland County supports the implementation of the Joint Land Use Study developed for Fort Jackson and McEntire Joint National Guard Base to protect lands surrounding these bases from development that could hinder military operations.

LU Strategy 6.1: Share information affecting areas of common interest

The County should continue to share information with military installations on rezoning cases and development and capital improvement projects proposed in areas of common interest as defined on the Future Land Use map.

LU Strategy 6.2: Incorporate military activity zones into Land Development Code

The County will work with Fort Jackson and McEntire Air National Guard bases, and residents in areas surrounding the bases to evaluate opportunities to implement the Land Development Code recommendations of the Joint Land Use Study (2013).

LU Strategy 6.3: Support MAJIC[2]

Richland County will support the efforts of the Midlands Area Joint Installation Consortium (MAJIC) to prevent increasing development encroachment that could result in complaints about noise, dust, and smoke from military training exercises through LU Strategies 6.1 and 6.2.

LU Goal #7: To maintain active working lands uses, such as agriculture, horticulture, and forestry

Richland County will support the continued viability of working lands uses, such as agriculture, horticulture, and forestry, to maintain a positive local economic impact, local foods production, and to protect the inherent natural resource value these uses provide to the County.

LU Strategy 7.1: Educate landowners about nearby working lands operations

The County will work to establish programs to better educate landowners about nearby farming operations. This could include a neighbor relation packet for newcomers and realtors, required notification about location of nearby farming or forestry operations as part of the sale of land in rural areas, or perhaps other means of outreach.

LU Strategy 7.2: Land Development Code updates

The County will assess ways to amend its Land Development Code to support working lands operations through zoning districts and development standards that can be applied to lands in Conservation and Rural Future Land Use categories. This should include incentives for developing very low density development, and standards that could help avoid land use conflicts, such as fencing, buffers between uses, and location of well taps. It could also address barriers to agricultural supportive operations such as farmstands, feed stores, processing centers, distribution centers, heavy equipment sales and service businesses, and veterinary clinics.

LU Strategy 7.3: Targeted land conservation

The County should consider increasing capacity of the Conservation Commission to work with landowners to establish conservation easements on priority working lands areas in Conservation and Rural Future Land Use categories. This is a tool that allows landowners to maintain ownership of their property and sell an easement on their land that reduces development rights and in trade provides tax incentives for land conservation purposes. This is a voluntary and incentive-based tool. The Conservation Commission should also consider short-term "generational" conservation easements that allow

[2] For more information on the Midlands Area Joint Installation Consortium (MAJIC), go to http://www.denix.osd.mil/sri/upload/MidlandsAreaJointInstallationConsortium-UPDATED.pdf

landowners to reduce development rights for a certain period of time as an alternative to full conservation into perpetuity.

LU Strategy 7.4: Establish a program to link aging farmers with young farmers without land

The County should work with partners, such as the Soil and Water Conservation District and the Midlands Local Food Collaborative, to develop a program to link aging farmers with budding farmers in need of training on a full-fledged farm. The intent is to create opportunities to maintain farming operations that will not continue as a family business, but that could be sold/leased to other interested farmers.

LU Strategy 7.5: Consider development of a working lands property tax incentive

The County should consider assessing property taxes on working lands at a lower rate than other undeveloped lands. The intent is to provide an incentive for agriculture, horticulture, and forestry uses that likely generate minimal public costs for County services.

LU Strategy 7.6: Priority Investment Area

The County should consider the addition of a Priority Investment Area within the Southeast Planning Area to invest in and support working lands businesses, such as agritourism, processing centers and kitchens for value-added products, agricultural business incubators for start-up businesses, distribution centers, and other supporting land uses.

LU Goal #8: To maintain water quality and protect water resources while providing new recreational access opportunities to public waterways

Richland County will protect critical watersheds, surface waters, and floodplains from the intrusion of development and development impacts that have a detrimental effect on water quality.

LU Strategy 8.1: Land Development Code Updates

The County will assess ways to amend its Land Development Code to support the protection of critical watersheds, surface waters, and floodplains. This could include enhanced buffers and setbacks in impaired watersheds, increasing standards for development in the floodplains, and incentives for low-impact development designs in these areas. Incentives for or requirement of conservation subdivisions and other environmentally sensitive designs within impaired watersheds, and near greenway corridors should be considered.

LU Strategy 8.2: Protection of lands along impacted watersheds and in floodplains

The County should consider increasing capacity of the Conservation Commission to work with landowners to establish conservation easements or to purchase development rights in environmentally sensitive areas, such as floodplains and creek banks. These are voluntary and incentive-based tools that allow landowners to maintain their land and receive financial benefit from the sale of development rights.

LU Strategy 8.3: Recreational investments

When updating plans for future recreational amenities, the County should assess opportunities to increase public access along the County's waterways through greenways and trails, boat ramps, parks, and similar recreational assets. Opportunities to create a connected system of trails and greenways should be encouraged.

LU Goal #9: To develop formal agreements with neighboring jurisdictions to coordinate planning in areas of common interest

To support a cohesive development pattern across jurisdictional lines, Richland County will work with its municipalities to share information with and consider the impacts of development proposals on the edges of these jurisdictions.

LU Strategy 9.1: Share information affecting areas of common interest

The County should develop formal memoranda of understanding with Columbia, and potentially other jurisdictions to share information on development proposals that occur within areas of common interest along jurisdictional lines. This could also include a formal opportunity for the County and the City to provide comments during public review of developments in these areas. It could also include the application of the other jurisdiction's development standards where appropriate.

LU Strategy 9.2: Assembly of Governments

The County could take a leadership role in developing an "Assembly of Governments" that meet quarterly to discuss issues of common interest to jurisdictions in Richland County. Members could include the elected officials and management staff of Richland County, Arcadia Lakes, Blythewood, Cayce, Columbia, Eastover, Forest Acres, Irmo, School District 5 of Richland and Lexington Counties, Richland County School District One, Richland County School District Two, and directors from the many utilities operating in the County.

LU Strategy 9.3: Land Development Code updates

When updating zoning districts and development standards in areas of common interest along the edges of jurisdictional boundaries, coordinate with the City of Columbia and other municipalities to make development regulations more consistent, particularly in Priority Investment Areas.

LU Strategy 9.4: Joint planning of South Assembly Street corridor

Work with the City of Columbia to develop a small area plan for the South Assembly Street Corridor near the Olympia, Granby Village, and Whaley Mills neighborhoods.

LU Goal #10: To establish a formal mechanism with Columbia and other utility providers to better coordinate development of new infrastructure with the County's Future Land Use Plan

Richland County will seek to establish strong working relationships with local utility providers to plan together for future utility infrastructure improvements, particularly public water and wastewater service.

LU Strategy 10.1: Assembly of Governments

As referred to in Land Use Strategy 9.2, the County should take leadership in establishing an Assembly of Governments that could bring together elected officials, management staff, and directors of all jurisdictions and utility providers operating in the region to coordinate long-range planning and infrastructure projects.

LU Goal #11: To evaluate the benefits and costs of future capital investment projects

To make efficient use of public resources, the County will establish a process for evaluating the fiscal and economic impacts of future capital projects as a factor for determining priorities to include in the Capital Improvement Plan.

LU Strategy 11.1: Fiscal impact analysis

The County will develop a model for evaluating the fiscal and economic impacts of public infrastructure projects as one input into development of the County's Capital Improvement Plan. Fiscal analyses should compare both expected revenue generation and public costs to develop and maintain infrastructure over time.

LU Goal #12: To improve the energy footprint of Richland County

Richland County seeks to attain and maintain a state of leadership in South Carolina as an environmental steward that strives to proactively and effectively manage its impact on energy, water, natural resources, and local air quality. Therefore, it is the policy of Richland County Council that institutions, and affiliated entities, shall establish sustainable development and resource management, or "sustainability" as a core value of County operations, planning, capital construction, and purchasing practices. To this end, the Regional Sustainability Energy Plan, adopted by Richland Council in 2013, will be referenced in land use planning decisions.

LU Strategy 12.1: Land Development Code Updates

The County will assess ways to amend its Land Development Code to encourage low impact development and/or Smart Growth Principles. Zoning should also be updated to encourage denser development.

LU Strategy 12.2: Best Practices in Land Management

The County will identify undeveloped land where growth and development should be managed or discouraged. The County will also identify potential ribbons of undeveloped land that could serve as corridors and/or greenways with bicycling, jogging and walking paths for recreation and commuting.

LU Strategy 12.3: Curb Sprawl

The County will encourage denser development along the County's commuter corridors using policies such as density bonuses, cluster development, purchase of development rights and transfer of development rights.

LU Strategy 12.4: Master Plans

The County will incorporate sustainable principles related to infrastructure, natural resources, site development, and community impact into Master Plans.

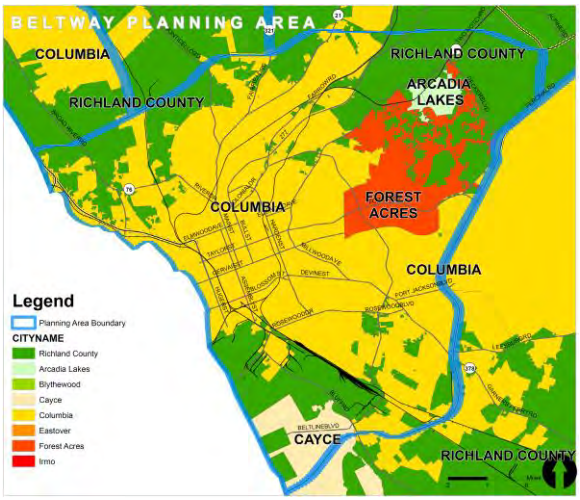
LU Strategy 12.5: Incentives for energy conservation

The County will research and offer incentives for commercial and residential developers to build greener structures, even working towards LEED levels. Incentives will also be developed to encourage redevelopment and infill development over greenfield. The County will promote redevelopment, repurposing of buildings and infill development where existing utilities and other services exist to foster sustainable growth patterns.

LU Strategy 12.6: Landfills

The County will continue to implement the Solid Waste Management Plan to provide for adequate collection, processing, and disposal of solid waste and recycling efforts in an environmentally sound and economically feasible manner to meet the needs of present and future residents. Plan for new and expanded solid waste management facilities and changing technologies including coordination with adjacent counties.

Beltway Planning Area



The Beltway Planning Area is comprised mostly of land in the Cities surrounded by unincorporated lands in Richland County's jurisdiction.

The Beltway Planning Area is bounded by I-77 and I-20. A majority of the Beltway Planning Area is comprised of the Cities of Arcadia Lakes, Cayce, Columbia, and Forest Acres. The unincorporated portions of the County surround these communities, and in some instances are located within these communities. The municipalities plan and zone for the land within their jurisdiction. Coordination with these communities to plan for areas of common interest along jurisdictional borders is a priority for the County.

Recent years have seen an increase in the development activity in the Beltway Planning Area. Changes in housing preferences, a resurgence in downtown Columbia, and the expansion of the University of South Carolina and the Vista area have made many areas in the Beltway attractive for new development.

RELEVANT PLANS

The County and its municipalities have adopted several plans that are applicable to lands in the Beltway Planning area:

- The Renaissance Plan: Decker Boulevard/Woodfield Park Area
- Broad River Neighborhood Master Plan
- Broad River Corridor Master Plan
- Trenholm Acres/Newcastle Master Plan
- City of Columbia Comprehensive Plan
- Comprehensive Plan for Arcadia Lakes
- City of Forest Acres Comprehensive Plan

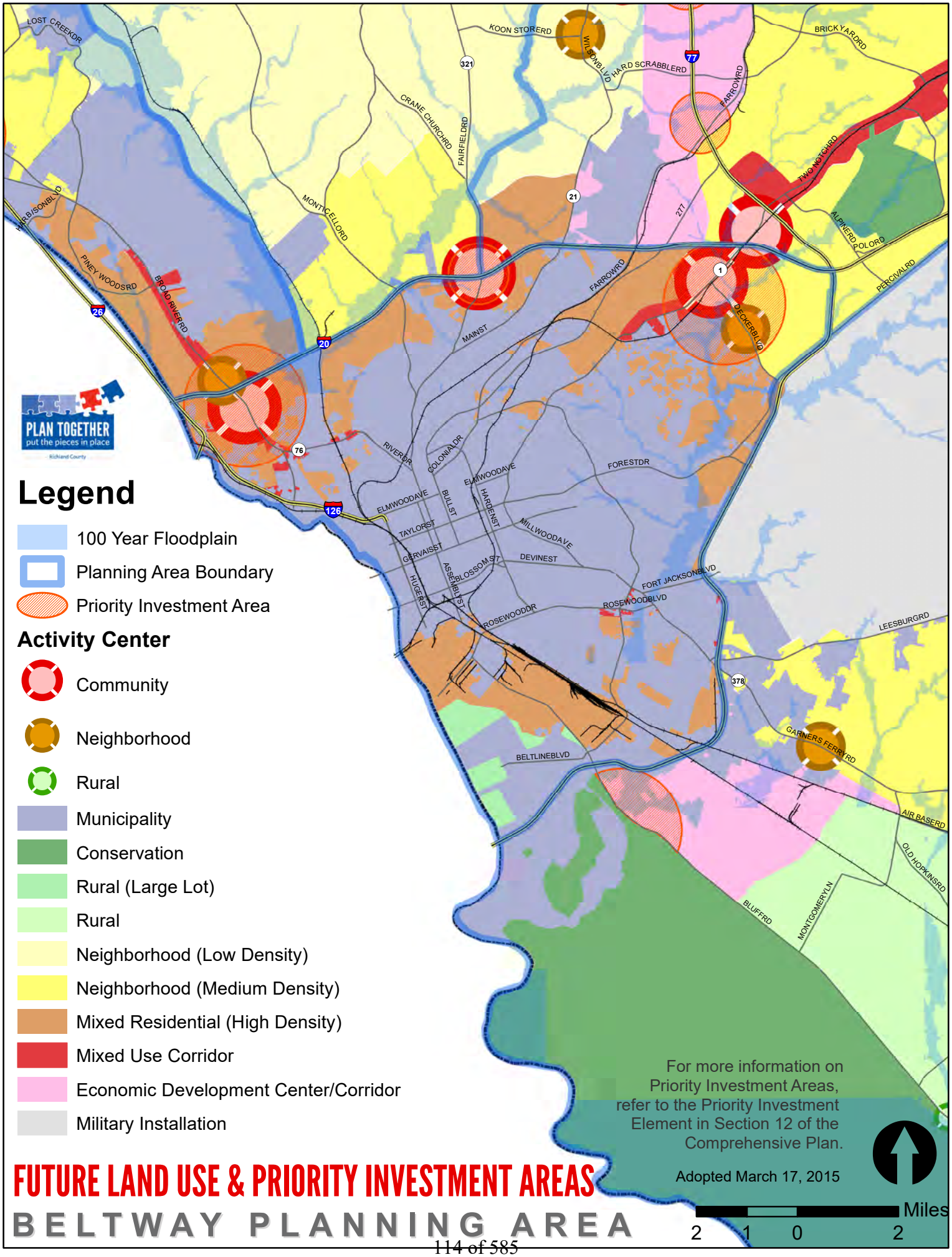
PLANNED CAPITAL PROJECTS

Planned capital improvements in the Beltway Planning Area include:

- Emergency Medical Services headquarter facility on Cushman Drive
- Coroner's Facility storage space on Shakespeare Road
- Decker Center on Decker Boulevard that will house County Sheriff's offices and judicial offices

FUTURE LAND USE

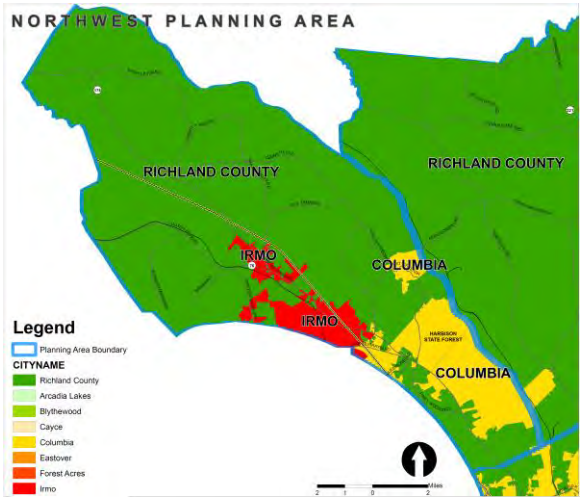
The majority of lands in the Beltway Planning Area are proposed for Mixed Residential, Activity Center/Corridor, and Economic Development Center/Corridor uses. Richland County should coordinate with the City of Columbia, and other jurisdictions to plan for areas of common interested on the edges of jurisdictional lines. For more defined guidance for land planning in Mixed Residential areas, refer to the City of Columbia's Comprehensive Plan Development Types located in Appendix B of this Comprehensive Plan.



FUTURE LAND USE & PRIORITY INVESTMENT AREAS

BELTWAY PLANNING AREA

Northwest Planning Area



The Northwest Planning Area consists of lands north and west of the Broad River up to the Lexington County line.

The Northwest Planning Area covers the Irmo/Dutch Fork portion of the County, between Lexington County and the Broad River. This area includes the City of Irmo and portions of the City of Columbia. These communities plan and zone for the land within their jurisdictions.

Lake Murray is a highly desirable area to live in Richland County. This has resulted in the conversion of rural and environmentally sensitive lands into new residential and commercial development - a major concern for many in the Northwest. There are competing factors at play in this planning area. The Northwest holds both a strong market for new residential development near the lake, and community support for maintaining rural character and low-density development patterns and for protecting environmentally sensitive areas, such as the Wateree Creek watershed. The Future Land Use Map sets out a growth framework that attempts to achieve a balance between these competing factors.

RELEVANT PLANS

The County and its municipalities have adopted several plans that are applicable to lands in the Northwest Planning Area:

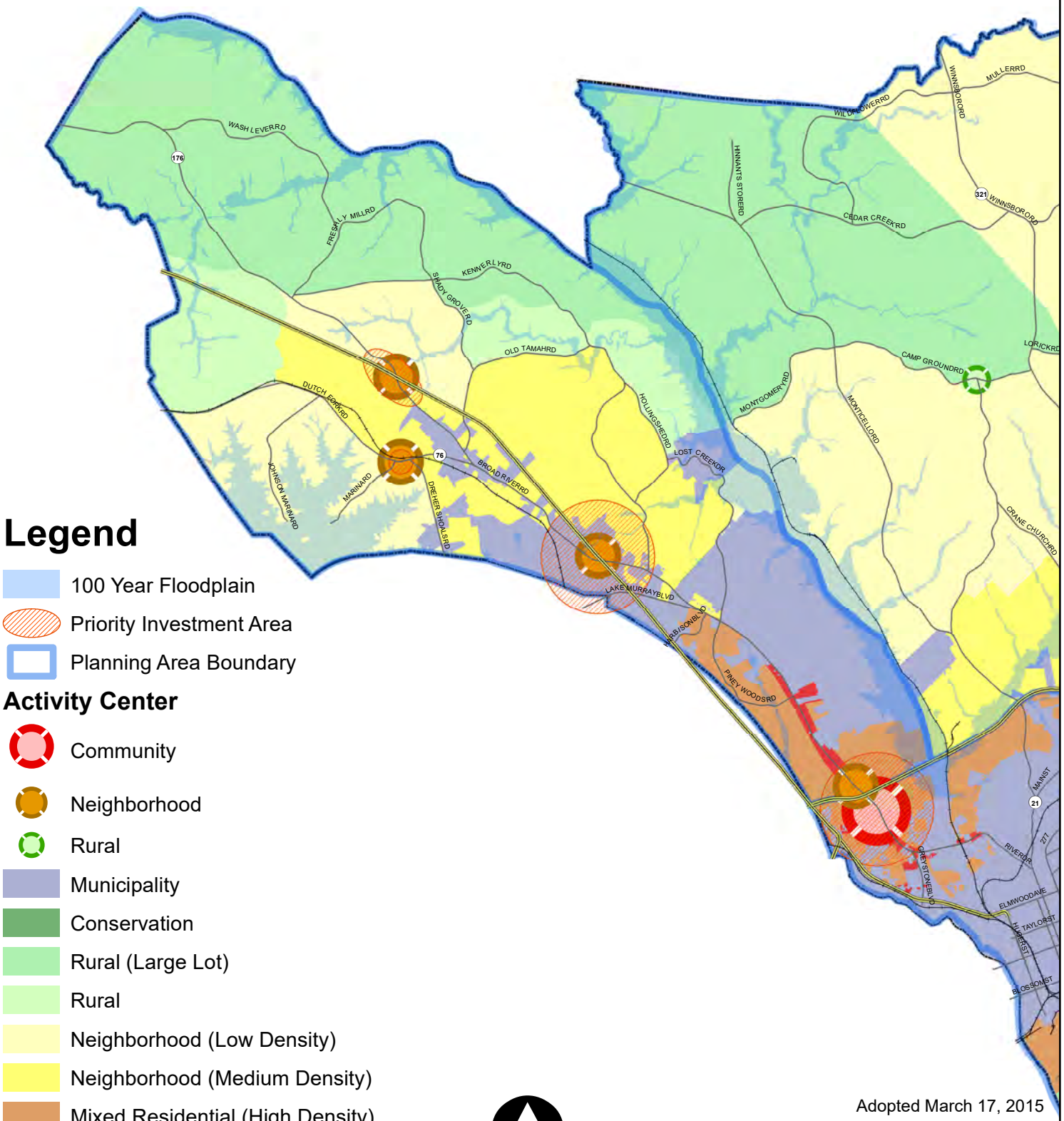
- Spring Hill Community Master Plan
- Broad River Corridor Master Plan
- Town of Irmo Comprehensive Plan

FUTURE LAND USE

The majority of lands in the Northwest Planning Area are proposed for Rural (Large Lot), Rural, Neighborhood (Low-Density), Neighborhood (Medium-Density), and Mixed Residential uses. Richland County should coordinate with the Cities of Columbia and Irmo to plan for areas of common interest on the edges of jurisdictional lines. For more defined guidance for land planning in Mixed Residential areas, refer to the City of Columbia's Comprehensive Plan Development Types located in Appendix B of this Comprehensive Plan.

NORTHWEST PLANNING AREA

FUTURE LAND USE & PRIORITY INVESTMENT AREAS



Legend

- 100 Year Floodplain
- Priority Investment Area
- Planning Area Boundary

Activity Center

- Community
- Neighborhood
- Rural
- Municipality
- Conservation
- Rural (Large Lot)
- Rural
- Neighborhood (Low Density)
- Neighborhood (Medium Density)
- Mixed Residential (High Density)
- Mixed Use Corridor
- Economic Development Center/Corridor
- Military Installation

Miles

2 1 0 2

Adopted March 17, 2015

For more information on Priority Investment Areas, refer to the Priority Investment Element in Section 12 of the Comprehensive Plan.

North Central Planning Area

The North Central Planning Area extends from the Broad River east toward Blythewood and ends west of I-77.

The North Central Planning Area is located between the Broad River and Blythewood. The majority of land in this planning area is in the unincorporated portions of the County, but also includes portions of the City of Columbia and Blythewood. These communities plan and zone for land within their jurisdictions.

While some higher density suburban development has occurred at the south end of the planning area, the majority of the area is primarily rural, low-density residential, or in active agricultural use with no plans for providing infrastructure that would support higher density development. The Future Land Use vision for this area is to maintain the rural character, and to reinvest in aging commercial corridors and neighborhoods at the south end of the planning area.

RELEVANT PLANS

The County and its municipalities have adopted two plans that are applicable to lands in the North Central Planning Area:

- Crane Creek Master Plan
- Town of Blythewood Comprehensive Plan

FUTURE LAND USE

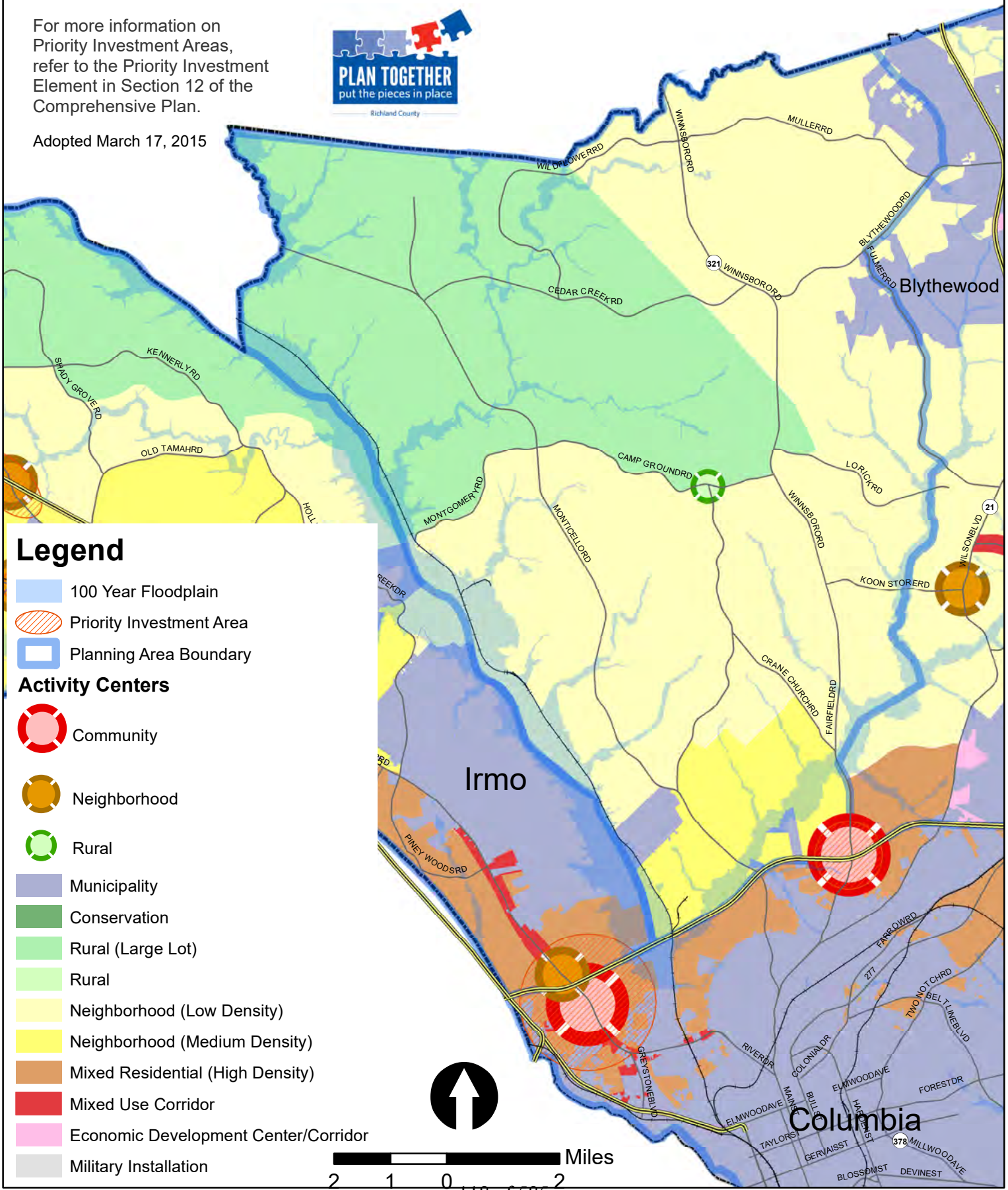
The majority of lands in the North Central Planning Area are proposed for Rural (Large Lot), Neighborhood (Low-Density), Neighborhood (Medium-Density), Mixed Residential, and Economic Development Center/Corridor uses. Richland County should coordinate with the Cities of Blythewood and Columbia to plan for areas of common interested on the edges of jurisdictional lines. For more defined guidance for land planning in Mixed Residential areas, refer to the City of Columbia's Comprehensive Plan Development Types located in Appendix B of this Comprehensive Plan.

NORTH CENTRAL PLANNING AREA

FUTURE LAND USE & PRIORITY INVESTMENT AREAS

For more information on Priority Investment Areas, refer to the Priority Investment Element in Section 12 of the Comprehensive Plan.

Adopted March 17, 2015



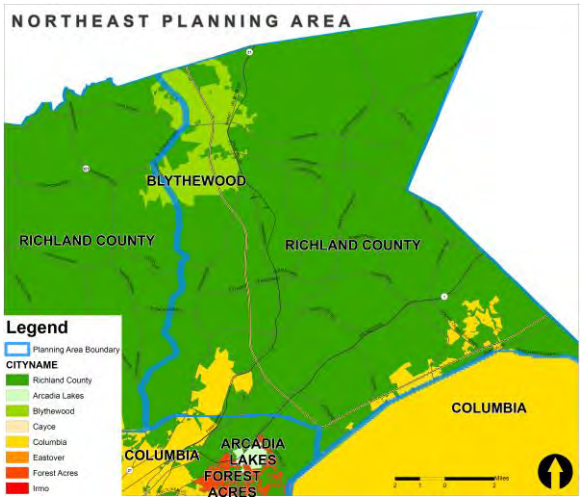
Legend

- 100 Year Floodplain
- Priority Investment Area
- Planning Area Boundary

Activity Centers

- Community
- Neighborhood
- Rural
- Municipality
- Conservation
- Rural (Large Lot)
- Rural
- Neighborhood (Low Density)
- Neighborhood (Medium Density)
- Mixed Residential (High Density)
- Mixed Use Corridor
- Economic Development Center/Corridor
- Military Installation

Northeast Planning Area



The Northeast Planning Area primarily consists of lands in Richland County's jurisdiction, but also includes Blythewood and Columbia.

The Northeast includes both sides of the I-77 corridor, as well as the I-20 corridor above Fort Jackson. The majority of land in this planning area is in the unincorporated portions of the County, but also include portions of the City of Columbia and Blythewood. These communities plan and zone for land within their jurisdictions.

This area has been the location for much of the County's growth over the last decade and this trend is expected to continue. This development is being led by residential growth and followed by commercial and service oriented uses. While the rest of the County achieved a lower population density over the last decade, this area actually increased in population density because of the significant amount of growth in the Northeast and the higher densities that were developed in this area.

The Future Land Use vision for this area includes continued suburban low and medium density growth that takes advantage of interstate access and existing infrastructure lines. This area is also a primary focus for economic development efforts around I-77 interchanges. Infrastructure investments needed to realize this future land use vision should be considered, especially in priority investment areas.

RELEVANT PLANS

The County and its municipalities have adopted two plans that are applicable to lands in the Northeast Planning Area:

- Candlewood Master Plan
- Town of Blythewood Comprehensive Plan

PLANNED CAPITAL PROJECTS

Planned capital improvements in the Northeast Planning Area include:

- Water park located near the I-77 Interchange at Farrow Road

FUTURE LAND USE

The majority of lands in the Northeast Planning Area are proposed for Neighborhood (Low-Density), Neighborhood (Medium-Density), Mixed Residential, Activity Center/Corridor, and Economic Development Center/Corridor uses. There is also a small portion of Rural (Large Lot) to the east of Fort Jackson. Richland County should coordinate with the Cities of Blythewood and Columbia to plan for areas of common interest on the edges of jurisdictional lines. For more defined guidance for land planning in Mixed Residential areas, refer to Appendix B of this Comprehensive Plan.

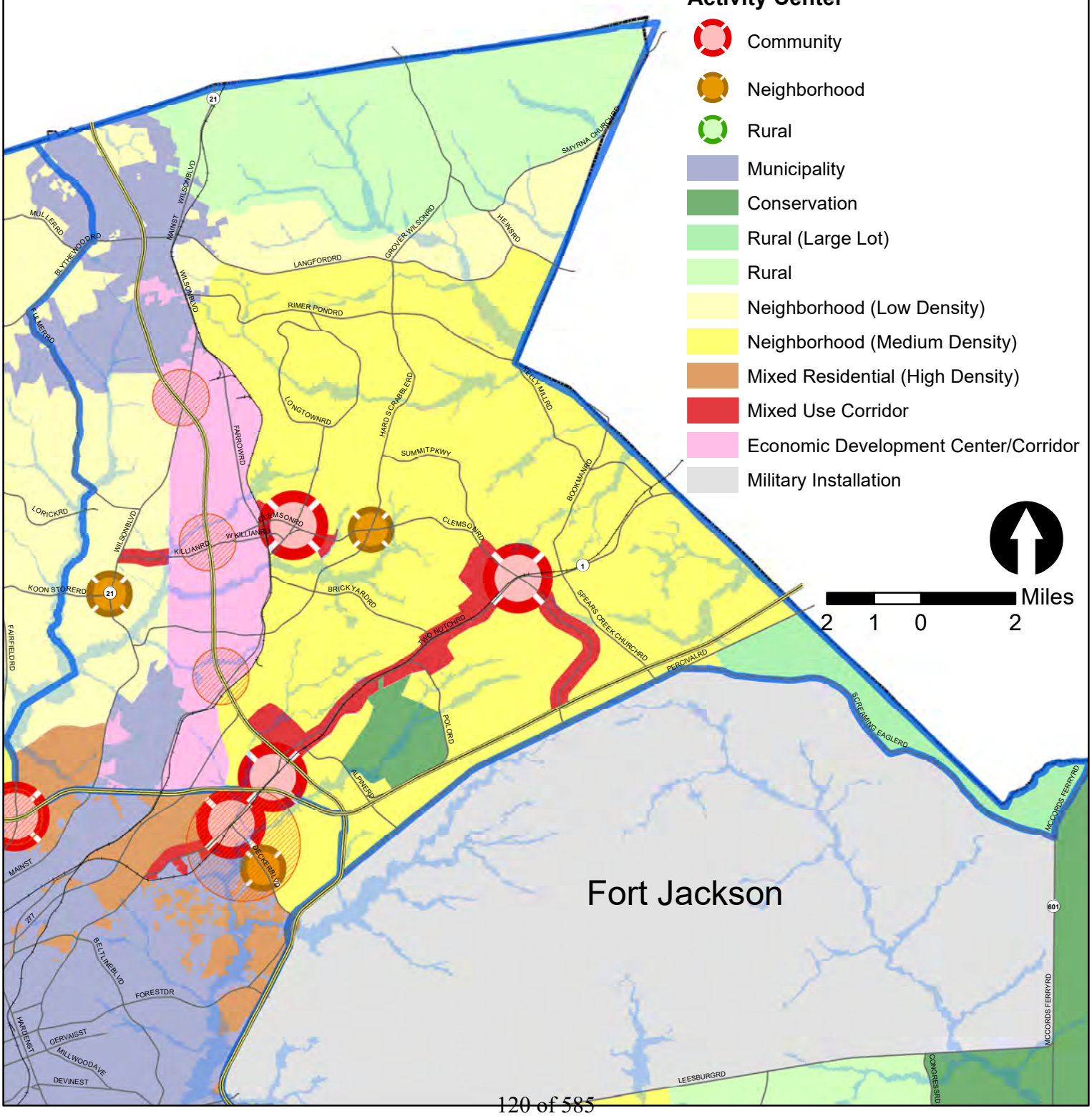
NORTHEAST PLANNING AREA

FUTURE LAND USE & PRIORITY INVESTMENT AREAS

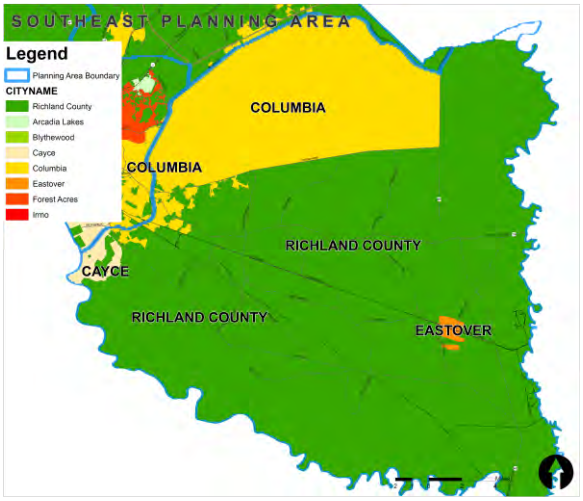
PLAN TOGETHER
put the pieces in place
Richland County

For more information on Priority Investment Areas, refer to the Priority Investment Element in Section 12 of the Comprehensive Plan.

Adopted March 17, 2015



Southeast Planning Area



The Southeast Planning Area covers the lower southern half of Richland County and includes the City of Eastover and portions of the Cities of Cayce and Columbia, including Fort Jackson.

The Southeast Planning Area covers Lower Richland, including Fort Jackson, McEntire Joint Air National Guard Base, and the Congaree National Park. It includes the City of Eastover and portions of Cayce and Columbia. This planning area covers more than half of the land within the County's jurisdiction. These areas are primarily rural and agricultural lands and environmentally sensitive lands and water bodies.

Development pressures from the Beltway area are beginning to move down into the Southeast portions of the County. The community supports managed growth in this area that controls growth and maintains true rural character. To this end, the majority of lands in this area will continue in a rural development pattern, with higher intensity development focused near the edges of Columbia and Fort Jackson. While not envisioned to have intensive suburban and urban development, this area is still a priority for future capital improvements. Opportunities, such as redevelopment of commercial sites in downtown Eastover are priorities for public investment.

RELEVANT PLANS

The County and its municipalities have adopted two plans that are applicable to lands in the Southeast Planning Area:

- Southeast Richland Neighborhood Master Plan
- Lower Richland Community Strategic Master Plan

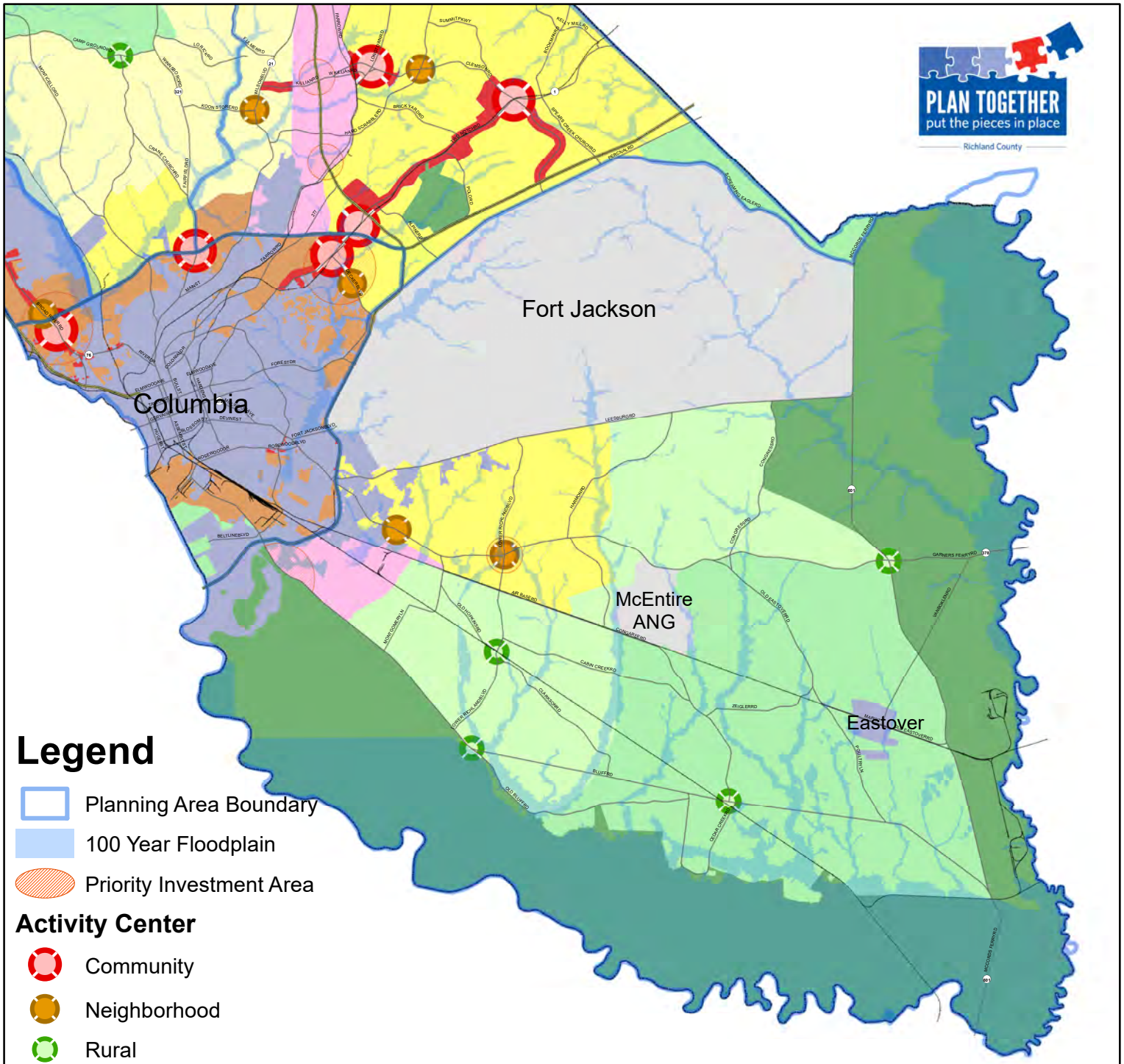
PLANNED CAPITAL PROJECTS

Planned capital improvements in the Southeast Planning Area include:

- Sports Arena off of Old Bluff Road
- Caughman Pond Park located near Old Eastover Road
- New sewerage collection system providing public wastewater service to landowners of failing septic systems and other landowners that voluntarily elect to "tap on" to the service

FUTURE LAND USE

The majority of lands in the Southeast Planning Area are proposed for Conservation, Rural (Large Lot), Rural, and Neighborhood (Medium-Density), with a few areas designated as Activity Center/Corridor and Economic Development Center/Corridor uses. Richland County should coordinate with the Cities of Columbia and Eastover to plan for areas of common interest on the edges of jurisdictional lines.



Legend

- Planning Area Boundary
- 100 Year Floodplain
- Priority Investment Area

Activity Center

- Community
- Neighborhood
- Rural
- Municipality
- Conservation
- Rural (Large Lot)
- Rural
- Neighborhood (Low Density)
- Neighborhood (Medium Density)
- Mixed Residential (High Density)
- Mixed Use Corridor
- Economic Development Center/Corridor
- Military Installation

For more information on Priority Investment Areas, refer to the Priority Investment Element in Section 12 of the Comprehensive Plan.

FUTURE LAND USE & PRIORITY INVESTMENT AREAS

SOUTHEAST PLANNING AREA

Adopted March 17, 2015

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Photo: Jeff Blake

6. Housing Element

Richland County's housing market faired the national recession well. However, vacancy rates of homes in the County have increased over the last decade. In addition to increasing vacancy rates, national housing trends are starting to be experienced in the County that reflect demand for new housing types and development formats. These housing trends are important policy considerations for Richland County leaders.

Issues and Opportunities

Housing Inventory is Increasing Steadily, but Changing Form

Over 50,000 housing units have been built since 1990, representing a 48 percent increase in housing stock over the last 32 years. The Northeast planning area has seen the most growth, with a nearly 200 percent increase in the number of housing units since 1990. These newly constructed houses have generally been smaller, following national trends in housing size.

While a majority of the housing in Richland County remains single-family detached, multi-family and duplex style homes have increased their relative share of the housing stock since 1990.

Vacancy Rates have Increased

The vacancy rate for Richland County has increased from 7.5 percent to 11 percent between 2000 and 2012. The Southeast and Beltway have the highest vacancy rates, at 16 percent and 13 percent respectively. This is likely due to home foreclosures brought on the by the national recession that began in 2008.

Renter Occupancy Rates are Increasing and Household Sizes are Decreasing

Since 2000, renter occupancy rates have increased in all planning areas except the Northwest. This trend is likely a result of the economic recession's impact on home buying and generational shifts in housing preference. Housing demand is expected to shift away from ownership of large, single family houses, and towards the rental of smaller units as millennials and empty nesters make up a larger portion of household heads. That Richland County falls slightly below the state's average ownership rate is likely due to the fact that Richland County is one of the more urbanized counties in South Carolina.

Richland County's average household size decreased from 2.6 to 2.48 persons between 1990 and 2012. This is consistent with the national trend of declining household size.

Housing Supply Will Need to Meet Expected Population Growth

Depending on population projections, it is expected that Richland County will need to provide 30,000 to 85,000 new housing units by 2040. Where and how these new housing units will be built will depend on market conditions, land availability, and access to services. Future land use plans should address these considerations when determining where to concentrate new housing developments.

Use Consolidated Housing Plan to Assess Future Housing Needs

The Richland County Community Development Department completed a "Consolidated Plan for Housing and Community Development" in 2012. The plan compiled extensive socioeconomic and geographic analysis of the County's population in order to assess future housing need. The plan will be updated every five years and represents an informative outlet for housing information pertinent to planning.

Goals and Implementation Strategies

To address diverse and dynamic demographics, income levels, and housing preferences, Richland County's housing goals are…

H Goal #1: To create a balance between employment and jobs and to provide efficient housing opportunities meeting the employment base of the community

Strategy 1.1: Coordinated growth

Concentrate residential growth near employment centers.

Strategy 1.2: Efficient development

Create development regulations that encourage efficient development.

H Goal #2: To focus neighborhood revitalization efforts in areas that are in need

Strategy 2.1: Focused revitalization effort

Focus revitalization area in neighborhoods with reduced housing value.

H Goal #3: To create housing choices for all household types, sizes, and incomes; To allow employees the opportunity to live and work in the same area, reducing personal costs (commuting to work) and societal costs (traffic, reduced air quality)

Strategy 3.1: Community land trust

Create a community land trust program, providing a mechanism to mitigate the increasing cost of land and its impact on the cost of affordable housing.

Strategy 3.2: Joint development of affordable housing

Develop affordable housing on appropriate County-owned land by seeking joint development opportunities with the private sector.

Strategy 3.3: Other incentives

Provide incentives to developers for including affordable housing in subdivision design.

Strategy 3.4: Zoning for Senior Housing

Provide proper zoning allowing construction of housing for seniors in communities providing convenient access to transit, goods, and services.

H Goal #4: To adjust the County Land Development Code requiring upkeep of abandoned buildings

Strategy 4.1: Housing rehabilitation

Encourage housing funds for buying abandoned and vacant homes.

Strategy 4.2: Rental properties

Create codes for rental properties requiring proper maintenance.

H Goal #5: To focus infill development in existing neighborhoods providing housing for a growing population, maximizing use of infrastructure and creating alternatives for sprawl

Strategy 5.1: Incentivize revitalization with Neighborhood Master Plans

Use Neighborhood Master Plans to create incentives for revitalization and an array of housing choices.

Strategy 5.2: Target infill development areas

Identify areas in the County that are prime areas for infill development.

Strategy 5.3: Infill housing program

Develop an Infill Housing program including the compilation of a comprehensive list of all vacant lots within the County suitable for housing.

Photo: Jeff Blake

7. Transportation Element

Richland County is undertaking one of the largest transportation improvement programs in its history through the Transportation Penny sales tax levied through a referendum. This tax will raise revenues for improvements to the full transportation network: roads, public transit, and bicycle and pedestrian facilities. Coordinating land use plans along new and improved transportation facilities is a critical component to making the most of these investments.

Issues and Opportunities

Regional and local growth has stressed transportation systems to the point that significant improvements are needed and underway. The issues and opportunities identified here set out the critical transportation planning topics that have risen to the top during this planning process. For additional data and information on the following topics, please refer to the Comprehensive Plan Appendix A.

The Transportation Penny Tax will Provide Funds for Transportation Improvements

Over the next 20 years, the Transportation Penny sales tax will provide $1 billion dollars for transportation improvements across Richland County. Additionally, the referendum enables Richland County to bond $450 million dollars upfront to jumpstart improvement projects in the near-term. With initial funding, a County Transportation Department has been established, which will streamline coordination of the program.

Project Prioritization Will Determine Order and Phasing of Improvements

A key factor in moving Penny Tax projects forward is the development of a project prioritization or ranking methodology. While all projects were identified prior to the sales tax referendum, the order and phasing of their completion must still be established. The County Transportation Department and its selected program development team will develop a Council approved ranking criteria to prioritize projects. This ranking will produce a County Transportation Improvement Program (CTIP) similar to the South Carolina Department of Transportation (SCDOT) State Transportation Improvement Program (STIP).

Land Use Will Undergo Changes Due to Penny Tax Programs

The Penny Tax will provide funds for multiple new projects across Richland County. These projects have the potential to significantly change the land use structure of the area. As roads see improvements such as additional travel lanes, closed drainage, bike lanes, and sidewalks, development pressures generally follow. Improved roads encourage more traffic, which attracts more commercial development, which creates more traffic, and so on. Development regulations should be put in place to ensure that the desired character of the County is created and maintained. Master plans created for neighborhoods should be consulted to ensure local transportation desires are being addressed by Penny Tax programs. Previous to the creation of the County Transportation Department, roadway construction solely involved SCDOT and private developers. Richland County has now become an active participant in road design and construction. It will be important for Richland County to determine balance between increasing dirt road paving and resurfacing to maintain the rural character of the County.

Protection of Right-of-Way Is Needed

Once a prioritized list of Penny Tax projects has been established, it will be very important to protect right-of-way along corridors that are programmed further down the list. Protection of right-of-way should occur through the planning and permitting process, with appropriate departments, to ensure that new developments are not built too close to the existing road to only have to be modified when widening occurs.

Bicycle and Pedestrian Facilities Are Needed

Currently less than 10 miles of on-road bike lanes exist in Richland County. For many residents, walking, biking, and public transit are the only means of transportation. The Transportation

Penny program will generate nearly $81 million for improving bicycle and pedestrian environments. These facilities will aim to meet demand expressed by a growing number of residents that desire to live in areas with well supported bicycle and pedestrian infrastructure.

Complete Streets Will Be Considered for All Roadway Improvements

In addition to monies specifically earmarked for bicycle and pedestrian improvements, the Transportation Penny program has adopted a Complete Streets philosophy for all projects. Implementation of this policy will increase the walkability and bikeability of Richland County; all projects will be designed and implemented with the service and accommodation of all modes in mind.

Transit Now Has a Consistent Funding Stream and Will Undergo Significant Expansion

Over $300 million has been specifically allotted for transit in the Penny Tax, providing a long-term, stable funding source for an organization that historically struggled to find consistent funding. These funds have already allowed the transit system in Richland County to begin significant upgrades, with long-term planning now supported by guaranteed funding. The transit system will continue to undergo significant expansion as more funds become available.

Land Use Will Influence Transit Success

Based on the findings of several commuter rail studies performed to date, the success of the existing SmartRide express bus service in both the Camden to Columbia and Newberry to Columbia corridors, and The Comet's resurgence through the Transportation Penny program, it is anticipated that public transit will gain more momentum in Richland County than it has in the past. While commuter rail may be a distant hope, in the shorter term, it is likely that some type of high capacity transit will be realized, potentially bus rapid transit (BRT). No matter the type of high capacity transit that does occur, Richland County should be cognizant that land use patterns will be a strong determinate in how transportation is viewed. With higher densities and more compact development, it is more likely that high capacity transit can be successful, while lower densities and the continuation of automobile oriented development patterns will be less supportive of high capacity transit in the future.

Goals and Implementation Strategies

To address increasingly congested automobile traffic and expand accessibility, and to promote a more complete and sustainable transportation system for all modes, Richland County's transportation goals are…

T Goal #1: To strengthen long-term transportation planning

Strategy 1.1: Increase communication and coordination between internal departments and external agencies

Ensure that all relevant departments and agencies are communicating and coordinating planning efforts on a regular basis.

Strategy 1.2: Maintain adequate staffing

Establish necessary support staff from appropriate departments.

Strategy 1.3: Incorporate completed transportation projects

Transportation Projects that are completed as part of the Transportation Penny program and others should be considered in land use decisions and policy. This should include recommended transportation improvements from neighborhood plans as they are completed.

T Goal #2: To expand transportation choices

Strategy 2.1: Explore Transportation Alternatives Program funding

Apply for Transportation Alternatives Program funds through SCDOT and the Federal Highway Administration's Moving Ahead for Progress in the 21st Century (MAP-21).

Strategy 2.2: Promote Complete Streets

Establish a Complete Streets Program and appoint members to a Complete Streets Commission as called for by the Richland County Complete Streets Resolution adopted in 2009.

Strategy 2.3: Incorporate neighborhood master plans

Include bicycle and pedestrian facility recommendations from neighborhood master plans in transportation planning efforts.

Strategy 2.4: Provide planning support for Transportation Penny projects

Support bicycle and pedestrian-related projects on the Transportation Penny project list.

T Goal #3: To support public transit service improvements and expand accessibility for County residents

Strategy 3.1: Maintain communication between The Comet, SCDOT, and County Transportation Department

Representatives from The Comet, SCDOT and County Planning and Transportation Departments should maintain communication regarding transit improvements made through Penny Sales Tax funding.

Strategy 3.2: Distribute transit information

Work with local businesses, social service departments, and YMCAs to distribute transit information at their locations and better dispense transit information to the target market.

Strategy 3.3: Land Development Code updates

The County will assess ways to amend its Land Development Code to support higher-density, mixed-use development along existing transit corridors and in Priority Investment Areas.

Strategy 3.4: Coordinate agencies to expand express bus service

County Transportation Department, SCDOT and The Comet should coordinate on expansion of express bus service options such as Park-And-Ride.

Strategy 3.5: Improve transit facility

Work with the City of Columbia to improve the CMRTA transit facility.

T Goal #4: Coordinate with SCDOT to improve overall traffic conditions

Strategy 4.1: Explore Transportation Demand Management Techniques

Partner with SCDOT to study the feasibility of introducing Transportation Demand Management Techniques such as High Occupancy Vehicle (HOV) lanes in the County.

Strategy 4.2: Traffic count program

Establish a traffic count program, for County-maintained roads, to supplement the SCDOT Traffic Count program.

Strategy 4.3: Coordinate with SCDOT on traffic management plans (TMP's)

Increase communication between SCDOT and the County Planning Department regarding traffic management plans for proposed developments and expectations for necessary mitigation.

T Goal #5: Balance local road re-surfacing and dirt road paving with maintaining rural character of the County

Strategy 5.1: Provide safe, accessible roads for citizens

Prioritize re-surfacing and dirt road paving projects under the Penny Tax program based on safety and accessibility needs.

T Goal #6: Link land use planning and sustainable transportation

Strategy 6.1: Land Development Code updates

The County will assess ways to amend its Land Development Code to promote development patterns which support sustainable transportation modes such as walking, biking and public transit.

Strategy 6.2: Coordinate with the City of Columbia

Coordinate with the City of Columbia during the development of its Bicycle/Pedestrian Master Plan to capitalize on stakeholder and citizen momentum and consider input when assessing needs within the County.

T Goal #7: Include land use planning initiatives in implementation of approved Penny Tax projects

Strategy 7.1: Protect rights-of-way

Ensure rights-of-way needed for future road improvement projects are preserved during review of proposed developments on these roads.

Strategy 7.2: Encourage Complete Streets Initiatives

Building on the Complete Streets Program from Strategy 2.2, work with the County Transportation Department and SCDOT to encourage Complete Streets initiatives be used during construction and implementation of Penny Tax projects.

Strategy 7.3: Establish a county-wide corridor improvement plan

Initiate a county-wide corridor improvement plan that will incorporate transportation projects from the Transportation Penny and in neighborhood master plans, as well as transportation improvement opportunities in Priority Investment Areas identified in the Comprehensive Plan.

Strategy 7.4: Land Development Code updates

The County will assess ways to amend its Land Development Code to support land use planning initiatives such as mixed-use development, higher densities in areas with existing infrastructure, transit-oriented development, and traditional neighborhood development.

Strategy 7.5: Promote Redevelopment and Infill

Promote redevelopment and urban infill as sustainable growth patterns and support with applicable regulations in the land development code.

8. Economic Development Element

Richland County has a history of having a healthy local economy as revealed by income trends and commuting patterns – more than double the number of workers commuted into Richland County in 2010 than commuted out. Critical to recruiting new employers to the County is maintaining a quality of life that new employees desire, workplace offerings that new businesses need, and improving the transportation system to support expanding commerce.

Issues and Opportunities

The Economic Development goals and implementation strategies set out in this element are supported by several key findings that arose during the planning process, and are outlined here. For additional data and information on the following topics, please refer to the Comprehensive Plan Appendix A.

Richland County Economic Indicators are Generally Above State Averages

Richland County maintains higher per capita income, higher median household income and lower poverty rates when compared to state averages. However, care should be taken to ensure that Richland County continues being an

economically prosperous area. Comprehensive planning efforts that identify and address the needs of the public will be instrumental in maintaining economic prosperity.

Military Installations Provide Economic Opportunity

Richland County is home to three military installations: Fort Jackson, McCrady Training Center, and McEntire Joint National Guard Station. Fort Jackson has recently been designated as the home of the Army's only Drill Sergeant School, Department of Defense Joint Center of Excellent for Military Chaplaincy, and the site of one of four new Regional Readiness Sustainment Commands. McEntire Joint National Guard Station is a 2,400-acre base that is home to 1,500 members that train at the base. Fort Jackson trains in excess of 36,000 soldiers each year. 41 basic training graduations per year bring in over 100,000 family members who engage in local commerce.

University of South Carolina

The University of South Carolina is located within the City of Columbia and has significant economic impacts. Over 31,000 students are enrolled, along with 5,000 employees. Research initiatives in nanotechnology, health sciences, fuel, and information technologies will attract additional investment. A research district, "Innovista," will draw a mix of University and private research buildings, parking garages, and commercial and residential units.

Regional Economic Drivers

Important to the County's local economy is its position within the larger regional market. Both the region and Richland County have experienced a slowing of job growth in the last decade. Efforts to remain competitive in a highly dynamic and ever-changing marketplace is a key challenge for the County. Chapter 3: Regional Context outlines several key economic opportunities for the region, including targeting the following industries:

- Insurance
- Nuclear power
- Transportation and logistics
- Hydrogen fuel cell technology

Goals and Implementation Strategies

To provide new jobs and a stable economy, Richland County's economic development goals are…

ED Goal #1: To develop and maintain a balanced economy ensuring a sustainable quality of life for all Richland County residents

Strategy 1.1: Technical and financial support

Provide technical and financial assistance for existing industry, where needed, helping adapt to a changing world economy.

Strategy 1.2: Coordination with infrastructure and utilities

Coordinate economic development activities with infrastructure and service providers, and County planning proposals.

Strategy 1.3: Foster entrepreneurialism

Foster an entrepreneurial environment that encourages economic development.

ED Goal #2: To promote Richland County as an attractive location for economic development

Strategy 2.1: Promote labor force

Publicize the high quality of the County's labor force as an inducement for prospective new businesses.

Strategy 2.2: Telecommunications facilities

Support the development of state-of-the-art telecommunications facilities.

Strategy 2.3: Coordinate regional strategies

Actively work with regional entities, colleges, and universities developing and promoting regional strategies and plans benefiting the economic well-being of the County.

Strategy 2.4: Maintain positive business relations

Foster communication and cooperation between the County and its business community.

Strategy 2.5: Use land for economic development

Pursue the conversion of surplus state and federal lands for economic development.

Strategy 2.6: Utilize superfund sites

Two superfund sites are located within unincorporated Richland County. The County should work with landowners and interested developers to seek out opportunities to repurpose these sites.

ED Goal #3: To expand job opportunities for Richland County's high school and technical school graduates

Strategy 3.1: Foster cooperation between businesses and schools

Promote and support linkages between the secondary and higher education systems and business and industry ensuring that the needs of both employers and potential employees are being addressed.

ED Goal #4: To diversify Richland County's economic base attracting manufacturing and industry

Strategy 4.1: Ensure inventory of developable land

Ensure sufficient inventory of available land for economic development.

Strategy 4.2: Promote strategic location

Actively promote the County as a transportation crossroads for highways and rail service.

Strategy 4.3: Promote education and quality of life

Publicize education opportunities and quality of life information.

ED Goal #5: Maintain coordination between Economic Development, Planning and Transportation within the County

Strategy 5.1: Increase communication between Planning and Economic Development Office

Increase communication regarding proposed projects for development as well as land subdivision and rezoning activity.

Strategy 5:2: Increase communication between SCDOT and Transportation Departments and Economic Development Office

Ensure that information regarding infrastructure and transit system improvements is communicated to the Economic Development Office for use in recruitment efforts.

Strategy 5.3: Use link to promote redevelopment and infill

Build on increased communication between departments to identify opportunities for redevelopment and infill.

Photo: Jeff Blake

9. Natural Resources Element

The County's "rich lands" serve the citizens in multiple ways. Often called the "triple bottom line," natural land and water resources provide communities with economic benefits and the potential for expanding local natural resource based businesses. They provide citizens with functioning natural systems that reduce the need for manmade infrastructure. Finally, they provide the community with quality natural amenities that provide people a place to connect with nature close to home.

Issues and Opportunities

Protection of Richland County's natural resources is paramount to maintaining all three components of the "triple bottom line." The County seeks to balance protection of natural resources with a respect and understanding of the value of private property rights. The Natural Resources goals and implementation strategies set out in this element are supported by several key findings that arose during the planning process. For additional data and information on the following topics, please refer to the Comprehensive Plan Appendix A.

PLAN TOGETHER
put the pieces in place

Richland County is Natural Resource Rich

Richland County has an abundance of both land and water natural resources. The Broad, Congaree, Saluda and Wateree Rivers flow through the County. Along with lakes and 1,534 miles of creeks and streams, these rivers cover nearly two percent of the County's area or more than 9,700 acres.

The County is home to the Congaree National Park – the largest old-growth floodplain forest remaining on the continent – as well as the Sesquicentennial State Park, Harbison State Forest, Clemson Research Center, and Cook's Mountain. There are many other important naturally and environmentally significant lands, some that are protected from development, and others that are not. These lands provide habitat to 90 rare, threatened or endangered species, including the bald eagle, Carolina bugleweed, red cockaded woodpecker, and the black bear. There is strong support by the citizens of the County to protect these critical land and water resources.

Agricultural Industries are Growing

Richland County has an agricultural legacy that continues to grow today. Between 2007 and 2012, the number of farms and the number of acres in farm production in Richland County increased. Nearly 400 farms operated in Richland County in 2012, up nine percent from 2007. The total market value of products sold from Richland County farms increased nearly 200 percent from $10,164,000 in 2007 to $30,038,000 in 2012. Today, approximately 50 percent of the County is in some form of agricultural use.

Natural Resource Industries at Risk of Encroaching Development

As land is developed into residential neighborhoods and centers for commerce near the edges of primate agricultural lands, it can become more and more difficult to maintain farming operations. Many new homeowners may be unaware that land is actively farmed near their new home and may see farming as incompatible with their neighborhood. Some don't like sharing the roads with farm equipment, or being located near farms where heavy farm equipment is in use. These incompatible development issues can be addressed through education of landowners near farming operations, and through land planning efforts.

Protection of Watersheds, Aquifers, and Flood Prone Areas is Critical

Richland County has three major watershed basins: the Broad River Basin, the Catawba River Basin, and the Saluda River Basin. The surface waters in these basins replenish groundwater supplies (aquifers), provide drainage throughout the County, and influence water quality for wildlife, recreation, and potable water. When asked "what to protect from change" in Richland County, residents resoundingly responded that protection of water resources should be a priority for the County. And that watershed protection should include the ability for residents to gain better access to water bodies for recreational use.

Several creeks, including Gills Creek, Wateree Creek, Rocky Creek and Mill Creek are identified for restoration to improve water quality. Feeding these water bodies are floodplains that absorb stormwater and are prone to rising waters. Over

97,000 acres of 100-year floodplains (nearly 20 percent of the County's land area) exist in Richland County. The County has an opportunity through land use planning to protect these watersheds and the ecosystems they support, including the source water for the County's population.

Goals and Implementation Strategies

To protect the County's rich and abundant land and water resources, Richland County's natural resources goals are…

NR Goal #1: To establish an atmosphere of awareness and importance of natural resources

Strategy 1.1: Inventory key natural and scenic resources

Inventory all key natural and scenic resources in the County. Share this information with developers in the County.

NR Goal #2: To protect natural resources, including prime farmland, while shaping the future development of Richland County

Strategy 2.1: Development review proposals

Review new development proposals for impacts to natural resources. Establish a staff person to consider the impact of new developments upon natural resources and natural conditions, including scenic areas, unique plant and animal habitats, wetlands, and prime agricultural and forest lands.

NR Goal #3: To protect natural resources near neighborhoods and provide citizens with access to nature

Strategy 3.1: Incentivize conservation

Create incentives protecting resources while allowing beneficial economic development.

Strategy 3.2: Implement growth management strategies

Consider innovative land use mechanisms, such as open space developments, density bonuses, wetland and stream mitigation, low impact development Best management Practices, and conservation easements as tools to protect sensitive lands.

NR Goal #4: To protect trees throughout the County

Strategy 4.1: Scenic vistas

Seek to maintain and establish scenic vistas along rural highways.

NR Goal #5: To protect watersheds throughout the County

Strategy 5.1: Collaborate with State

Collaborate with the SC Department of Health and Environmental Control (DHEC) State Laws and Regulations and create local regulations with an emphasis on improving environmental conditions.

Strategy 5.2: Public education and involvement

Assist existing Watershed Stewardship programs/Watershed Associations in educating and involving the public.

Strategy 5.3: Watershed Protection Overlay District

Establish a Watershed Protection Overlay District limiting land use activities that increase the risk of water pollution.

NR Goal #6: To increase open and green space throughout the County by creating incentives to preserve land

Strategy 6.1: Existing tools in Land Development Code

Encourage, the use of conservation easements and the Open Space provision as defined by the County Land Development Code.

NR Goal #7: To establish and maintain parks and greenways

Strategy 7.1: Greenway trail system

Establish a protected greenway corridor/trail system.

Strategy 7.2: Parks and trails

Connect existing parks and trails.

Strategy 7.3: Partnerships

Construct partnerships between governmental and non-governmental agencies maintaining existing programs while developing new ones.

Strategy 7.4: Private and public investment

Encourage private and public investment.

Strategy 7.5: Support volunteer programs

Create or assist existing civic volunteer programs maintaining current parks and greenways.

NR Goal #8: To improve air quality throughout the County

Strategy 8.1: Public awareness

Raise public awareness of environmentally friendly practices such as carpooling, biking to work, and public transportation.

Strategy 8.2: Clean air programs

Encourage innovative clean air programs promoted by the Central Midlands Council of Governments, our local Clean Air advocates.

Strategy 8.3: Limit sprawl

Prevent sprawl which requires longer commutes affecting air quality; create incentives for environmentally friendly land use patterns.

10. Cultural Resources Element

Richland County's history is brought to life through many historic and culturally significant structures and districts. Protection of these unique places is important to maintaining a sense of place and a connection to the County's past. While progress and new development will continue on into the future, the value and importance of maintaining historic places and spaces will be an important policy consideration.

Issues and Opportunities

The Cultural Resources goals and implementation strategies set out in this element are supported by several key findings that arose during the planning process. For additional data and information on the following topics, please refer to the Comprehensive Plan Appendix A.

Historic Structures and Districts

Richland County has an abundance of structures with historical significance including churches, landmarks, monuments, and historic homes. Consolidated areas of these structures have been combined into a number of historic districts recognized by the National Register of Historic Places. Historic districts have been shown to

increase local property value, attract tourism, and help maintain unique city character.

Archeological Sites

Located along the fall line of the Broad River, the Nipper Creek Heritage Preserve is an archeological preserve that was historically occupied by early humans. Listed on the National Register of Historic Places, it provides insight into the diet, technology, mobility, and social organizations of early human civilization in the Richland County area.

Goals and Implementation Strategies

To honor the irreplaceable value of cultural assets and historic places, Richland County's cultural resources goals are…

CR Goal #1: To encourage the preservation of historic structures and sites

Strategy 1.1: Certified Local Government

Maintain a current comprehensive list of historic structures and sites in the County. Apply for the status of a Certified Local Government (CLG), which is a partnership at the local, state, and federal levels to promote historic preservation. A benefit to becoming a CLG is eligibility for grants to preserve, protect, and enhance historic structures.

CR Goal #2: To continue the process of nominating historic properties for listing on the National Registry

Strategy 2.1: National Register of Historic Places

Inform citizens of the process of having a structure nominated for the National Register of Historic Places. County officials should assist with and participate in this process.

CR Goal #3: To encourage regional communication and coordination on cultural issues

Strategy 3.1: Regional historical commissions

Collaborate with regional historical commissions and boards remaining current on all cultural issues in the Midlands.

CR Goal #4: To continue to develop and enhance parks and open space recreation areas within the County

Strategy 4.1: Park level of service

The National Recreation and Park Association (NRPA) recommends 6.25 to 10.5 acres of parks and open space per 1,000 people. In accordance with national standards, the County should focus on the development of new parks and open space recreation facilities in areas where there are currently none, specifically on the outer edges of the County.

CR Goal #5: To support policies and incentives that encourage preservation of cultural resource opportunities

Strategy 5.1: Preservation programs

Use conservation easements and comparable preservation programs while working with local and regional conservation organizations to educate local governments on cultural resource preservation opportunities and policies.

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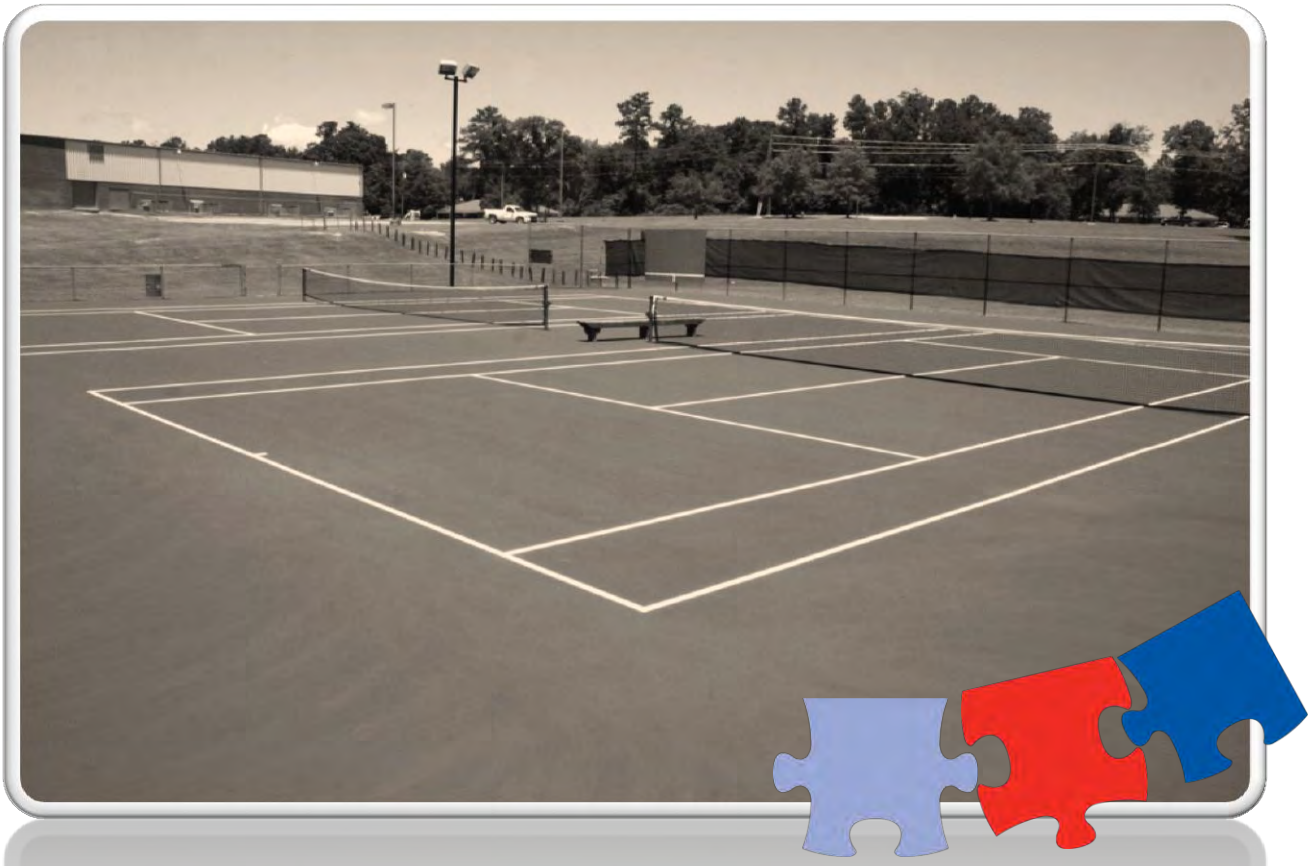


11. Community Facilities & Services Element

Richland County provides an excellent level of public services and facilities to the citizens of Richland County. From public libraries, to community centers, to public parks and recreational areas, the County seeks to provide a quality of life that will retain current residents and attract newcomers to the area.

Issues and Opportunities

This section includes several key findings that arose during the planning process. For additional data and information on the following topics, please refer to the Comprehensive Plan Appendix A.

Ensuring Facilities and Services Keep Pace with Growth

Richland County is expected to continue have healthy population growth for the next 25 years. Ensuring that future residents of the County receive the same quality of life provided through public facilities and services is an important goal

for the County. One approach to doing this, is to direct growth in the form of redevelopment and infill development to existing developed areas that are already served by the County. New growth on the outer reaches will require new services and facilities, and this growth approach should be managed to better utilize public funds.

Goals and Implementation Strategies

To address increasing demand for and the cost to provide services and facilities, Richland County's community facilities and services goals are…

CF&SE Goal #1: To ensure the equitable distribution of community services and resources among all areas of the County

Strategy 1.1: Implement capital improvements for public library system

Consider implementing capital improvements that complement the Ten Year Capital Needs Plan prepared by the Public Library System to serve anticipated population growth.

Strategy 1.2: Coordinate growth management

New initiatives for managing and directing growth introduced in the Comprehensive Plan should be coordinated with officials for the following departments: sheriff, fire protection, emergency medical services, public schools, and the public library system.

Strategy 1.3: Coordinate public facilities

Effectively coordinate with public, quasi-public, private, and non-profit entities responsible for providing public facilities and services within the planning jurisdiction

Strategy 1.4: Crime Prevention through Environmental Design

Partner with law enforcement officials and evaluate best management practices using the principles of Crime Prevention through Environment Design (CPTED) for improving public safety.

Strategy 1.5: Consider ISO rating

Maintain or improve the ISO rating for unincorporated areas of the County, especially related to programming new fire stations in areas experiencing rapid urbanization.

Strategy 1.6: Mutual-aid agreements

Maintain mutual-aid agreements with nearby service providers ensuring quality response to all areas of the unincorporated County.

Strategy 1.7: Consider consolidation

Consider the need and feasibility for consolidating fire, police, and emergency medical services in public safety buildings throughout the County.

Strategy 1.8: Coordinate with school districts

Actively coordinate with the three local school districts to implement improvements recommended in their respective long range strategic plans or capital improvements plans.

Strategy 1.9: Implement capital improvements

Implement capital projects in accordance with the Ten-Year Capital Improvements Program (CIP).

CF&SE Goal #2: To coordinate with the City of Columbia and other utility districts to ensure an adequate quantity and quality of potable water is available supporting the land uses and development patterns depicted in the Future Land Use Map

Strategy 2.1: Encourage development in service areas

Encourage future development and redevelopment in unincorporated areas of the County already served, or programmed to be served, inside the service area for the City of Columbia Water Utility Company.

Strategy 2.2: Water Service Master Plan

Implement feasibility studies, capital improvements, and interlocal agreements identified in the Richland County Water Service Master Plan expanding the notion and presence of a County water system.

Strategy 2.3: Coordinate water capacity and future land use

Coordinate with the City of Columbia Water Utility ensuring adequate capacity is reserved serving the magnitude and timing of anticipated development in the Future Land Use Map.

Strategy 2.4: Central Midlands Region Water Quality Management Plan

Continue coordinating with partners in the region implementing the recommendations from the Central Midlands Region Water Quality Management Plan.

Strategy 2.5: Improve decision-making process

Partner with the City of Columbia and other water service utility providers serving unincorporated areas of the County to improve the decision-making process for system expansion that is reasonable, cost-efficient, and supportive of the land uses and development patterns depicted in the Future Land Use Map.

CF&SE Goal #3: To implement a strategy for providing sanitary sewer service in the County that manages growth, consolidates sewer service providers, and reduces the number of individuals on private septic systems

Strategy 3.1: Water Service Master Plan

Implement feasibility studies, capital improvements, and interlocal agreements identified in the Richland County Sewer Service Master Plan expanding the presence of the County's sewer service system.

Strategy 3.2: Coordinate new development

Execute interlocal agreements with nearby service providers ensuring adequate capacity is reserved to serve the magnitude and timing of anticipated development in the Future Land Use map.

Strategy 3.3: Central Midlands Region Water Quality Management Plan

Continue coordinating with partners in the region to implement the recommendations from the Central Midlands Region Water Quality Management Plan.

Strategy 3.4: Expand sewer service

Reduce the number of residents relying on private septic systems in close proximity to existing, or programmed, sewer service.

CF&SE Goal #4: To provide a wide variety of leisure activities and facilities that improve quality-of-life and meet the recreational needs and desires of all County residents

Strategy 4.1: RCRC Master Plan

Coordinate with the Richland County Recreation Commission implementing the plans, programs, and capital improvements recommended in the RCRC Master Plan.

Strategy 4.2: Debt service

Consider initiatives by the RCRC-regarding new facilities and/or improvements at existing facilities identified in the RCRC Master Plan.

Strategy 4.3: Shared use recreation facilities

Coordinate with the RCRC and local schools districts advocating for more opportunities co-locating shared use recreation facilities serving neighboring County residents.

Strategy 4.4: Park and greenway dedication

Evaluate and revise (as necessary) rules and requirements in the Richland County Land Development Code; require permanent dedication of land for parks and/or greenways in large-scale developments.

CF&SE Goal #5: To implement plans, programs, and best management practices for new development minimizing the negative effects of storm water run-off on local streams, lakes, and wetlands

Strategy 5.1: Storm Water Master Plan

Implement the goals and action plan in the Richland County Storm Water Master Plan and supporting Corrective Action Plan maintaining the NPDES Phase I and II permit.

Strategy 5.2: Promote Low Impact Development

Evaluate and revise (as necessary) rules and requirements in the Richland County Land Development Code promoting Low Impact Development for on-site storm water retention and detention.

12. Priority Investment Element

The Priority Investment Element is a comprehensive plan element created by the Priority Investment Act ("Act"), a 2007 amendment to the South Carolina Local Government Comprehensive Planning Enabling Act. The priority investment element is intended to identify available public funding for public infrastructure and facilities over the next ten years and prioritize projects that should be funded. It also requires the coordination of most adjacent and relevant jurisdictions and agencies with regard to public infrastructure plans and projects.

Developing the Priority Investment Element

This Priority Investment Element is coordinated with the County's FY 2015-2024 Capital Improvement Program, the 2013-2019 Transportation Improvement Program (TIP), the Annual Budget Report, and the Land Use Element of the Comprehensive Plan. For additional data and information on the following topics, please refer to the Comprehensive Plan Appendix A.

Planning Jurisdiction

Plans, programs, policies, and capital projects recommended in this Priority Investment Element address needs highlighted throughout the Comprehensive Plan for unincorporated areas of

the County, as well as County departments delivering services to all residents of Richland County (i.e., both City and County residents).

Funding and Revenue Sources

Several revenue sources and funding mechanisms are available to Richland County for financing the planning, purchase, construction, and maintenance of recommended projects. Sources of funding are identified in Appendix A of the Comprehensive Plan in the Priority Investment Chapter. These sources of funding include both general fund and special revenue funds. These monies may be in existence at the time of project implementation or sought through appropriate processes regulated by the South Carolina Code of Laws.

Capital and Operating Expenses

Capital Improvement Needs

The Capital Improvement Plan Table in Appendix A identifies the capital projects included in the County's FY 2015-2024 Capital Improvement Plan that address future capital needs for public facilities and/or services the County operates and has maintenance responsibility. These projects, plus improvements by other governmental entities charged with operation and maintenance of certain infrastructure within the County, are being undertaken to better the meet the expected needs of future residents of Richland County.

Linkage to CIP & Annual Capital Budget

The Priority Investment Element is an organizing document that should be referenced by the County when creating the Capital Improvement Plan (CIP). The PIE provides the "wish list" of candidate capital projects identified by County departments as necessary for maintaining or improving current levels of service.

Planning level cost estimates are provided for each identified project. The CIP includes estimated costs for projects through completion of project implementation. Projects are prioritized and revenue sources are identified. While the ten year schedule of capital projects must be updated at a minimum of every five years, the CIP may be updated much more frequently to reflect progress.

Recommended Plans, Programs, and Studies

The focus of the Priority Investment Element is capital improvements. However, several plans, programs, and studies were recommended in the comprehensive plan in addition to the list of capital projects. The importance of these planning initiatives is highlighted because they may precede future capital projects. Below is a list of plans, programs, and studies recommended in the Comprehensive Plan.

- Conduct a real estate market analysis to determine the feasibility of implementing a transfer of development rights program in Richland County.

- Apply for the status of a Certified Local Government (CLG), which is a partnership of local, state, and federal promoting historic preservation as part of local planning and policies.

- Create a community land trust program, providing a mechanism for mitigating the increasing cost and its impact on the cost of affordable housing.

- Develop an Infill Housing program including the compilation of a comprehensive list of all vacant lots within Priority Investment Areas.

- Inventory all key natural and scenic resources in the County.

- Create (or assist existing) civic volunteer programs maintaining current parks and greenways.

The Planning Department should coordinate with other County departments ensuring these plans, programs, and studies are completed in a timely manner.

Priority Investment Areas

The Priority Investment Act (ACT) allows local governments to develop market-based incentives and to reduce unnecessary housing regulatory requirements to encourage development of traditional neighborhood designs and affordable housing in priority investment areas. Priority investment areas in Richland County also include priorities for community redevelopment and future economic development targets.

Richland County has addressed this aspect of the Act by designating 11 priority investment areas in the Future Land Use Map (see Land Use Element). These areas indicate where priority public investments should be focused in future years, and where private investments are encouraged. The map and table on the following pages provide more information on these priority investment areas.

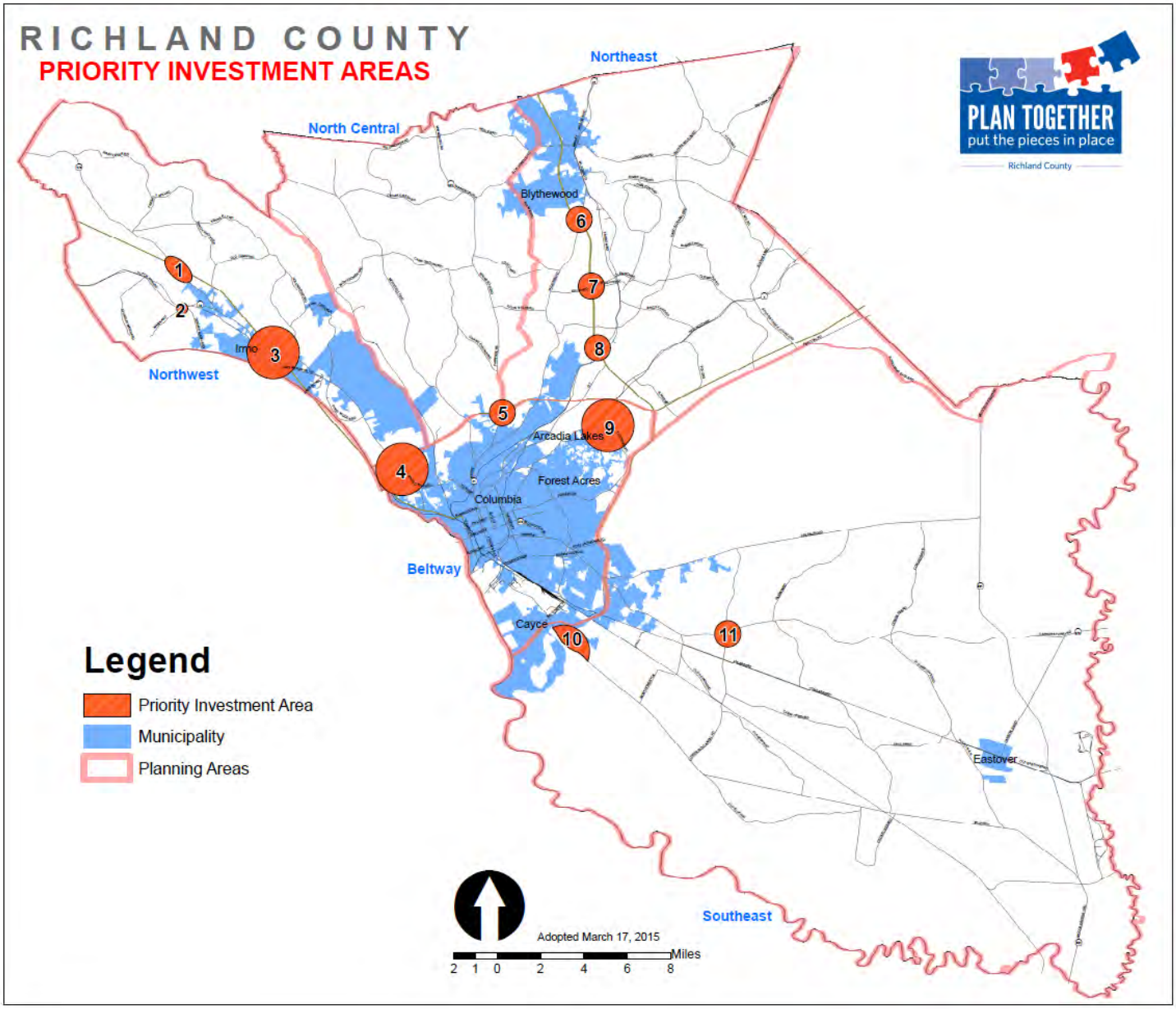

RICHLAND COUNTY
PRIORITY INVESTMENT AREAS
Northeast
North Central
Blythewood
Northwest
Irmo
Arcadia Lakes
Forest Acres
Columbia
Beltway
Cayce
Eastover
Southeast
PLAN TOGETHER
put the pieces in place
Richland County
Legend
Priority Investment Area
Municipality
Planning Areas
Adopted March 17, 2015
Miles
2 1 0 2 4 6 8

Table 1. Priority Investment Areas

PIA Number Shown on Previous Map	Name and Description	PIA Intent
1	**I-26 Broad River Road (north) Interchange.** Small commercial node in Northwestern Richland County.	This area presents opportunities to provide neighborhood scale commercial for surrounding residences to reduce vehicle miles traveled and provide convenient access to daily needed goods and services. A Neighborhood Activity Center is located in this area. Investments could include necessary infrastructure, streetscape improvements, signage, and lighting.
2	**Ballentine at Dutch Fork Road, Marina Road, and Broad River Road.** Commercial node in Northwestern Richland County.	Area has existing commercial development, and is identified as a Neighborhood Activity Center. The intent is to provide neighborhood serving commercial uses, but to limit development to neighborhood serving uses to ensure safe and efficient traffic flow from surrounding neighborhoods. Investments could include necessary infrastructure, streetscape improvements, signage, and lighting.
3	**I-26 Broad River Road (south) Interchange.** Commercial node that is planned to be the location of a future regional transit station.	This area has been identified as the potential location for a future transit station. Opportunities to create transit-oriented developments through the redevelopment of aging commercial centers is encouraged. Investment opportunities include partnering with the City of Irmo to foster redevelopment within the corridor, and to develop master plans for future transit station development.
4	**Broad River and Bush River.** Larger commercial corridor with opportunities for redevelopment. Future regional transit station planned for just south of PIA.	This is a high activity area with many opportunities to redevelop aging commercial centers and revitalize surrounding neighborhoods. It is identified as a Community Activity Center. The Broad River Neighborhood and Corridor Master Plans should help guide these efforts in the future. Investments include partnerships with the City of Columbia to plan for redevelopment of Dutch Square Mall and St. Andrews areas, and to provide necessary infrastructure investments to foster redevelopment.

PIA Number Shown on Previous Map	Name and Description	PIA Intent
5	**I-20 Fairfield Road Interchange.** Commercial and industrial node.	This interchange is identified as a Community Activity Center. The area is currently a mix of commercial and industrial uses, and could be redeveloped to include a broader array of uses within a mixed use environment. Investments opportunities include partnering with the City of Columbia to plan for redevelopment of this area, with a focus on the Community Activity Center, and to provide necessary infrastructure to foster redevelopment.
6	**I-77 Wilson Boulevard Interchange**. Industrial node located within an Economic Development Corridor.	The I-77 corridor is a regional corridor that offers a prime location for future industrial and business park users. Investments include ensuring that adequate infrastructure is in place to support employment development.
7	**I-77 Killian Road Interchange**. Commercial and industrial node located within an Economic Development Corridor.	The I-77 corridor is a regional corridor that offers a prime location for future industrial and business park users, as well as for visiting tourists. This is the location of the planned Richland County water park. Investments include ensuring that adequate infrastructure is in place to support future economic development efforts.
8	**I-77 Farrow Road Interchange.** Commercial node and located within an Economic Development Corridor with opportunities for redevelopment.	This area is currently developed with a broad range of commercial and industrial uses. Opportunities existing for redeveloping this node to take advantage of the I-77 regional corridor. Investments include ensuring that adequate infrastructure is in place to support employment development, and to develop redevelopment strategies specific to the area.
9	**Decker Boulevard and Two Notch Road.** Regional commercial node with significant redevelopment opportunities. Future regional transit station planned within this area.	This is a high activity area with many opportunities to redevelop aging commercial centers and revitalize surrounding neighborhoods. It is identified as a Community Activity Center. The Renaissance Plan: Decker Boulevard /Woodfield Park Area Master Plan should help guide these efforts in the future. Investments include partnerships with the City of Columbia to plan for redevelopment of Columbia Place and surrounding commercial areas, and to provide necessary infrastructure investments to foster redevelopment.

PIA Number Shown on Previous Map	Name and Description	PIA Intent
10	**I-77 Bluff Road Near Interchange.** Industrial node located within an Economic Development Corridor.	Located at the southern border of the City of Columbia and Cayce, this area is identified as strategic economic opportunity. Current activities include planning for development of a Richland County Sports Arena. Investments include ensuring that adequate infrastructure is in place to support future economic development efforts.
11	**Lower Richland Boulevard and Garners Ferry Road**. Southeast Richland Neighborhood Master Plan area carried forward in recently adopted Lower Richland Community Strategic Master Plan.	Located within Lower Richland County, this site is an important crossroads in the community. Prior planning efforts identified opportunities to redevelop this area using a Village Center approach. County investments include ensuring that adequate infrastructure is in place to support future redevelopment efforts.

Additional Priority Investment Opportunities

Beyond the Priority Investment Areas listed on the map, there are other strategic investment opportunities that the County should consider when developing annual Capital Improvement Plans. These include:

Farm to Market Facility in Lower Richland
Identification of an appropriate area in Lower Richland for developing a "Farm to Market" center that can assist local farmers in preparing and selling their products to the residents of the County is an important opportunity. This is a business investment and a workforce development opportunity that could bring much exposure and focus on the benefits of farming in the community.

Redevelopment of Downtown Eastover
The heart of Lower Richland County is the small town of Eastover. This community struggles to maintain vibrancy as the focus for new development occurs several miles away to the north. However the community is rich with opportunities for economic development. This community is the closest town to the Congaree National Park that serves thousands of visitors annually. Richland County has an opportunity to partner with leaders in Lower Richland and Eastover to identify opportunities to assist with efforts to redevelop and revitalize downtown Eastover. A unique opportunity underway is redevelopment of an original bank building, shown in the image below. Investment opportunities could include façade grants, infrastructure and streetscape improvements, and signage.

Intergovernmental Coordination

Through this Comprehensive Plan update, Richland County has taken great strides to manage growth and development in the County over the next 20 years. For these goals to reach fruition, however, it is important for the County to recognize many other stakeholders influence and are influenced by the growth and development decisions made in Richland County.

Many partnerships have already been forged ensuring that adequate capacity is available to serve future development. Richland County has interlocal agreements in place with public and private providers for the provision of water and sewer. The County also has a unified fire service agreement with the City of Columbia for fire protection.

Going forward, the County will strengthen coordination among County departments as well as between the County and outside agencies and jurisdictions. One of the County's goals, listed in the Community Facilities Element, is ensuring equitable distribution of community services and resources among all areas. Many of the strategies for achieving this goal involve strengthening intergovernmental coordination among partnering agencies and jurisdictions.

Under the new Priority Investment Act (ACT), the County must coordinate with adjacent and relevant jurisdictions and agencies before recommending projects for public expenditure. Below is a list of those jurisdictions and agencies that will be coordinated with, many of which were provided the opportunity to review and comment on the Comprehensive Plan.

CITIES/TOWNS

- City of Columbia
- City of West Columbia
- Town of Irmo
- Town of Blythewood
- Town of Forest Acres
- Town of Eastover
- Town of Cayce
- Town of Arcadia Lakes

TOWN OF ARCADIA LAKESCOUNTIES

- Newberry County
- Fairfield County
- Kershaw County
- Sumter County
- Lexington County
- Calhoun County

SCHOOL DISTRICTS

- Richland County School District One
- Richland County School District Two
- School District Five of Lexington and Richland Counties

UTILITY PROVIDERS

- East Richland Public Sewer District

- Alpine Utilities
- Bush River Utilities, Inc.
- Carolina Water Service
- Palmetto Utilities
- City of Columbia Public Works Department
- Richland County Public Works Department

MILITARY INSTALLATIONS

- Fort Jackson
- McCrady Training Center
- McEntire Air National Guard

OTHER COUNTY DEPARTMENTS

- Richland County Recreation Commission
- Richland County Sheriff's Department
- Richland County Finance Department
- Richland County Fire Department

STATE AGENCIES

- S.C. Department of Health and Environmental Control (DHEC)
- S.C. Department of Transportation (SC DOT)

REGIONAL AGENCIES

- Central Midlands Council of Government
- Central Midlands Transit (The COMET)

These agencies and jurisdictions were provided draft copies of the Richland County Comprehensive Plan for review and comment. All comments were taken into consideration before finalizing the Priority Investment Element.

Goals and Implementation Strategies

To achieve maximum efficiency of service delivery, Richland County's priority investment goals are…

PI Goal #1: To strengthen intergovernmental coordination and to improve the quality and timeliness of information shared between jurisdictions, reducing duplication and improving efficiency

PI Strategy 1.1: Distribute updated comprehensive plan

Provide a copy of the updated comprehensive plan to all partner agencies and jurisdictions operating in the Midlands region.

PI Strategy 1.2: Review plans

Request that all relevant agencies and jurisdictions make their strategic plans available for review and comment by the Planning Department.

PI Strategy 1.3: Share information affecting areas of common interest

The County should develop formal memoranda of understanding with Columbia, and potentially other jurisdictions to share information on development proposals that occur within areas of common interest along jurisdictional lines. This could also include a formal opportunity for the County and the City to provide comments during public review of developments in these areas. It could also include the application of the other jurisdiction's development standards where appropriate.

PI Strategy 1.4: Develop program initiatives

Each department shall develop a future service plan and program initiatives reflecting current policy directives, projected resources, and future service requirements.

PI Strategy 1.5: Assembly of Governments

As referred to in Land Use Strategy 9.2, the County should take leadership in establishing an Assembly of Governments that could bring together elected officials, management staff, and directors of all jurisdictions and utility providers operating in the region to coordinate long-range economic development, land use planning, and infrastructure projects.

PI Goal #2: To manage the County's debt efficiently ensuring the long-term financial health of the County

PI Strategy 2.1: Financial policies

The Finance Department will review financial policies annually and recommend any appropriate changes during the budget process.

PI Strategy 2.2: Bond rating

Maintain, and if possible, improve the County's current bond rating.

PI Strategy 2.3: Future operating costs

Require every project proposed for financing through General Obligation debt be accompanied by a full analysis of the future operating costs associated with the project.

PI Strategy 2.4: County debt policies

Require every future bond issue proposal include an analysis that shows how the new issue combined with current debt impacts the County's debt capacity and conformance with County debt policies.

PI Strategy 2.5: Debt financing

Ensure that debt financing does not exceed the useful life of the infrastructure improvement with the average (weighted) bond maturities at or below ten years.

PI Strategy 2.6: Debt payments

Debt payments shall not extend beyond the estimated useful life of the project being financed.

PI Strategy 2.7: Use of long-term debt

The County should not use long-term debt to finance current operations. Long-term debt will be confined to capital improvements or similar projects with an extended life when it is not practical to finance from current revenues.

PI Strategy 2.8: Debt service fund balance

All County debt service fund balances shall maintain a level covering 18 months of required expenditures to service debt.

PI Strategy 2.9: Ratio of assets to liabilities

Maintain a ratio of current assets to current liabilities of at least 2/1 ensuring the County's ability to pay short-term obligations.

PI Strategy 2.10: Schedule of funds

Prepare a schedule of funds required meeting bond principal and interest requirements for the ensuing year and including the schedule in the budget process.

PI Goal #3: To provide adequate public facilities and services in a fiscally prudent manner

PI Strategy 3.1: Capital Improvement Plan

Provide capital improvements in accordance with the Ten-Year Capital Improvements Program (CIP).

PI Strategy 3.2: Annual update to the CIP

Review and update the CIP annually.

PI Strategy 3.3: Public facilities expenditures

Concentrate County public facilities expenditures in Priority Investment Areas identified on the County's Future Land Use Map.

PI Strategy 3.4: Prioritize capital projects

Designate a cross-departmental team for review and prioritizing proposed capital projects ensuring accurate costing estimates and overall consistency with County goals and objectives.

PI Strategy 3.5: Additional financing

Investigate additional financing mechanisms available to the County, focusing on mechanisms requiring future growth and development to pay its proportionate share of the costs of providing facilities and services.

PI Strategy 3.6: Process for reviewing candidate projects

Establish a formal process (completed annually) to identify and review candidate capital projects and capital improvement needs for inclusion in the CIP.

PI Strategy 3.7: Review programs

Undertake a review of County programs to determine if they meet intended program objectives and are allocating funding efficiently.

PI Strategy 3.8: General funds for capital projects

Establish a policy requiring a certain percentage of the General Fund be spent on capital projects.

PI Strategy 3.9: Bond Review Committee

Require all capital projects go before the Bond Review Committee before approval.

PI Strategy 3.10: CIP Process

Strengthen CIP process by requiring departments, agencies, and jurisdictions submit and defend a list of project needs and associated costs (capital and operating) during a specified time. Any projects submitted outside this timeframe shall not be brought before Council for budgeting consideration.

PI Strategy 3.11: Adequate Public Facilities Ordinance

Work with local developers and utility providers to develop and adopt an Adequate Public Facilities Ordinance.

PI Strategy 3.12: Development Agreement Ordinance

Adopt a Development Agreement Ordinance in compliance with the requirements of Chapter 6-31-10, et. seq., SC Code of Laws.

PI Strategy 3.13: Transportation Impact Fee Ordinance

Work with local developers and the South Carolina Department of Transportation to adopt a transportation impact fee ordinance, if feasible, in compliance with Chapter 6-1-910, et. seq., SC Code of Laws.

PI Strategy 3.14: Annexation agreements

Actively pursue state legislation encouraging annexation agreements with the County's municipalities to the purpose of planning for future growth and improving delivery of future public services.

13. Strategic Implementation Plan

Every good plan has a strategic plan for action. This Plan sets out implementation in a tiered system identifying primary and secondary action items for achievement.

Primary Action Items

The following primary action items were identified as critical implementation actions by citizens of Richland County participating in the PLAN TOGETHER effort. These action items should be initiated within the next five years, with the intent of having active implementation over the next ten years. The primary action items are as follows.

Land Development Code updates

The County will assess ways to amend its Land Development Code to align with the policy guidance included in the Comprehensive Plan:

- Remove barriers and to create incentives that will support mixed-use residential developments in Neighborhood (Medium-Density) and Mixed Residential Future Land Use categories

- Remove barriers and create incentives for redevelopment of aging commercial corridors and neighborhoods

- Protection of rural lands through establishment of new "truly rural" zoning districts

- Protection of 303 (d) designated impaired watersheds and floodplains through increased development standards

- Removing barriers and creating incentives to encourage development within Priority Investment Areas and Activity Centers

Protection of Lands along Impacted Watersheds and in Floodplains

The County should consider increasing capacity of the Conservation Commission to work with landowners to establish conservation easements or to purchase development rights in environmentally sensitive areas, such as floodplains and creek banks. These are voluntary and incentive-based tools that allow landowners to maintain their land and receive financial benefit from the sale of development rights.

Coordination with Utility Providers

The County will work with utility providers to steer infrastructure investments that will generate development pressures away from Rural areas. The development of public water, sanitary sewer, and stormwater should be discouraged in Rural areas, except when this infrastructure is needed to ensure public health and safety.

Priority Investment Targets in Redevelopment Areas

There are several opportunities for redevelopment of aging commercial centers/corridors and blighted neighborhoods. For example (but not limited to), Decker Boulevard and Two Notch Road, the heart of Lower Richland in downtown Eastover, Broad River Road Corridor, and Dutch Square and St. Andrews areas are included within Priority Investment Areas identified in the Priority Investment Element of this Comprehensive Plan. The County should look for opportunities to improve these areas in partnership with neighboring jurisdictions when assessing capital improvement priorities.

Capital Improvement Planning

When updating the County's Capital Improvement Plan, consideration should be given to capital projects, such as transportation improvements, water, sewer, and other utilities, needed to support development at targeted commuter rail station areas identified within Priority Investment Areas.

Establish a Program to Link Aging Farmers with Young Farmers without Land

The County should work with partners, such as the Soil and Water Conservation District and the Midlands Local Food Collaborative, to develop a program to link aging farmers with budding farmers in need of training on a full-fledged farm. The intent is to create opportunities to maintain

farming operations that will not continue as a family business, but that could be sold/leased to other interested farmers.

RECREATIONAL INVESTMENTS

When updating plans for future recreational amenities, the County should assess opportunities to increase public access along the County's waterways through greenways and trails, boat ramps, parks, and similar recreational assets. Building off the development of future Penny Tax greenways, opportunities to create a connected system of trails and greenways should be encouraged.

Secondary Action Items

Strategies included in the elements of this plan that are not included as priority action items are considered as secondary action items. As the County undertakes future updates to the Comprehensive Plan, completed primary action items should be removed from the strategic implementation plan, and a new set of primary action items should be developed using the secondary action item list, as well as any new action items.

Appendix A: Technical Appendix

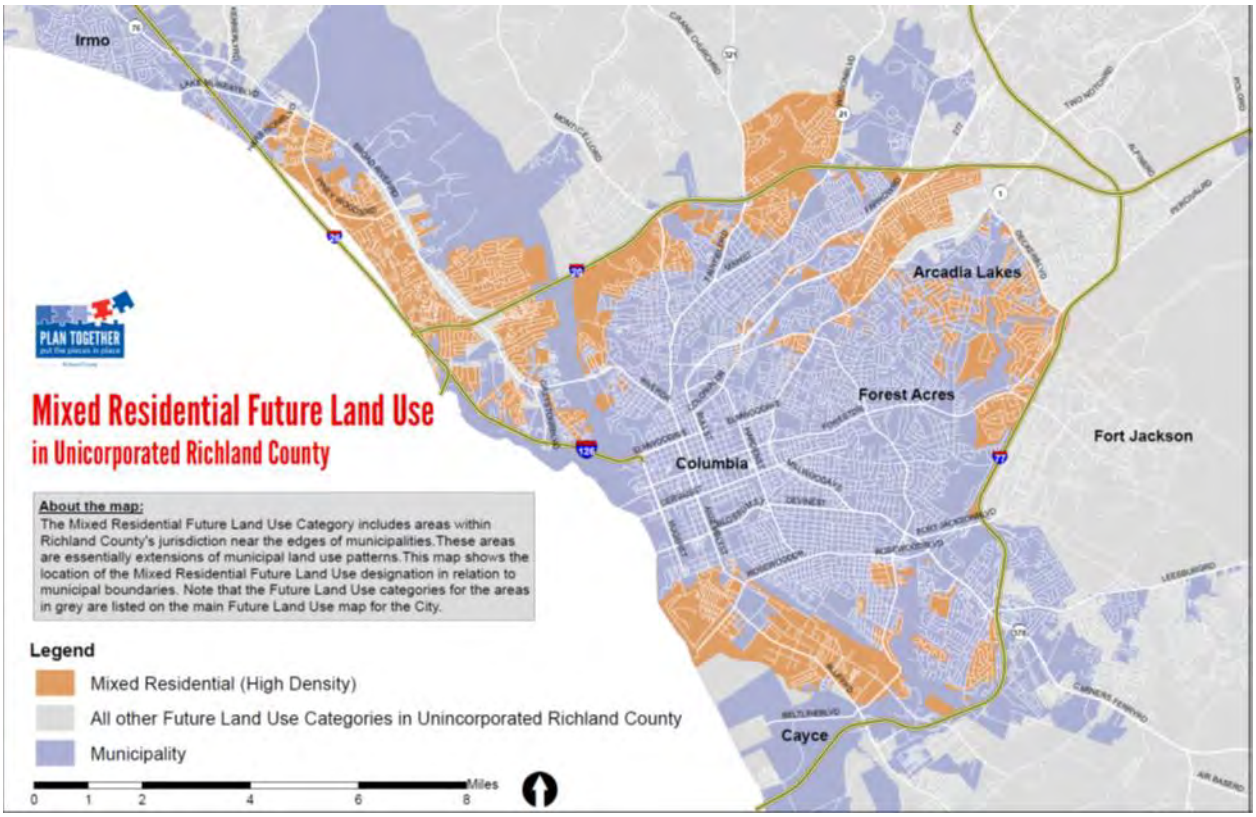
This technical appendix was designed to be a free standing document that can be updated more frequently than the chapters of the full Comprehensive Plan. A complete version of Comprehensive Plan Appendix A: Technical Appendix can be found on the Richland County website at the following address:

http://www.rcgov.us/Government/Departments/Planning/ComprehensivePlanning.aspx

Appendix B: Mixed Use Residential Development Types

About Mixed Residential Development Types

Richland County's Future Land Use Map[1] designates specific land uses for the unincorporated areas of the County. These land uses serve to guide decision-making with respect to County policy, regulatory, and investment decisions. The Mixed Residential Future Land Use Category is applied to lands within Richland County's jurisdiction in the urbanized areas of the County, near the edges of municipalities and in the unincorporated "holes" within the cities. While these areas are in the County's jurisdiction, they are essentially extensions of municipal land use patterns. The map below (and a larger version located in Appendix C) shows the relationship of the Mixed Residential Future Land Use designation to the municipal boundaries of Arcadia Lakes, Cayce, Columbia, Forest Acres, and Irmo.



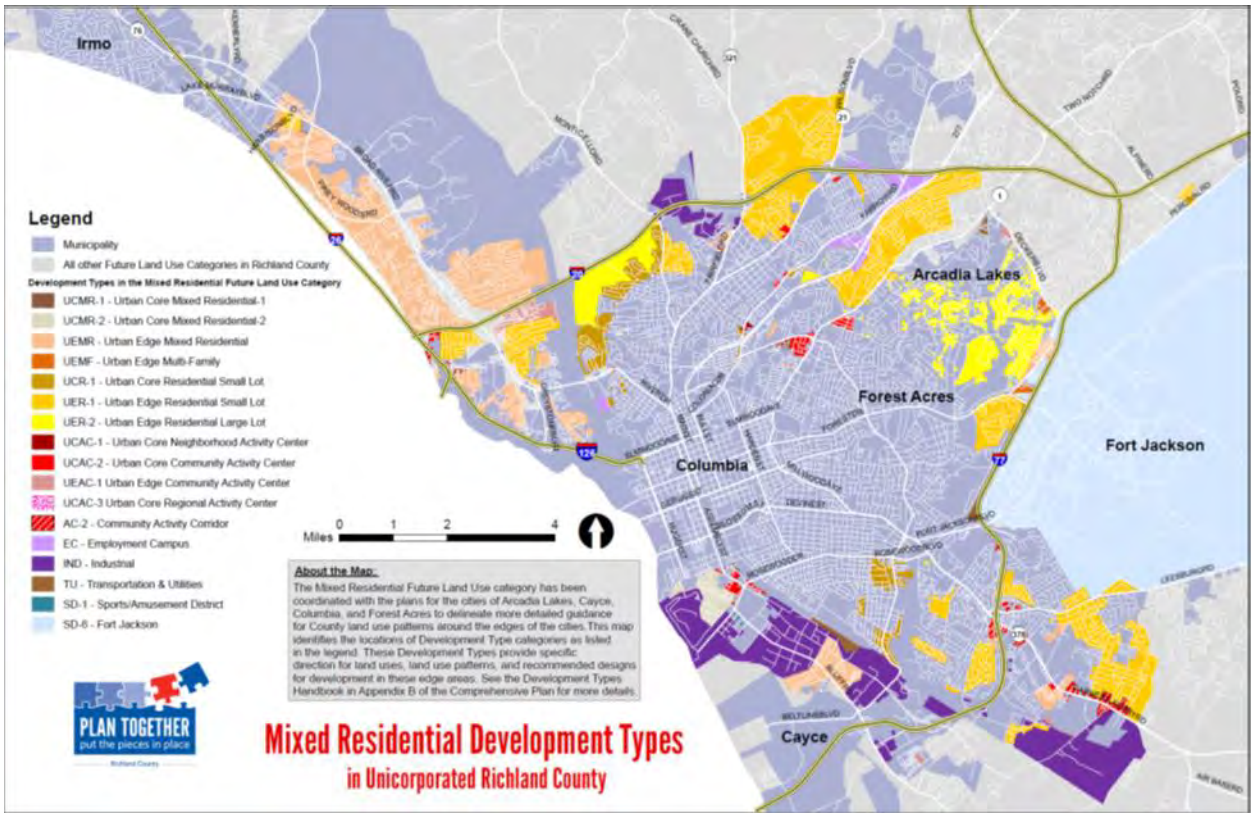
The intent of the Mixed Use Residential Future Land Use category is to coordinate the land use planning of Richland County and its municipalities in areas of common interest on the edges of jurisdictional boundaries.[2] Employment areas, commercial corridors, and in some cases even neighborhoods may be located within more than one planning jurisdiction. The purpose of coordinating land use planning in multi-jurisdictional

[1] The Richland County Future Land Use Map is located in Section 5: Land Use Element, and a larger version of the map is located in Appendix C of this Comprehensive Plan.

[2] The Broad River Road corridor is a unique planning area. Richland County has specific goals for redevelopment of this aging commercial corridor, and therefore the land use designation for this area is Mixed Use Corridor, not the Mixed Residential Future Land Use category used in other areas near jurisdictional boundaries.

areas is to ensure that the goals for future land uses, development patterns, development densities, and designs are consistent, regardless of jurisdiction.

The Mixed Residential Future Land Use category has been coordinated with the plans for the cities of Arcadia Lakes, Cayce, Columbia, Forest Acres, and Irmo to delineate more detailed guidance for County land use patterns around the edges and within the unincorporated holes of these cities. To better define the intent for specific areas within the Mixed Residential Future Land Use category, the City of Columbia and Richland County coordinated on the development of a set of Development Types that provide additional planning guidance for areas of common interest – the edges of jurisdictions and the unincorporated holes. The map below (and a larger version located in Appendix C) identifies the locations of Development Type categories.



The City of Columbia's Land Use Plan includes a description for each of the Development Types shown on the map above, and was developed in collaboration with Richland County. The City's Plan should be used as a guide for making land development decisions, such as evaluating rezoning cases and potential capital improvement projects for land within the Mixed Residential Future Land Use category. The Plan can be found on the City's website http://www.columbiasc.net/planning-development.

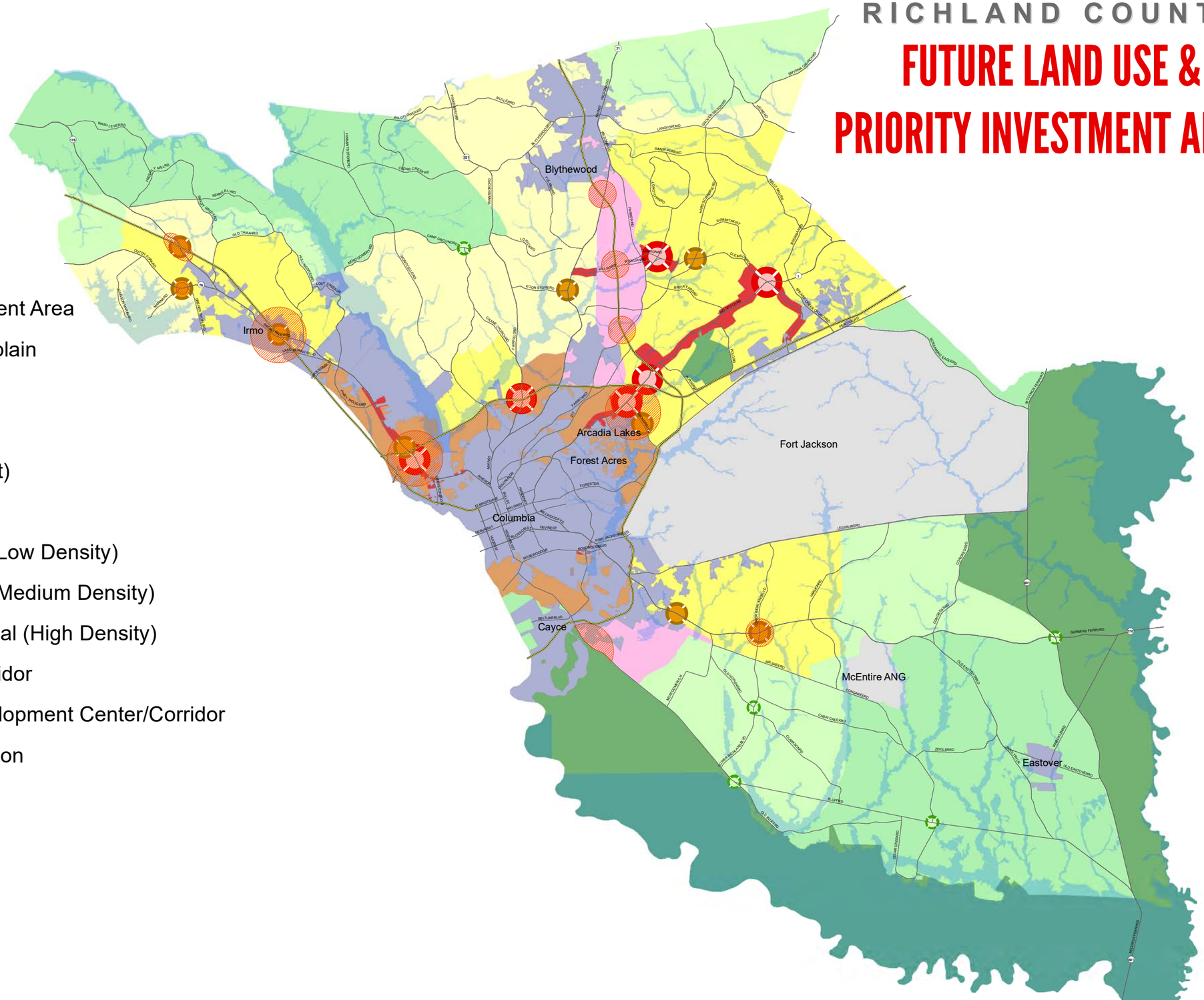
Appendix C: Large Format Maps

- Future Land Use Map (local roads not displayed)
- Future Land Use Map (local roads displayed)
- Mixed Residential Future Land Use in Unincorporated Richland County Map
- Mixed Residential Development Types in Unincorporated Richland County Map

RICHLAND COUNTY

FUTURE LAND USE & PRIORITY INVESTMENT AREAS

PLAN TOGETHER
put the pieces in place
Richland County



Legend

- Priority Investment Area
- 100 Year Floodplain
- Municipality
- Conservation
- Rural (Large Lot)
- Rural
- Neighborhood (Low Density)
- Neighborhood (Medium Density)
- Mixed Residential (High Density)
- Mixed Use Corridor
- Economic Development Center/Corridor
- Military Installation

Activity Center

- Community
- Neighborhood
- Rural

For more information on Priority Investment Areas refer to the Priority Investment Area Map in Section 12.

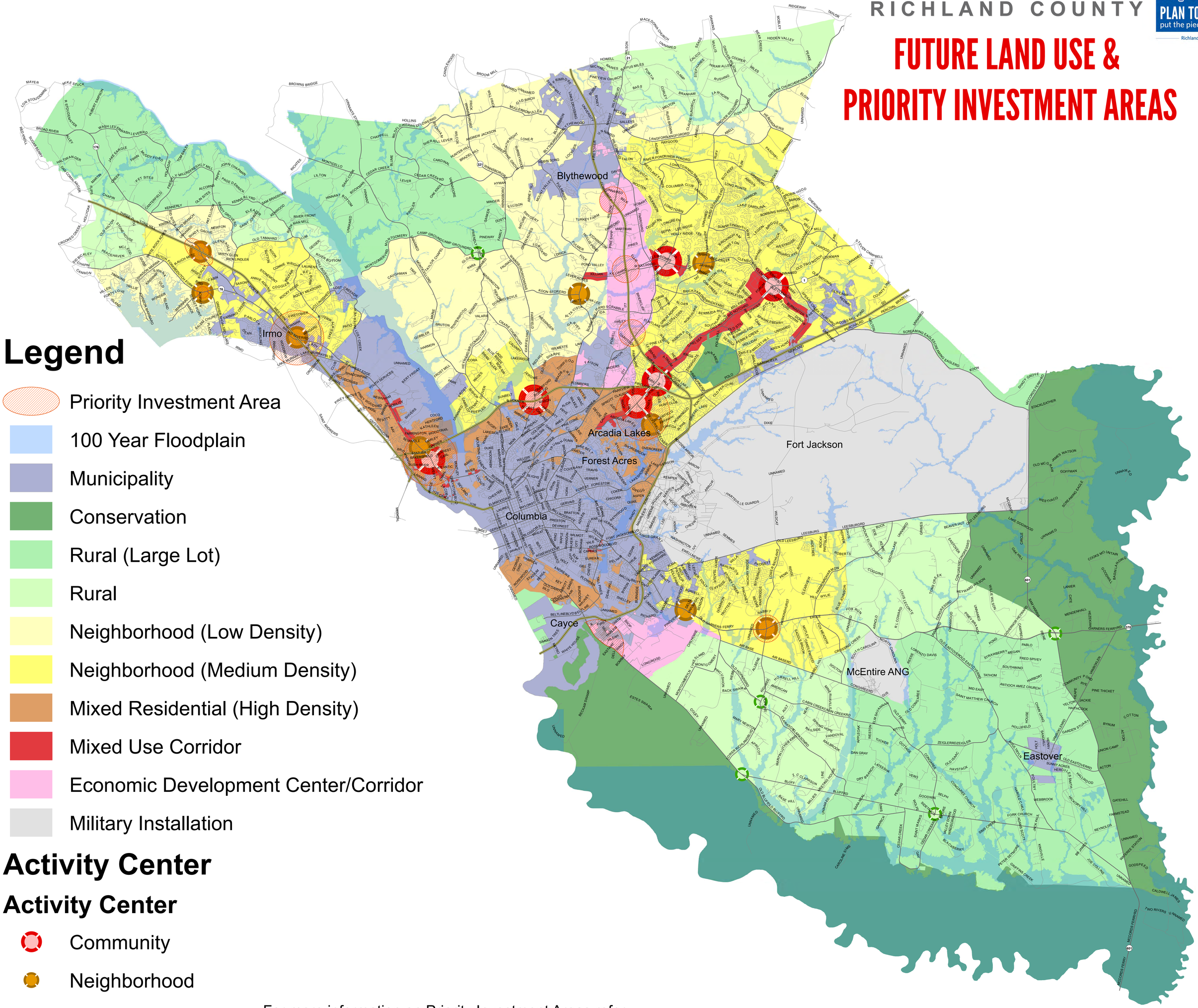
Adopted March 17, 2015

2 1 0 2 4 6 8 10 Miles

RICHLAND COUNTY

PLAN TOGETHER
put the pieces in place
Richland County

FUTURE LAND USE & PRIORITY INVESTMENT AREAS



Legend

- Priority Investment Area
- 100 Year Floodplain
- Municipality
- Conservation
- Rural (Large Lot)
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- Neighborhood (Low Density)
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- Mixed Residential (High Density)
- Mixed Use Corridor
- Economic Development Center/Corridor
- Military Installation

Activity Center

Activity Center

- Community
- Neighborhood
- Rural

For more information on Priority Investment Areas refer to the Priority Investment Area Map in Section 12.

Miles
2 1 0 2 4 6 8 10 12 14 16

Adopted March 17, 2015

PLAN TOGETHER
put the pieces in place
Richland County

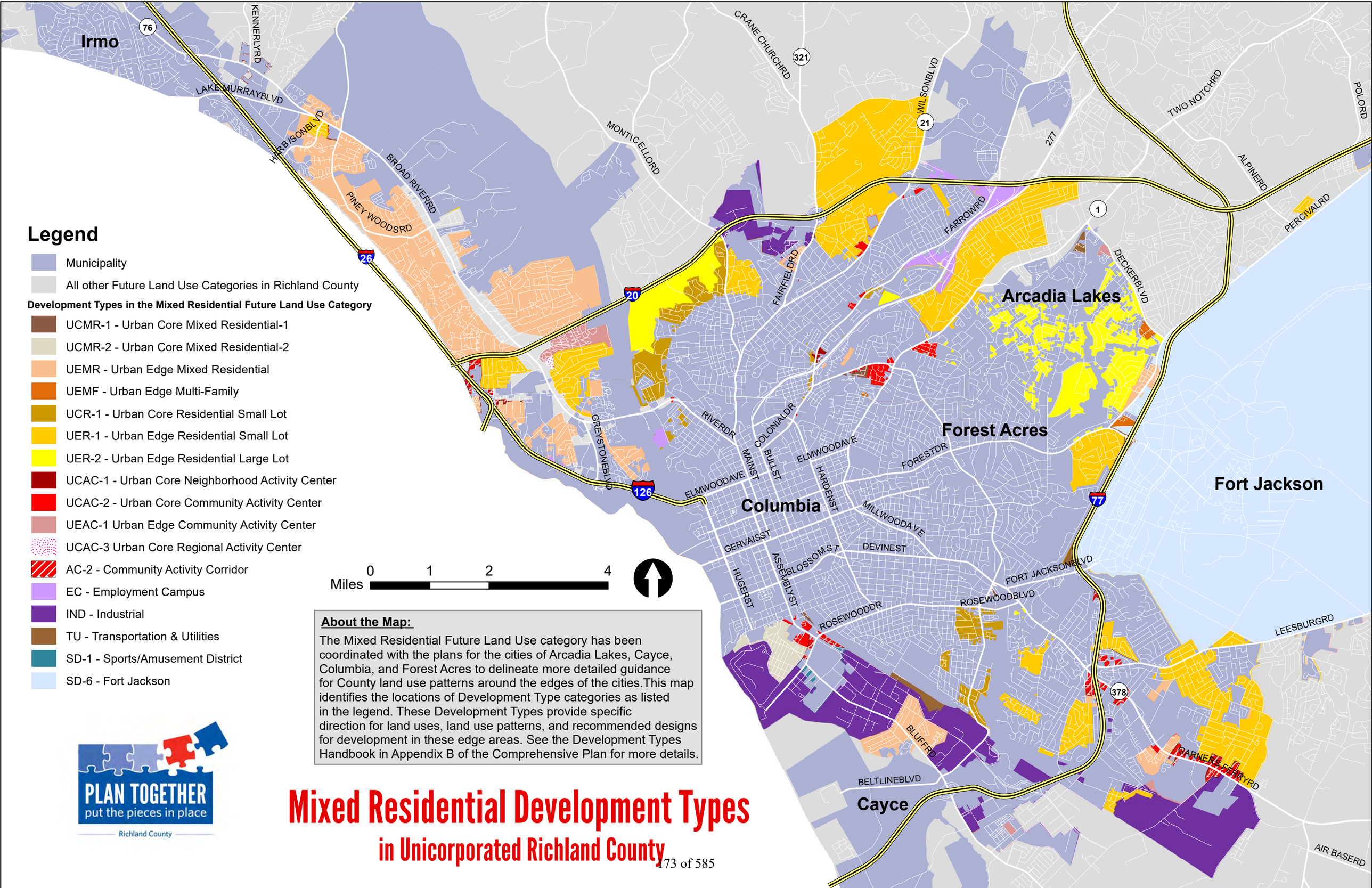
Mixed Residential Future Land Use
in Unincorporated Richland County

About the map:
The Mixed Residential Future Land Use Category includes areas within Richland County's jurisdiction near the edges of municipalities.These areas are essentially extensions of municipal land use patterns.This map shows the location of the Mixed Residential Future Land Use designation in relation to municipal boundaries. Note that the Future Land Use categories for the areas in grey are listed on the main Future Land Use map for the City.

Legend

- Mixed Residential (High Density)
- All other Future Land Use Categories in Unincorporated Richland County
- Municipality

0 1 2 4 6 8 Miles



Mixed Residential Development Types

in Unincorporated Richland County

FOREWORD

This publication is offered as a resource to county officials when trying to determine whether land use planning is a service their community wants or needs. It is also an attempt to aid those jurisdictions which have decided to engage in land use planning.

We recognize that not every official who is involved in the land use planning process is a full-time expert and this publication is intended to give a layperson a starting point for an examination of issues facing their community. This is by no means a one size fits all solution. The text offers a discussion of land use planning in general, not a prescription. The forms and samples in the appendices are offered as drafting checklist intended to point out decisions which may be made. It is important to consult with local decision makers and the county attorney when drafting ordinances, forms or designing a land use plan.

In preparing this document, the SCAC staff received advice, suggestions, forms, and support from many county officials. We would like to specifically thank the following for generously sharing their time, expertise and documents: Penelope Karangounis, Planning Director, Lancaster County; Phil Lindler, Planning & Zoning Director, Greenwood County; Audra Miller, Director, York County Planning & Development; Stephen Strohminger, Director, Aiken County Planning & Development; Janet Carter, Planning & Zoning Director, Horry County; Jeff Anderson, Lexington County Attorney; and Michael Kendree, York County Attorney.

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OVERVIEW

The ability of local governments to engage in land use planning is derived primarily from the South Carolina Local Government Comprehensive Planning Enabling Act (frequently referred to as "Planning Act" or "the Act" hereafter), found at Chapter 29 of Title 6 in the South Carolina Code of Laws. There are several other acts and Code provisions which affect the authority and procedures contained in the Act, but the foundation and most of the details are found in the Act. A copy of the Act is included in this publication as Appendix BB.

What is Land Use Planning?

"Planning" usually means activities to prepare and organize for the future. Planning can be defined as the process used by local governments to:

1. identify local problems and needs
2. collect information and facts necessary to study local problems and needs
3. arrive at a consensus on local goals and objectives
4. develop plans and programs for fulfilling the adopted goals and objectives
5. utilize available powers to execute plans and programs in an efficient and organized manner.

Applying the process above to all public and private land development and use is commonly referred to as "land use planning." Local government activities intended to influence the appearance and growth of the community also fall under the land use planning definition. Land use planning is the most visible form of planning because of its potential impact on the fundamental design of a community. It is important to understand the difference between land use planning and zoning. Zoning is only one of several regulatory devices available for local governments to carry out land use planning.

Need for Public Input

The need for public input is critical throughout the planning process described above. Direct citizen involvement in the preparation of plans is the best, and perhaps only, way to accurately assess community problems and needs. Citizen input is important to the adoption of community goals and objectives. Developing plans and programs requires a close and continuous collaboration between citizens and local government officials. Most successful planning programs are distinguished by the level and character of citizen participation in the process.

The Role of Local Government Planning

Growth may lead to conflicting land uses or pushing existing activities out of an area, or population concentrations that make planning more desirable. Planning often begins to address road congestion, prevent overcrowding and to preserve an orderly community.

Early land use planning efforts were adopted to lessen conflicting land uses from impacting residential areas. Rapid population growth can put people in conflict. Devices such as subdivision

regulations and zoning may be enacted to attempt to balance public and private interests. These and other tools may be used to allow public services, such as transportation, schools and emergency services, to keep pace with growth or facilitate growth with less conflicting uses. Land use planning does not solely focus on zoning, but includes elements for public facility planning to serve the public living in the community.

A community may wish to examine land use planning as a method to preserve elements of what attracted growth to an area. These features may be the historical character of an area. Another feature which may spur the exploration of land use planning is preservation of green space or family farms.

Land use planning is also used to create buffers to protect community assets, such as an airport, industrial park or military facility from encroachment by conflicting land uses on neighboring land. During recent base consolidation and closure efforts, one frequently cited reason a particular facility may have been more likely to close was the development of incompatible uses up the borders of a military facility, thereby putting the military facility in conflict with its neighbors, inhibiting existing operations or preventing future expansion.

Occasionally, land use planning is looked at when a neighboring jurisdiction adopts new or stricter developmental standards. As that jurisdiction begins enforcement, it may have the effect of encouraging undesirable land uses to relocate to areas without land use measures or less stringent land use measure. Examples include junkyards, landfills, sexually oriented businesses and odious industries.

Local Planning Organization

The land use planning statutes in South Carolina influence the manner in which local government organize for land use planning. The Planning Act and common practice combine to form four integral parts of the government planning organization:

1. the governing body
2. planning commission
3. planning staff
4. administration and boards.

Notably absent from the list above is the most important part of the organization - the public. The public is a part of each of these four parts of the planning organization. The public plays a part in every aspect of the planning organization through solicited input at community meetings, participation in formal public hearings, as members of the boards and commissions that form the four parts mentioned above and through daily contact with planning staff and officials. Public involvement in the process can be the reason for the ultimate success or failure of the local planning program.

Governing Body

The role of the county or city governing body is a major influence in the success of a local planning program. The strength of a local planning program can be judged by how the governing body decides issues concerning community growth and development, and how closely these determinations reflect

adopted plans. As policy and decision makers, councils have the power, through planning activities, to decide how their community develops and grows.

One of the primary planning functions of the governing body is the establishment of its planning organization. The initial step is creating the various boards and commissions necessary for the planning program prescribed by the Planning Act. The governing body can create, by ordinance, a planning commission and appoint its members. The ordinance should clearly set forth the appointment process and terms of the planning commission members. Another organizational responsibility of the governing body is providing the planning commission with the technical assistance to achieve its purpose. The governing body has wide latitude in how it provides for the technical support of the planning commission, including hiring local staff, contracting for services with another entity or entities.

The governing body also participates in the planning process through its role in monitoring plan preparation and reviewing plans and ordinances prior to formal adoption. In addition to directly affect specific plans and ordinances, the governing body makes decisions in other areas which affect the planning process. These decisions on capital projects and public improvements through the budget process has a significant impact on plan implementation. Budget decisions funding levels for boards, commissions support resources also greatly impacts the planning program. Another aspect of governing body influence on the success of the planning program is through the appointment process. The skills and abilities of the people appointed to the planning commission and boards can also determine the program's success.

Planning Commission

The first step for developing a planning process is the creation of a planning commission. In essence, the planning commission serves as a citizen advisory group to the governing body on planning matters. The planning commission gives the governing body its advice in the form of recommendations on the adoption of plans and planning related ordinances. Typically, planning commission members are lay persons from the community. The Planning Act encourages consideration of professional and community knowledge of the members and the goal is to represent a broad cross section of the community. The size of the planning commission is variable in order to allow for meeting that goal.

The powers and duties of the planning commission are set out in the Planning Act. In general, the commission carries out a continuing planning program for the benefit of the community it serves. To accomplish that goal, the planning commission prepares and reviews plans, studies and planning-related ordinances. Depending upon funds, the commission may use staff or contract with outside experts for assistance.

A planning commission fulfills its responsibilities to the governing body and the community by making recommendations on planning, zoning and land development matters. As the advisory and oversight body on planning matters, the commission drafts the comprehensive plan, zoning ordinance and land development or subdivision regulations. Depending upon the authority given to the commission in the ordinance creating it, a commission may have the responsibility for approving land development of subdivisions and site plans. Because it is a commission comprised of laypersons, the planning commission seldom produces the plans or studies itself. The planning staff

usually performs the work necessary to complete plans and studies and the commission ensures the completion of plans and studies.

The Planning Staff

A planning commission, comprised of citizen volunteers, often lacks the time and expertise to ensure necessary information is gathered and analyzed in a professional manner. To fulfill its statutory duties, a planning commission may need professional assistance. Sometimes that assistance is from a contracted expert or firm, but more often it is from a full-time, local professional staff.

The governing body may make an appropriation to the commission to allow it to employ professional assistance in some manner. In some communities, the planning staff operates in a department and is responsible to the chief administrative officer. The commission can contract with outside consultants or enter agreements with another jurisdiction or share staff. In whatever form, a planning staff provides research time and professional expertise to the local planning process.

Although the Planning Act sets many planning powers and duties of the governing body and planning commission, it does not establish the role of the planning staff. The role and organization of the planning staff is left to the local ordinance or other, less formal, verbal guidance and administration. In general, the planning staff plays a technical advisory role to the planning commission and performs those tasks and functions assigned by the commission. While there is no set administrative and organization scheme, planning staff organization usually divides its staff assignments among short-range planning studies, long-range plans and day to day land use and development regulations. The level of available personnel resources influences the organizational scheme.

Administration and Boards

Three other components are important to local government planning; zoning administration, the board of zoning appeals and the board of architectural review.

Zoning Administration

The zoning administrator plays a vital role in implementing a planning program. The zoning ordinance sets the powers and duties of the zoning administrator. The zoning administrator issues zoning permits or certificates of occupancy. He also has the authority to withhold building or zoning permits and makes sure submitted plans comply with the zoning ordinance. Decisions of the zoning administrator may be appealed to the board of zoning appeals. Zoning administration is sometines assigned to a building code official because building code permitting usually involves a determination of zoning ordinance compliance.

Board of Zoning Appeals

The board of zoning appeals, sometimes called the board of adjustment, is an integral part of administration and enforcement of a zoning ordinance. Created and appointed by the governing body, a board of zoning appeals serves as an appeals board for disputes arising out of the enforcing the zoning ordinance.

The Planning Act spells out three major responsibilities for the board of zoning appeals:

a. hear appeals from decisions of the zoning administrator
b. grant variances from the zoning ordinance
c. permit uses by special exception

For example, the board hears and decides appeals where it is alleged that there is an error made by an administrative official in the enforcement of the zoning ordinance. The board may also provide relief from strict application of the zoning ordinance by granting a variance from the ordinance. When hearing appeals, the board acts like a court of law. It renders a decision based on evidence heard and an interpretation of the zoning ordinance. Decisions on zoning matters made by the board can be appealed to the circuit court.

Board of Architectural Review

Local governments use boards of architectural review to preserve and protect valued historic structures and districts. The board derives its authority through the text of a zoning ordinance that establishes historical and architecturally valuable districts, neighborhoods or scenic areas. Review and approval by the board of architectural review is required prior to undertaking various building activities within defined districts. The review is generally concerned with, but not limited to, the exterior appearance of buildings and structures. A board of architectural review can be charged, through the terms of the ordinance, with the responsibility of hearing appeals on matters under its jurisdiction.

Chapter 1
Planning

Statutory Basis for Land Use Planning

As early as the 1920's, the General Assembly granted counties and other local governments the authority to undertake planning activity, adopt zoning ordinances and regulate the development of land. In 1994, in an effort to modernize and coordinate land use planning, the General Assembly enacted the Local Government Comprehensive Planning Enabling Act (commonly referred to as the Planning Act, or 1994 Act.) All local government comprehensive plans, zoning and land development ordinances must conform to the Planning Act, which is codified in Chapter 29 of Title 6 of the S.C Code of Laws.

Local Planning Commissions

Local governments must establish a local planning commission before they can begin a comprehensive planning program. There are several types of planning commissions that may be created by ordinance depending on the jurisdictional limits of the planning programs in the area. See S.C. Code § 6-29-320 through § 6-29-380.

County Planning Commission

A county council can create a county planning commission of five to twelve members. The authority of the commission is limited to the unincorporated areas of the county. See Appendix A for a model ordinance.

Municipal Planning Commission

A municipal council can create a municipal planning commission of five to twelve members. The commission's authority is limited to the corporate boundaries of the municipality.

Joint Municipal-County Planning Commission

A municipal council (or multiple councils) and a county council can create a joint planning commission. Each participating municipal council and the county council must adopt the ordinance. If the commission serves two political subdivisions, it can have five to twelve members. If the commission serves three or more political subdivisions (e.g., two municipalities and the unincorporated county area), its size cannot be greater than four times the number of jurisdictions it serves. For example, a commission serving three municipalities and a county can have a maximum of 16 members. The membership of the commission must be proportional to the population inside and outside municipal limits. Its authority is limited to the corporate limits of the participating municipalities and the unincorporated county area. The ordinance must specify how many members each participating municipal council and county council can appoint. See Appendix B for a model ordinance.

Municipal Planning Commission with Extraterritorial Jurisdiction

If approved by the county and municipality, a municipal planning commission can expand its planning authority outside the corporate limits of the municipality. The two councils must adopt an ordinance stating (1) the affected geographic area, (2) the number or proportion of commission members who must be appointed from that area, (3) any limitations on the authority of the municipality in that area, and (4) representation on the municipality's boards and commissions that affect the unincorporated area.

Depending on the adopted ordinance, either the municipal or county council appoints the planning commission members from the area outside the municipal limits. The commission's size is limited to five to twelve persons. See Appendix D for a model ordinance.

County Planning Commission Designated as Municipal Commission

A municipal council may designate the county planning commission as the official planning commission of the municipality. The municipal and county councils must adopt an ordinance addressing the issues of equitable representation of the municipality and county on the planning commission and other boards and commissions resulting from ordinances adopted by the county council that affect the municipal area.

Planning Commission Serving Multiple Municipalities

Two or more municipal councils may create a joint planning commission to serve them. This could be especially useful for contiguous municipalities. The ordinance creating the joint planning commission should address, among other things, the number of members each council appoints. If the commission serves only two municipalities, its size is limited to five to twelve members. If a commission serves three or more municipalities, its size is limited to four times the number of participating municipalities.

Consolidated Political Subdivision Planning Commission

In response to a 1972 constitutional mandate, the General Assembly passed Act No. 319 of 1992, allowing a county, municipalities, and special purpose districts within the county to consolidate into a new local government. The governing body of such a local government may create a planning commission to serve the consolidated local government. The commission is limited to five to twelve members.

Jurisdiction of Counties and Municipalities

A county may exercise planning, zoning, and land development powers in the total unincorporated area or in specifically designated parts of the unincorporated area. This provision gives flexibility to the county governing body and county planning commission in deciding the extent of planning, zoning, and land development regulation necessary to meet local needs. A municipality may exercise its power in the entire area within its corporate limits. S.C. Code § 6-29-330(A).

Local Planning Commission Function and Duties

A local planning commission has a duty to develop and carry out a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the area within its authority. The minimum nine elements of the comprehensive plan and any other elements prepared for the particular jurisdiction must be designed to promote the public health, safety, morals, convenience, prosperity, general welfare, efficiency, and economy of its area of concern. Each element of the comprehensive plan must be based upon careful and comprehensive surveys and studies of existing conditions and probable future development, and include recommended means of implementing the plans. See S.C. Code § 6-29-340.

Specific Planning Activities

In carrying out its responsibilities, the local planning commission is authorized to prepare and implement the comprehensive plan as follows:

1. **Comprehensive plan.** Prepare and periodically revise development and/or redevelopment plans and programs.

2. **Implementation.** Prepare and recommend measures for carrying out the plan. The appropriate governing bodies must approve the measures. They include the following.

    a. **Zoning ordinances** that include zoning district maps and any necessary revisions. For a more detailed discussion see Chapter 2.

    b. **Regulations for land subdivision or development.** The planning commission is responsible for overseeing the administration of the regulations once they are adopted by the local governing body. For a more detailed discussion see Chapter 5.

    c. **An official map** and appropriate revisions showing the exact location of existing or proposed public streets, highways, utility rights-of-way, and public building sites. The commission is responsible for developing regulations and procedures for administering the official map ordinance. For a more detailed discussion see Chapter 6.

    d. **A landscaping ordinance** providing required standards for planting, tree preservation and other aesthetic considerations.

    e. **A capital improvements program** listing required projects to carry out the adopted plans. Also, the planning commission must submit an annual list of priority projects to the appropriate governmental bodies for consideration when they prepare their annual capital budgets. The commission should take these priority projects from the adopted plans.

    f. **Policies and procedures** to help carry out the adopted comprehensive plan elements. These policies and procedures could cover such things as expanding the corporate limits, extending the public water and sewer systems, accepting dedicated streets,

accepting drainage easements, and offering economic development incentive packages.

The local governing body or the planning commission may add activities beyond the items outlined in the Planning Act.

Zoning Functions Not a Function of Planning Commission

The Planning Act makes it clear that the planning commission cannot administer the zoning ordinance. The commission makes no final decisions regarding zoning. There are no provisions for appeals to or from the planning commission. It cannot grant variances, special exceptions, or use variances. The Act does not allow the planning commission or governing body to grant "special uses," "conditional uses," or "uses upon review." Appeals, variances, special exceptions, and conditional uses requiring review are the exclusive authority of the board of zoning appeals.

The following are planning commission functions related to zoning:

1. **Comprehensive plan.** Adopt, recommend, review, and update at least the land use element. See S.C. Code §§ 6-29-510 to 530, § 6-29-720. All zoning ordinances and amendments must conform to the plan. A local government must adopt at least the land use element before it can enact a zoning ordinance.

2. **Zoning ordinance.** Prepare and recommend to the governing body a zoning ordinance text and maps. See S.C. Code §§ 6-29-340 and 6-29-720. Review and make recommendations concerning amendments. Hold public hearings on amendments when authorized by the governing body. S.C. Code § 6-29-760. See Chapter 2.

Land Development Functions

The planning commission administers the land and subdivision development regulations. See Chapter 5 for a more detailed discussion of these regulations. The board of zoning appeals is not involved. In some jurisdictions, the zoning administrator, or similar professional planning staff member, serves as planning commission secretary and provides staff support for administering land development regulations.

Landscaping and Aesthetics

The landscaping ordinance is particularly important to areas concerned with the aesthetics of their communities. This ordinance can apply to particular sections, zoning districts, or entrance corridors of the community instead of the entire planning jurisdiction. The ordinance might include provisions limiting curb cuts, requiring parallel frontage drives, and requiring landscaping plans for property strips next to street rights-of-way. It might also include provisions requiring landscaping of areas within off-street parking lots.

The local government can use the landscaping ordinance to prevent cutting specimen trees on private property within a specified distance of the street rights-of-way.

A landscaping ordinance imposing requirements on private developments is much easier to promote in communities that have made tangible commitments to landscaping of public sites and street rights-of-way. The landscaping ordinance of the Town of Hilton Head Island is a good example of blending aesthetic improvements on street rights-of-way and private property. S.C. Code § 6-29-340(B)(2)(d).

Capital Improvements Program

Capital improvements programming had virtually become a lost art in the thirty years before the Planning Act. During that period, public capital improvements priorities were often decided by available federal grants instead of a systematic evaluation of community needs. The comprehensive plan is required to include long term planning for community facilities, such as water, sewer, medical and educational facilities. The local planning agency is required to analyze the potential funding (federal state and local) that may be available for a ten (10) year period, and to prioritize the importance the projects to be funded. The commission must catalog the public improvements, place them in a logical chronological order then rank them. A realistic and credible capital improvements plan will include only those proposals that are feasible. S.C. Code § 6-29-340(B)(2)(e).

The planning commission may appoint an advisory committee of representatives from all the affected agencies. The committee could help develop the capital improvements program and the annual list of priority projects recommended to the governmental bodies. Limited resources will always be an issue; however, involving others in developing the annual list should help hold down competition for the limited dollars. It is also an excellent vehicle with which to coordinate bond issues that various public entities (e.g., school board, library board, and other autonomous or semi-autonomous groups) will propose. This coordination should help eliminate public confusion when several groups propose bond issues at the same time.

Membership, Organization, and Operation

The Planning Act provides specific planning commission requirements. The local government must observe them when creating a planning commission.

Membership

The authorized sizes and various types of planning commissions were discussed earlier. The Planning Act contains the following additional specific provisions concerning commission membership. S.C. Code § 6-29-350.

1. **Other Office.** A planning commission member cannot hold another public office in the municipality or county making the appointment.

2. **Terms.** The governing body must appoint members for staggered terms. Members serve until their successors are appointed and qualified.

3. **Compensation.** The local government creating the commission sets compensation, if

any, for commission members. Usually, members serve without pay. They may receive reimbursement for authorized expenses incurred in the performance of their duties.

4. **Vacancy.** The local government making the original appointment must fill any vacancy for the unexpired term.

5. **Removal.** The local governing body may remove for cause any member it appoints.

6. **Appointments.** When making appointments, the local governing body must consider professional expertise, community knowledge, and concern for the future welfare of the total community and its citizens.

7. **Community interest.** Commission members must represent a broad cross section of community interests and concerns.

Financing

The local planning commission usually will request annual appropriations from the local government creating it. The commission uses the funds to pay for its annual work program. The commission may cooperate with, contract with, or accept funds from federal government agencies, state government agencies, local general purpose governments, school districts, special purpose districts - including those from other states - public or eleemosynary agencies, or private individuals or corporations. The planning commission can spend the funds and carry out cooperative undertakings and contracts as it considers necessary and consistent with the appropriated funds. S.C. Code §§ 6-29-360(B) and 6-29-380.

The Comprehensive Planning Process

This section deals with the work of the local planning commission as it develops a planning program to prepare and periodically revise the comprehensive plan. The Planning Act provides the comprehensive plan as the essential first step of the planning process. The Act outlines the scope and substance of the comprehensive plan's contents.

The Planning Process

The planning commission must establish and maintain a planning process that results in the systematic preparation, continuing evaluation, and updating of the comprehensive plan. The commission must use this process for each comprehensive plan element. S.C. Code § 6-29510(A).

The planning process for each comprehensive plan element must include, but is not limited to the following items:

1. **Inventory of existing conditions.** The inventory could include a description of existing conditions as they relate to the particular planning element under consideration. The commission could use surveys and studies while conducting the inventory. The surveys and studies must consider the plan's effect on adjacent jurisdictions. Also, the surveys

and studies must consider any regional plan or issues that may impact them.

2. **A statement of needs and goals.** A vision statement should establish where the community wants to go. To achieve the vision, short and long term goals and objectives will need to be developed. These will help identify needed improvements. It is important to involve the community in identifying needs and goals. This creates broader community support for the plan and minimizes future objections to specific programs. When preparing or periodically updating the comprehensive plan elements, the planning commission may appoint advisory committees. Committee members should come from the planning commission, neighborhood, or other groups and individuals in the community. If the local government maintains a list of groups expressing an interest in being informed of planning proceedings, it must mail meeting notices relating to the planning process to them.

3. **Implementation strategies with time frames.** Implementation strategies should include specific objectives, steps, and strategies for accomplishing the objectives. The strategies should specify time frames for actions and persons or organizations who will take the actions.

Elements of the Comprehensive Plan

There should be broad-based citizen participation when developing the comprehensive plan elements. Each element must address all relevant factors listed in the Planning Act; however, the Act does not dictate how extensively they need to be covered. The level of detail devoted to each element of a plan will vary from county to county. The extent of detail in an element should be based on specific community needs.

At a minimum, a comprehensive plan must include at least the following nine elements. S.C. Code § 6-29-510(D).

1. **Population element.** The population element includes information related to historic trends and projections; number, size, and characteristics of households; educational levels and trends; income characteristics and trends; race; sex; age; and other information. This information should give commission members a clear understanding of how the population affects the existing situation and the future potential of the area.

2. **Economic element.** The economic element includes historic trends and projections on the numbers and characteristics of the labor force, where the people who live in the community work, where people who work in the community reside, available employment characteristics and trends, an economic base analysis, and any other matters affecting the local economy. Tourism, manufacturing, and revitalization efforts may be appropriate factors to consider.

3. **Natural resources element.** This element could include information on coastal resources, slope characteristics, prime agricultural and forest lands, plant and animal habitats, unique park and recreation areas, unique scenic views and sites, wetlands, and soil types. This element could also include information on flood plain and flood way

areas, mineral deposits, air quality, and any other matter related to the natural environment of the area.

EDITOR'S NOTE: If there is a separate community board addressing any or all aspects of natural resources planning, the Planning Act makes that board responsible for preparing the element. The planning commission could incorporate the element into the local comprehensive plan by reference. S.C. Code § 6-29-510(D)(3).

4. **Cultural resources element.** This element could include historic buildings and structures, unique commercial or residential areas, unique natural or scenic resources, archeological sites, educational, religious, or entertainment areas or institutions, and any other feature or facility relating to the cultural aspects of the community. As with the natural resources element, a separate board may prepare this element. The planning commission can incorporate the work of a separate board into the comprehensive plan by reference.

5. **Community facilities element.** This element includes many activities essential to the community's growth, development, or redevelopment. The commission should give separate consideration to the following plans:

    a. water supply, treatment, and distribution plan,
    b. sewage system and wastewater treatment plan,
    c. solid waste collection and disposal plan,
    d. fire protection plan,
    e. emergency medical services plan,
    f. plan for any necessary expansion of general government facilities (e.g., administrative, court, or other facilities),
    g. plan for educational facilities, and
    h. plan for libraries and other cultural facilities.

PRACTICE POINTER: The community facilities element should include plans for public safety and emergency preparedness. Preparing the community facilities element may require involving various special purpose district boards, governmental and quasi-governmental entities such as the library board, school board, historic preservation society, and public utilities board.

EDITOR'S NOTE: The community facilities element must be adopted before the local government may adopt subdivision or other land development regulations. S.C. Code § 6-29-1130.

6. **Housing element.** This element includes an analysis of existing housing by age and condition, owner and renter occupancy, location, type, and affordability. It also contains projections about housing needs to accommodate the existing and future populations as identified in the population and economic elements. Counties must also analyze "unnecessary nonessential regulatory requirements." These are defined in § 6-29-1110(6) as development standards and procedures that are determined by the local body as not essential to protect the public health, safety or welfare, and would otherwise make a proposed housing development economically infeasible. Counties are required to analyze the use of market-based incentives that may be offered to encourage development of

affordable housing. Such incentives may include density bonuses, design flexibility, and streamlined permitting processes.

7. **Land use element.** This element deals with the development characteristics of the land. It considers existing and future land use by categories including residential, commercial, industrial, agricultural, forestry, mining, public and quasi-public, recreation, parks, open space, and vacant or undeveloped land. All previously described elements influence the land use element. The findings, projections, and conclusions from each of the previous six elements will influence the amount of land needed for various uses.

EDITOR'S NOTE: The land use element must be adopted before the local government adopts a zoning ordinance. S.C. Code § 6-29-720.

8. **Transportation element.** This element requires a comprehensive examination of the county's transportation facilities, including major road improvements, new road construction, transit projects, and pedestrian and bicycle projects. The transportation element must be developed in coordination with the current land use element found in § 6-29-510(D)(7).

9. **Priority Investment Element.** This element requires an analysis of likely sources of federal and state funding for public infrastructure that may be available, and a recommendation of projects for expenditure of those funds over the next 10 years. This element requires that the prioritization of projects must be done through coordination with adjacent and relevant jurisdictions and agencies. This section defines these groups as counties, municipalities, public service districts, school districts, public and private utilities, transportation agencies, and other public entities that are affected by or have planning authority over the public project. Coordination requires the written notification by the local planning commission or its staff to the relevant and adjacent jurisdictions or agencies providing them the opportunity to submit comments to the planning commission or its staff concerning the project. Failure to identify or notify an adjacent relevant jurisdiction/agency does not invalidate the plan or give rise to a civil cause of action.

These elements are the minimum elements required of a comprehensive plan. Counties and other local bodies are free to, and should, include any other elements unique to the jurisdiction when developing their plan. Jurisdictions should also include references to any other plans that will affect or be affected by the plan, such as capital improvement plans.

The required nine planning elements plus any other locally determined elements make up the local comprehensive plan. All planning elements represent the planning commission's recommendations to the local governing body. The elements must be an expression of the planning commission recommendations to the appropriate governing bodies with regard to the wise and efficient use of public funds, future growth, development, and redevelopment of its area of jurisdiction. Also, the elements must be an expression of the commission's consideration of the fiscal impact on property owners. S.C. Code § 6-29-510(E).

Other agencies may have prepared some elements of the comprehensive plan. The planning commission must consider plans prepared by other agencies. If the commission determines that the plans meet the legal requirements, it can recommend them by reference to the local governing body for adoption as part of the comprehensive plan.

Periodic Revision Required

The planning commission must review the comprehensive plan or particular elements of the plan as necessary. Changes in the growth or direction of development taking place in the community dictate when a review is necessary. Economic setbacks resulting in the unanticipated loss of jobs could also trigger a need to reevaluate the comprehensive plan. As the plan or elements are revised, it is important to amend the capital improvements program and any ordinances based on the plan. They need to conform to the most current comprehensive plan.

S.C. Code § 6-29-510(E) requires that:

1. The planning commission must reevaluate the comprehensive plan elements at least every **five years.** There is no requirement to rezone the entire county or city at once; therefore, it appears that the land use element could be reviewed and updated in stages or by neighborhoods. See Moineier v. John McAlister, Inc., 231 S.C. 526, 99 S.E.2d 177 (1957).

2. The comprehensive plan, including all elements, must be updated at least every **ten years.** Every ten years, the planning commission must prepare and recommend a new plan, and the governing body must adopt a new comprehensive plan. A comprehensive plan or any element over ten years old may be subject to a legal challenge.

Procedure for Adopting Plan or Amendments

When the plan, any element, amendment, extension, or addition is completed and ready for adoption, the following steps must be taken according to S.C. Code §§ 6-29-520 and 6-29-530.

1. **Resolution.** By majority vote of the entire membership, the planning commission must adopt a resolution recommending the plan or element to the governing body for adoption. The resolution must refer explicitly to maps and other descriptive material intended by the commission to form the recommended plan.

2. **Minutes.** The resolution must be recorded in the official minutes of the planning commission.

3. **Recommendation.** The commission must send a copy of the recommended comprehensive plan or element to the local governing body being requested to adopt the plan. The commission must also send a copy to all other legislative or administrative agencies affected by the plan.

4. **Hearing.** Before adopting the recommended plan, the governing body must hold a public hearing. It must give at least 30 days' notice of the hearing time and place notice in a general circulation newspaper in the community. See Appendix I for a model notice

form.

5. **Ordinance.** The local governing body must adopt the comprehensive plan or any element by ordinance.

Review of Public Project

After the comprehensive plan or an element relating to proposed development is adopted, a public agency or entity proposing a public project must submit its development plans to the planning agency. After review, the planning commission decides whether the proposal is compatible with the comprehensive plan. The information submitted must contain the location, character, and extent of the development. S.C. Code § 6-29-540.

If the planning commission finds the proposal conflicts with the comprehensive plan, it sends its findings and an explanation of its reasoning to the public entity proposing the facility. Then, the governing or policy-making body of the entity can decide whether to bring the project into conformity or to proceed with the development in conflict with the plan. If it decides to proceed, the entity must publicly state its intention to proceed and its reasons. The entity must send the statement to the local governing body and the local planning commission. It must also publish the statement and reasons as a public notice in a general circulation newspaper in the community. The notice must appear at least 30 days before awarding a contract or beginning construction.

S.C. Code § 6-29-540 requires everyone involved in creating the built environment heed the community's adopted comprehensive planning elements. The process for commission review is a major tool to help ensure that public investments move the community toward carrying out the comprehensive plan. To minimize potential conflicts, the planning commission should appoint advisory committees as it develops the various comprehensive planning elements. The commission should place individuals and representatives of agencies and groups in the community on the advisory committees.

PRACTICE POINTER: Telephone, sewer, gas, or electric utilities/providers, whether publicly or privately owned, are exempt from this provision if the local governing body, state regulatory agency, or federal regulatory agency approves their plans. Electric suppliers, utilities and providers operating according to Chapter 27 or Chapter 31 of Title 58, or Chapter 49 of Title 33 are also exempt from this provision. These utilities must submit construction information to the appropriate local planning commission.

Chapter 2
Zoning

Zoning Powers

You've decided an area needs zoning, now what?

The zoning ordinance is a primary tool of local governing bodies to carry out the land use element of the comprehensive plan. Counties in South Carolina carry out zoning in different ways. While a majority of counties have enacted zoning regulations that cover property in at least part of the county, some have promulgated strict zoning regulations covering the entire unincorporated county area, while others wait until citizens lead an effort to enact zoning in a particular area.

Purpose of Zoning

A zoning ordinance ensures that development fits in with existing and future needs of the community and supports the goals established by the comprehensive plan. The zoning ordinance also promotes the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. These purposes are similar to those for all police power regulations passed by a government to protect its citizens. S.C. Code § 6-29-710. Zoning is the most effective way to control the location and size of landfills or adult-oriented businesses, for example.

Ordinance provisions must comply with the requirements of the Planning Act, Title 6, Chapter 29. When preparing the zoning ordinance, a local government must reasonably consider the following purposes where applicable:

1. provide for adequate light, air, and open space;
2. prevent land overcrowding, avoid undue concentration of population and lessen street congestion;
3. help create a convenient, attractive and harmonious community;
4. protect and preserve scenic, historic or ecologically sensitive areas;
5. regulate population density and distribution;
6. regulate building, structure and land uses;
7. help provide adequate transportation, police and fire protection, water, sewage, schools, recreational facilities, affordable housing, disaster evacuation, and other public services and requirements. If the local governing body intends to address "other public requirements" with a particular ordinance or action, it must specify the "other requirements" in the preamble or some other part of the ordinance or action;
8. secure safety from fire, flood, and other dangers; and
9. further the public welfare in any other way specified by a local governing body.

EDITOR'S NOTE: County citizens often express reservations about zoning, thinking it will infringe on their property rights. But zoning is a necessary tool if a county is to regulate less than desirable land uses such as adult businesses and landfills, as well as manage housing density in areas unserved by public utilities. Unzoned areas present a double-edged sword. Citizens are sometimes happy because they can do practically anything with their land, but this potentially causes much tension when their neighbors can also do anything with their land.

Legislative Function

The authority of a local governing body to enact zoning ordinances is a local government police power. Exercising that authority is a legislative function of the governing body. Bob Jones University, Inc. v. City of Greenville, 243 S.C. 351, 133 S.E.2d 843 (1963). The local governing body cannot delegate its power to adopt zoning regulations to a board or commission. However, local governments must not exercise their zoning powers arbitrarily. Zoning regulations are valid only when they are reasonable. Byrd v. City of North Augusta, 261 S.C. 591, 201 S.E.2d 744 (1974); Rushing v. City of Greenville, 265 S.C. 285, 217 S.E.2d 797 (1975); Rush v. City of Greenville, 246 S.C. 268, 143 S.E.2d 527 (1965).

A court has no power to zone property and cannot prohibit a local government from adopting zoning ordinances. Rush v. City of Greenville, 246 S.C. 268, 143 S.E.2d 527 (1965); Patton v. Richland County Council, 303 S.C. 47, 398 S.E.2d 497 (1990).

Zoning follows the Land, Not the Owner

The rights and restrictions granted by zoning regulations follow the land. Usually, rights are not lost if the property changes ownership. Baker v. Town of Sullivan's Island, 279 S.C. 581, 310 S.E.2d 433 (Ct. App. 1983).

Zoning Tools

Zoning Ordinance Elements

In general, a zoning ordinance can be divided into two parts: a text and a map. The text includes the regulations and permitted uses that will apply in each zoning district. Also, the text sets out the requirements and procedures governing the administration, enforcement, and future amendments to the text and the map. The role of the map is to set out graphically the location and boundaries of the zoning districts. The combination of the text and the map divides the land within the planning jurisdiction of the local government into zoning districts. Individual community needs determine the number, size, and shape of the zoning districts.

Zoning ordinance regulations must follow the comprehensive plan. The courts will not overturn a "fairly debatable" decision by the governing body if the zoning regulation or amendment is consistent with the comprehensive plan. Knowles v. City of Aiken, 305 S.C. 219, 407 S.E.2d 639 (1991). However, the S.C. Supreme Court invalidated a county’s rezoning ordinance that rezoned an area, but allowed the permitted uses to remain the same as under the previous zoning classification. The Court held that the ordinance did not meet the parameters of a planned development, and that it merely 1allowed the owners to reduce the lot sizes for the property, thus avoiding the restrictions required in the previous classification. See Sinkler v. Charleston County, 387 S.C. 67, 690 S.E.2d 777 (2010).

The same regulations must apply for each class or kind of building, structure, or use throughout each zoning district. The requirements in one zoning district may differ from the requirements for the same use in a different district. S.C. Code § 6-29-720. The term "district" means the zoning district

where a use is located. It does not mean the neighborhood or surrounding districts. Niggel v. City of Columbia, 254 S.C. 19, 173 S.E.2d 136 (1970).

Factors Regulated by Zoning

Within each zoning district, the local governing body may use the zoning ordinance to regulate the following:

1. the use of buildings, structures, and land;
2. the size, location, height, bulk, orientation, number of stories, erection, construction, reconstruction, alteration, demolition, or removal in whole or in part of buildings and other structures, including signage;
3. the density of development, use, or occupancy of buildings, structures, or land;
4. the areas and dimensions of land, water, and air space to be occupied by buildings and structures, and the size of yards, courts, and other open spaces;
5. the amount of off-street parking and loading that must be provided, and the restrictions or requirements related to the entry or use of motor vehicles on the land;
6. other aspects of the site plan including, but not limited to, tree preservation, landscaping, buffers, lighting, and curb cuts; and
7. other aspects of the development and use of land or structures necessary to accomplish the purposes set forth throughout the enabling legislation.
8. Additionally, Title 48 grants local governments the planning and zoning authority for approving fishing pier expansions and refurbishments. (S.C. Code § 4-38-290 (A)(8)(ii).

Zoning Techniques

The Planning Act specifically authorizes the use of seven zoning techniques. The Act however contains language that authorizes the use of "any other zoning or planning technique" and thus does not limit local governments to these techniques to accomplish the zoning goals.

The following seven techniques are listed and defined in S.C. Code § 6-29-720(C). The eighth is common practice in the state.

1. **A cluster development** groups residential, commercial, or industrial uses within a subdivision or development site. It allows for the reduction of an otherwise applicable lot size while preserving substantial open space on the remainder of the parcel. This technique could be used to promote developing a site subject to flooding or classified as "wetland." Cluster zoning gives the flexibility to design a variety of neighborhoods that consider aesthetics, economic construction of streets and utilities, parks and recreational uses, and a pattern not complying with restrictions in traditional zoning regulations. This technique allows higher density uses such as town houses. Local governments allow cluster zoning either through zoning ordinance provisions for a permit process or by using a floating zone.

2. **A floating zone** is described in the zoning ordinance text but is unmapped. A property owner may petition the local government to designate a particular parcel meeting the minimum zoning district area requirements as a floating zone. A floating zone could be used for a planned shopping center commercial district in areas where development has

not reached the point where a specific tract can be singled out for commercial zoning. This technique makes land use regulations more flexible. It is commonly used to create cluster and planned developments. To establish a floating zone, the local governing body usually adopts a zoning map amendment for the particular piece of property. The text of the zoning ordinance must provide standards for a floating zone.

3. **Performance zoning** specifies a minimum requirement or maximum limit on the effects of a land use. This is done instead of or in addition to specifying the use itself. It assures the development is compatible with surrounding development and increases a developer's flexibility. The text of the zoning ordinance should provide detailed standards for the various land uses. Performance zoning usually applies to commercial, industrial, or manufacturing uses; however, some jurisdictions have used performance standards for residential districts. Performance standards can dictate permitted levels of smoke, noise, explosive hazard, and other factors. The standards should state the limits in measurable quantities and qualities.

4. **Planned development district** mixes different types of housing with compatible commercial uses, shopping centers, office parks, and other mixed use developments. Rezoning establishes a planned development district prior to development. It is characterized by a unified site design for a mixed use development. Historically, local governments have called these projects "planned unit developments" (PUDs). The planned development district technique is discussed further in the next section.

5. **An overlay zone** places a set of requirements or relaxes a set of requirements imposed by the underlying zoning district. An area is given an overlay designation if it has a special public interest but does not coincide with the underlying zone boundaries. An overlay designation is not a separate district classification. It is attached to an existing district designation and identifies an area subject to supplemental regulations. This technique is used to regulate areas needing special consideration. These include flood plains, design preservation or conservation areas, significant highway corridors, and airport height restriction areas. Sign regulation is sometimes accomplished through an overlay designation.

6. **Conditional uses** must meet conditions, restrictions, or limitations on a permitted use. These are in addition to those restrictions that apply to all land in the zoning district. The zoning ordinance text must describe the conditions, restrictions, or limitations. This technique is used to allow uses compatible with the district, but which may have an adverse impact on an adjacent district unless conditions are imposed to protect the adjacent district. Existing ordinances have used the term "conditional use" to describe a variety of techniques. According to the Planning Act, "conditional use" applies to uses specified in district regulations and are allowed only when specified conditions or standards are met. S.C. Code § 6-29-720(C). If the conditions or standards are met, the zoning administrator may issue a permit for the use without review by the board of zoning appeals. If the board reviews the case and imposes additional conditions, the use is listed as a permitted special exception not as a conditional use. Only the board of zoning appeals can grant special exceptions after a public hearing. District regulations must contain a list of permitted uses, uses permitted by special exception, and conditional

uses.

7. **Priority investment zones** encourage counties to adopt market-based incentives or relax or eliminate unnecessary nonessential housing regulatory requirements to encourage private development in the priority investment zone. The use of the priority investment zone in an ordinance is optional. This section further encourages the county to provide that "traditional neighborhood design" and "affordable housing" must be permitted within the priority investment zone.

8. **Form-based zoning** allows planners to place more focus on characteristics such as building setbacks, building heights, sidewalk space, parking, and landscaping. An example of form-based zoning is classification of zones such as commercial streets, urban avenues, residential streets, and rear alleys. The form-based standards for building in a commercial street zone could include, for example, greater allowed heights, decreased setbacks, and certain types of window frontage. Traditional zoning would typically prohibit residences in such an area altogether, but with form-based zoning, retail businesses could be located on street level while residences could be located above street level.

EDITOR'S NOTE: Although form-based codes are being used throughout the state, they are not specifically authorized in state law. According to current state law, using a zoning method that is not specified in the ordinance would not mean that method is beyond the power of the local government, but specifically enabling the use of form-based zoning would encourage development patterns that will save local governments money and increase operational efficiency.

Planned Development District

The Planning Act provides specific procedures and explanations for using the planned development district technique. S.C. Code § 6-29-740. Traditionally, this technique was called Planned Unit Development or PUD. Planned development districts give developments greater flexibility to improve design, character, and quality, and to preserve natural and scenic features or open spaces. The courts of this state have approved the planned development district concept. See Smith v. Georgetown County Council, 292 S.C. 235, 355 S.E.2d 864 (Ct. App. 1987); Turner v. Barber, 298 S.C. 321, 380 S.E.2d 811 (1989).

The following specific features and requirements of planned development districts appear in the Planning Act.

1. **Text amendment**. The governing body must amend the zoning ordinance and zoning district map to allow a planned development district.

2. **Map**. The development plan map for the project being established as a planned development district becomes the zoning district map for this part of the community.

3. **Uses**. The text describes the specific uses, densities, setbacks, and other requirements for the planned development. It becomes the zoning ordinance text describing the permitted uses and other details of the planned development. These provisions tailored to a specific

development may vary from other zoning district regulations concerning use, setbacks, and other requirements. This allows flexibility in arranging different uses.

EDITOR'S NOTE: The S.C. Supreme Court in Sinkler v. Charleston, 387 S.C. 67, 690 S.E2d 777 (2010), requires that a PDD contain multiple land uses. The Court held that a PDD is valid only if there are housing of different types and densities **and** of compatible commercial uses, or shopping centers, office parks, and mixed-use developments.

4. **Plan amendment**. Amendments to the original planned development district take the form of a zoning ordinance amendment. The governing body can authorize these amendments after receiving recommendations from the planning commission. The governing body must follow established procedures for zoning ordinance amendments.

5. **Minor modification.** The zoning ordinance may include a method for making minor modifications to the site plan or development provisions. These changes would not require a zoning ordinance amendment. The zoning administrator decides whether a proposed modification is major or minor. The zoning ordinance should contain standards on which the zoning administrator can base his decisions. For example, driveway relocations, structure floor plan revisions, facility design, and modifications for amenities are considered minor changes. Changes that materially affect the basic concept of the plan or the designated general use of land parcels are considered major changes. The zoning ordinance may allow the zoning administrator to approve minor changes.

Cash or Dedication In Lieu of Parking

The Planning Act allows waiving or reducing parking requirements in return for cash payments or dedicating land earmarked for public parking or public transit. S.C. Code § 6-29-750. These payments or dedications may not be used for any other purpose. To exercise this provision, the zoning ordinance must designate a special development district showing a parking facility plan and program. The plan and program must include guidelines for preferred parking locations and designate prohibited parking areas. To use this provision, the planning commission should recommend and the local government should adopt an additional comprehensive plan element relating to parking in special development districts.

The cash contributions or the dedicated land value may not exceed the approximate cost of the required spaces or providing public transit service had the reduction or waiver not been granted.

Nonconforming Uses

As the permitted uses in each zoning district are listed and the zoning district boundaries are drawn on the zoning district map, it is almost certain that some zoning districts will contain uses that would not be permitted if they did not already exist. Those uses are called nonconforming uses.

Continuation or Termination

S.C. Code § 6-29-730 authorizes zoning regulations that provide uses that are lawful at the time of adoption or amendment of zoning regulations may be continued although they are nonconforming.

The zoning ordinance may contain regulations for continuing, restoring, reconstructing, extending, or substituting nonconformities. The following issues arise frequently with nonconforming uses:

Discouraged. The general rule is that nonconforming uses and structures are to be discouraged and eliminated whenever possible. Most zoning ordinances provide strict standards for continuing or reconstructing nonconformities.

Repair. It is common for zoning ordinances to provide that a nonconforming structure may be repaired or rebuilt if it is not more than 50% (some necessitate 75%) destroyed. It is important that the ordinance set the standard upon which the percentage of destruction is determined (e.g., replacement cost, market value, cost to repair, physical destruction). A decision by the zoning administrator or board of zoning appeals that is not based upon evidence related to the standard in the ordinance will not be upheld. National Advertising Co., Inc. v. Mount Pleasant, 440 S.E.2d 875 (1994).

Substitution. Some zoning ordinances allow the substitution of one nonconforming use for another, if the new use is more in character with the neighborhood, lower in density or has less objectionable features.

Amortization. Termination of a nonconformity may be required within a specified time. Usually the time is based upon a formula for recovery or amortization of investment in the nonconformity. Amortization schedules have been upheld where the period of removal was not so unreasonable to be considered a taking of property. Major Media of the Southeast v. City of Raleigh, 792 F.2d 1269 (4th Cir. 1986). However, when the time period is so short that it denies the owner of an economically viable use of an appropriate unit of property, the time period may be declared unreasonable and may give rise to a taking claim for which the owner must be paid just compensation. Naegele Outdoor Advertising, Inc. v. City of Durham, 844 F.2d 172 (4th Cir. 1988); Naegele Outdoor Advertising, Inc. v. City of Durham, 803 F.Supp. 1068 (M.D.N.C. 1992).

EDITOR'S NOTE: If the nonconforming use involves a billboard or other outdoor advertising use, consult S.C. Code § 57-25-150(G) and (H). These sections provide certain protections for nonconforming signs on private property adjacent to highways.

Eminent Domain & Takings

Both the federal and state constitutions provide property owners protection from the seizure or overly burdensome regulation of their property. The Fifth Amendment to the United States Constitution holds that a government entity may not take private property for public use unless there is payment of just compensation. The South Carolina Constitution also provides that just compensation be paid for the taking of property for public use. See Article I, Section 13, S.C Constitution.

Eminent domain is the power of government entities to take private property and convert it into public use. A variety of property rights are subject to eminent domain, such as air, water and land rights. Federal, State and Local governments may take private property through their power of eminent domain, or may regulate it by exercising their statutory powers.

The South Carolina Constitution provides that private property must not be condemned by eminent domain for any purpose or benefit, including economic development, unless the condemnation is for public use. The constitution provides an exception that allows a local government to use eminent domain to remedy blight. Blight is specifically defined as "private property constituting a danger to the safety and health of the community by reason of lack of ventilation, light, and sanitary facilities, dilapidation, deleterious land use, or any combination of these factors." See Article I, Section 13, S.C. Constitution.

There are generally two types of takings. One is a physical taking, where the government physically occupies private land for its own use. The second is a regulatory taking. The government doesn't physically take the land. However, the government restricts use of the land by way of a law or regulation that burdens the property to the point that there is no economically viable use. Even if there is some remaining economically beneficial use to land that has been regulated, a taking may have occurred. A regulation that is only temporary may still constitute a taking. First English Evangelical Lutheran Church v. County of Los Angeles, 462 U.S. 304 (1987). Takings claims can center on local government regulations requiring the dedication of land, the completion of public improvements, the payment of impact fees, building permits and condemnation orders, and ordinances declaring specific property a nuisance.

The South Carolina Supreme Court held that floodplain regulations that prohibited construction within the floodway were not a taking, even where the county regulations were stricter than the federal FEMA regulations. Columbia Venture, LLC. v. Richland County, 413 S.C. 423, 776 S.E.2d 900 (2015).

Other examples where the Court has found no regulatory taking include:

- Where county mistakenly told owner and potential buyers the wrong zoning classification of a property and that the property was not in conformity with zoning ordinances, costing the owner the sale. Richland County v. Carolina Chloride, 382 S.C. 634, 677 S.E.2d 892 (2009).

- Where an ordinance prevented homeowner from parking commercial vehicle on a residential lot. Whaley v. Dorchester Board of Zoning Appeals, 337 S.C. 568, 524 S.E.2d 40 (1999).

- A city ordinance prohibiting bars from being open between 2 a.m. and 6 a.m. was not a regulatory taking, as this was a reasonable exercise of the state's police powers. Denene v. Charleston, 359 S.C. 83, 596 S.E.2d 917 (2004).

Procedure for Adopting Zoning Ordinances

Adopting a zoning ordinance is a legislative function. The procedural requirements are described in S.C. Code § 6-29-760. They may vary slightly, depending on ordinance notice provisions and whether the council or the planning commission is designated to hold public hearings. The governing body must adopt amendments to the ordinance text or zoning maps in the same manner it adopted the original ordinance. In general, the following procedural steps are required.

1. **Public hearing**. The governing body may conduct public hearings, or it may authorize the planning commission to conduct them. The governing body should state its choice

in the ordinance. There is no law prohibiting a joint public hearing. The public hearing on an amendment may be held, as prescribed by ordinance, either before or after the required planning commission review and recommendation. If the hearing is held before the planning commission, the planning commission recommendation to the governing body should contain a summary of any significant issues or concerns presented at the hearing. If a planning commission does not hold the public hearing, it may allow a property owner affected by a proposed amendment to present oral or written comments. If oral or written comments are taken, the commission must give other interested members of the public ten days' notice and allow them the opportunity to comment in the same fashion. S.C. Code § 6-29-760(B).

2. **Notice.**

   a. **Newspaper and other notice**. An ordinance may establish notice provisions. If not, the Planning Act requires notice be placed in a newspaper of general circulation in the community at least fifteen days prior to the hearing. The notice must list the hearing time and place. Some ordinances require a thirty-day notice. In §30-4-80 of the S.C. Freedom of Information Act, an agenda is required as part of a meeting notice and it must be posted to a bulletin board in the office of the public body or in the building where it will meet or any website the county maintains. See Appendix J for a model notice form.

   b. **Posting property.** In rezoning cases, the governing body or commission must post conspicuous notices on or adjacent to the property. One notice must be visible from each public street that borders the property.

   c. **Mail notice.** If the local government maintains a list of groups requesting notice, it must mail meeting notices to such groups. Some ordinances also require notice by mail to adjacent property owners. This is not required by the Planning Act.

3. **Planning commission review**. Any change in the original text and any amendment to the ordinance or maps must be submitted to the planning commission for review and recommendation. If the planning commission fails to make a recommendation within the time prescribed by ordinance, it is considered to have approved the change.

4. **Adoption of ordinance**. After the required public hearing and planning commission review, the original ordinance or amendment must be adopted by an ordinance. Counties may adopt ordinances on three readings on separate days with a minimum of seven days between second and third readings. S.C. Code § 4-9-120 (1976). Municipalities may adopt ordinances on two readings at least six days apart. S.C. Code § 5-7-270 (1976).

The Planning Act allows flexibility in providing notices and for setting the time and conduct of the public hearing. There is no set sequence for some required actions. The following are examples of possible sequences.

If Council Holds Hearing:

1. Amendment initiated
2. Refer to Commission for review
3. Notices of public hearing
4. Commission reviews
5. Commission makes recommendation
6. Council holds hearing
7. Council adopts or rejects ordinance

If Commission Holds Hearing:

1. Amendment initiated
2. Refer to Commission for hearing/ review
3. Notices of public hearing
4. Commission holds hearing
5. Commission reviews
6. Commission makes recommendation
7. Council adopts or rejects ordinance

Challenge to Ordinance Validity

An owner of adjoining land or his representative has legal standing in a court of law to bring an action contesting the zoning ordinance or an amendment. S.C. Code § 6-29-760(C). The landowner unquestionably has similar standing. It is likely that a court would rule that anyone who has a property right that is adversely affected could bring a legal action.

If there has been substantial compliance with the notice requirements of the ordinance or the Planning Act, no challenge to the adequacy of notice or validity of a zoning ordinance or amendment may be made sixty days after the decision of the governing body. Because substantial compliance may be a question of fact or a question of fact and law, it may be necessary for a court to decide that question before the sixty day limitation can be invoked. Due process principles apply to notice procedures. Notices must fairly and reasonably inform those whose rights may be affected. An amendment accomplished with a defective notice is void. Brown v. County of Charleston, 303 S.C. 245, 399 S.E.2d 784 (Ct. App. 1990.)

Public Property Subject to Zoning

The following public entities, while using real property as owner or tenant, are subject to the local zoning ordinance requirements. S.C. Code §§ 6-29-770(A), (B) and (C).

1. Agencies, departments, and subdivisions of the State of South Carolina.

2. Counties and any agency, department, or subdivision of the county are subject to the zoning ordinance of any municipality within whose limits it uses property.

3. Municipalities and any agency, department, or subdivision of the municipality is subject to the county zoning ordinance if it uses property within the county but outside the municipal limits.

A state agency, department, or subdivision occupying a facility on June 18, 1976, does not have to move regardless of whether or not their location is in violation of municipal or county zoning ordinances. This provision was obviously inserted to take care of some particular situations; however, it applies statewide.

EDITOR'S NOTE: While the state is generally subject to local zoning ordinances, Article VIII, Section 14 of the state constitution provides that state agencies are exempt from provisions of an ordinance that sets aside the administration of a governmental service that has been delegated to state government and requires uniformity. For example, the SC Court of Appeals held in Charleston County v. SC DOT, Ct. App. Op. No. 5495, July 12, 2017 (2017 WL 2960751), that the Department did not have to comply with tree preservation provisions in the county zoning ordinance. The removal of trees in the right of way was part of the Department's delegated duty to construct and maintain state roadways.

Exemptions, Homes for Handicapped

A home serving nine or fewer mentally or physically handicapped persons if it provides 24-hour care and is approved or licensed by a state agency, department or under contract with the agency or department for that purpose, is exempt from 24-hour requirements of the local zoning ordinance. Residents of such a home are treated as a natural family as if related by blood or marriage. S.C. Code § 6-29-770.

The following are specific procedures for locating such a home:

1. Prior to locating the home, the owner or operator must give prior notice to the local governing body advising of the exact site of the proposed home.

2. The notice must identify the individual responsible for site selection.

3. If the local governing body objects to the selected site, it must notify the individual responsible for site selection within fifteen days of receiving the notice. It must also appoint a representative to assist in selecting a comparable, alternate site. This triggers the following actions:

    a. The site selection representative of the entity and the representative of the governing body must select a third, mutually agreeable person to assist with the selection.

    b. The three people have forty-five days to make a final site selection by majority vote.

    c. This final site selection is binding on both the proposing entity and the governing body.

4. In the event no selection is made by the end of the forty-five day period, the entity establishing the home shall select the site without further proceedings.

5. An application for a variance or special exception is not required.

6. The licensing agency must screen prospective residents of these homes to ensure that the placement is appropriate.

7. The licensing agency shall conduct reviews of these homes at least every six months to promote the rehabilitative purposes of the homes and to confirm compatibility with their neighborhoods.

8. The local governing body whose zoning ordinances are violated may apply to a court of competent jurisdiction for injunctive or such other relief as the court may consider proper.

Federal Defense Facilities Utilization Integrity Protection

As certain areas of South Carolina continue to grow, there is the potential for the development of areas contiguous to federal military installations that can undermine the integrity or utility of those installations. This puts at risk the expansion or eventual closure of these installations. The General Assembly enacted the Federal Defense Facilities Utilization Integrity Protection Act to coordinate future development or use of land contiguous to active federal military installations. S.C. Code §§ 6-29-1610 et seq. The Act creates overlay zones around active military installations. A local zoning ordinance in any county or municipality that contains an active military installation should reference the overlay zone area and the restrictions on development of lands surrounding provided in the Act.

Federal Fair Housing Act

The Fair Housing Act of 1988 was adopted by Congress to strengthen Title VIII of the 1968 Civil Rights Act. The amendments to 42 U.S.C. § 3604 extend the principle of equal housing opportunities to handicapped persons and families with children. The provisions in § 3604 prohibiting a regulation that otherwise makes unavailable or denies housing to the handicapped was intended, according to the House Committee Report, to prohibit land-use regulations, restrictive covenants and conditional or special use permits that have the effect of limiting the ability of such individuals to live in the residence of their choice within the community.

Section 3610 of the Fair Housing Act, as amended, provides for enforcement by the U.S. Justice Department in land use cases referred by HUD that question the legality of any state or local zoning or other land use law or ordinance. The court may impose civil penalties of up to $50,000 for a first violation.

Courts have issued injunctions compelling local zoning officials to issue special use permits, pointing out that equitable relief under the Fair Housing Act includes prohibitory injunctions and orders for such affirmative action as may be appropriate. See Baxter v. City of Bellville, 720 F.Supp. 720 (S.D. III. 1989). Economic injury is sufficient to give standing to institute an action under the Act. Reasonable spacing requirements and safety and sanitation restrictions have been upheld. See Familystyle of St. Paul v. City of St. Paul, 923 F.2d 91 (8th Cir. 1991); and Baxter, supra.

Although it is facially neutral, if a land use regulation or official action is motivated by discriminatory intent or has a disparate impact, it may be illegal under the Fair Housing Act. See Metropolitan Housing Dev. Corp. v. Village of Arlington Heights, 588 F.2d 1283 (7th Cir. 1977).

Although 42 U.S.C. § 3615 provides that Congress has not preempted the fair housing field, it further provides that any law of a State or political subdivision "that purports to require or permit any action that would be a discriminatory housing practice under this title shall to that extent be invalid." It appears that federal law does not preempt S.C. Code § 6-29-770(E) relating to homes for handicapped persons.

The local government should not take into consideration any community sentiment or concern that reflects on the handicapped residents. Delay in taking action on a request for a permit may be considered tantamount to a denial. The refusal to rezone property to permit its use for handicapped housing may be a violation of the Fair Housing Act if it fails the disparate impact test. See Huntington Branch, NAACP v. Town of Huntington, 844 F.2d 926 (2d Cir. 1988).

Conditional use permits and density requirements may be valid as long as they are not applied in a discriminatory manner. However, the courts have subjected them to strict scrutiny.

Zoning Administration

Zoning Official

The zoning ordinance must designate an administrative official to administer and enforce the zoning ordinance. The official is usually called the zoning administrator. S.C. Code § 6-29-800. It is not unusual for small jurisdictions to give the building official the job of zoning administrator. One employee may administer several codes. The official's title is specified in the zoning ordinance.

Powers and Duties

The zoning ordinance should specify the duties of the zoning administrator. The following are examples of duties.

1. Interpreting zoning ordinance provisions.
2. Administering permits and certificates, including fee collection [See Appendix S for a sample form.].
3. Processing applications for variances and special exceptions [See Appendix U for a sample form.].
4. Processing appeals to the board of zoning appeals and preparing the record for appeal to the circuit court.
5. Maintaining the current zoning map.
6. Maintaining public records related to zoning.
7. Investigating and resolving complaints.
8. Enforcing the zoning ordinance.
9. Other duties assigned by ordinance, manager, or council.

PRACTICE POINTER: The zoning administrator is the only official that should be relied upon when questions arise over a parcel's official zoning. There have been several cases where a land owner or

purchaser has relied on the opinion of a tax assessor or building official concerning applicable use only to find years later the use was not permitted. The South Carolina Supreme Court has not been sympathetic to such mistaken reliance on opinions of anyone other than the Zoning Administrator. See Carolina Chloride v. Richland County (2011) and Quail Hill v. Richland County (2010).

Estoppel

Administering the zoning ordinance often requires interpreting terms and provisions that are not always clearly defined. Once an authorized local official makes an interpretation, the local governing body may be estopped (prohibited) from changing the official's interpretation or from enforcing the ordinance differently from past enforcement when a landowner has relied upon the interpretation. See Landing Development Corp. v. City of Myrtle Beach, 285 S.C. 216, 329 S.E.2d 423 (1985); County of Charleston v. National Advertising Co., 292 S.C. 416, 357 S.E.2d 9 (1987). In South Carolina, estoppel may apply to public figures, but only when acting in the scope of their official duty. McCrowey v. BOZA Rock Hill, 360 S.C. 301, 599 S.E.2d 617 (2004).

A landowner must show the following estoppel elements against the government: (1) lack of knowledge and lack of means to gain knowledge of the truth in the matter, (2) justifiable reliance on the conduct of the officials, and (3) a prejudicial change in the position of the party claiming estoppel. Daniels v. City of Goose Creek, 431 S.E.2d 256 (Ct. App. (1993)). However, the public cannot be estopped by the actions of an official who acts outside of the scope of his authority. DeStephano v. City of Charleston, 304 S.C. 250, 403 S.E.2d 648 (1991). A person is presumed to know the limits of the authority of a public official.

A zoning permit may be revoked if the zoning official acted on a permit application that contained incorrect or false information. Estoppel would not apply. See Christy v. Harleston, 266 S.C. 439, 223 S.E.2d 861 (1976).

It is important for the zoning administrator to consistently interpret and enforce the zoning ordinance. When a change in practices or interpretations is necessary, making the appropriate changes to the ordinance by amendment will avoid estoppel claims for future applications.

Board of Zoning Appeals

As part of the zoning enforcement and administrative structure of the zoning ordinance, the governing body may create in the zoning ordinance a board of zoning appeals. Previous legislation referred to this board as a zoning board of adjustment. Under the Planning Act, the term "board of adjustment" is inappropriate. S.C. Code § 6-29-780.

Local governing bodies with a joint planning commission and a common zoning ordinance may create a joint board of zoning appeals.

Creation of Board

The zoning ordinance section creating a board of zoning appeals should include the following:

1. The board's size is limited to three to nine members.

2. A majority of the membership makes up a quorum.
3. The governing body appoints members.
4. Members' terms are overlapping.
5. The terms range from three to five years.
6. The number of terms a member may serve.
7. Members continue to serve until their successors are appointed.
8. Vacancies are filled for unexpired terms in the same manner as the initial appointments.
9. The appointing governing body can remove a member for cause.
10. How much, if anything, board members are compensated.
11. Members cannot hold any other public office or position in the appointing local government.

Appendix D provides a model ordinance for the creation of a Board of Zoning Appeals.

Powers of the Board of Zoning Appeals

The planning enabling legislation lists - explicitly in many instances - the powers and required findings of the board of appeals. S.C. Code § 6-29-800. It may be useful to include this section in the board rules of procedure. The power of the board is limited to three specific areas: administrative review, variances, and special exceptions. The local governing body should include these provisions in the zoning ordinance and make them consistent with the language of the Planning Act. Sample forms for appeals to the board are provided in Appendix U.

Administrative Review

The board can hear and decide appeals where it is alleged the zoning administrator erred in an order, requirement, decision, or determination. In such cases, the board may reverse or affirm, wholly or in part, the zoning administrator's actions. The board has all the powers of the zoning administrator in such cases and may direct the issuance of a permit.

The board may remand a matter to an administrative official if it determines the record is insufficient for review. The board may deny a party's motion to remand if it determines the record is sufficient. The board must set a rehearing within sixty days unless the parties agree to another time.

The Board should adopt, as part of its rules of procedure, specific rules for the conduct of applicant appeals. Unlike regular meetings and public hearings, the Board sits in a quasi-judicial manner. Applicants are provided certain constitutional rights of due process. The Board must allow an applicant a meaningful right to be heard, and judicial review of the Board's final decision. Chapter 8 outlines the basic rules of procedures necessary to ensure applicants are guaranteed procedural due process.

Variances

The Planning Act provides the statutory basis for granting variances. The board has the power to hear and decide appeals for variances when strict application of some aspect of a parcel's current zoning classification would cause an unnecessary hardship. S.C. Code § 6-29-800(A)(2). When deciding whether to grant a variance or not, the board is not free to make a determination based on whatever

appeals to its sense of justice.

A variance allows the board to make an exception to an otherwise legitimate restriction for special cases. Special cases occur when unusual circumstances make the restriction more burdensome than intended. The variance must not impair the public purpose. To obtain a variance based on "unnecessary hardship," there must at least be proof that a particular property suffers a singular disadvantage from a zoning regulation. Hodge v. Pollock, 223 S.C. 342, 75 S.E.2d 752 (1953); Colbert v. Krawcheck, 299 S.C. 299, 384 S.E.2d 710 (1989). Additionally, an owner is not entitled to relief from a self-inflicted hardship. Rush v. City of Greenville, 246 S.C. 268, 143 S.E.2d 527 (1965).

Standards for Granting Variances

The board may grant a variance for an unnecessary hardship if it makes and explains in writing all of the following findings.

1. **Extraordinary conditions**. There are extraordinary and exceptional conditions pertaining to the particular piece of property. Extraordinary conditions could exist due to topography, street widening, beachfront setback lines, or other conditions that make it difficult or impossible to make an economically feasible use of the property.

2. **Other property.** These conditions do not generally apply to other property in the vicinity. See Bennett v. Sullivan's Island Board of Adjustment, 438 S.E.2d 273 (Ct. App. 1993).

3. **Utilization**. Because of these conditions, the application of the ordinance to a particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

4. **Detriment.** The authorization of a variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by granting of the variance.

Other issues affecting findings of a board in a variance application are found in S.C. Code § 6-29-800(A)(2).

1. **Profitability**. The fact that property may be used more profitably if a variance is granted is not grounds for a variance. See Groves v. Charleston, 226 S.C. 459, 85 S.E.2d 708 (1955).

2. **Conditions**. In granting a variance, the board may attach conditions to it. These conditions may address the location, character or other features of a proposed building, structure, or use. The board sets the conditions to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

3. **Use variance**. Under the general rule, the board may not grant use variances. A "use variance" involves the establishment of a use not otherwise permitted in a zoning district,

extends physically a nonconforming land use, or changes the zoning district boundaries shown on the official zoning map. The Planning Act allows a local governing body to authorize the board of zoning appeals to grant "use variances," and the governing body can attach conditions to this authorization. S.C. Code § 6-29-800(A) contains specific procedures for granting use variances, which may be incorporated into a local zoning ordinance. Granting use variances is not good zoning practice and is not recommended. A use variance may be subject to attack as an unlawful delegation of legislative authority. Zoning is a legislative power in this state.

The zoning ordinance may provide other requirements for a variance. The board must follow the local ordinance and Planning Act. The courts will generally uphold a variance decision unless it was based on an error of law, fraud, lack of any supporting legal evidence, or where the board acted arbitrarily, unreasonably, abused its discretion or acted in a discriminatory manner.

PRACTICE POINTER: a variance may not allow a use that is not otherwise authorized within the parcel's zoning classification. For example, a variance may waive a 60 foot setback where a parcel's unique shape would eliminate all use of a section of the property; however, a variance could not authorize the operation of a dentist office where commercial use is not authorized.

Special Exceptions

The board of zoning appeals can permit uses by special exception if the terms and conditions described in the zoning ordinance are met. S.C. Code § 6-29-800(A)(3). The zoning ordinance must include the standards and conditions for the board to follow when considering such appeals. For example, standards and conditions could relate to noise, compatibility with adjoining uses and traffic generation. In some zoning ordinances, conditional uses granted after review should now be designated as special exceptions.

Appeals to Board and Circuit Court

Appeals from the administrative actions and decisions of zoning officials are taken to the board of zoning appeals. See Appendix U for a sample form. Appeals from decisions of the board are made to Circuit Court and finally to the Supreme Court. An appeal on a zoning matter is never taken to the local governing body. It has only a legislative function in zoning.

Third-party intervention

When a decision of the board has been appealed to the circuit court a person who is not the owner of the subject parcel may seek to intervene as a party. S.C. Code § 6-29-825(A) provides that the motion to intervene must be granted if the person has a substantial interest in the decision of the board.

EDITOR'S NOTE: The Planning Act does not provide the basis for determining "substantial interest." The circuit court judge will make that finding based on the facts of the petition, and will generally not be overturned by a higher court without evidence that the finding was based on error of law or abuse of discretion.

Pre-Trial Mediation

Property owners have the ability to elect a pre-trial mediation process as set forth in S.C. Code § 6-29-825. Any tentative mediated settlement reached must be approved by the local legislative governing body and the circuit court. Any mediated settlement is not precedent for other parcels of land or owners. Mediated settlements must also have a rational basis within the standards of Chapter 29 or Title 6.

Time Limits for Appeals

1. **Appeal to Board.** The zoning ordinance or rules of the board of zoning appeals may set the time for appeal of an administrative action or decision. If no time is set, S.C. Code § 6-29-800(A)(4) requires the party to make an appeal within 30 days of receiving actual notice of the action from which he is appealing.

2. **Appeal to Circuit Court**. A party appealing a board decision to circuit court must file the appeal with the clerk of court within thirty days after the decision of the board is mailed. S.C. Code § 6-29-820. Failure to file an appeal within the time limit deprives the court of jurisdiction to hear the matter. Botany Bay Marina, Inc. v. Townsend, 296 S.C. 330, 372 S.E.2d 584 (1988).

   Appeal to Supreme Court. A party may appeal a circuit court decision to the South Carolina Supreme Court in the same manner as other circuit court judgments. S.C. Code § 6-29-850. Bishop v. Hightower, 292 S.C. 358, 356 S.E.2d 420 (Ct. App. 1987). Rule 203, South Carolina Appellate Court Rules, requires a party to service notice of appeal to the Supreme Court within thirty days of receiving written notice of entry of the circuit court order.

Procedure for Appeals to Board

1. **Notice of appeal.** Any person displeased with an officer's action may appeal it to the board of zoning appeals. The person must file a notice of appeal specifying the grounds with the officer and the board. The applicant and parties to the permitting process are parties in interest and are entitled to notice of the appeal. Citizens and residents who are not parties to the permitting process are not entitled to notice. Botany Bay Marina, Inc. v. Townsend, 296 S.C. 330, 372 S.E.2d 584 (1988); Spanish Wells v. Board of Adjustment of Hilton Head Island, 292 S.C. 542, 357 S.E.2d 487 (Ct. App. 1987). The zoning administrator should provide a form for the appeal notice. The notice form should require all the necessary information for the appeal. A sample is provided in Appendix U. The officer being appealed must immediately send the board all papers constituting the record upon which the action was taken. S.C. Code § 6-29-800(A)(4).

2. **Stay of proceedings.** Filing an appeal to the board stays all legal proceedings to enforce the appealed action unless the appealed officer certifies that a stay would cause imminent peril to life and property. In such cases, a board or court restraining order may stay the action. S.C. Code § 6-29-800(B).

3. **Time and notice of hearing**. The board must set a reasonable time for hearing the appeal. It must publish a 15-days' notice in a general circulation newspaper and give notice to parties in interest, preferably by mail. S.C. Code § 6-29-800(D). See Notice Form in Appendix K. The zoning ordinance may require other notice forms to inform persons whose property interests might be affected by the variance or other action.

4. **Conduct of hearing**. Any party may appear at the hearing in person, by agent, or by attorney. The rules of the board should set the hearing procedure. At the start of the hearing, the chairperson should explain the procedures for presenting and examining witnesses, receiving evidence, the role of attorneys, and how the board will make and serve a decision. The board may subpoena witnesses and certify contempt to the circuit court. The board must hold the hearing in compliance with the Freedom of Information Act. S.C. Code § 6-29-800(C) and (D).

5. **Rehearing**. The board may provide in its rules of procedure for a rehearing. A rehearing may be justified by reason of newly discovered evidence, fraud, surprise, mistake, inadvertence, or change in conditions. Bennett v. City of Clemson, 293 S.C. 64, 358 S.E.2d 707 (1987).

6. **Board decisions**. The board has the same powers as the zoning official. It can affirm, reverse, or modify the zoning official's actions. Board members cannot vote by absentee ballots. Members must be present to vote. Bennett, supra. The board must make all final decisions in writing, deliver them to parties in interest by certified mail, and permanently file them as public records. The board must separately state in decisions or orders all findings of fact and conclusions of law. This is a critical requirement because the board's findings of fact are binding on the circuit court on appeal. S.C. Code § 6-29-800(D) and (E). A form should be used for the decision that contains a checklist or reminder regarding the necessity for written findings and conclusions. See Appendix V for a sample order form.

Appeal to Circuit Court

1. **Petition.** A party may appeal a board decision to the circuit court. He must file a written petition with the clerk of court stating why the decision is contrary to law. Although the statutes do not require serving the petition on the board, it is advisable. The clerk of court is required to give immediate notice of the appeal to the secretary of the board. The filing does not stay or supersede the decision of the board, but the circuit judge may grant a supersedeas upon reasonable terms. S.C. Code §§ 6-29-820, 6-29-830.

2. **Transcript.** Within 30 days after notice from the clerk of court, the secretary of the board must file with the clerk of court a certified copy of the proceedings, a transcript of testimony, evidence, and the decision, including findings of fact and conclusions. S.C. Code § 6-29-830. There is no requirement for the board to serve the certified record on parties in interest. The attorney for the board files a return to the petition and sends it with a copy of the certified record to the attorney for the appealing party.

3. **Standard of review.** The findings of fact by the board are treated in the same manner as findings of fact by a jury. The court may not take additional evidence. It can determine only whether the board decision is correct as a matter of law. The court must allow the board's decision to stand if there is any evidence in the record to support it. Wells v. Finley, 260 S.C. 291, 195 S.E.2d 623 (1973); Bishop v. Hightower, 292 S.C. 358, 356 S.E.2d 420 (Ct. App. 1987); Fairfield Ocean Ridge, Inc. v. Edisto Beach, 294 S.C. 475, 366 S.E.2d 15 (Ct. App. 1988). If the record is insufficient for review, the circuit judge may send it back to the board for rehearing. S.C. Code § 6-29-840. This provision should be helpful in getting a complete record. Lack of a good record is the most common problem in zoning appeals. See Dolive v. J.E.E. Developers, Inc., 418 S.E.2d 319 (Ct. App. 1992). (The court allowed the applicant to supply missing portions of the transcript by affidavit).

Exhaustion of Administrative Remedies

The courts ordinarily dismiss suits challenging zoning actions as premature if the party fails to exhaust the provided administrative remedies. A party may not go directly to court when administrative procedures and remedies are available. Dunbar v. City of Spartanburg, 226 S.C. 360, 85 S.E.2d 281 (1955).

Constitutional "takings" claims frequently arise when application of the zoning regulations result in the denial of use of property. The Supreme Court has ruled that a takings claim is premature when there was no application for a variance or exception pursuant to administrative procedures provided by the zoning ordinance. Moore v. Sumter County Council, 300 S.C. 270, 387 S.E.2d 455 (1990). The court dismissed a claim that the zoning ordinance was unconstitutional when the party failed to exhaust administrative remedies in Stanton v. Town of Pawley's Island, 309 S.C. 126, 420 S.E.2d 502 (1992).

Until there has been a final decision regarding the application of the zoning ordinance and subdivision regulations to property, the United States Supreme Court has held that it is impossible to determine whether the land retains any reasonable beneficial use, or whether expected property interests have been taken. Williamson Planning Commission v. Hamilton Bank, 473 U.S. 172, 105 S.Ct. 3108, 87 L.Ed.2d 126 (1985).

Legal Issues in Zoning

Exactions

Exactions are burdens or requirements a local government places on a developer to dedicate land or construct or pay for all or a portion of the costs of capital improvements needed for public facilities as a condition of development approval. Exactions come in many forms - they may be called conditions or impact fees and may be in the form of infrastructure building, cash payments to the local government, dedications of land for public uses, conditions on future land use, restrictions on alienation, or other restrictions or burdens on the permit applicant.

PRACTICE POINTER: entities should consult the county attorney or other legal professional with knowledge of land use law before enacting ordinances/regulations requiring cash payments or land

dedications. The US Supreme Court has become less tolerate of such requirements and more prone to find them a regulatory taking. See Kootz v. St. Johns Water Management District (2013)

Vested Rights

The Planning Act did not originally address vested rights other than provisions dealing with nonconforming uses. In 2004 the Vested Rights Act, granted developers specific rights if they had received approval of certain site plans to complete development of property according to a site specific development plan or a phased development plan. Essentially the Act protects developers from later zoning changes (except under certain circumstances).

If a county does not establish its own land development ordinances, the Vested Rights Act provides that state law, S.C. Code § 6-29-1560, becomes the default county land use ordinance. Section 6-29-1560 provides:

- A landowner has a vested right to proceed in accordance with an approved site specific development plan for two years and the landowner may apply for at least five annual extensions.

- The landowner must have obtained a significant affirmative act of the government, rely in good faith on this act, and incur significant obligations and expenses in pursuant of the project in reliance on the government act.

The South Carolina Attorney General has previously opined that if a county has not established a land development ordinance by the mandated date, it is prohibited from now doing so and must use the statutory default rule as its ordinance. See Op. Att'y Gen., 2006 WL 1207278 (April 11, 2006).

A vested right is not absolute. Certain conditions apply. A county may terminate a conditionally approved site specific plan or a conditionally approved phased development plan - after public notice and public hearing - if the landowner does not comply with the terms of the conditional approval. A county may revoke an approved plan if it determines the landowner made material misrepresentations or is in substantial noncompliance with the terms of the approval. S.C. Code § 6-29-1540(10). Laws enacted after a vested right confers - whether federal, state, or local - may establish regulations that do not allow for grandfathering a vested right. S.C. Code § 6-29-1540(11).

A vested right belongs to the property - not the owner - and therefore attaches when the property changes hands. See S.C. Code § 6-29-1550. A validly issued building permit is not revoked or does not expire solely because a vested right expires.

Pending Ordinance Doctrine

The zoning administrator has authority to refuse a permit for a use which is repugnant to the terms of a proposed zoning ordinance or amendment pending at the time of the application for the permit. An ordinance is legally pending when the governing body has resolved to consider a particular scheme of rezoning and has advertised to the public its intention to hold public hearings on the rezoning. Sherman v. Reavis, 273 S.C. 542, 257 S.E.2d 735 (1979); Stratos v. Town of Ravenel, 297 S.C. 309, 376 S.E.2d 783 (1989).

In Simpkins v. City of Gaffney, 315 S.C. 26, 431 S.E.2d 592 (Ct. App. 1993), the Court of Appeals held that a resolution of city council setting a moratorium on construction of multi-family dwellings was not a pending ordinance and did not suspend an existing, valid zoning ordinance. The zoning ordinance must be amended by ordinance, not by resolution.

Spot Zoning

Zoning a small parcel as an island surrounded by a district with different zoning may be considered spot zoning. Spot zoning is a practice which the South Carolina courts have held invalid. The Supreme Court stated that invalid "spot zoning" is the process of singling out a small land parcel for a use classification totally different from that of the surrounding area to benefit the property owners and to the detriment of other owners. Bob Jones University, Inc. v. City of Greenville, 243 S.C. 351, 133 S.E.2d 843 (1963). The mere fact that business property adjoins residential property does not mean the commercial zoning is invalid spot zoning. See Talbot v. Myrtle Beach Board of Adjustment, 222 S.C. 165, 72 S.E.2d 66 (1952); Knowles v. City of Aiken, 305 S.C. 291, 407 S.E.2d 639 (1991).

The governing body may rezone small areas as long as the action is not arbitrary or unreasonable. Courts will not rule on the wisdom or expediency of local ordinances. They are presumed to be valid. To help avoid the problem of spot zoning, many zoning ordinances include a provision requiring a free-standing zoning district to have a minimum land area of at least two acres.

Adult Businesses

The South Carolina Supreme Court has consistently held that it is proper for zoning ordinances to regulate sexually oriented businesses. See Harkins v. Greenville County, 340 S.C. 606, 533 S.E.2d 886 (2000). These businesses are, however, protected by the First Amendment right to free speech. A county may not prohibit adult businesses from operating at all, but may regulate where an adult business is located. See Restaurant Row v. Horry County, 516 S.E.2d 442, 335 S.C. 209 (1999).

Religious Use of Land

The Planning Act provides that a zoning ordinance cannot prohibit church-related activities in a single-family residence. “Church-related activities” are only defined so as not to include “regularly scheduled worship services.” S.C. Code § 6-29-715.

The Religious Freedom Act of 1999, codified at S.C. Code § 1-32-10 et seq., further provides that a local government “may not substantially burden a person’s exercise of religion,” unless the government is acting in furtherance of a compelling state interest, and by the least restrictive means. S.C. Code § 1-32-40. Though the law does not explicitly reference zoning, it does specifically apply to local ordinances, and therefore should be taken in to consideration when adopting zoning and other land use ordinances.

Growth Management Programs

South Carolina has experienced exponential growth since the 1990’s. Some counties in the state are among the fasting growing in the nation as populations move from the traditional industrial

states to coastal regions. As a result, many local jurisdictions are forced to consider programs to manage growth and its impacts.

Common growth management policies include:

- **Moratorium:** A moratorium places a temporary halt on the issuance of new building permits to give the jurisdiction time to address growth issues. A moratorium may apply to a limited area or county-wide, and could be made applicable to certain types of structures. For instance a jurisdiction may begin with a moratorium on new multi-family units rather than single-family. A moratorium cannot halt construction where a permit has already been issued.

- **Adequate Public Facilities Ordinance (APFO):** APFO's are designed to ensure public infrastructure is in place before new development is allowed. APFO's have not been widely used in South Carolina, and have been controversial in the states where such ordinances have been adopted.

- **Growth Management Plans:** Some jurisdictions have developed separate plans, which are incorporated by reference into their comprehensive plans, which deal exclusively with ordinances to control growth within a certain area. Some aspects of these plans can include restrictions on building permits, open space requirements, and fees for new development.

Chapter 3
Board of Architectural Review

The Planning Act allows a local government to create a board of architectural review or similar body in the local zoning ordinance. In some communities, this board is called the historic district board, the landmarks commission, design review board, or other titles. The title of the board is left to the discretion of the local governing body (for purposes of clarity this manual will refer generally to the "board of architectural review.") The zoning ordinance should specifically reference the board title.

A board of architectural review is a part of the administrative mechanism designed to carry out the local zoning ordinance for specific areas. The board has no legislative authority. S.C. Code § 6-29-870.

Appendix E provides a model ordinance for creation of a board of architectural review.

Purpose

To create a board of architectural review, the zoning ordinance must make specific provisions for one or more of the following activities.

1. Preservation and protection of historic and architecturally valuable districts and neighborhoods.

2. Preservation and protection of significant or natural scenic areas.

3. Protection or provision for the unique, special or desired character of a defined district, corridor or development area.

The zoning ordinance must include restrictions and conditions governing the right to erect, demolish, remove (in whole or in part), or alter the exterior appearance of all buildings or structures within the designated areas. S.C. Code § 6-29-870(A).

Composition and Qualifications

Board members are appointed by the local governing body. A board of architectural review may have no more than ten members, although the Code does not set a minimum number. S.C. Code § 6-29-870(B). Members cannot hold any other public office or position in the local government. S.C. Code § 6-29-870(C).

The zoning ordinance may set membership qualifications for the board, including specific professional or residency qualifications. The governing body making the appointments can remove board members. A finding of cause is not required. S.C. Code § 6-29-870(B). The governing body decides the amount of compensation, if any, for board members. S.C. Code § 6-29-870(C).

Powers and Authority of the Board

The zoning ordinance provides the powers of the board of architectural review. These powers will differ among various local governments depending on what purposes the local governing body is trying to achieve. It is critical to the board's operation for the zoning ordinance to state clearly the board's powers and duties. The ordinance should specifically state what matters the board can and cannot consider. Broad, general language in the zoning ordinance can lead to unnecessary conflict and dissension. S.C. Code § 6-29-880.

Appeals

1. **Appeal to board.** A party may appeal from the zoning administrator or other administrative official actions for matters under jurisdiction of the board of architectural review. S.C. Code § 6-29-880. The appeal follows essentially the same procedure as an appeal to the board of zoning appeals. S.C. Code § 6-29-890. The following steps should be taken in an appeal:

    a. The party must file notice of appeal with the board and the officer from whom the appeal is taken within the time provided by the zoning ordinance or rules of the board.

    b. The officer appealed from must send the board all documents in the record upon which the action appealed was taken.

    c. An appeal stays all proceedings to enforce the action, unless the officer certifies that a stay would cause imminent peril to life and property. The board or circuit court may grant a restraining order.

    d. The board sets a reasonable time for hearing the appeal, giving public notice, and giving notice to parties in interest. The Planning Act does not set the time limit for giving notice. The zoning ordinance should set the time limit.

    e. A party may appear in person or be represented at the hearing by an agent or attorney.

    f. The board may remand a matter to an administrative official if it determines the record is insufficient for review. The board must set a time for rehearing the remanded matter within sixty days unless another time is agreed by the parties. No public notice is required for the rehearing, but notice is required to anyone who has expressed interest in the matter. S.C. Code § 6-29-890.

    EDITOR'S NOTE: Although the statutes do not specifically require the following two steps, they follow the board of zoning appeals' procedures. The board of architectural review should use these procedures also.

    g. The board should conduct the hearing following its adopted procedural rules. The written decision should include findings of fact and conclusions of law. The board should develop a form for decisions or adopt the sample form for board of zoning

appeals decisions. See Appendix U for a sample order.

h. The board should serve a copy of its decision on parties in interest by certified mail and keep a copy as a permanent public record.

2. Appeal to Council. There is no provision for an appeal from any administrative officer or the board of architectural review action to the governing body.

3. Appeal to Circuit Court

a. Petition. A person having a substantial interest in a decision may make an appeal from a board decision to circuit court. The person must file a written petition with the clerk of court stating why the decision is contrary to law. The person must file the appeal within thirty days of receiving notice of the decision of the board. Although not required, the party should serve the petition on the board. The clerk of court is required to give immediate notice of the appeal to the board secretary.

A 2003 amendment to the Comprehensive Land Use Act allows parties affected by a decision of a board of architectural review to opt for pre-trial mediation. A party may file a notice of appeal with a request for pre-litigation mediation. Notice must be filed within thirty days after the decision of the board is postmarked. S.C. Code § 6-29-900(B).

b. Transcript. Within thirty days after notice from the clerk of court, the board must file with the clerk of court a certified copy of the board proceedings, a transcript of testimony, evidence, and the board decision including findings of fact and conclusions. S.C. Code § 6-29-920. There is no requirement for the board to serve the certified record on parties in interest; however, the attorney should file a return to the petition and send it with a copy of the certified record to the counsel for appealing party.

c. Standard of Review. The board's findings of fact are final and conclusive on review. The court may not take additional evidence. The court may determine only whether the board decision is correct as a matter of law. The court must allow the board decision to stand if there is any evidence in the record to support it. If the record is insufficient for review, the circuit court judge must send it back to the board for rehearing. S.C. Code § 6-29-930. See Wells v. Finley, 260 S.C. 291, 195 S.E.2d 623 (1973).

4. Appeal to Supreme Court. A party may appeal a circuit court decision to the Supreme Court in the same manner as other circuit court judgments. S.C. Code § 6-29-940. A party must serve a notice of appeal to the Supreme Court within thirty days after receiving written notice of entry of the order of the circuit court.

Enforcement

The zoning ordinance creates the board of architectural review and its regulations. Therefore, enforcement of the board regulations and orders is done in the same manner as for zoning regulations and orders. See Chapter 4.

Historic Preservation Ordinance

A local government may encourage preservation of the character of the community through a local board of architectural review. S.C. Code §§ 6-29-870 and 6-29-880. Some communities rename these boards, using "historic preservation" or "landmarks" in the title. Local historic preservation legislation may be a part of the zoning ordinance. It could be a separate ordinance that is incorporated into the zoning ordinance by reference to comply with S.C. Code § 6-29-870(A).

Historic Preservation Ordinance Elements

A preservation ordinance should contain procedures and standards for designating historic property, setting design guidelines, and reviewing proposed changes to historic properties. It is suggested the following be included in a historic preservation ordinance.

1. **Title.** Architectural review, historic preservation, and landmarks are terms used in existing ordinance titles.

2. **Purposes.** The generally stated purposes are to protect, preserve, and enhance the distinctive architectural heritage and history of the community; to promote educational, cultural, economic, and general welfare; to ensure harmonious, orderly, and efficient growth and development; to strengthen the local economy; and to stabilize and improve property values.

3. **Legal authority.** S.C. Code §§ 6-29-870 and 6-29-880 should be referenced.

4. **Definitions.** Key terms, especially those having a particular technical meaning (e.g., historic district, historic property, landmark, substantial hardship) should be defined in the ordinance.

5. **Creation of Board.** If a board is created specifically for historic preservation, the following factors should be considered.

    a. **Qualification.** The board should have both an architect and a historian, if available. All members should have a demonstrated interest in historic preservation.

    b. **Powers and duties.** The board approves, denies, or approves with conditions the demolition or alteration of building exteriors. It also reviews proposed new construction in a historic district. The board should maintain an inventory of local historic properties, promote education about historic preservation and procedures,

review and comment on National Register nominations, and exercise other duties specifically needed by a community.

c. **Designation of historic properties.** Based on the local inventory and criteria, the board recommends individual properties to the local governing body for historic property designation. The process includes owner notification and public hearings.

d. **Design guidelines.** The board uses guidelines set by the ordinance for reviewing applications. Typically, the U.S. Secretary of Interior's "Standards for Rehabilitation" are incorporated by reference and used with additional local standards.

e. **Application procedure.** The ordinance should establish a process for changes that require a permit, the application procedure itself, required documents, exterior elements included in the permit, and the requirements for a certificate of appropriateness as a condition for receiving a building permit.

f. **Appeal.** The appeal process is described earlier in this chapter. For example, substantial economic hardship may be the basis for appeal of a design review decision.

g. **Substantial hardship.** When denying a certificate of appropriateness results in substantial economic hardship, the ordinance may allow the owner to reapply to the board citing the hardship. Economic hardship should not be allowed as a basis for review until an application is rejected for noncompliance with the design guidelines.

6. Enforcement. Enforcement is discussed in Chapter 4.

Chapter 4
Zoning Enforcement Procedures

As with any law, the zoning ordinance will only be as effective as its level of enforcement. Enforcement is normally the zoning administrator's day-to-day responsibility.

The Planning Act makes it unlawful, after the adoption of a zoning ordinance, to construct, reconstruct, alter, demolish, change the use of, or occupy any land, building, or other structure without first obtaining the appropriate permit. It is likewise unlawful for any other local government official to issue any permit without the zoning administrator's approval. A zoning ordinance violation is a misdemeanor.

The Planning Act establishes the following four enforcement procedures for dealing with zoning ordinance violations. S.C. Code § 6-29-950.

Stop Orders

The zoning ordinance may authorize stop orders against any work undertaken without a proper building or zoning permit. S.C. Code § 6-29-950(A). See Appendix T for a sample order.

The zoning administrator may issue a stop order. This requires all activities violating the zoning ordinance to cease. S.C. Code § 6-29-950(B). The zoning ordinance should state that failure to comply with a stop order is unlawful. This allows violators to be punished.

The stop order should inform a violator of his right to appeal the decision of the zoning administrator to the board of zoning appeals.

The zoning ordinance should set procedures for serving stop orders, including hard-to-locate property owners and persons working on the property. The ordinance should also establish procedures for posting the order on the property.

A stop order is a useful tool when the offending party is operating under some mistake and will voluntarily comply with the order. If the violation is willful, the party may ignore a stop order. Another enforcement method such as an injunction, an ordinance summons, or a warrant may be necessary to achieve results. Neither the zoning administrator nor the board of zoning appeals has authority to hold a violator in contempt for refusing to comply with a stop order.

Injunction and Mandamus

The zoning administrator, other local government officer, a local government attorney, or a neighboring property owner specifically damaged by a zoning ordinance violation can start an action for injunction in circuit court. To successfully obtain an injunction for a zoning violation, a county must show that it has an ordinance covering the situation and that the ordinance has been violated. S.C. Code § 6-29-950(A).

An injunction prohibits property uses contrary to the zoning ordinance. In some cases, it can require the removal of unauthorized structures. The local government should consult its attorney when an injunction is deemed necessary.
Mandamus is the highest writ known to the law. It is an order issued to compel a public official to perform his ministerial duty. S.C. Code § 6-29-950(A) apparently gives a citizen the right to seek a writ of mandamus in circuit court to require a zoning official to enforce the zoning ordinance. Mandamus is not directed at the property owner violating the zoning ordinance. It is very rare for a zoning administrator to refuse to enforce the zoning ordinance and be subjected to a mandamus action.

Ordinance Summons

Under S.C. Code § 56-7-80, local governments can adopt an ordinance allowing them to use an ordinance summons for local ordinance violations. Violation of any ordinance adopted pursuant to the Planning Act is a misdemeanor. S.C. Code § 6-29-950(A).

The ordinance summons is similar in concept to the uniform traffic summons; however, the ordinance summons may not be used for traffic offenses. The uniform traffic summons may not be used for zoning ordinance violations.

The ordinance summons is a very useful enforcement tool. Any authorized code enforcement officer, including a zoning official, can issue an ordinance summons. No arrest is made, and no bond is collected by the issuing officer. The summons gives a magistrate or municipal judge jurisdiction to try the case. The summons provides a procedure for posting bonds. The court may impose a monetary fine and/or confinement in jail upon conviction, plus an assessment of state mandated costs.

For most ordinance violations, the ordinance summons offers a generally preferred alternative to an arrest warrant. The official issues the ordinance summons when a violation is found. He must personally observe the violation and cannot issue a summons based on information from another party. The official must personally serve the summons on the offender. He takes no further action unless the case goes to trial. In case of a trial, the official must appear as a prosecuting witness. The offender may post and forfeit bond, request a trial by jury, or agree to a court trial.

Warrant

An arrest warrant may be obtained for a zoning ordinance violation, just as for any other ordinance violation. A magistrate, municipal judge, or ministerial recorder can issue an arrest warrant. The person making the charge must sign an affidavit giving facts sufficient to constitute probable cause that a violation has occurred. Any person with knowledge of the facts may file an affidavit for a warrant. The judge determines from the affidavit whether probable cause exists. If so, he issues the warrant, which must be served by a law enforcement officer.

When a warrant is served, the offender is taken into custody, booked, and held until a judge conducts a bond hearing. After bond is posted or the offender is released on his own recognizance, the case is set for trial. The case is settled by bond forfeiture, court trial, or jury trial if the offender requests one. If the case goes to trial, the person signing the affidavit must testify as a prosecuting witness.

If convicted, the court may impose a fine and/or confinement on the violator, as well as assessment of costs.

An offender's conviction does not guarantee the condition or use contrary to the zoning ordinance will be corrected. The conviction may indirectly cause compliance because each day of violation is a separate offense. Few people want to run the risk of repeated prosecution. Magistrates and municipal judges do not have the authority to issue injunctions or orders requiring compliance with the zoning ordinance.

PRACTICE POINTER: The ordinance summons procedure is generally preferred over a warrant. The option to seek the arrest of a person for a zoning violation should be limited to severe violations only. The arrest and detention of a citizen triggers numerous constitutional issues and additional costs to the county. The county or municipal attorney should be consulted before a warrant is sought.

Conflict With Other Laws

There are many other statutes, ordinances, and regulations concerning structures and property for protection of public health and safety. There is the potential for those laws and the zoning ordinance to be in conflict. Standard building and fire codes may be adopted by reference. S.C. Code § 6-9-60. State environmental and fire marshal regulations may deal with the spacing and size or configuration of buildings.

If there is a conflict between standards in zoning regulations and standards in other laws or regulations, the more restrictive standards govern. S.C. Code § 6-29-960. This gives the public maximum protection.

Land Use Liability

Federal Liability Law

Constitutional Claims

Federal law § 42 U.S.C. 1983 authorizes persons to sue for damages and other relief for violation of rights secured by the federal Constitution or statute. Many land use claims are brought under this statute. The test is whether the plaintiff's constitutional rights existed, and whether a reasonable individual would have known he was violating these rights. Brickyard Holdings v. Beaufort, 586 F. Supp. 2d 409, (2007).

Takings Claim

A federal takings claim is based on a clause in the Fifth and Fourteenth Amendments to the U.S. Constitution, which prohibits the states from taking private property for public use without "just compensation." A federal takings claim is a claim for money damages that may not be subject to the monetary limits or other protections of the Tort Claims Act. Additionally, a successful claimant may be able to recover compensatory and punitive damages, as well as attorneys' fees. However, a court typically will not hear a takings claim under federal law until the property owner has first sought compensation under state procedures. See Chapter 2 for more information.

Due Process Claims

The Fifth and Fourteenth amendments to the U.S. Constitution also require that no person be deprived of property or liberty without due process of law. Due process in land use cases generally is based on an allegation that an owner was deprived of a property interest without notice or hearing. This type of claim applies to quasi-judicial and administrative actions, not legislative acts. 1To win such a claim, a plaintiff must show that he or she was deprived of the opportunity for an appropriate hearing granted at a meaningful time and conducted in a meaningful manner. For land use proceedings, these claims can usually be defeated by showing that the various requirements of a fair hearing were met. For county officials and employees who exercise quasi-judicial powers - such as hearing rezoning decisions, taking action on a development plan (site plan), granting or denying a variance, or denial of a special use permit - care must be taken to ensure proper notice and a fair hearing are given.

Equal Protection Claims

Land use regulations often have the effect of creating different classes of persons. For example, a zoning ordinance may exclude manufactured homes from certain residential zone districts, thereby creating different classes of homeowners. An equal protection claim is based on the allegation that the claimant is among a class of persons that, without reason, is being treated differently than others in violation of the Equal Protection Clause. As long as a claimant is not being discriminated against because of the exercise of a fundamental right (such as the right to vote) or membership in a protected class (such as an ethnic or racial minority), an equal protection claim against a land use regulation is likely to fail. However, the courts will overturn a regulation if the plaintiff can show that the distinctions being made are not rationally related to a legitimate government interest.

A 2007 South Carolina case held that a zoning ordinance prohibiting mobile homes in certain areas did not violate the equal protection clause because the ordinance was rationally related to the legitimate governmental purpose of "providing homogeneous and aesthetically harmonious development of single-family dwellings." Town of Iva v. Holley, 374 S.C. 537, 649 S.E.2d 108 (2007).

Federal Statutory Claims

An increasing number of federal statutes also impact local government land use regulation. These statutes typically provide for specific rights and remedies if violated. The following is not intended as an exhaustive list of federal statutes that affect local land use; rather, it is intended only to identify a few of the significant federal laws that should be of concern to local planning officials.

- **Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968**, as amended, 1prohibits discrimination in housing based on race, ethnicity, national origin, religion, gender, or disability. This Act has been used to challenge local government land use that interferes with the development of low-income housing or housing for mentally handicapped or other disabled persons. See Chapter 2.

- **The Telecommunications Act of 1996**, codified at 47 U.S.C. § 151 et seq., affects the

ability of local governments to regulate the location of wireless telecommunications facilities including towers and dishes. For example, local land use regulations for these facilities cannot discriminate between providers and cannot be based on health effects of radio frequency emissions. A denial for such a facility must be in writing and supported by substantial evidence in a written record. Providers also have an expedited right of review. Besides the risk that its decision will be reversed, local decision makers could be subject to § 1983 liability, though the law is unsettled on this issue.

- **The Sherman Antitrust Act**, 15 U.S.C. § 1 et seq., and later amendments to federal antitrust law prohibit acts to monopolize markets or restrain trade, or to conspire to do these things. While local governments enjoy several protections against antitrust liability and few successful cases against zoning officials have been reported, the potential liability should still be considered. For example, a credible case exists where a zoning board acts in concert with a major developer to "zone out" its competitors.

- **The Endangered Species Act of 1973**, 16 U.S.C. § 1531 et seq., can impose additional requirements on land use development. For example, the United States Supreme Court has upheld regulations stating that the Act's prohibition on the taking of endangered species includes private activities that result in significant habitat modification. This may have the effect of prohibiting uses that might otherwise be permitted under local zoning regulations.

State Law

The South Carolina Tort Claims Act, S.C. Code § 15-78-10 et seq., provides immunity to government officials and employees when acting in the scope of their official duties. S.C. Code § 15-78-70(a). The Act does not provide immunity if the person acts outside the scope of his duty or if the act constituted fraud, actual malice, intent to harm, or a crime involving moral turpitude. S.C. Code § 15-78-70(b). Employees and officials covered under this act include zoning administrators, planning commission members, board of zoning appeals members, and board of architectural review members.

Chapter 5
Land Development Regulation

Land development regulations govern the conversion of raw land into subdivided lots for the construction of buildings and other structures. In the past, these types of local government requirements have been typically referred to as "subdivision regulations." Current planning practice utilizes land development regulations to control site design, street layout, provisions for water and sewer service, and other matters related to the conversion of land for development.

The Planning Act recognizes that land development takes many forms. The traditional subdivision is just one type of land development. Under the Planning Act, local governments have explicit authority to adopt site improvement regulations with standards and requirements for land developments that do not subdivide land into separate parcels.

The local governing body must adopt at least the community facilities element, the housing element, and the priority investment element of the comprehensive plan before it can adopt land development regulations. S.C. Code § 6-29-1130.

Definitions

S.C. Code § 6-29-1110 contains definitions that are applicable to all of Chapter 29.

1. **Land development** is a change in land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, or similar developments for sale, lease, or any combination of owner and rental characteristics.

2. **Subdivision** is a division of a tract or parcel of land into two or more lots, building sites, or other divisions. The land is divided for sale, lease or building development, whether immediately or in the future. The definition includes all land divisions involving a new street or change in existing streets. It includes re-subdivisions involving the further division or relocation of lot lines of any lot or lots within a previously approved or recorded subdivision. The definition covers the alteration of any streets or the establishment of any new streets within any previously approved or recorded subdivision as well as combinations of lots of record.

   The following exceptions are included within this definition only for the purpose of requiring that the local planning agency be informed and have a record of the subdivisions.

   a. Combining or recombining portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the ordinance standards.

   b. Dividing land into parcels of five acres or more where no new street is involved. The planning commission must receive plats of these exceptions as information and indicate that fact on the plats.

   c. Combining or recombining entire lots of record where no new street or change in

existing streets is involved.

3. **Affordable housing** is housing where the total cost for a dwelling unit for sale - including mortgage, amortization, taxes, insurance, and condominium or association fees - constitutes no more than 28 percent of the annual household income for a household earning no more than 80 percent of the area median income, by household size, as reported by U.S. Housing and Urban Development (HUD). In the case of rental units, the total cost for rent and utilities can constitute no more than 30 percent of the annual household income for a household earning no more than 80 percent of the area median income, by household size, as reported by HUD.

4. **Traditional neighborhood design** is development designs intended to enhance the appearance and functionality of a new development so that it functions like a traditional neighborhood or town. These designs make possible higher residential densities, a mixture of residential and commercial land uses, single- and multi-family housing types, and pedestrian- and bicycle-friendly roadways. Overall, the aim of this portion of the act is to encourage local governments to reevaluate their comprehensive plans in such a way as to slow the growth of sprawl, prioritize projects and funding, and create new stocks of affordable housing throughout the state.

Purpose of Land Development Regulations

Land development regulations, including the traditional subdivision regulations, are police power regulations. To promote the public health, safety, economy, good order, appearance, convenience, and general welfare requires harmonious, orderly, and progressive land development. S.C. Code § 6-29-1120.

With an ordinance, local governments can set land development regulations for the following purposes, among others.

1. Encourage the development of economically sound and stable counties and municipalities.
2. Assure the timely provision of required streets, utilities, and other facilities and services to new land developments.
3. Assure safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments.
4. Assure the provision of needed public open spaces and building sites in new land developments by dedicating or reserving land for recreational, educational, transportation, and other public purposes.
5. Assure, in general, the wise and timely development of new areas or redevelopment of areas in harmony with the adopted local government comprehensive plan.

Requirements That May be Included

Land development regulations may include requirements and standards for the following activities. S.C. Code § 6-29-1130.

1. Coordinating street improvements with existing or planned streets**.**
2. Installing the development water system**.**
3. Installing the development sewer system or septic tanks.
4. Ensuring population and traffic is distributed in the interest of health, safety, convenience, appearance, prosperity, or the general welfare.
5. Requiring dedication of land for streets, schools, recreation, utility easements, and public services and facilities.
6. Installing other utility mains, piping, connections, or other facilities as a condition before approving the land development plan**.**
7. Regulations for building on sites subject to flooding**.**
8. If the local government requires site improvements before issuing final approval for recording, the developer may be required to post a surety bond, certified check, or other instrument readily convertible to cash. The amount must equal at least 125% of the cost of the required improvement. S.C. Code § 6-29-1180.

Adoption and Amendment

The local governing authority may adopt and amend land development regulations by ordinance after a public hearing. It must publish at least thirty-days' notice of the time and place of the public hearing in a general circulation newspaper in the community. S.C. Code § 6-29-1130(B).

Enforcement

The following must be done to ensure approval of all new land developments or changes to existing developments.

1. **Recording.** Subdivision plats or other land development plans that have not been properly approved may not be filed or recorded in the county office where deeds are recorded. S.C. Code § 6-29-1140.

2. **Building permit.** The local government cannot issue a building permit until the plat or plan bears the stamp of approval and is properly signed by the authority designated in the adopted regulations. S.C. Code § 6-29-1140.

3. **Bond.** If the developer defaults in installing required improvements, the local governing body can use the surety posted by the developer to install the required improvements. S.C. Code § 6-29-1180.

4. **Transfer of Title.** The owner of land being developed may not transfer title to lots of the property until the land development plan or subdivision has been approved by the planning commission or designated authority, and the approved plan has been recorded by the county. S.C. Code § 6-29-1190.

Penalties for Violation

Submitting an unapproved subdivision plat or other land development plan for filing or recording is a misdemeanor. A conviction is punishable as provided by law. The land developer, register of deeds, or clerk of court could violate the law by recording an unapproved plat or land development plan.

The property owner or the owner's agent may not transfer title to any lots or plats being developed unless the local planning commission or designated authority approves the land development plan or subdivision. The approved plan or plat must be recorded in the county office responsible for recording deeds, plats, and other property records. A title transfer violating this provision is a misdemeanor. If convicted, the court decides the punishment. A description by metes and bounds in the instrument of transfer or other document used in the transfer process does not exempt the transaction from these penalties. The local government or a private party may prohibit the transfer by taking appropriate actions. S.C. Code § 6-29-1160.

Administration

Previous legislation made the planning commission the administrator of subdivision regulations adopted by the local governing body. Under the new legislation, this procedure may still be used. Many jurisdictions that have subdivision regulations rely on the professional staff to review and approve of plats. The new legislation legitimizes this approach.

Land development regulations must have a specific procedure for submitting plans to the planning commission or designated staff for approval or disapproval. S.C. Code § 6-29-1150.

Determining the Existence of Restrictive Covenants

A local planning agency must inquire from an applicant for a planning/development permit whether the tract or parcel of land is restricted by any recorded covenant that conflicts with or prohibits the proposed activity. If the agency has actual notice of the existence of a covenant that prohibits the activity, it must not issue the permit. The statute makes it clear that the agency must have actual knowledge rather than vague constructive notice of the restriction. The county can have actual notice if they receive evidence of the restriction from a permit application, other information submitted by the applicant, or from third-parties such as neighboring land owners. The statute further provides that a permit does not include permits to erect or place a structure on the parcel, and that a restrictive covenant does not include restrictions on the types of structure that may be built or placed on a parcel. S.C. Code § 6-29-1145.

PRACTICE POINTER: An agency does not have to make an individual search of the Register of Deeds or Clerk of Courts' documents to determine the existence of a restriction. They must include a notice on permit application to direct applicants to provide the information. Failure of an applicant, or third-parties to provide the information does not extend liability to the agency or its staff.

Plat and Plan Approval

Land development regulations must include time limits, not to exceed sixty days, for approving or disapproving subdivision plats or other land development plans. Unless that time limit is extended by mutual agreement, failing to act within the time limit constitutes approval of the plat or plan. The commission or staff must send the developer a letter of approval and authorization to proceed based on the plans (or plats) and any other supporting documentation presented. S.C. Code § 6-29-1150(A). If the plat or plan is not approved, a written statement detailing the deficiencies should be sent to the developer.

Surety Bond for Completion of Site Improvements

Where the local land developments require the installation and approval of site improvements prior to the approval of the development plan or subdivision plat for recording a developer may post a surety bond, certified check or other financial instrument. The surety must be made in favor of the local government to ensure that in the event of a default by the developer, funds will be available to be used to install the required improvements at the expense of the developer.

Record of Actions and Notification

A record of all actions approving or disapproving plats and plans must be kept as a public record. The record must include the grounds for approval or disapproval and any attached conditions. The commission or staff must notify the developer in writing of the approval or disapproval. S.C. Code § 6-29-1150(B).

Appeals

If the planning commission is designated as the approving authority, a party may appeal from a commission action to the circuit court. The party must appeal within thirty days after actual notice of the decision.

If the planning staff is designated as the approving authority, a party may appeal a staff action to the planning commission. The planning commission must act on the appeal within sixty days. The planning commission's action is final. A party may appeal the decision to circuit court within thirty days of actual notice of the decision.

EDITOR'S NOTE: Actual notice is not defined in the Act. S.C. Code § 6-29-1150(D)(3) provides that the notice of appeal and request for pre-litigation mediation is to be filed no later than 30-days after the order is mailed.

Dedication of Streets or Property

Land development regulations may require dedication of land for streets, schools, recreation, utility easements, and public services and facilities. S.C. Code § 6-29-1130. Approval of a land development plan or subdivision plat does not automatically mean the local government body or the public has accepted the dedication of any street, easement, or other property shown on the approved

plat. S.C. Code § 6-29-1170.

The land development ordinance or other local ordinance should establish the procedure and action required by the governing body before a street, easement, or other property is accepted as public property.

Street Names

The planning commission is traditionally responsible for approving street names in its area of jurisdiction. In many jurisdictions this responsibility has either been given to E-911/emergency management or is shared between the two agencies.

After reasonable notice in a general circulation newspaper in the community and public hearing, the local agency may change the name of an existing street or road within its jurisdiction, when one of the following occurs.

1. There is duplication of names which tends to confuse the public or persons delivering mail, orders, or messages.

2. A change may simplify markings or giving directions to persons looking for an address.

3. Any other good and just reason that may appear to the commission.

The local agency will issue its certificate designating the change. It is recorded in the office of the register of mesne conveyances or clerk of court. The changed and certified name becomes the legal name of the street. S.C. Code § 6-29-1200.

Chapter 6
Official Map

As the various elements of the comprehensive plan are developed and adopted, rights-of-way or property for public use may be needed. The official map permits local governments to reserve for public or government use any street, highway or utility right-of-way, building site, or open space for future public acquisition. The map may be used to regulate structures or land use changes in those rights-of-way, building sites, or open spaces. S.C. Code § 6-7-1220.

Use of this power reserves the government's rights before the owner changes the land use or develops it to make future acquisition for public use impractical. The locality may use it as a tool to help implement its comprehensive plan.

Definition

"Official map" means "a map or maps showing the location of existing or proposed public streets, highways, public utility rights-of-way, public building sites, and public open spaces." S.C. Code § 6-7-1210. A public building site is defined as "one on which a public building will be constructed using public funds." S.C. Code § 6-7-1210.

Official Map Prerequisites

Before adopting an official map, the governing body must adopt the comprehensive plan element corresponding to the purpose for the map. S.C. Code § 6-7-1240.

After adopting the major street portion of the comprehensive plan, the local planning commission may secure surveys for the exact location of the lines for proposed new, extended, widened, or otherwise improved streets and highways in all or any part in its jurisdiction. The planning commission certifies the map to the local governing body for adoption.

After the comprehensive plan element showing the public building sites, public open spaces, or public utilities is adopted, the local planning commission may secure surveys of the exact location of the boundary lines for proposed new and enlarged sites for public buildings, public parks, public playgrounds, public utilities, and other public open spaces in all or any part of its jurisdiction. The planning commission certifies the map to the local governing body for adoption.

The official map recommended by the planning commission may consist of several separate maps drawn to different scales. These maps must be indexed on a single map of the local jurisdiction. S.C. Code § 6-7-1230.

Official Map Adoption

A map becomes official upon adoption by the local governing body. Before adopting the map recommended by the planning commission, the governing authority must hold an advertised public hearing conducted according to procedures prescribed by law. If no established procedure exists, the governing body must publish at least fifteen days' notice of the hearing time and place in a general

circulation newspaper in the community. S.C. Code § 6-7-1250.

The governing authority may add or change the official maps. Before making any changes, it must give the local planning commission thirty days to submit a report and recommendation on the proposed changes. The governing body must hold a public hearing before adopting the maps. If the planning commission fails to submit a report within the thirty-day period, it is considered to have approved the proposed changes. S.C. Code § 6-7-1260.

Once adopted, the official map governs the designation of property, and constitutes a matter of law. Parties seeking approval to develop land should confirm the designation of such land against the official map, and not rely upon information informally provided by staff or other officials. See Quail Hill LLC v. Richland County, 387 S.C. 223, 692 S.E.2d 499 (2010).

Enforcement and Appeal Procedure

Permits cannot be issued for constructing, improving, repairing, or moving any building or structure on property reserved by the official map. Permits cannot be issued for any change in a land use for property reserved by an official map.

Denying a permit triggers the following appeal procedure for the affected property owner.

1. The owner must present the appeal to the local planning commission.

2. The planning commission must evaluate the appeal. It must make a report within thirty days to the local governing body and to any other appropriate public agency. If no report is made within thirty days, the planning commission is considered to have recommended the appeal be granted.

3. The planning commission report must recommend one of the following outcomes.

    a. The governing body take official action to exempt the affected land from the official map's restrictions.

    b. The governing body take official action to authorize the desired permits subject to specified conditions.

    c. The governing body initiate appropriate action to acquire the property.

4. After receiving the planning commission report, the governing body must do one of the following within 100 days.

    a. Take official action exempting the affected land from the official map’s restrictions.

    b. Take official action authorizing the denied permits subject to specified conditions accepted by the owner.

    c. Either enter into an agreement to acquire or institute condemnation proceedings to

acquire the affected property. The governing body or other appropriate public agency can take action to acquire the property. For example, if the affected property is a school site, the school board may acquire the site; if it is a highway right-of-way, the Department of Transportation may acquire the site.

If the governing body fails to act within 100 days of receiving the planning commission report, it is considered to have approved the proposed appeal. In such case, denied permits are issued upon demand. Any applicable zoning provision pertaining to the property must be followed. S.C. Code § 6-7-1270.

Property Exemption Procedure

Any property owner whose property is included on an official map may ask the planning commission for an exemption from the official map restrictions. In such cases, the following procedure must be followed.

1. The local planning commission must evaluate the application. It must make a report within thirty days to the local governing body and any other appropriate public agency. If no report is made within thirty days, the planning commission is considered to have recommended granting the application.

2. The planning commission report must recommend one of the following:

    a. The local governing body take official action exempting the affected property from the official map restrictions.

    b. The governing body initiate action to acquire the property.

3. After receiving the planning commission report, the governing body has seventy-five days to do one of the following:

    a. Take official action exempting the affected property from the official map restrictions.

    b. Enter into an agreement to acquire or institute condemnation proceedings to acquire the affected property. The governing body or other public agency can take the action to acquire the property.

If the governing body fails to act within seventy-five days of receiving the planning commission report, it is considered to have granted the application. Exempting property from the official map does not affect the zoning restrictions applicable to the property. S.C. Code § 6-7-1280.

Chapter 7
Development Agreements

The General Assembly adopted the South Carolina Local Government Development Agreement Act in 1993. S.C. Code § 6-31-10, et seq. The Act authorizes binding agreements for long-term development of large land tracts. The development agreement gives a developer a vested right during the term of the agreement to proceed according to land use regulations in existence on the date of the agreement.

Purpose

The economic impact stemming from the uncertainty for land developments to proceed under laws existing at the time a permit is issued demonstrated a need for development agreements, according to the legislative findings in S.C. Code § 6-31-10. The Act expresses the intent to encourage a stronger commitment to comprehensive and capital facilities planning, providing adequate public facilities, efficient resource use, and reducing development costs.

Development Permits

Development permits include a building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or any other official action permitting the property development. S.C. Code § 6-31-20.

Minimum Requirements

The local government cannot use a development agreement for every land development. There are two threshold requirements the development must meet before an agreement is authorized. S.C. Code § 6-31-40.

1. **Size of property.** A property must contain a minimum of 25 acres of highland. The Act does not define the term "highland." The local ordinance authorizing agreements could define the term (e.g., land above the 100-year flood plain).

2. **Development time.** The time frame for developing property up to 250 acres cannot exceed five years. The time is extended to not more than ten years for property more than 250, but less than 1000 acres. If the property exceeds 1,000 but less than 2,000 acres an agreement may extend to 20 years. The jurisdiction may set any time frame by agreement for property larger than 2,000 acres or property subject to redevelopment under the Military Facilities Redevelopment Act

Contents of Agreement

A development agreement must include the following. S.C. Code § 6-31-60.

1. Legal description of the property and names of legal and equitable owners. A purchaser holding a written contract of sale is an equitable owner and should be a party to the

agreement.

2. The duration of a development agreement varies depending on the size of the property, but must be at least five years to qualify as a development agreement. S.C. Code §6-31-40. An agreement may extend the termination date.

3. Uses permitted, includes population and building densities, and building heights.

4. Public facilities description of who will serve the development and when. The agreement could include requirements for easements and underground utilities. If the development agreement provides that the local government will provide certain public facilities, the development agreement must provide that the delivery date of such public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer.

5. Reservation or dedication of land for public purposes and environmental protection provisions. An environmental impact study may be appropriate.

6. A description of all local development permits needed or approved. A statement should be included that failure to list a permit does not relieve developer from complying with the law.

7. A statement that the development is consistent with the comprehensive plan and land development regulations. See S.C. Code §6-31-70.

8. Conditions, terms, restrictions, or requirements necessary for public health, safety or welfare.

9. Description of provisions for historic preservation and restoration. The agreement should cite local regulations for historic districts and structures.

10. Specific time for completion of development or any phase. The local government may extend the time upon request.

11. Responsible government. If more than one local government is a party to the agreement, specify which is responsible for overall administration of agreement.

12. Other matters. Any other matter not inconsistent with law may be included. The agreement should contain a provision for applying new laws. S.C. Code § 6-31-80(B)(3). (Maps and plans could be required at appropriate development stages.)

A development agreement may be amended or terminated with the consent of the affected parties. S.C. Code § 6-31-100.

Adoption of Agreement

The following steps are required for approving a development agreement.

1. **Hearing.** Before entering into a development agreement, the governing body must hold at least two public hearings. It may authorize the planning commission to conduct the hearing. S.C. Code § 6-31-50(A).

2. **Notice.** Notice of the hearing must be published in a general circulation newspaper in the community. S.C. Code § 6-31-50(B). The notice must specify the property location, proposed uses, and a place where a copy of the agreement may be obtained. (No time limit for publishing the notice is set by the Act. The general ordinance authorizing development agreements should set the time.) The time and place of the second hearing must be announced at the first hearing.

3. **Ordinance.** The governing body must approve each development agreement by adoption of an ordinance. S.C. Code § 6-31-30.

Applicable Laws

1. **Existing law.** Unless otherwise provided by the development agreement, the laws in force at the time the agreement is executed will apply to the property development. S.C. Code § 6-31-80. The rights of electricity and gas suppliers may not be altered or amended. S.C. Code § 6-31-140. The Act does not give the local governing body any extraterritorial authority.

2. **Subsequent law.** A local government may apply subsequently adopted laws to a development under a development agreement if it determines after a public hearing that one of the following conditions is met. S.C. Code § 6-31-80.

    a. **No conflict**. The new laws do not conflict with laws governing the development agreement and do not prevent the development.

    b. **Essential.** The new laws are essential to public health, safety, or welfare. They expressly state that they apply to the development subject to the agreement.

    c. **Anticipated.** The specific laws are anticipated and provided for in the development agreement.

    d. **Changes.** Substantial changes have occurred which would pose a serious threat to public health, safety, or welfare if not addressed.

    e. **Inaccuracy.** The development agreement is based on substantially and materially inaccurate information supplied by the developer.

Review

Ordinances establishing procedures for development agreements must include a provision for periodic review by the zoning administrator or other appropriate officer at least every twelve months. The developer must be required to demonstrate good faith compliance with the agreement terms.

S.C. Code § 6-31-90.

When a review reveals a material breach of the agreement, the following steps are taken.

1. **Notice of breach.** A notice of breach containing with particularity the nature of the breach, the evidence supporting the determination, and providing a reasonable time to cure the breach must be sent to the developer within a reasonable time after the review.

2. **Termination.** If the developer fails to cure the breach within the time given, the local governing body may unilaterally terminate or modify the agreement. The developer has the opportunity to rebut the determination or to consent to amend the agreement to meet the concerns raised by the findings and determination of breach.

Annexation or Incorporation

A development agreement remains effective in an annexed or newly incorporated area for the duration of the agreement or eight years from the annexation or incorporation's date, whichever is earlier, provided (1) the application for the agreement was submitted to the government of the unincorporated area before the first signature was affixed to the petition for incorporation or annexation and (2) a development agreement was entered into prior to the election for incorporation or ordinance for annexation. The agreement may be extended by consent of the parties and the municipality for up to fifteen years. Provisions of the agreement may be amended or suspended by the municipality when they produce a danger to public health or safety. S.C. Code § 6-31-110.

Recording Agreement

The developer must record the development agreement in the land records of the county where the property is located. It must be filed within fourteen days after the agreement is executed. The agreement is binding on successors in interest. S.C. Code § 6-31-120.

State and Federal Laws

The development agreement provisions must be modified or suspended to comply with state or federal laws enacted after the agreement is executed. S.C. Code § 6-31-130.

CHAPTER 8
Statutory & Parliamentary Procedures

The Planning Act requires the various boards and commissions to adopt their own rules of business. The majority of South Carolina counties have adopted Robert's Rules of Order Newly Revised (RONR), currently in its 11th edition. RONR is primarily written for private societies and is not well suited for use by legislative bodies, particularly smaller bodies such as county planning commissions and zoning boards. RONR generally does not take into account the type of statutory procedural mandates required of local government entities. For this reason, planning entities that adopt any edition of RONR should concurrently adopt special standing rules to address specific statutory mandates, especially those found in the S.C. Freedom of Information Act (FOIA).

Rules of Procedure

Each of the various planning and zoning boards/commissions must adopt rules of procedure. S.C. Code § 6-29-360. It is essential for boards and commissions to adopt and follow clear and adequate rules of procedure. At a minimum, the rules should cover the following:

1. Election of a chairperson and vice-chairperson and their duties.
2. Appointment of a secretary and the duties.
3. Procedures for calling meetings.
4. Place and time for meetings.
5. Posting meeting notices to comply with the Freedom of Information Act.
6. Setting the agenda.
7. Quorum and attendance requirements.
8. Rules and procedure for conducting meetings.
9. Public hearing procedure.
10. Procedure for making and keeping records of actions.
11. Procedure for plan and plat review.
12. Delegation of authority to staff.
13. Procedure for purchase of equipment and supplies.
14. Procedure for employment of staff and consultants.
15. Preparation and presentation of annual budget.
16. Procedure for authorizing members or staff to incur expenses and secure reimbursement.

See Appendices F-H for model rules of procedure for planning commissions, boards of zoning appeals and boards of architectural review.

PRACTICE POINTER: SCAC created model rules for use by local governments. These rules are based on RONR 11th ed., but address statutory mandates unique to ongoing public bodies. For a more detailed discussion of proper rules of procedure for governmental entities please consult "Models Rules of Parliamentary Procedure for South Carolina Counties."

Officers and Terms

The local planning commission and zoning board of appeals must elect one of its members as chairperson and one as vice-chairperson for one-year terms. It must also appoint a secretary. The secretary is usually the planning director, zoning administrator, or similar professional planning employee. The secretary prepares and maintains the minutes of meetings and other records. S.C. Code § 6-29-360.

S.C. Freedom of Information Act (FOIA)

The South Carolina Freedom of Information Act (FOIA), S.C. Code §§ 30-4-10, et seq., requires all public bodies to conduct their meetings in public. Public bodies may go into executive session only for certain enumerated reasons, including receipt of legal advice, employment matters, and contract negotiations. S.C. Code § 30-4-70. The body must give a written public notice of regular meetings at the beginning of each calendar year. The body must also post regular meeting agendas at the meeting place 24 hours before a meeting. Notices and agenda for called, special, or rescheduled meetings must be posted at least twenty-four hours before meetings. The board must notify persons, organizations and news media that request meeting notifications. S.C. Code § 30-4-80. For more information, consult the S.C. Association of Counties publication, the Freedom of Information Act Handbook.

Records

The local boards and commissions must keep a public record of its meetings, resolutions, findings and determinations. S.C. Code § 6-29-360(B). Public records must be made available for inspection and copying within fifteen days after receiving a written Freedom of Information Act request. S.C. Code § 30-4-30. Meeting minutes for the previous six months must be kept available upon demand during normal business hours. S.C. Code § 30-4-30(d)(1). Records must also be kept in compliance with the Public Records Act, § 30-1-10. *et seq.*, and the record retention schedules generated pursuant to that act.

Meetings to Conduct Regular Business

Local boards and commissions must conduct their business by public meeting. Unlike county or town councils, the various planning boards and commissions are not required by statute to meet monthly. Many local boards and commissions do however meet at regular intervals as established by the local jurisdiction. If the body meets regularly, they should post the dates and times at the beginning of the calendar year, and must provide notice and agendas for each meeting at least 24-hours prior to the meeting.

A public body may amend an agenda that has been posted under certain conditions only. Prior to the meeting the agenda may be amended so long as a new 24-hour public notice is provided. If the meeting is in progress, amendments adding an item not previously noticed may only be made by a 2/3 positive majority vote. If the item to be added is one that final action can be taken, then the chair must declare an emergency or exigent circumstance exists and a 2/3 positive majority vote is taken.

Electronic Participation in Meetings

South Carolina FOIA authorizes members of a public body to participate in a meeting by way of electronic means (i.e. telephone, skype etc.) It is up to the body to allow its members to participate in any way other than in person. The body's adopted rules should provide for procedures authorizing such participation and the means to participate. It is advisable that any participation other than in person should be limited to meeting to conduct the business of the body. It is not advisable to allow such participation where the session is a public hearing or quasi-judicial proceeding. Hearings and other judicial proceeding where evidence is presented should be conducted before the members in person.

Public Hearings

Public hearings are the method required by the Home Rule Act for governing bodies to gain input from the public at large. Members should refrain from making comments during the public hearing and should neither enter into debate with the public nor with other members during the public hearing.

Notice. Prior to the hearing, the entity must provide notice of the meeting and agenda for the meeting by public notice at least 24 hours prior to the meeting as required by public meeting provisions of FOIA. In addition there must be posting by and agenda for the meeting, property and by mail as outlined below:

a. **Newspaper and other notice.** An ordinance may establish notice provisions. If not, the Planning Act requires notice be placed in a newspaper of general circulation in the community at least fifteen days prior to the hearing. The notice must list the hearing time and place. Some ordinances require a thirty-day notice. In §30-4-80 of the S.C. Freedom of Information Act, an agenda is required as part of a meeting notice and it must be posted to a bulletin board in the office of the public body or in the building where it will meet or any website the county maintains. See Appendix J for a model notice form. See Appendices I – N for sample notices for a variety of public hearings.

b. **Posting property.** In rezoning cases, the governing body or commission must post conspicuous notices on or adjacent to the property. One notice must be visible from each public street that borders the property.

c. **Mail notice**. If the local government maintains a list of groups requesting notice, it must mail meeting notices to such groups. Some ordinances also require notice by mail to adjacent property owners. This is not required by the Planning Act.

Conduct of the Hearing. The body's adopted rules should outline how the hearing is to be conducted. The Chair should announce the rules governing the hearing at the start of the hearing and enforce those rules as necessary. Order of speakers and time limits are left to the discretion of the body.

Quasi-Judicial Hearings

Planning boards/commissions differ from county council because members of the board/commission often sit in a judicial capacity rather than a legislative one. Quasi-judicial hearings are important because an applicant/appellant's fundamental constitutional rights are involved. The 5th and 14th amendments of the United States Constitution prohibit the taking of property without the due process of law. Due process has been described by the courts as providing a property holder adequate notice, an opportunity to be heard, and judicial review. Other rights that may come into play include the right to be represented by counsel (at the petitioner's expense), and the right to cross examine witnesses.

When conducting a quasi-judicial hearing, the board/commission members take on the role of impartial triers of fact in a dispute involving the legal rights of one or more parties. In a quasi-judicial hearing, members must be careful to provide the basic legal rights due under state and federal constitutions and statutes. Members must base their decisions solely on the evidence presented at the hearing. Members should not discuss the case beforehand or be influenced by the opinions of others who are not a part of the proceedings. Most importantly, when questioning an applicant, the Members should only ask questions or request information concerning facts that are applicable to the jurisdiction's established criteria governing the dispute. A member should never ask an applicant questions concerning personal information that could implicate a protected federal/state right (i.e. issues of race, gender, national origin, orientation, etc.).

PRACTICE POINTER: Due to the judicial nature of an applicant hearing, the body should be careful to avoid the appearance of impropriety. Members of the body must refrain from *ex parte* communications (communications without all parties interested being present) with either the applicant or professional staff of the governing entity. The body's decision must be based solely on the facts and testimony presented by the parties at the hearing. Individual members of the body should not undertake their own investigation of the facts, including making specific site visits to the subject property.

Quasi-judicial hearings are not considered part of the unified court system and strict rules, including the Rules of Evidence and the Administrative Procedures Act, need not be followed. Hearsay evidence can be admitted and considered, if corroborated (Hamilton v. Bob Bennett Ford, 339 S.C. 68, 70, 528 S.E.2d. 667, 668 (2000)), but a decision based solely on hearsay cannot stand (Richards v. City of Columbia, 227 S.C. 538, 88 S.E.2d 683 (1955)).

PRACTICE POINTER: An applicant before a board/commission is not entitled to the full gamut of trial-type procedures and rules. For example, the triers of fact are not prohibited from considering hearsay evidence. See, Kurschner v. City of Camden, 376 S.C. 165, 656 S.E.2d 346 (2008).

CHAPTER 9
Educational Requirements For Planning Officials and Employees

Planning Education Requirement

Within one year of appointment or hire, each appointed planning official and professional employee must attend a minimum of six hours of orientation training. An appointed official or employee may also complete the orientation training before appointment or employment, but may not do so more than 180 days before initial appointment/employment. Once the official or employee has completed the orientation requirement they thereafter must attend three hours of continuing education programming. Each year the County Council or other local governing body must identify the officials and staff required to attend training and provide a list to the Clerk. S.C. Code § 6-29-1340.

PRACTICE POINTER: S.C. Code § 6-29-1340(B) exempts a person from further orientation requirements who has already completed the six hours of orientation from a previous appointment or professional employment, following a break in service. The Code does not restrict the length of time since the previous orientation. The appointee/employee is however required to attend the three hours of annual continuing education.

The Code outlines seventeen areas of training that may be included in training programs, but does not limit training to those topics alone. In order to receive credit for an educational program for orientation or annual continuing education, the program must be approved by the Advisory Committee for Planning Education. The South Carolina Association of Counties is an approved provider of educational programs. The areas of training identified in the Code include (S.C. Code § 6-29-1340(C)):

(1) land use planning;
(2) zoning;
(3) floodplains;
(4) transportation;
(5) community facilities;
(6) ethics;
(7) public utilities;
(8) wireless telecommunications facilities;
(9) parliamentary procedure;
(10) public hearing procedure;
(11) administrative law;
(12) economic development;
(13) housing;
(14) public buildings;
(15) building construction;
(16) land subdivision; and
(17) powers and duties of the planning commission, board of zoning appeals, or board of architectural review.

Officials and Employees Exempt from Education Requirements

The Planning Act provides that an appointed official or professional employee who has one or more of the following qualifications is exempt from the orientation and annual continuing educational requirements S.C. Code § 6-29-1350:

(1) certification by the American Institute of Certified Planners;
(2) a masters or doctorate degree in planning from an accredited college or university;
(3) a masters or doctorate degree or specialized training or experience in a field related to planning as determined by the advisory committee;
(4) a license to practice law in South Carolina.

An appointed official or professional employee who is exempt from the educational requirements must file a certification form and documentation of his exemption with the county Clerk to Council by no later than the first anniversary date of his appointment or employment. An exemption is established by a single filing for the tenure of the appointed official or professional employee and does not require the filing of annual certification forms and conforming documentation. S.C. Code § 6-29-1360.

Failure to Complete Training Requirements

An appointed official may be subject to removal from office and a professional employee may be subject to suspension or termination of employment by the county or other jurisdiction for failing to complete the orientation and annual education requirements within the allotted time frame, or fails to file an exemption certificate as required by S.C. Code § 6-29-1360.

A county or other local planning or zoning entity may not appoint an individual nor employ a professional employee who has been determined to have falsified an exemption certification form or other documentation required by S.C. Code § 6-29-1360.

PRACTICE POINTER: An appointed official, and to a lesser extent a professional employee, who is determined to have failed to meet the training requirements or falsified certification forms could cause significant issues for the county. The individual could potentially cloud the final decisions made by the entity, and subject the county or local jurisdiction to legal liability related to any vote the official participated in after failure/falsification occurred.

APPENDICES

The following forms and models are offered not as the solution for each and every jurisdiction. They are intended to be more of a checklist of provisions you may wish to include in an ordinance, rules of procedure, or some other land use planning process document. We have also tried to point the user to the statute or statutes, if any, which have an impact on the provision suggested so that the user can reference them when crafting a document

It is up to each jurisdiction to decide whether provisions such as term limits or attendance requirements are a positive feature. Some procedural provisions may be necessary to manage a jurisdiction with a large number of land use requests, but be unnecessary in smaller jurisdictions. Many of the features included in these forms are not appropriate for every jurisdiction. On another note, the SCAC legal staff was not comfortable suggesting some provisions which are occasionally seen in practice because of a conservative legal approach. However, this is not to suggest that a provision not seen in these forms is legally suspect.

The bottom line is that these forms are offered as a tool for policy makers, administrative staff and the county attorney to use in crafting a process which serves the needs of their community. If the SCAC staff can be of any assistance in that process, please do call upon us.

APPENDIX A

Model Ordinance:
Establishing a County Planning Commission

WHEREAS, a local planning commission is authorized by S.C. Code § 6-29-320; and

WHEREAS, the creation of a planning commission is a necessary step in implementing the provisions of Chapter 29 of Title 6 of the South Carolina Code of Laws.

NOW, THEREFORE, BE IT ORDAINED by the _____ County Council that the ____ County Code is amended by adding:

SECTION 1. Planning Commission Established.

There is established a planning commission for ____ County, which shall have the powers and duties as set forth in S.C. Code Title 6, Chapter 29, § 6-29-310, et seq.

SECTION 2. Composition of Commission.

The planning commission shall consist of __ (5 to 12 S.C. Code § 6-29-350(A)) members appointed by the County Council. For the initial appointment of planning commission members following adoption of this ordinance, one third of the members shall receive an initial term of one year, one third of the members shall receive an initial term of two years, and one third of the members shall receive an initial term of three years.

Following the expiration of the initial terms as set forth in the preceding paragraph, planning commission members shall have a term of three years so that one third of the commission members' terms expire each year. Members shall serve until their successors are appointed and qualified.

A member may be appointed to no more than __ successive three year terms, without a break in service.

No member of the planning commission shall be an official or employee of _____ County. (S.C. Code § 6-29-350(B)).

Vacancies on the planning commission shall be filled in the manner of the original appointment for the remaining term of office. (S.C. Code § 6-29-350(B)).

SECTION 3. Compensation.

Planning Commission members shall serve without compensation. Reimbursement for actual expenses incurred in the performance of their duties may be reimbursed from appropriated funds pursuant to _____ County reimbursement policies and procedures.

SECTION 4. Removal of Members.

Members of the planning commission may be removed for cause at any time by the _____ County Council. Prior to removal, the county council shall give written notice of at least seven calendar days of the time, date and place of the hearing on the matter to any Commission member being proposed for removal along with the proposed resolution stating the reasons for removal.

The proposed reasons for removal of the Commission member shall presented at the opening of the meeting in the form of the resolution previously presented to the Commission member. A county employee or designated representative shall present any witnesses offering testimony as proof supporting the allegations in the proposed resolution. The Commission member to be removed shall have the right to cross examine any witness presented or address any offering of proof as it is presented. When the county employee or designated representative has finished presenting proof to support the proposed resolution, and the commissioner proposed to be removed, the Commission member will then be given the opportunity to present any witness or other proof in opposition to the proposed resolution. The Commission member may represent himself or be represented by an attorney. All witnesses in the hearing must be sworn and any documents or other evidence must be authenticated by a witness.

The county council shall then vote on the resolution. The Commission member is removed upon a majority vote in support of the resolution for removal. Only those county council members who were present for the hearing on the removal resolution may vote upon the resolution.

SECTION 5. Organization and Rules of Procedure.

The planning commission shall organize, elect a chairman and vice chairman from among the commission members, appoint a secretary who is an employee of ____ County, and adopt rules of procedure, as required by S.C. Code § 6-29-360. The planning commission shall keep records of their resolutions, findings, determinations, and orders.

SECTION 6. Public Hearings.

The planning commission shall hold all public hearings on amendments to the zoning ordinance and map pursuant to S.C. Code § 6-29-760(A).

SECTION 7.

This ordinance is effective _____.

ADOPTED this ___ day of _____, 20__.

APPENDIX B

Model Ordinance:
Establishing a Joint City-County Planning Commission

Editor's Note: Each jurisdiction should adopt a separate ordinance.

WHEREAS, S.C. Code § 6-29-320 authorizes municipalities and counties to establish a joint planning commission; and

WHEREAS, the (City of __ / __ County) has adopted an ordinance approving the terms of the agreement for the joint exercise of the powers granted in the South Carolina Local Government Comprehensive Planning Act of 1994 ("the Planning Act"), found at Chapter 29 of Title 6 of the S.C. Code of Laws, and for the representation of (the City of ___ / ___ County) on the planning commission.

NOW, THEREFORE, BE IT ORDAINED by the (City Council / County Council) of ___, as follows:

SECTION 1. Joint Planning Commission Established.

Pursuant to S.C. Code § 6-29-320, and an ordinance of (___ County / City of ___), there is established a joint planning commission, which shall perform the planning functions in the areas under the jurisdiction of ___ County and the City of ___ . *If necessary: The (City of ___ / ___ County) planning commission is hereby abolished.*

SECTION 2. Joint Planning Commission Membership.

The ___ Joint Planning Commission shall be composed of ___ (5 to 12 S.C. Code § 6-29-350(A)) members. ___ County Council shall appoint individuals for seats one through seven; and _____ City Council shall appoint individuals for seats eight through twelve.

For the initial appointment of planning commission members following adoption of this ordinance, appointees to seats one, four, seven and ten shall receive an initial term of one year, appointees to seats two, five eight and eleven shall receive an initial term of two years, and appointees to seats three, six, nine and twelve shall receive an initial term of three years.

Following the expiration of the initial terms as set forth in the preceding paragraph, planning commission members shall have a term of three years so that one third of the commission members' terms expire each year. Members shall serve until their successors are appointed and qualified.

It is the intent that incorporated and unincorporated portions of the county area be represented on the commission proportionate to the population in each area according to the most recent decennial census. (S.C. Code § 6-29-350(A).

A member may be appointed to no more than __ successive full terms, without a break in service. A partial term shall not be counted for purposes of this term limitation provision.

No member of the planning commission shall be an official or employee of _____ County or the City of __. (S.C. Code § 6-29-350(B).

Vacancies on the planning commission shall be filled in the manner of the original appointment for the remaining term of office. (S.C. Code § 6-29-350(B).

SECTION 3. Compensation.

Planning Commission members shall serve without compensation. Reimbursement for actual expenses incurred in the performance of their duties may be reimbursed from appropriated funds pursuant to reimbursement policies and procedures applicable to the ___ Joint Planning Commission.

SECTION 4. Removal of Members.

Members of the planning commission may be removed for cause at any time by the _____ County Council. Prior to removal, the county council shall give written notice of at least seven calendar days of the time, date and place of the hearing on the matter to any Commission member being proposed for removal along with the proposed resolution stating the reasons for removal.

The proposed reasons for removal of the Commission member shall presented at the opening of the meeting in the form of the resolution previously presented to the Commission member. A county employee or designated representative shall present any witnesses offering testimony as proof supporting the allegations in the proposed resolution. The Commission member to be removed shall have the right to cross examine any witness presented or address any offering of proof as it is presented. When the county employee or designated representative has finished presenting proof to support the proposed resolution, and the commissioner proposed to be removed, the Commission member will then be given the opportunity to present any witness or other proof in opposition to the proposed resolution. The Commission member may represent himself or be represented by an attorney. All witnesses in the hearing must be sworn and any documents or other evidence must be authenticated by a witness.

The county council shall then vote on the resolution. The Commission member is removed upon a majority vote in support of the resolution for removal. Only those county council members who were present for the hearing on the removal resolution may vote upon the resolution.

SECTION 5. Organization and Rules of Procedure.

The __ Joint Planning Commission shall organize, elect a chairman and vice chairman from among the commission members, appoint a secretary who is an employee of the planning commission or an employee of a member jurisdiction of the __ Joint Planning Commission made available to the commission, and adopt rules of procedure, as required by S.C. Code § 6-29-630. The __ Joint Planning Commission shall keep records of their resolutions, findings, determinations, orders, and finances.

SECTION 6. Public Hearings.

The __ Joint Planning Commission shall hold all public hearings on amendments to the zoning ordinance and map pursuant to S.C. Code § 6-29-760(A).

SECTION 7. Finances.

Funding of the __ Joint Planning Commission shall be as follows:

Insert contents of agreement between the county and city.

The __ Joint Planning Commission may purchase equipment and supplies subject to appropriated and generated funds subject to the policies and procedures of ___.

The ___ Joint Planning Commission may cooperate with, contract with, or accept funds from federal agencies, offices and programs; state agencies, offices and programs; local governments; special purpose districts; school districts; public or private agencies; or private individuals or organizations and expend such funds as it may deem necessary.

The __ Joint Planning Commission may enter into contracts for goods and services it deems necessary.

The ___ Joint Planning Commission may employ staff, subject to the availability of funds and the employment and personnel polices ____.

SECTION 8. Effective Date and Conflicts.

This ordinance becomes effective upon adoption by all the member jurisdictions, ___ County and the City of ___.

Upon becoming effective, all ordinances or provisions in conflict with this ordinance, including _____ are hereby repealed.

ADOPTED this ___ day of _____, 20__.

APPENDIX C

Model Ordinance:

Designating County Planning Commission as Planning Commission for Municipality

WHEREAS, a municipality is authorized by S.C. Code § 6-29-330(B) to designate by ordinance the county planning commission as the planning commission of the municipality; and

WHEREAS, __ County Council has adopted an ordinance approving the terms of the agreement for the exercise of the powers granted in the South Carolina Local Government Comprehensive Planning Act of 1994 ("the Planning Act"), found at Chapter 29 of Title 6 of the S.C. Code of Laws, by the county planning commission within the territory of the Town of ___ .

NOW, THEREFORE, BE IT ORDAINED by the Town Council of ___, South Carolina as follows:

SECTION 1. Designation of County Planning Commission

Pursuant to S.C. Code § 6-29-330(B), the ___ County Planning Commission is hereby designated as the official planning commission of the Town of ___, South Carolina, which shall perform all planning functions in the jurisdiction of the Town of __, including the update of the comprehensive plan.

SECTION 2. Zoning Amendments.

(A.) Proposed amendments to the Town of __ zoning ordinance shall be forwarded by the zoning administrator to the County planning commission for review as required by S.C. Code § 6-29-760(A).

(B.)

Option 1:

The planning commission shall give notice, conduct the public hearing, and make a recommendation to the Town of ___ Council within __ days after the receipt of a proposed amendment.

Option 2:

The planning commission shall give notice, conduct the public hearing, and make a recommendation to the Town Council of __ within __ days after receipt of a proposed amendment. Town Council of ___ shall give notice and conduct the public hearing prior to acting on the amendment.

SECTION 3. Land Development Regulations.

The county planning commission shall administer the Town's land development regulations.

SECTION 4. Finances.

Funding of the administrative expense shall be as follows:

Insert contents of agreement between the county and city.

SECTION 5. Effective Date and Conflicts.

This ordinance becomes effective upon adoption by all the member jurisdictions, ___ County and the Town of ___.

Upon becoming effective, all ordinances or provisions in conflict with this ordinance, including _____ are hereby repealed.

ADOPTED this ___ day of _____, 20__.

APPENDIX D

Model Ordinance:
Designating Municipal Planning Commission as Planning Commission for a Designated Portion of the Unincorporated Area of the County

WHEREAS, a county may place an unincorporated area adjacent to an incorporated municipality under the municipal jurisdiction for the purposes of the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, found at Chapter 29 of Title 6 of the South Carolina Code of Laws, pursuant to S.C. Code §§ 6-29-320 and -330; and

WHEREAS, _____ County (hereafter "County") and the City of ____ (hereafter "City") have entered into an agreement, delineating the boundaries of the unincorporated area in the county to be placed under the jurisdiction of the City, the scope of authority the City is to exercise, and the representation on the boards and commissions;

NOW THEREFORE BE IT ORDAINED BY THE _____ County Council that the _____ County Code of Ordinances is amended by adding:

SECTION 1. Designation of City Planning Commission

Pursuant to S.C. Code § 6-29-330(A), the City of _____ Planning Commission is hereby designated as the official planning commission for the unincorporated area adjacent to the City of _____, for which the boundaries are defined below:

(Precise boundaries of the area being placed under the City planning commission)

The City of ____ Planning Commission, in accordance with the agreement between _____ County and the City of _____, shall exercise the following planning functions for the designated area described above:

(Areas of planning function to be exercised by City planning commission in the designated area)

The unincorporated area designated above will be represented, in accordance with the agreement between _____ County and the City of _____, on the City of _____ Planning Commission, City of _____ Board of Zoning Appeals, and Board of Architectural Review as follows:

(Insert agreed upon representation for the designated area on the boards and commissions)

SECTION 2. Zoning Amendments.

(A) Proposed amendments to the _____ County zoning ordinance shall be forwarded by the zoning administrator to the City of _____ planning commission for review as required by S.C. Code § 6-29-760.

(B)

Option 1:

The planning commission shall give notice, conduct the public hearing, and make a recommendation to the ___ County Council within __ days after the receipt of a proposed

amendment.

Option 2:

The planning commission shall give notice, conduct the public hearing, and make a recommendation to the _____ County Council within __ days after receipt of a proposed amendment. _____ County Council shall give notice and conduct the public hearing prior to acting on the amendment.

SECTION 3. Land Development Regulations.

The _____ City planning commission shall administer the County land development regulations in the designated area.

SECTION 4. Finances.

Funding of the administrative expense shall be as follows:

(Insert contents of agreement between the county and city.)

SECTION 5. Effective Date and Conflicts.

This ordinance becomes effective upon adoption by both ___ County and the City of ___.

Upon becoming effective, all ordinances or provisions in conflict with this ordinance, including: ____ are hereby repealed.

ADOPTED this ___ day of _____, 20__.

APPENDIX E

Model Ordinance:
Establishing a County Board of Zoning Appeals

WHEREAS, a local board of zoning appeals is authorized by S.C. Code § 6-29-780; and

WHEREAS, the creation of a board of zoning appeals is a necessary step in implementing the provisions of Chapter 29 of Title 6 of the South Carolina Code of Laws.

NOW, THEREFORE, BE IT ORDAINED by the _____ County Council that the ____ County Code is amended by adding:

SECTION 1. Board of Zoning Appeals Established.

There is established a board of zoning appeals (hereafter "board") for ____ County, which shall have the powers and duties as set forth in S.C. Code Title 6, Chapter 29, § 6-29-780, et seq.

SECTION 2. Composition of Board.

The board shall consist of __ (3 to 9 S.C. Code § 6-29-780(B)) members appointed by the County Council. For the initial appointment of board members following adoption of this ordinance, one third of the members shall receive an initial term of one year, one third of the members shall receive an initial term of two years, and one third of the members shall receive an initial term of three years.

Following the expiration of the initial terms as set forth in the preceding paragraph, board members shall have a term of three years (S.C. Code § 6-29-780(B)) so that one third of the board members' terms expire each year. Members shall also serve until their successors are appointed and qualified.

A member may be appointed to no more than __ successive full terms, without a break in service. A partial term shall not be counted for purposes of this term limitation provision.

No member of the board may be an official or employee of _____ County. (S.C. Code § 6-29-780(B).

Vacancies on the board shall be filled in the manner of the original appointment for the remaining term of office. (S.C. Code § 6-29-780(B).

SECTION 3. Compensation.

Board members shall serve without compensation. Reimbursement for actual expenses incurred in the performance of their duties may be reimbursed from appropriated funds pursuant to _____ County reimbursement policies and procedures.

SECTION 4. Removal of Members.

Members of the board may be removed for cause at any time by the _____ County Council. Prior to removal, the county council shall give written notice of at least seven calendar days of the time, date and place of the hearing on the matter to any board member being proposed for removal along with the proposed resolution stating the reasons for removal.

The proposed reasons for removal of the board member shall presented at the opening of the meeting in the form of the resolution previously presented to the board member. A county employee or designated representative shall present any witnesses offering testimony as proof supporting the allegations in the proposed resolution. The board member to be removed shall have the right to cross examine any witness presented or address any offering of proof as it is presented. When the county employee or designated representative has finished presenting proof to support the proposed resolution, and the commissioner proposed to be removed, the board member will then be given the opportunity to present any witness or other proof in opposition to the proposed resolution. The board member may represent himself or be represented by an attorney. All witnesses in the hearing must be sworn and any documents or other evidence must be authenticated by a witness.

The county council shall then vote on the resolution. The board member is removed upon a majority vote in support of the resolution for removal. Only those county council members who were present for the hearing on the removal resolution may vote upon the resolution.

SECTION 5. Organization and Rules of Procedure.

The board shall organize, elect a chairman and vice chairman from among the board members, appoint a secretary who is an employee of the ____ County, and adopt rules of procedure, as required by S.C. Code § 6-29-790. The board shall keep records of their resolutions, findings, determinations, exhibits, and orders.

SECTION 6. Effective Date.

This ordinance is effective _____.

ADOPTED this ___ day of _____, 20__.

APPENDIX F

Model Ordinance:
Establishing a County Board of Architectural Review

WHEREAS, a local board of architectural review is authorized by S.C. Code § 6-29-870; and

WHEREAS, ___ County has enacted a zoning ordinance which makes special provision for preservation and protection of (historic / architecturally valuable / natural scenic area(s)); and

WHEREAS, the creation of a board of architectural review is a desirable step in implementing the provisions of Chapter 29 of Title 6 of the South Carolina Code of Laws.

NOW, THEREFORE, BE IT ORDAINED by the _____ County Council that the ____ County Code is amended by adding:

SECTION 1. Board of Architectural Review Established.

There is established a board of architectural review (hereafter "board") for ____ County, which shall have the powers and duties as set forth in S.C. Code Title 6, Chapter 29, § 6-29-870, et seq.

SECTION 2. Composition of Board.

The board shall consist of __ (not more than 10) members appointed by the County Council. (A person must have the following professional or educational qualifications to be eligible to serve as a member of the board: ____.) (S.C. Code § 6-29-870(B)).

For the initial appointment of board members following adoption of this ordinance, one third of the members shall receive an initial term of one year, one third of the members shall receive an initial term of two years, and one third of the members shall receive an initial term of three years.

Following the expiration of the initial terms as set forth in the preceding paragraph, board members shall have a term of three years so that one third of the board members' terms expire each year. Members shall also serve until their successors are appointed and qualified.

No member of the board may be an official or employee of _____ County.

Vacancies on the board shall be filled in the manner of the original appointment for the remaining term of office.

SECTION 3. Removal of Members.

Members of the planning commission may be removed for cause at any time by the _____ County Council. Prior to removal, the county council shall give written notice of at least seven calendar days of the time, date and place of the hearing on the matter to any Commission member being proposed for removal along with the proposed resolution stating the reasons for removal.

The proposed reasons for removal of the Commission member shall presented at the opening of the meeting in the form of the resolution previously presented to the Commission member. A county employee or designated representative shall present any witnesses offering testimony as proof

supporting the allegations in the proposed resolution. The Commission member to be removed shall have the right to cross examine any witness presented or address any offering of proof as it is presented. When the county employee or designated representative has finished presenting proof to support the proposed resolution, and the commissioner proposed to be removed, the Commission member will then be given the opportunity to present any witness or other proof in opposition to the proposed resolution. The Commission member may represent himself or be represented by an attorney. All witnesses in the hearing must be sworn and any documents or other evidence must be authenticated by a witness.

The county council shall then vote on the resolution. The Commission member is removed upon a majority vote in support of the resolution for removal. Only those county council members who were present for the hearing on the removal resolution may vote upon the resolution.

SECTION 4. Compensation.

Board members shall serve without compensation. Reimbursement for actual expenses incurred in the performance of their duties may be reimbursed from appropriated funds pursuant to _____ County reimbursement policies and procedures.

SECTION 5. Organization and Rules of Procedure.

The board shall organize, elect a chairman and vice chairman from among the board members, appoint a secretary who is an employee of the ____ County, and adopt rules of procedure, as required by S.C. Code § 6-29-870. The board shall keep records of their resolutions, findings, determinations, exhibits, and orders.

SECTION 6. Effective Date.

This ordinance is effective _____.

ADOPTED this ___ day of _____, 20__.

APPENDIX G

___ County Planning Commission Rules of Procedure

Article I - Organization

SECTION 1. Rules

These rules of procedure are adopted pursuant to S.C. Code § 6-29-360 for the ___ County Planning Commission (hereafter "Commission"), appointed by the __ County Council and must be subject to all applicable laws of this state and ordinances of _____ County.

SECTION 2. Officers

The officers of the Commission shall be a chairman and vice chairman elected for a term of one year at the first meeting of the Commission in each calendar year. The Commission shall appoint a member of the ___ County staff as secretary of the Commission. (S.C. Code § 6-29-360)

SECTION 3. Chairman

The chairman shall be a voting member of the Commission and shall:

a. Preside at meetings and hearings of the Commission;

b. Act as spokesman for the Commission;

c. Sign documents for the Commission; and

d. Perform any other duties as approved by the Commission.

SECTION 4. Vice Chairman

The vice chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the event of the absence, disability, or disqualification of both the chairman and vice chairman, an acting chairman shall be elected by the members present.

SECTION 5. Secretary

The secretary shall:

a. Provide notice of meetings in accordance with the requirements in Chapter 29, Title 6 of the S.C. Code of Laws, S.C. Code § 30-4-80 and Commission adopted requirements as appropriate;

b. Assist in the preparation of the agenda;

c. Keep minutes of meetings and hearings in accordance with S.C. Code § 30-4-90 and Commission adopted requirements;

d. Maintain Commission records the Public Records Act, S.C. Code § 30-1-10, et seq. and county policy;

e. Attend to Commission correspondence; and

f. Perform others duties assigned by the chairman or Commission.

h. Attend to Board correspondence; and

i. Perform others duties assigned by the chairman or Board.

Article II - Meetings

SECTION 1. Time and Place

A schedule of regular meetings for the upcoming year must be adopted prior to the first of the year and shall be published and posted on a bulletin board in the Commission meeting place (and

on the County website). The schedule of regular meetings shall also indicate the time and place of those meetings. Special meetings may be called by the chairman or a majority of the Commission members. Meetings shall be held in the place stated in the notice of the meeting and shall be open to the public, unless closed as allowed by the Freedom of Information Act, Chapter 4 of Title 30, or other provision of the S.C. Code of Laws. (S.C. Code § 30-4-80)

SECTION 2. Agenda

Any Commission member may place an item on the next Commission agenda by sending a written or electronic description of the matter to the chairman and the secretary at least six days in advance of that meeting, but not after public notification and posting of a Commission meeting. A written agenda for a meeting shall be furnished by the secretary to the members of the Commission at least five days in advance of any meeting. The final written agenda (with Review Sheets, if any,) shall be published and posted on a bulletin board in the Commission meeting place (and on the County website) at least twenty-four hours in advance of any regular or special meeting. (S.C. Code § 30-4-80).

The agenda for the meeting shall not be amended once published, except in compliance with the Freedom of Information Act, Chapter 4 of Title 30 or other provision of the S.C. Code of Laws. Once a Commission meeting has begun, the agenda may be amended upon two-thirds vote of the Commission members present and voting and in compliance with the Freedom of Information Act, Chapter 4 of Title 30, or other provision of the S.C. Code of Laws.

SECTION 3. Quorum

A majority of the members of the Commission shall constitute a quorum. A quorum is necessary to conduct any business other than rescheduling the meeting.

SECTION 4. Rules of Order

The (Model Rules of Parliamentary Procedure for South Carolina Counties / __ Edition of Robert's Rules of Order Newly Revised) shall govern the conduct of Commission meetings unless otherwise provided in these Rules of Procedure.

SECTION 5. Voting

A member must be present to vote. Each member shall vote unless disqualified by law (including, but not limited to, County ethics ordinances and S.C. Code § 8-13-700). Disqualification shall be decided by the member affected, who shall furnish a copy of the reason to the presiding officer, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes.

SECTION 6. Conduct

Except for public hearings, no person shall speak at a Commission meeting unless invited to do so by the Commission.

Article III - Public Hearings

SECTION 1. Notice

The secretary shall give notice required by statute, ordinance or these rules for all public

hearings conducted by the Commission.

Members of the public desiring to be heard shall give written notice to the secretary prior to commencement of the hearing which may be accomplished by a sign in sheet at the meeting. In its discretion, the Commission may, by majority vote, allow members of the public who did not give prior notice prior to the commencement of the public hearing to speak.

SECTION 2. Procedure

OPTION A

In matters brought before the Commission for public hearing by an applicant, the secretary shall present the background information from Review Sheet. The applicant, his agent or attorney, shall be heard first, members of the public next, and staff next. The applicant shall have the opportunity to reply last. No person may speak longer than five minutes without the consent of the Commission. No person speaking at a public hearing shall be subject to cross-examination. All questions must be posed by members of the Commission.

In matters not brought before the Commission by an applicant, the secretary shall present any Review Sheet and then members of the public shall speak in the order in which written notice of desire to speak was received or, upon majority vote, in a manner determined by the Commission.

OPTION B

In matters brought before the Commission for public hearing by an applicant, the applicant, his agent or attorney, shall be heard first, members of the public next, and staff next. The applicant shall have the opportunity to reply last. No person may speak longer than five minutes without the consent of the Commission. No person speaking at a public hearing shall be subject to cross-examination. All questions must be posed by members of the Commission.

In matters not brought before the Commission by an applicant, the secretary shall present background information from any Review Sheet prepared by staff and then members of the public shall speak in the order in which written notice of desire to speak was received or, upon majority vote, in a manner determined by the Commission.

Article IV - Records

SECTION 1. Minutes

The secretary shall keep written minutes of all meetings including:

(a) The date, time and place of the meeting,

(b) The members of the public body recorded as either present or absent and any reason given by an absent member,

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by an individual member, of any votes taken, and

(d) any other item required by the Freedom of Information Act, Chapter 4 of Title 30, other provision of the S.C. Code of Laws or the Commission.

The secretary shall prepare minutes of each meeting for approval by the Commission at the next regular meeting. The secretary shall keep a (digital) recording of any hearing from which there may be a appeal by an aggrieved party.

SECTION 2. Reports and Records

The secretary shall assist in the preparation and forwarding of all reports and recommendations of the Commission. Copies of all notices, correspondence, reports, forms, exhibits, and presentations shall be preserved in accordance with the Public Records Act, found at S.C. Code § 30-1-10, et seq.

Article V - Review Procedure

SECTION 1. Zoning Amendments

Proposed zoning text and district amendments shall be considered and recommendations forwarded to the county council within thirty days after receipt of the proposed amendments, unless additional time is given by the county council. When authorized, the Commission shall conduct any required public hearing prior to making a recommendation. (S.C. Code § 6-29-760).

SECTION 2. Plats

Plats submitted for review pursuant to land development regulation shall be reviewed by designated staff members who may approve for recording plats of existing lots of record, minor subdivisions of land which meet all zoning requirements, and subdivisions which are exempt from regulation pursuant to S.C. Code § 6-29-1110(4) or other provision of law. The Commission shall be informed in writing of all staff approvals at the next regular meeting and a public record of such actions shall be maintained. All other plats shall be subject to review and approval by the Commission.

SECTION 3. Comprehensive Plan

All zoning and land development regulation amendments shall be reviewed first for conformity with the comprehensive plan. Conflicts with the comprehensive plan shall be noted in any report to the county council on a proposed amendment. The elements of the comprehensive plan shall be reviewed and updated on a schedule adopted by the Commission which meets the requirements of S.C. Code § 6-29-510(E).

SECTION 4. Reconsideration

The Commission may reconsider any review when requested by county council or when an applicant brings to the attention of the Commission new facts, a mistake of fact in the original review, correction of clerical error, or matters not the fault of the applicant which affect the result of the review.

Article VI - Finances

SECTION 1. Budget

The Commission shall submit written recommendations to the county council for funding in the format and time frame set by the administration. The recommendations shall include an explanation and justification for the proposed expenditure and any revenue sources or levels.

SECTION 2. Expenditures

Budgeted funds shall be expended only for approved purposes in accordance with county financial policies and procedures, including procurement rules. Upon adoption of the county budget, the Commission may adopt an authorization for specified expenditures by designated staff members

within the limits provided. Reimbursement for actual expenses incurred in the performance of official duties approved in advance by designated staff members of the Commission and staff upon documentation in accordance with county policy.

SECTION 3. Personnel

The Commission may (employ staff as may be authorized and funded through the county budget / make recommendations for the county to employ candidates as may be authorized and funded through the county budget). All employees are subject to county personnel policies.

The Commission may engage consultants by majority vote of the Commission after notice and review in accordance with county procurement policies.

Article VII - Amendment

SECTION 1. Amendment

These rules may be amended at any regular meeting by majority vote of the Commission at least seven calendar days after a written copy of the proposed amendment is delivered to all members of the Commission.

ADOPTED, this __ day of ____, 20__.

APPENDIX H

___ County Board of Zoning Appeals Rules of Procedure

Article I - Organization

SECTION 1. Rules

These rules of procedure are adopted pursuant to S.C. Code § 6-29-790 for the ___ County Board of Zoning Appeals (hereafter "Board"), appointed by the __ County Council.

SECTION 2. Officers

The officers of the Board shall be a chairman and vice chairman elected for a term of one year at the first meeting of the Board in each calendar year. The Board shall appoint a member of the ___ County staff as secretary. (S.C. Code § 6-29-790).

SECTION 3. Chairman

The chairman shall be a voting member of the Board and shall:

a. Preside at meetings and hearings of the Board;
b. Act as spokesman for the Board;
c. Sign documents for the Board;
d. Swear in witnesses; and
e. Perform any other duties as approved by the Board.

SECTION 4. Vice Chairman

The vice chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the event of the absence, disability, or disqualification of both the chairman and vice chairman, an acting chairman shall be elected by the members present.

SECTION 5. Secretary

The secretary shall:

a. Publish notice of appeals and meetings in accordance with the requirements in Chapter 29, Title 6 of the S.C. Code of Laws, S.C. Code § 30-4-80 and Commission adopted requirements as appropriate;
b. Assist in the preparation of the agenda;
c. See that the property subject to an appeal for variance or special exception is properly posted;
d. Keep minutes of meetings and hearings in accordance with § 30-4-90 and Board adopted requirements;
e. Keep (digital) recordings of hearings;
f. Serve Board decisions on parties by certified mail, return receipt requested;
g. Maintain Board records in compliance with the Public Records Act, S.C. Code § 30-1-10, et seq. and county policy;
h. Attend to Board correspondence; and
i. Perform others duties assigned by the chairman or Board.

Article II - Meetings

SECTION 1. Time and Place

A schedule of regular meetings for the upcoming year must be adopted prior to the first of the year and that schedule shall be published and posted on a bulletin board in the Board meeting place (and on the County website). The schedule of regular meetings shall also indicate the time and place of those meetings. Special meetings may be called by the chairman or a majority of the Board members. Meetings shall be held in the place stated in the notice of the meeting and shall be open to the public, unless closed as allowed by the Freedom of Information Act, Chapter 4 of Title 30 or other provision of the S.C. Code of Laws. (S.C. Code § 30-4-70).

SECTION 2. Agenda

Any Board member may place an item on the next Board agenda by sending a written or electronic description of the matter to the chairman and the secretary at least six days in advance of that meeting, but not after public notification and posting of a Board meeting. A written agenda for a meeting shall be furnished by the secretary to the members of the Board at least five days in advance of any meeting. The final written agenda, with Review Sheets, if any, shall be published and posted on a bulletin board in the Board meeting place (and on the County website) at least twenty-four hours in advance of any regular or special meeting. (S.C. Code § 30-4-80).

The agenda for the meeting shall not be amended once published, except in compliance with the Freedom of Information Act, Chapter 4 of Title 30, or other provision of the S.C. Code of Laws. Once a Board meeting has begun, the agenda may be amended upon two-thirds vote of the Board members present and voting and in compliance with the Freedom of Information Act, Chapter 4 of Title 30, or other provision of the S.C. Code of Laws.

SECTION 3. Quorum

A majority of the members of the Board shall constitute a quorum. A quorum is necessary to conduct any business other than rescheduling the meeting.

SECTION 4. Rules of Order

The (Model Rules of Parliamentary Procedure for South Carolina Counties or __ Edition of Robert's Rules of Order Newly Revised) shall govern the conduct of Board meetings unless otherwise provided in these Rules of Procedure.

SECTION 5. Voting

A member must be present to vote. For matters pertaining to an appeal or hearing on an application, the member must have been present at the hearing where any evidence, testimony or arguments on the matter were heard by the Board. Each member present for the hearing on the matter being voted upon shall vote unless disqualified by law (including, but not limited to, County ethics ordinances and S.C. Code § 8-13-700). Disqualification shall be decided by the member affected. The member shall furnish a statement of the reason to the presiding officer. The presiding officer shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter for which a disqualification exists.

Article III - Appeal Procedure

SECTION 1. Form of Appeal

Appeals from administrative decisions, applications for variances, and applications for special exceptions shall be filed on forms approved by the Board and provided to applicants by the

secretary. The Board may require additional information it deems necessary. The failure to provide adequate information may be grounds for dismissal. An application filed by an agent of the applicant shall be accompanied by a notarized written designation of the agent signed by the applicant or party in interest.

SECTION 2. Time for Appeal

An appeal from an administrative decision must be filed within (fifteen days - § 6-29-800(B) provides that the time period is thirty days unless a specific time period is set.) after actual notice of the decision by delivery of the appeal form to the Board secretary, who shall notify the official appealed from.

SECTION 3. Calendar

Appeals and applications shall be marked with the date received and placed on the hearing calendar in the order received. Appeals shall be heard in the order on the calendar unless otherwise set by the Board for good cause shown.

SECTION 4. Withdrawal of Appeal

Any appeal or application may be withdrawn by written notice delivered to the secretary prior to action by the Board. An appeal from an administrative decision which is withdrawn may not be refiled after the time for making an appeal has expired.

Withdrawn applications for variances and special exceptions may be refiled after six months and shall be placed on the calendar according to the date refiled, unless otherwise voted upon by the Board upon a showing of good cause prior to withdrawal.

SECTION 5. Continuances

The hearing of an appeal or application may be continued one time by majority vote of the Board for good cause shown.

SECTION 6. Notice

Public notice of a hearing on an appeal or application shall be published in a newspaper of general circulation in the county at least fifteen days prior to the hearing. Parties in interest shall also be sent notice of the hearing. In cases involving special exceptions or variances, conspicuous notice shall be posted on or adjacent to the subject property and visible to each public thoroughfare abutting the property. (S.C. Code § 6-29-790(D)).

Article IV - Hearing Procedure

SECTION 1. Appearances

The applicant or any party in interest may appear in person or by agent or attorney. (S.C. Code § 6-29-800(E)). The Board may postpone or proceed to dispose of a matter on the records before it in the absence of an appearance on behalf of an applicant.

SECTION 2. Witnesses

Parties in interest may present testimony under oath. Witnesses may be compelled to attend by subpoena signed by the chairman. Subpoenas must be requested at least ten days prior to a hearing. The Board may call witnesses of its own. (S.C. Code § 6-29-800(D)).

SECTION 3. Cross-examination

No party shall have the right to cross-examine witnesses; however, the opportunity to examine opposing witnesses may be freely granted when conducted in an orderly manner.

SECTION 4. Evidence

Relevant documents, photographs, maps, plans, drawings, etc., will be received without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The chairman will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

SECTION 5. Conduct of Hearing

The normal order of the hearing, subject to modification by the Board, shall be:

a. Statement of the matter from the Review Sheet, if any, to be heard by the secretary;

b. Presentation by the applicant or appellant, limited to five minutes;

c. Presentation by the official appealed, limited to five minutes;

d. Presentation by opponents, limited to five minutes;

e. Rebuttal by applicant or appellant, limited to three minutes; and

f. Unsworn public comment, when the Board deems appropriate.

Board members may ask questions of the participants at any point in the hearing. The calendar order may be varied by the Board if presentation time limits are expanded, there is significant unsworn public comment granted, or for other good cause.

SECTION 6. Disposition

The Board may deliberate and make a final disposition of a matter by majority vote at the hearing and qualified to vote; provided not less than a quorum are qualified to vote. The vote may be taken at the same or a subsequent meeting. Deliberations and voting shall be conducted in public.

SECTION 7. Form of Order

The Board has all powers of the official from whom the appeal was taken and may issue or direct the issuance of a permit. (S.C. Code § 6-29-800(E)). A written order must be issued disposing of the matter and may reverse or affirm, wholly or in part, or may modify the official's order, requirements, decision, or determination. A matter may be dismissed for lack of jurisdiction or prosecution. Findings of fact and conclusions of law shall be separately stated in the written order. (S.C. Code § 6-29-800(F)).

SECTION 8. Service of Order

The secretary shall cause delivery of a copy of an order to each party in interest by certified mail, return receipt requested, immediately upon execution of the order by the chairman.

SECTION 9. Rehearing

The Board may grant a rehearing of an application which has been dismissed or denied upon written request filed with the secretary within fifteen days after delivery of the order upon new evidence which could not have been reasonably presented at the hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome.

Article V - Records

SECTION 1. Minutes

The secretary shall keep written minutes of all meetings including:

(a) The date, time and place of the meeting,

(b) The members of the Board recorded as either present or absent and any reason given by an absent member,

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by an individual member, of any votes taken, and

(d) any other item required by the Freedom of Information Act, Chapter 4 of Title 30, other provision of the S.C. Code of Laws or by Board adopted requirements.

The secretary shall prepare minutes of each meeting for approval by the Board at the next regular meeting. The secretary shall keep a (digital) recording of any hearing from which there may be a appeal by an aggrieved party.

SECTION 2. Orders and Documents

The secretary shall assist in the preparation and service of all orders of the Board in appropriate form. Copies of all notices, correspondence, reports, forms, exhibits, and presentations shall be preserved in accordance with the Public Records Act, S.C. Code § 30-1-10, et seq.

Article VI - Finances

SECTION 1. Budget

The Board shall submit written recommendations to the county council for funding in the format and time frame set by the county administration. The recommendations shall include an explanation and justification for the proposed expenditure and any revenue sources or levels.

SECTION 2. Expenditures

Budgeted funds shall be expended only for approved purposes in accordance with county financial policies and procedures, including procurement rules. Upon adoption of the county budget, the Board may adopt an authorization for specified expenditures within the limits provided. Reimbursement for actual expenses incurred in the performance of official duties approved in advance by members of the Board and staff upon documentation in accordance with county policy.

SECTION 3. Personnel

The Board may (employ staff as may be authorized and funded through the county budget / make recommendations for the county to employ candidates as may be authorized and funded through the county budget). All employees are subject to county personnel policies.

The Board may engage professional services by majority vote of the Board after notice and review in accordance with county procurement policies, subject to appropriation.

Article VII - Amendment

SECTION 1. Amendment

These rules may be amended at any regular meeting by majority vote of the Board at least seven calendar days after a written copy of the proposed amendment is delivered to all members of

the Board.

ADOPTED, this __ day of ____, 20__.

APPENDIX I

___ County Board of Architectural Review Rules of Procedure

Article I - Organization

SECTION 1. Rules

These rules of procedure are adopted pursuant to S.C. Code § 6-29-870 for the ___ County Board of Architectural Review (hereafter "Board"), appointed by the __ County Council.

SECTION 2. Officers

The officers of the Board shall be a chairman and vice chairman elected for a term of one year at the first meeting of the Board in each calendar year. The Board shall appoint a member of the ___ County staff as secretary.

SECTION 3. Chairman

The chairman shall be a voting member of the Board and shall:

a. Preside at meetings and hearings of the Board;

b. Act as spokesman for the Board;

c. Sign documents for the Board;

d. Swear in witnesses;

e. Call meetings or hearings of the Board which are in addition to those scheduled by the Board; and

e. Perform any other duties as approved by the Board.

SECTION 4. Vice Chairman

The vice chairman shall exercise the duties of the chairman in the absence, disability, or disqualification of the chairman. In the event of the absence, disability, or disqualification of both the chairman and vice chairman, an acting chairman shall be elected by the members present.

SECTION 5. Secretary

The secretary shall:

a. Publish notice of appeals and meetings in accordance with the requirements in Chapter 29, Title 6 of the S.C. Code of Laws, S.C. Code § 30-4-80 and Commission adopted requirements as appropriate;

b. Assist in the preparation of the agenda;

c. Keep minutes of meetings and hearings in accordance with S.C. Code § 30-4-90 and Board adopted requirements;

d. Keep (digital) recordings of hearings;

e. Serve Board decisions on parties by certified mail, return receipt requested;

f. Maintain Board records in compliance with the Public Records Act, S.C. Code § 30-1-10, et seq. and county policy ;

g. Attend to Board correspondence; and

h. Perform others duties assigned by the chairman or Board.

Article II - Meetings

SECTION 1. Time and Place

A schedule of regular meetings for the upcoming year may be adopted prior to the first of the year and shall be published and posted on a bulletin board in the Board meeting place (and on the County website). The schedule of regular meetings shall also indicate the time and place of those meetings. Special meetings may be called by the chairman or a majority of the Board members. Meetings shall be held in the place stated in the notice of the meeting and shall be open to the public, unless closed as allowed by the Freedom of Information Act, Chapter 4 of Title 30, or other provision of the S.C. Code of Laws.

SECTION 2. Agenda

Any Board member may place an item on the next Board agenda by sending a written or electronic description of the matter to the chairman and the secretary at least six days in advance of that meeting, but not after public notification and posting of a Board meeting. A written agenda for a meeting shall be furnished by the secretary to the members of the Board at least five days in advance of any meeting. The final written agenda, with Review Sheets, if any, shall be published and posted on a bulletin board in the Board meeting place (and on the County website) at least twenty-four hours in advance of any regular or special meeting. (S.C. Code § 30-4-80).

The agenda for the meeting shall not be amended once published, except in compliance with the Freedom of Information Act, Chapter 4 of Title 30, or other provision of the S.C. Code of Laws. Once a Board meeting has begun, the agenda may be amended upon two-thirds vote of the Board members present and voting and in compliance with the Freedom of Information Act, Chapter 4 of Title 30 or other provision of the S.C. Code of Laws.

SECTION 3. Quorum

A majority of the members of the Board shall constitute a quorum. A quorum is necessary to conduct any business other than rescheduling the meeting.

SECTION 4. Rules of Order

The (Model Rules of Parliamentary Procedure for South Carolina Counties or __ Edition of Robert's Rules of Order Newly Revised) shall govern the conduct of Board meetings unless otherwise provided in these Rules of Procedure.

SECTION 5. Voting

A member must be present to vote. Matters pertaining to an appeal or hearing on an application, the member must have been present at the hearing where any evidence, testimony or arguments on the matter were heard by the Board. Each member present for the hearing on the matter being voted upon shall vote unless disqualified by law (including, but not limited to, County ethics ordinances and S.C. Code § 8-13-700). Disqualification shall be decided by the member affected, who shall furnish a copy of the reason to the presiding officer, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes.

Article III - Appeal Procedure

SECTION 1. Form of Appeal

Appeals from administrative decisions, applications for variances, and applications for

special exceptions shall be filed on forms approved by the Board and provided to applicants by the secretary. The Board may require additional information it deems necessary. The failure to provide adequate information may be grounds for dismissal. An application filed by an agent of the applicant shall be accompanied by a notarized written designation of the agent signed by the applicant or party in interest.

SECTION 2. Time for Appeal

An appeal from an administrative decision must be filed within fifteen days (S.C. Code § 6-29-890(A) provides that it be a reasonable time as provided by the zoning ordinance or Board rules) after actual notice of the decision by delivery of the appeal form to the Board secretary, who shall notify the official appealed from.

SECTION 3. Calendar

Appeals and applications shall be marked with the date received and placed on the hearing calendar in the order received. Appeals shall be heard in the order on the calendar unless otherwise set by the Board for good cause shown.

SECTION 4. Withdrawal of Appeal

Any appeal or application may be withdrawn by written notice delivered to the secretary prior to action by the Board. An appeal from an administrative decision which is withdrawn may not be refiled after the fifteen day time for appeal has expired. Withdrawn applications for variances and special exceptions may be refiled after six months and shall be placed on the calendar according to the date refiled, unless otherwise voted upon by the Board upon a showing of good cause prior to withdrawal.

SECTION 5. Continuances

The hearing of an appeal or application may be continued one time by a majority vote of the Board for good cause shown.

SECTION 6. Notice

Public notice of a hearing on an appeal or application shall be published in a newspaper of general circulation in the county at least fifteen days prior to the hearing. Parties in interest and any person who has asked to be kept informed shall also be mailed a notice of the hearing.

Article IV - Hearing Procedure

SECTION 1. Appearances

The applicant or any party in interest may appear in person, by agent or attorney. (S.C. Code § 6-29-890(C) The Board may postpone or proceed to dispose of a matter on the records before it in the absence of an appearance on behalf of an applicant.

SECTION 2. Witnesses

Parties in interest may present testimony under oath. Witnesses may be compelled to attend by subpoena signed by the chairman. Subpoenas must be requested at least ten days prior to a hearing. The Board may call witnesses of its own. (S.C. Code § 6-29-890(D)).

SECTION 3. Cross-examination

No party shall have the right to cross-examine witnesses; however, the opportunity to examine opposing witnesses may be freely granted when conducted in an orderly manner.

SECTION 4. Evidence

Relevant documents, photographs, maps, plans, drawings, etc., will be received without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The chairman will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

SECTION 5. Conduct of Hearing

The normal order of the hearing, subject to modification by the Board, shall be:

a. Statement of the matter to be heard from the Review Sheet, if any, by the secretary;

b. Presentation by the applicant or appellant, limited to five minutes;

c. Presentation by the official appealed, limited to five minutes;

d. Presentation by opponents, limited to five minutes;

e. Rebuttal by applicant or appellant, limited to three minutes; and

f. Unsworn public comment, when the Board deems appropriate.

Board members may question participants at any point in the hearing. The calendar order may be varied by the Board if presentation time limits are expanded, there is significant unsworn public comment granted, or for other good cause.

SECTION 6. Disposition

The Board may deliberate and make a final disposition of a matter by majority vote at the hearing and qualified to vote; provided not less than a quorum are qualified to vote. The vote may be taken at the same or a subsequent meeting. Deliberations and voting shall be conducted in public.

SECTION 7. Form of Order

A written order shall be issued disposing of the matter by granting or denying the requested relief, wholly or in part, or may modify the official's order, requirements, decision, or determination. A matter may be dismissed for lack of jurisdiction or prosecution. Findings of fact and conclusions of law shall be separately stated in a written order.

SECTION 8. Service of Order

The secretary shall cause delivery of a copy of an order to each party in interest by certified mail, return receipt requested, immediately upon execution of the order by the chairman.

SECTION 9. Rehearing

The Board may grant a rehearing of an application which has been dismissed or denied upon written request filed with the secretary within fifteen days after delivery of the order upon new evidence which could not have been reasonably presented at the hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome.

Article V - Records

SECTION 1. Minutes

The secretary shall keep written minutes of all meetings including:

(a) The date, time and place of the meeting,
(b) The members of the Board recorded as either present or absent and any reason given by an absent member,
(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by an individual member, of any votes taken, and
(d) any other item required by Chapter 4 of Title 30 or other provision of the S.C. Code of Laws.

The secretary shall prepare minutes of each meeting for approval by the Board at the next regular meeting. The secretary shall keep a (digital) recording of any hearing from which there may be a appeal by an aggrieved party.

SECTION 2. Orders and Documents

The secretary shall assist in the preparation and service of orders of the Board in appropriate form. Copies of all notices, correspondence, reports, forms, exhibits, and presentations shall be preserved in accordance with the Public Records Act, S.C. Code § 30-1-10, et seq.

Article VI - Finances

SECTION 1. Budget

The Board shall submit written recommendations to the county council for funding in the format and time frame set by the administration. The recommendations shall include an explanation and justification for the proposed expenditure and any revenue sources or levels.

SECTION 2. Expenditures

Budgeted funds shall be expended only for approved purposes in accordance with county financial policies and procedures, including procurement rules. Upon adoption of the county budget, the Board may adopt an authorization for specified expenditures within the limits provided. Reimbursement for actual expenses incurred in the performance of official duties approved in advance by members of the Board and staff upon documentation in accordance with county policy.

SECTION 3. Personnel

The Board may (employ staff as may be authorized and funded through the county budget / make recommendations for the county to employ candidates as may be authorized and funded through the county budget). All employees are subject to county personnel policies.

The Board may engage professional services by majority vote of the Board after notice and review in accordance with county procurement policies as may be funded through the county budget.

Article VII - Amendment

SECTION 1. Amendment

These rules may be amended at any regular meeting by majority vote of the Board at least seven calendar days after a written copy of the proposed amendment is delivered to all members of the Board.

ADOPTED, this __ day of ____, 20__.

APPENDIX J

Notice of Public Hearing on Comprehensive Plan

County Council of ____, S.C. will hold a public hearing at (time) on (date), at (place) on the (elements) of the comprehensive plan recommended by the Planning Commission for adoption by the council pursuant to S.C. Code § 6-29-530.

Copies of the documents to be considered are available for public inspection (in the __ County office at (address) / at the ___ County Library at (address) / and at www. .gov).

If you wish to attend the public hearing and have a disability that requires any special services, materials, or assistance, please notify the Council by contacting _____ at ____@____ or (__) __-___, so that appropriate accommodations may be made.

Editor's Note: This notice must be published at least thirty days in advance of the hearing in a newspaper of general circulation in the county pursuant to S.C. Code § 6-29-530 and posted on a bulletin board at the county office and on the county website, if any, pursuant to S.C. Code § 30-4-80.

APPENDIX K

Notice of Public Hearing on Zoning Amendments

(County Council / the planning commission) of ____, S.C. will hold a public hearing at (time) on (date), at (place) on the following proposed amendment to the (zoning ordinance and / or zoning map):

Text amendment No. __, changing the Section _____ to read:

(Or summarize the effect of the text change if too long to print verbatim.)

Map amendment No. ___, changing the zoning district designation for property owned by _____ at (address), Tax Map No. ____, consisting of lot-block subdivision, acreage from (e.g., C-1 limited commercial to C-3, general commercial).

New uses permitted in the proposed district are: _____.

Copies of the documents related to these matters are available for public inspection (in the __ County office at (address) / and at www. .gov).

If you wish to attend the public hearing and have a disability that requires any special services, materials, or assistance, please notify the (Council / Commission) by contacting _____ at ____@____ or (__) __-___, so that appropriate accommodations may be made.

Editor's Note: This notice must be given in accordance with local ordinance, or, in the absence of established procedure, at least 15 days in advance in a newspaper of general circulation in the county pursuant to S.C. Code § 6-29-760 if no time is specified in the ordinance. If a list of groups desiring notice of zoning proceedings is maintained, the meeting notice must be mailed to those groups. (S.C. Code § 6-29-760) The notice must also be posted on a bulletin board at the county office and on the county website, if any, pursuant to S.C. Code § 30-4-80.
If the matter rezoning, notice must be posted on or adjacent to the subject property with at least one notice visible from any public thoroughfare which abuts the property. (S.C. Code § 6-29-760).

APPENDIX L

Notice of Board of Zoning Appeals Hearing

The Board of Zoning Appeals of ____, S.C. will hold a public hearing at (time) on (date), at (place) on the following appeals:

Appeal No. __, by ____ from the decision of the Zoning Administrator that ____, which affects property at _____.

Appeal No. ___, by _____ for a variance from Section ____ of the Zoning Ordinance to allow property at ___ to be used for _____.

Documents relating to the appeals are available for public inspection in the office of the Zoning Administrator at _____ (and at www.____.gov).

If you wish to attend the public hearing and have a disability that requires any special services, materials, or assistance, please notify the Board by contacting _____ at ____@____ or (__) __-___, so that appropriate accommodations may be made.

Editor's Note: Pursuant to S.C. Code §§ 6-29-790 and -800, this notice must be published in a newspaper of general circulation in the county at least fifteen days in advance of the hearing. Parties in interest should also be mailed a copy of the notice. In cases involving variances or special exceptions, notice must be posted on or adjacent to the affected property with at least one notice visible from each public thoroughfare which abuts the property. The notice must also be posted on a bulletin board at the county office and on the county website, if any, pursuant to S.C. Code § 30-4-80.

APPENDIX M

Notice of Board of Architectural Review Hearing

The Board of Architectural Review of ____, S.C. will hold a public hearing at (time) on (date), at (place) on the following appeals:

Appeal No. __, by ____ from the decision of the Zoning Administrator that ____, which affects property at _____.

If ordinance authorizes the Board of Architectural Review to grant relief from architectural regulations:

Appeal No. ___, by _____ for relief for property at _____ from architectural regulations in Section ___ of the zoning ordinance to allow _____.

Documents relating to the appeals are available for public inspection in the office of the Zoning Administrator at _____ (and at www.____.gov).

If you wish to attend the public hearing and have a disability that requires any special services, materials, or assistance, please notify the Board by contacting _____ at ____@____ or (__) __-___, so that appropriate accommodations may be made.

Editor's Note: Parties in interest to an appeal should also be mailed a copy of the notice. The notice must also be posted on a bulletin board at the county office and on the county website, if any, pursuant to S.C. Code § 30-4-80.

APPENDIX N

Notice of Public Hearing on Land Development Regulations

County Council of ____, S.C. will hold a public hearing at (time) on (date), at (place) on the land development regulations recommended for adoption by the __ County Planning Commission pursuant to S. C. Code § 6-29-1130.

Copies of the proposed regulations to be considered are available for public inspection in the __ County office at (address) (and and at www. .gov).

If you wish to attend the public hearing and have a disability that requires any special services, materials, or assistance, please notify the Council by contacting _____ at ____@____ or (__) __-___, so that appropriate accommodations may be made.

Editor's Note: This notice must be published in a newspaper of general circulation in the county thirty days in advance of the hearing if matter is to adopt or amend land development regulations, pursuant to S.C. Code § 6-29-1130. S.C. Code § 4-9-130 has a similar provision which requires not less than fifteen days notice published in a newspaper of general circulation in the county. The notice must also be posted on a bulletin board at the county office and on the county website, if any, pursuant to S.C. Code § 30-4-80.

APPENDIX O

Notice of Public Hearing on Development Agreement

(County Council / Planning Commission) of ____, S.C. will hold a public hearing at (time) on (date), at (place) on the land development agreement proposed by ____ for development of property located at ____, containing __ acres, Tax Map No. ____, which will allow the following uses:

Copies of the documents to be considered are available for public inspection in the __ County office at (address) (and at www. .gov).

If you wish to attend the public hearing and have a disability that requires any special services, materials, or assistance, please notify the (Council / Commission) by contacting _____ at ____@____ or (__) __-___, so that appropriate accommodations may be made.

Editor's Note: This notice must be published in a newspaper of general circulation in the county pursuant to S.C. Code § 6-31-50 and posted on a bulletin board at the county office and on the county website, if any, pursuant to S.C. Code § 30-4-80.

APPENDIX P

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

Disqualification Notice

To the presiding officer:

I have received and reviewed of the agenda, staff report(s), and meeting materials for the meeting scheduled to be held on _____, 20___.

With respect to the following matter on the agenda:

_____,

I have or may have a potential conflict of interest of the following nature:

_____

_____,

which S.C. Code § 8-13-700 requires that I disqualify myself from any discussions, comments, votes or other involvement in the matter.

Please record this statement in the minutes of all meetings in which the matter is considered.

_____

Name: _____ Date: _____, 20___

APPENDIX Q

STATE OF SOUTH CAROLINA)
COUNTY OF _____) Designation of Agent

Personally appeared before me the undersigned, who being first duly sworn, depose and say:

I/we are all of the owners of the property described above.

I/we appoint _____, named as Applicant as my/our agent to represent me/us in this matter.

I/we understand that I/we may have an opportunity to testify or may be called upon to testify at any hearing on this application and that if I/we do not appear for whatever reason, this matter will not automatically be deferred to a later hearing but may be decided based solely upon the information in this application and attachments. The Commission may deny my/our request and a denial could prevent another application for the requested action for up to __ months. I/we understand that if I/we cannot be in attendance at the hearing, I have the option to request a deferral or withdraw the request if I/we do not wish it to be acted upon in my/our absence.

Owner signature: _____
Owner signature: _____

SUBSCRIBED AND SWORN to before me
this ___ day of _____, 20____.

_____
Notary Public for South Carolina

My commission expires: _____

APPENDIX R

Zoning Map Amendment (Rezoning) Application

If this application is filed by the property owner(s), all property owners must sign.
If the applicant is not an owner, the property owner(s) must also execute and attach a Designation of Agent form.

The Applicant hereby requests that the property described below be rezoned:
from _____ to _____.

APPLICANT(S):
Name(s): _____
Address: _____
City: _____ Zip Code: _____
Telephone: Cell: _____ Work: _____ Home: _____
Fax: _____
Email: _____

PROPERTY OWNER(S):
If different than Applicant(s):
Name(s): _____
Address: _____
City: _____ Zip Code: _____
Telephone: Cell: _____ Work: _____ Home: _____
Email: _____

Additional information attached ___ Yes / ___ No

PROPERTY INFORMATION:
Address: _____
Subdivision: _____
Lot _____ Block _____
Plat recorded: Book _____ Page _____
Tax Map No.: _____
Zoning Dist.: _____ Zoning Map Page: _____
Area in acres: _____
Dimensions: _____
Current use: _____
Proposed use: _____

Is the property subject to any restrictive covenants? ___ Yes ___ No
Please attach a copy of any relevant restrictive covenants.

Has this property been the subject of any prior zoning application(s) within the past ___ months?
___ Yes - Application No.: _____ Final action: _____
___ No

STATE OF SOUTH CAROLINA)
COUNTY OF _____)

Personally appeared before me the undersigned, who being first duly sworn, depose and say:

I/we are the owners and or applicant(s) in this matter.

I/we have read the contents of this application and all attachments.

Under penalty of perjury, I/we certify that the information contained in this application and attachments are true, correct and complete to the best of my knowledge and belief.

I understand that, in addition to the penalties for perjury, that any falsification of information may result in the denial of this request and preclude reapplication for a period of time.

Owner / Applicant signature: _____
Owner / Applicant signature: _____

SUBSCRIBED AND SWORN to before me
this ___ day of _____, 20____.

_____
Notary Public for South Carolina

My commission expires: _____

APPENDIX S

Zoning Text Amendment Application

If this application is filed by the property owner(s), all property owners must sign.
If the applicant is not an owner, the property owner(s) must also execute and attach a Designation of Agent form.

The Applicant hereby requests an amendment to _____ County Zoning Ordinance Section _____.

APPLICANT(S):
Name(s): _____
Address: _____
City: _____ Zip Code: _____
Telephone: Cell: _____ Work: _____ Home: _____
Fax: _____
Email: _____

PROPERTY OWNER(S):
If different than Applicant(s):
Name(s): _____
Address: _____
City: _____ Zip Code: _____
Telephone: Cell: _____ Work: _____ Home: _____
Email: _____

Additional information attached ___ Yes / ___ No

Current text of Section ____:
_____
_____
_____
_____

Proposed text of Section ____:
_____
_____
_____
_____

Description of the need for proposed change:
_____
_____
_____
_____

Is additional information attached? ___ Yes ___ No

STATE OF SOUTH CAROLINA)
COUNTY OF _____)

Personally appeared before me the undersigned, who being first duly sworn, depose and say:

I/we are the owners and or applicant(s) in this matter.

I/we have read the contents of this application and all attachments.

Under penalty of perjury, I/we certify that the information contained in this application and attachments are true, correct and complete to the best of my knowledge and belief.

I understand that, in addition to the penalties for perjury, that any falsification of information may result in the denial of this request and preclude reapplication for a period of time.

Owner / Applicant signature: _____
Owner / Applicant signature: _____

SUBSCRIBED AND SWORN to before me
this ___ day of _____, 20____.

_____
Notary Public for South Carolina

My commission expires: _____

APPENDIX T
Zoning Permit Application

If this application is filed by the property owner(s), all property owners must sign.
If the applicant is not an owner, the property owner(s) must also execute and attach a Designation of Agent form.

The Applicant hereby requests a zoning permit pursuant to Section ___ of the___ County Zoning Ordinance to use the property described below in the following manner:

_____
_____
_____

APPLICANT(S):
Name(s): _____
Address: _____
City: _____ Zip Code: _____
Telephone: Cell: _____ Work: _____ Home: _____
Fax: _____
Email: _____

PROPERTY OWNER(S):
If different than Applicant(s):
Name(s): _____
Address: _____
City: _____ Zip Code: _____
Telephone: Cell: _____ Work: _____ Home: _____
Email: _____

Additional information attached ___ Yes / ___ No

PROPERTY INFORMATION:
Address: _____
Subdivision: _____
Lot _____ Block _____
Plat recorded: Book _____ Page _____
Tax Map No.: _____
Zoning Dist.: _____ Zoning Map Page: _____
Area in acres: _____
Dimensions: _____
Current use: _____
Proposed use: _____

Is the property subject to any restrictive covenants? ___ Yes ___ No
Please attach a copy of any relevant restrictive covenants.

STATE OF SOUTH CAROLINA)
COUNTY OF _____)

Personally appeared before me the undersigned, who being first duly sworn, depose and say:

I/we are the owner(s) and or applicant(s) in this matter.

I/we have read the contents of this application and all attachments.

Under penalty of perjury, I/we certify that the information contained in this application and attachments are true, correct and complete to the best of my knowledge and belief.

I understand that, in addition to the penalties for perjury, that any falsification of information may result in the denial of this request and preclude reapplication for a period of time.

Owner / Applicant signature: _____
Owner / Applicant signature: _____

SUBSCRIBED AND SWORN to before me
this ___ day of _____, 20____.

_____
Notary Public for South Carolina
My commission expires: _____

APPENDIX U

STATE OF SOUTH CAROLINA)
) STOP ORDER
COUNTY OF _____)

TO: _____
Address: _____
_____

Pursuant to S.C. Code § 6-29-950 and §_____ of the _____ County Zoning Ordinance,

YOU ARE ORDERED TO STOP WORK

on the building and/or property located at: _____ in _____ County until such time as the following Code violation(s) are corrected:

__ No proper zoning permit

__ No proper certificate of appropriateness

__ No proper building permit

__ Violation of Code §_____ of the ____ County Code of Ordinances as follows:
_____
_____

Failure to comply with Stop Order is a misdemeanor punishable by a fine of up to $ ___ (and/or imprisonment for up to thirty days) for each day of violation, in addition to fines and penalties which may be imposed for Code violations. Issuance of this Stop Order may be appealed to the Board of Zoning Appeals.

Contact the undersigned at: Address: _____
Telephone: _____

Date: _____, 20__ .

/S/_____
Official's name & title

Personally served / posted on property: _____, 20___

APPENDIX V

Hearing Request Form

_____ County Board of Zoning Appeals

FORM 1

If this form is filed by the property owner(s), all property owners must sign.
If the applicant is not an owner, the property owner(s) must also execute and attach a Designation of Agent form.

The Applicant hereby appeals:

__ From an action of a government official as stated on the attached Form 2
__ For a variance as stated on the attached Form 3
__ For a special exception as stated on the attached Form 4

APPLICANT(S):
Name(s): _____
Address: _____
City: _____ Zip Code: _____
Telephone: Cell: _____ Work: _____ Home: _____
Fax: _____
Email: _____
Interest in the action appealed:
___ Owner(s) ___ Adjacent property owner(s) ___ other: describe_____

PROPERTY OWNER(S):
If different than Applicant(s):
Name(s): _____
Address: _____
City: _____ Zip Code: _____
Telephone: Cell: _____ Work: _____ Home: _____
Email: _____
Additional information attached ___ Yes / ___ No

PROPERTY INFORMATION:
Address: _____
Subdivision: _____
Lot _____ Block _____
The property is / is not subject to restrictive covenants. If so, please attach a copy of any relevant restrictive covenants.
Plat recorded: Book _____ Page _____
Tax Map No.: _____
Zoning Dist.: _____ Zoning Map Page: _____
Area in acres: _____
Dimensions: _____

STATE OF SOUTH CAROLINA)
COUNTY OF _____)

Personally appeared before me the undersigned, who being first duly sworn, depose and say:

I/we are the owners and or applicant(s) in this matter.

I/we have read the contents of this application and all attachments.

Under penalty of perjury, I/we certify that the information contained in this application and attachments are true, correct and complete to the best of my knowledge and belief.

I understand that, in addition to the penalties for perjury, that any falsification of information may result in the denial of this request and preclude reapplication for a period of time.

Owner / Applicant signature: _____
Owner / Applicant signature: _____

SUBSCRIBED AND SWORN to before me
this ___ day of _____, 20____.

_____
Notary Public for South Carolina
My commission expires: _____

Administrative Appeal Form
_____ County Board of Zoning Appeals

FORM 2

1. Applicant hereby appeals to the Board of Zoning Appeals from the action of the government official affecting the property described in the Hearing Request Form (Form 1) on the grounds that:

   granting of an application for a permit to _____ was erroneous and contrary to the provisions of § ___ of the ____ County Code of Ordinances; or

   denial of an application for a permit to _____ was erroneous and contrary to the provisions of § ___ of the ____ County Code of Ordinances; or

   other action or decision of the government official was erroneous as follows:_____
   _____
   _____

2. Applicant is aggrieved by the action or decision in that:

_____

_____

3. Applicant contends that the correct interpretation of the Zoning Ordinance as applied to the subject property is:

_____

_____

4. Applicant requests the following relief:

_____

_____

Variance Application
_____ County Board of Zoning Appeals

FORM 3

1. Applicant hereby appeals to the Board of Zoning Appeals for a variance from the strict application to the property described in the Hearing Request Form (Form 1) of the following provisions of the _____County Code of Ordinances: Article ____, Section ____ so that a zoning permit may be issued to allow use of the property in a manner shown on the attached plot plan, and described as follows (use specific measurements in feet, acreage, etc...:

_____

_____

2. The application of the ordinance will result in unnecessary hardship, and the standards for a variance set by State law and the ordinance are met by the following facts:
   a. There are extraordinary and exceptional conditions pertaining to the subject property as follows:

      _____

      _____

   b. These conditions do not generally apply to other properties in the area as shown by:

      _____

      _____

   c. Because of these conditions, the application of the ordinance to this particular property would effectively prohibit or unreasonably restrict the use of the property as follows:

      _____

      _____

   d. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons:

      _____

      _____

3. Applicant agrees to the following concession(s) or additional condition(s) that are proposed as part of any approval granted:

_____

_____

4. Applicant submits the following additional information listed below and/or attached: _____.

Special Exception Application
_____ County Board of Zoning Appeals

FORM 4

1. Applicant hereby appeals to the Board of Zoning Appeals for a special exception for use of the property described in the Hearing Request Form (Form 1) as follows: _____

_____

which is a permitted special exception under the district regulation in Section _____ of the _____ County Code of Ordinances.

2. Applicant will meet the standards in Section ____ of the _____ County Code of Ordinances which are applicable to the proposed special exception in the following manner:

_____

_____

3. Applicant suggests that the following condition(s) be imposed to meet the standards in the _____ County Code of Ordinances: _____

_____

4. The following additional information and documents are listed below and attached in support of this request:
plot line of the subject property and _____

APPENDIX W

Order on Appeal From Action of the Zoning Official
_____County Board of Zoning Appeals

The _____ County Board of Zoning Appeals (hereafter "Board") held a public hearing on Permit Application No. __, Appeal No. ___ on __(date)__ to consider the appeal of _____ (hereafter "Applicant(s)") from the action of the Zoning Official as set forth on Form 2 as submitted by the Applicant(s) affecting the property described on Form 1 filed with the Board. After consideration of the testimony, evidence and arguments presented orally and in the forms, the Board makes the following findings of fact and conclusions of law:

1. The notice of this hearing was advertised in publication on date as well as being posted on the bulletin board at _____ (and posted on the county website) .

2. A quorum of the Board was present for the hearing, including:_____. Name(s) did not participate in this matter, having filed a Disqualification Notice.

3. The decision of the Zoning Official was based on the interpretations of Section(s) of the ___ County Code of Ordinances that:_____.

4. The Board adopts by reference the facts found in the FACTUAL BACKGROUND portion of the Special Exception Review Sheet for this matter (with the exception of: _____ OR and finds additionally that: _____).

5. Option A
   The Board concludes that Section(s)is/are applicable to this matter and should be interpreted as follows: _____.

   Option B
   The Board concludes that Section(s) are not applicable to this matter.

THE BOARD, THEREFORE, ORDERS that the decision of the Zoning Official is (affirmed / reversed / modified as follows: _____).

IT IS FURTHER ORDERED that the permit be (denied, issued / issued with the following conditions: ____) and the following action be taken: _____
_____.

/S/_____ (date) , 20__
(Name)_____
Chairman, _____ County Board of Zoning Appeals

APPENDIX X

Order on Variance Application

_____County Board of Zoning Appeals

The _____ County Board of Zoning Appeals (hereafter "Board") held a public hearing on Permit Application No. __, Appeal No. ___ on __(date)__ to consider the appeal of _____ (hereafter "Applicant(s)") for a variance from the strict application of the Zoning Ordinance as set forth on Form 3 submitted by the Applicant(s) affecting the property described on Form 1 filed with the Board. After consideration of the testimony, evidence and arguments presented orally and in the forms, the Board makes the following findings of fact and conclusions of law:

1. The notice of this hearing was advertised in publication on date as well as being posted on the bulletin board at _____ (and posted on the county website) .

2. A quorum of the Board was present for the hearing, including:_____. Name(s) did not participate in this matter having filed a Disqualification Notice.

3. The Board adopts by reference the facts found in the FACTUAL BACKGROUND portion of the Variance Review Sheet for this matter (with the exception of _____ OR and finds additionally that: _____.)

3. The Board concludes that the Applicant(s) (does / does not) have an unnecessary hardship because there (are / are not) extraordinary and exceptional conditions pertaining this particular property based upon the following findings of fact:

   _____
   _____.

4. The Board concludes that these conditions (do / do not) generally apply to other property in the area based on the following findings of fact:

   _____
   _____.

5. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property (would / would not) effectively prohibit or unreasonably restrict the utilization of the property based on the following findings of fact:

   _____
   _____.

6. The Board concludes that the authorization of the variance (will / will not) be of substantial detriment to adjacent property or the public good, and the character of the district (will / will not) be harmed by the granting of the variance based upon the following findings of fact:

   _____
   _____.

THE BOARD, THEREFORE, ORDERS that the variance be (denied / granted / granted with the following conditions: _____.

/S/_____ (date) , 20__

(Name)_____

Chairman, _____ County Board of Zoning Appeals

APPENDIX Y

Order on Special Exception Application
_____County Board of Zoning Appeals

The _____ County Board of Zoning Appeals (hereafter "Board") held a public hearing on Permit Application No. __, Appeal No. ___ on (date) to consider the appeal of _____ (hereafter "Applicant(s)") for a special exception, which may be permitted by the Board pursuant to Section __ of the ____ County Code of Ordinances, as set forth on Form 4 submitted by the Applicant(s) affecting the property described on Form 1 filed with the Board, to b e used for: _____. After consideration of the testimony, evidence and arguments presented orally and in the forms, the Board makes the following findings of fact and conclusions of law:

1. The notice of this hearing was advertised in publication on date as well as being posted on the bulletin board at _____ (and posted on the county website) .

2. A quorum of the Board was present for the hearing, including:
_____.
Name(s) did not participate in this matter having filed a Disqualification Notice.

3. The Board adopts by reference the facts found in the FACTUAL BACKGROUND portion of the Special Exception Review Sheet for this matter (with the exception of: _____ OR and finds additionally that: _____.).

4. The Board concludes that the standards in Section ____ of the ____ County Code of Ordinances which are applicable to the requested special exception (have / have not) been met based on the following findings of fact:
_____
_____.

5. The Board concludes that the requested special exception (will / will not) substantially diminish the value of adjacent property or property in the district based on the following findings of fact:
_____
_____.

6. The Board concludes that the requested special exception (will / will not) be compatible with uses in the district based on the following findings of fact:
_____
_____.

THE BOARD, THEREFORE, ORDERS that the special exception is (denied / granted / granted with the following conditions: _____.)

/S/_____ (date) , 20__
(Name)_____
Chairman, _____ County Board of Zoning Appeals

APPENDIX Z

VARIANCE REVIEW SHEET

Variance Request No. _____

FACTUAL BACKGROUND:

Property Information

Applicant: _____
Owner(s): _____
Property address: _____
Tax Map No.: _____
Parcel size: _____

Zoning Information

Zoning District: _____
Proposed use: _____

Requested Variance(s)

_____

Background / Site Conditions

_____

ORDINANCE AND ANALYSIS:

Before a variance can be granted, the Board must first find that the strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following five findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property. (Is this request special?) _____

_____

2. These conditions do not generally apply to other property in the vicinity. (Is this request unique?)

_____

3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

_____

4. The authorization of a variance will not be a substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. (Does this request serve the public good or harm neighbors?) _____

_____

5. The Board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property

may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.

Proposed Order / Conditions
Should the Board decide that this variance request meets all five factors noted above and grants the requested variance, staff recommends the following conditions:_____

APPENDIX AA

SPECIAL EXCEPTION REVIEW SHEET

Special Exception Request No. _____

FACTUAL BACKGROUND:

Property Information

Applicant: _____
Owner(s): _____
Property address: _____
Tax Map No.: _____
Parcel size: _____

Zoning Information

Zoning District: _____
Proposed use: _____

Distance From Nearest Residential

_____

Requested Special Exception

_____

Background / Site Conditions

_____

ORDINANCE AND ANALYSIS

Ordinance Section __ states: Owing to their potential negative impact on the community, the following uses may be approved as special exceptions by the Board of Zoning Appeals: bar, restaurant, nightclub is subject to the following conditions:

1. That the special exception complies with all applicable development standards, including off-street parking and dimensional requirements. _____

2. That the special exception will be in substantial harmony with the area in which it is to be located.

_____

3. That the special exception will not be injurious to adjoining properties. _____

4. That the special exception will contribute to the economic vitality and promote the general welfare of the community. _____

5. That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right. _____

6. In granting a special exception, The Board of Zoning Appeals may impose such reasonable and additional stipulations, conditions or safeguards as, in its judgment, will enhance the citing or reduce any negative impact of the proposed special exception.

APPENDIX BB

This appendix contains the core of the statutes which affect land use planning in South Carolina. There are court decisions and statutes from other portions of the South Carolina Code of Laws and federal statutes and court decisions which also impact land use planning. Sometimes an Attorney General's opinion may be the only interpretational document addressing a question. It is always important to consult your county attorney when a question regarding the law comes up. These are supplied with the intent to give a land use planning official or practitioner a starting point on their search for answers.

SECTION 6-29-310. "Local planning commission" defined.
SECTION 6-29-320. Bodies authorized to create local planning commissions.
SECTION 6-29-330. Areas of jurisdiction; agreement for county planning commission to act as municipal planning commission.
SECTION 6-29-340. Functions, powers, and duties of local planning commissions.
SECTION 6-29-350. Membership; terms of office; compensation; qualifications.
SECTION 6-29-360. Organization of commission; meetings; procedural rules; records; purchases.
SECTION 6-29-370. Referral of matters to commission; reports.
SECTION 6-29-380. Funding of commissions; expenditures; contracts.
SECTION 6-29-510. Planning process; elements; comprehensive plan.
SECTION 6-29-520. Advisory committees; notice of meetings; recommendations by resolution; transmittal of recommended plan.
SECTION 6-29-530. Adoption of plan or elements; public hearing.
SECTION 6-29-540. Review of proposals following adoption of plan; projects in conflict with plan; exemption for utilities.
SECTION 6-29-710. Zoning ordinances; purposes.
SECTION 6-29-715. Church-related activities; zoning ordinances for single family residences.
SECTION 6-29-720. Zoning districts; matters regulated; uniformity; zoning techniques.
SECTION 6-29-730. Nonconformities.
SECTION 6-29-740. Planned development districts.
SECTION 6-29-750. Special development district parking facility plan; dedication.
SECTION 6-29-760. Procedure for enactment or amendment of zoning regulation or map; notice and rights of landowners; time limit on challenges.
SECTION 6-29-770. Governmental entities subject to zoning ordinances; exceptions.
SECTION 6-29-775. Use of property obtained from federal government.
SECTION 6-29-780. Board of zoning appeals; membership; terms of office; vacancies; compensation.
SECTION 6-29-790. Board of zoning appeals; officers; rules; meetings; notice; records.
SECTION 6-29-800. Powers of board of appeals; variances; special exceptions; remand; stay; hearing; decisions and orders.
SECTION 6-29-810. Contempt; penalty.
SECTION 6-29-820. Appeal from zoning board of appeals to circuit court; pre-litigation mediation; filing requirements.
SECTION 6-29-825. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

SECTION 6-29-830. Notice of appeal; transcript; supersedeas.
SECTION 6-29-840. Determination of appeal; costs; trial by jury.
SECTION 6-29-850. Appeal to Supreme Court.
SECTION 6-29-860. Financing of board of zoning appeals.
SECTION 6-29-870. Board of architectural review; membership; officers; rules; meetings; records.
SECTION 6-29-880. Powers of board of architectural review.
SECTION 6-29-890. Appeal to board of architectural review.
SECTION 6-29-900. Appeal from board of architectural review to circuit court; pre-litigation mediation; filing requirements.
SECTION 6-29-910. Contempt; penalty.
SECTION 6-29-915. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.
SECTION 6-29-920. Notice of appeal; transcript; supersedeas.
SECTION 6-29-930. Determination of appeal; costs; trial by jury.
SECTION 6-29-940. Appeal to Supreme Court.
SECTION 6-29-950. Enforcement of zoning ordinances; remedies for violations.
SECTION 6-29-960. Conflict with other laws.
SECTION 6-29-1110. Definitions.
SECTION 6-29-1120. Legislative intent; purposes.
SECTION 6-29-1130. Regulations.
SECTION 6-29-1140. Development plan to comply with regulations; submission of unapproved plan for recording is a misdemeanor.
SECTION 6-29-1145. Determining existence of restrictive covenant; effect.
SECTION 6-29-1150. Submission of plan or plat to planning commission; record; appeal.
SECTION 6-29-1155. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.
SECTION 6-29-1160. Recording unapproved land development plan or plat; penalty; remedies.
SECTION 6-29-1170. Approval of plan or plat not acceptance of dedication of land.
SECTION 6-29-1180. Surety bond for completion of site improvements.
SECTION 6-29-1190. Transfer of title to follow approval and recording of development plan; violation is a misdemeanor.
SECTION 6-29-1200. Approval of street names required; violation is a misdemeanor; changing street name.
SECTION 6-29-1210. Land development plan not required to execute a deed.
SECTION 6-29-1310. Definitions.
SECTION 6-29-1320. Identification of persons covered by act; compliance schedule.
SECTION 6-29-1330. State Advisory Committee; creation; members; terms; duties; compensation; meetings; fees charged.
SECTION 6-29-1340. Educational requirements; time-frame for completion; subjects.
SECTION 6-29-1350. Exemption from educational requirements.
SECTION 6-29-1360. Certification.
SECTION 6-29-1370. Sponsorship and funding of programs; compliance and exemption; certification as public records.
SECTION 6-29-1380. Failure to complete training requirements; false documentation.
SECTION 6-29-1510. Citation of article.
SECTION 6-29-1520. Definitions.

SECTION 6-29-1530. Two-year vested right established on approval of site specific development plan; conforming ordinances and regulations; renewal.
SECTION 6-29-1540. Conditions and limitations.
SECTION 6-29-1550. Vested right attaches to real property; applicability of laws relating to public health, safety and welfare.
SECTION 6-29-1560. Establishing vested right in absence of local ordinances providing therefor; significant affirmative government acts.
SECTION 6-29-1610. Short title.
SECTION 6-29-1620. Legislative purpose.
SECTION 6-29-1625. Definitions.
SECTION 6-29-1630. Local planning department investigations, recommendations and findings; incorporation into official maps.
SECTION 6-29-1640. Application to former or closing military installations.

TITLE 6, CHAPTER 29
South Carolina Local Government Comprehensive Planning Enabling Act of 1994

ARTICLE 1
Creation of Local Planning Commission

SECTION 6-29-310. "Local planning commission" defined.

For purposes of this chapter, "local planning commission" means a municipal planning commission, a county planning commission, a joint city-county planning commission, or a consolidated government planning commission.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-320. Bodies authorized to create local planning commissions.

The city council of each municipality may create a municipal planning commission. The county council of each county may create a county planning commission. The governing body of a consolidated government may create a planning commission. Any combination of municipal councils and a county council or any combination of municipal councils may create a joint planning commission.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-330. Areas of jurisdiction; agreement for county planning commission to act as municipal planning commission.

(A) A municipality may exercise the powers granted under the provisions of this chapter in the total area within its corporate limits. A county may exercise the powers granted under the provisions of this chapter in the total unincorporated area or specific parts of the unincorporated area. Unincorporated areas of the county or counties adjacent to incorporated municipalities may be added to and included in the area under municipal jurisdiction for the purposes of this chapter provided that

the municipality and county councils involved adopt ordinances establishing the boundaries of the additional areas, the limitations of the authority to be exercised by the municipality, and representation on the boards and commissions provided under this chapter. The agreement must be formally approved and executed by the municipal council and the county councils involved.

(B) The governing body of a municipality may designate by ordinance the county planning commission as the official planning commission of the municipality. In the event of the designation, and acceptance by the county, the county planning commission may exercise the powers and duties as provided in this chapter for municipal planning commissions as are specified in the agreement reached by the governing authorities. The agreement must specify the procedures for the exercise of powers granted in the chapter and shall address the issue of equitable representation of the municipality and the county on the boards and commissions authorized by this chapter. This agreement must be formally stated in appropriate ordinances by the governing authorities involved.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-340. Functions, powers, and duties of local planning commissions.

(A) It is the function and duty of the local planning commission, when created by an ordinance passed by the municipal council or the county council, or both, to undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the area within its jurisdiction. The plans and programs must be designed to promote public health, safety, morals, convenience, prosperity, or the general welfare as well as the efficiency and economy of its area of jurisdiction. Specific planning elements must be based upon careful and comprehensive surveys and studies of existing conditions and probable future development and include recommended means of implementation. The local planning commission may make, publish, and distribute maps, plans, and reports and recommendations relating to the plans and programs and the development of its area of jurisdiction to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens. All public officials shall, upon request, furnish to the planning commission, within a reasonable time, such available information as it may require for its work. The planning commission, its members and employees, in the performance of its functions, may enter upon any land with consent of the property owner or after ten days' written notification to the owner of record, make examinations and surveys, and place and maintain necessary monuments and marks on them, provided, however, that the planning commission shall be liable for any injury or damage to property resulting therefrom. In general, the planning commission has the powers as may be necessary to enable it to perform its functions and promote the planning of its political jurisdiction.

(B) In the discharge of its responsibilities, the local planning commission has the power and duty to:

(1) prepare and revise periodically plans and programs for the development and redevelopment of its area as provided in this chapter; and

(2) prepare and recommend for adoption to the appropriate governing authority or authorities as a means for implementing the plans and programs in its area:

(a) zoning ordinances to include zoning district maps and appropriate revisions thereof, as provided in this chapter;

(b) regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that may be adopted as provided in this chapter;

(c) an official map and appropriate revision on it showing the exact location of existing or proposed public street, highway, and utility rights-of-way, and public building sites, together with regulations to control the erection of buildings or other structures or changes in land use within the rights-of-way, building sites, or open spaces within its political jurisdiction or a specified portion of it, as set forth in this chapter;

(d) a landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;

(e) a capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the governmental bodies responsible for implementation prior to preparation of their capital budget; and

(f) policies or procedures to facilitate implementation of planning elements.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-350. Membership; terms of office; compensation; qualifications.

(A) A local planning commission serving not more than two political jurisdictions may not have less than five nor more than twelve members. A local planning commission serving three or more political jurisdictions shall have a membership not greater than four times the number of jurisdictions it serves. In the case of a joint city-county planning commission the membership must be proportional to the population inside and outside the corporate limits of municipalities.

(B) No member of a planning commission may hold an elected public office in the municipality or county from which appointed. Members of the commission first to serve must be appointed for staggered terms as described in the agreement of organization and shall serve until their successors are appointed and qualified. The compensation of the members, if any, must be determined by the governing authority or authorities creating the commission. A vacancy in the membership of a planning commission must be filled for the unexpired term in the same manner as the original appointment. The governing authority or authorities creating the commission may remove any member of the commission for cause.

(C) In the appointment of planning commission members the appointing authority shall consider their professional expertise, knowledge of the community, and concern for the future welfare of the total community and its citizens. Members shall represent a broad cross section of the interests and concerns within the jurisdiction.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-360. Organization of commission; meetings; procedural rules; records; purchases.

(A) A local planning commission shall organize itself electing one of its members as chairman and one as vice-chairman whose terms must be for one year. It shall appoint a secretary who may be an officer or an employee of the governing authority or of the planning commission. The planning commission shall meet at the call of the chairman and at such times as the chairman or commission may determine.

(B) The commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The planning

commission may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-370. Referral of matters to commission; reports.

The governing authority may provide for the reference of any matters or class of matters to the local planning commission, with the provision that final action on it may not be taken until the planning commission has submitted a report on it or has had a reasonable period of time, as determined by the governing authority to submit a report.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-380. Funding of commissions; expenditures; contracts.

A local planning commission may cooperate with, contract with, or accept funds from federal government agencies, state government agencies, local general purpose governments, school districts, special purpose districts, including those of other states, public or eleemosynary agencies, or private individuals or corporations; it may expend the funds; and it may carry out such cooperative undertakings and contracts as it considers necessary.

HISTORY: 1994 Act No. 355, Section 1.

ARTICLE 3
Local Planning — The Comprehensive Planning Process

SECTION 6-29-510. Planning process; elements; comprehensive plan.

(A) The local planning commission shall develop and maintain a planning process which will result in the systematic preparation and continual re-evaluation and updating of those elements considered critical, necessary, and desirable to guide the development and redevelopment of its area of jurisdiction.

(B) Surveys and studies on which planning elements are based must include consideration of potential conflicts with adjacent jurisdictions and regional plans or issues.

(C) The basic planning process for all planning elements must include, but not be limited to:

(1) inventory of existing conditions;

(2) a statement of needs and goals; and

(3) implementation strategies with time frames.

(D) A local comprehensive plan must include, but not be limited to, the following planning elements:

(1) a population element which considers historic trends and projections, household numbers and sizes, educational levels, and income characteristics;

(2) an economic development element which considers labor force and labor force characteristics, employment by place of work and residence, and analysis of the economic base;

(3) a natural resources element which considers coastal resources, slope characteristics, prime agricultural and forest land, plant and animal habitats, parks and recreation

areas, scenic views and sites, wetlands, and soil types. Where a separate board exists pursuant to this chapter, this element is the responsibility of the existing board;

(4) a cultural resources element which considers historic buildings and structures, commercial districts, residential districts, unique, natural, or scenic resources, archaeological, and other cultural resources. Where a separate board exists pursuant to this chapter, this element is the responsibility of the existing board;

(5) a community facilities element which considers water supply, treatment, and distribution; sewage system and wastewater treatment; solid waste collection and disposal, fire protection, emergency medical services, and general government facilities; education facilities; and libraries and other cultural facilities;

(6) a housing element which considers location, types, age, and condition of housing, owner and renter occupancy, and affordability of housing. This element includes an analysis to ascertain nonessential housing regulatory requirements, as defined in this chapter, that add to the cost of developing affordable housing but are not necessary to protect the public health, safety, or welfare and an analysis of market-based incentives that may be made available to encourage development of affordable housing, which incentives may include density bonuses, design flexibility, and streamlined permitting processes;

(7) a land use element which considers existing and future land use by categories, including residential, commercial, industrial, agricultural, forestry, mining, public and quasi-public, recreation, parks, open space, and vacant or undeveloped;

(8) a transportation element that considers transportation facilities, including major road improvements, new road construction, transit projects, pedestrian and bicycle projects, and other elements of a transportation network. This element must be developed in coordination with the land use element, to ensure transportation efficiency for existing and planned development;

(9) a priority investment element that analyzes the likely federal, state, and local funds available for public infrastructure and facilities during the next ten years, and recommends the projects for expenditure of those funds during the next ten years for needed public infrastructure and facilities such as water, sewer, roads, and schools. The recommendation of those projects for public expenditure must be done through coordination with adjacent and relevant jurisdictions and agencies. For the purposes of this item, "adjacent and relevant jurisdictions and agencies" means those counties, municipalities, public service districts, school districts, public and private utilities, transportation agencies, and other public entities that are affected by or have planning authority over the public project. For the purposes of this item, "coordination" means written notification by the local planning commission or its staff to adjacent and relevant jurisdictions and agencies of the proposed projects and the opportunity for adjacent and relevant jurisdictions and agencies to provide comment to the planning commission or its staff concerning the proposed projects. Failure of the planning commission or its staff to identify or notify an adjacent or relevant jurisdiction or agency does not invalidate the local comprehensive plan and does not give rise to a civil cause of action.

(E) All planning elements must be an expression of the planning commission recommendations to the appropriate governing bodies with regard to the wise and efficient use of public funds, the future growth, development, and redevelopment of its area of jurisdiction, and consideration of the fiscal impact on property owners. The planning elements whether done as a package or in separate increments together comprise the comprehensive plan for the jurisdiction at any one point in time. The local planning commission shall review the comprehensive plan or elements of it as often as necessary, but not less than once every five years, to determine whether changes in the amount, kind, or direction of development of the area or other reasons make it desirable to make additions or amendments to the plan. The comprehensive plan, including all

elements of it, must be updated at least every ten years.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31.

SECTION 6-29-520. Advisory committees; notice of meetings; recommendations by resolution; transmittal of recommended plan.

(A) In the preparation or periodic updating of any or all planning elements for the jurisdiction, the planning commission may use advisory committees with membership from both the planning commission or other public involvement mechanisms and other resource people not members of the planning commission. If the local government maintains a list of groups that have registered an interest in being informed of proceedings related to planning, notice of meetings must be mailed to these groups.

(B) Recommendation of the plan or any element, amendment, extension, or addition must be by resolution of the planning commission, carried by the affirmative votes of at least a majority of the entire membership. The resolution must refer expressly to maps and other descriptive matter intended by the planning commission to form the whole or element of the recommended plan and the action taken must be recorded in its official minutes of the planning commission. A copy of the recommended plan or element of it must be transmitted to the appropriate governing authorities and to all other legislative and administrative agencies affected by the plan.

(C) In satisfying the preparation and periodic updating of the required planning elements, the planning commission shall review and consider, and may recommend by reference, plans prepared by other agencies which the planning commission considers to meet the requirements of this article.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-530. Adoption of plan or elements; public hearing.

The local planning commission may recommend to the appropriate governing body and the body may adopt the plan as a whole by a single ordinance or elements of the plan by successive ordinances. The elements shall correspond with the major geographical sections or divisions of the planning area or with functional subdivisions of the subject matter of the comprehensive plan, or both. Before adoption of an element or a plan as a whole, the governing authority shall hold a public hearing on it after not less than thirty days' notice of the time and place of the hearings has been given in a newspaper having general circulation in the jurisdiction.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-540. Review of proposals following adoption of plan; projects in conflict with plan; exemption for utilities.

When the local planning commission has recommended and local governing authority or authorities have adopted the related comprehensive plan element set forth in this chapter, no new street, structure, utility, square, park, or other public way, grounds, or open space or public buildings for any use, whether publicly or privately owned, may be constructed or authorized in the political jurisdiction of the governing authority or authorities establishing the planning commission until the location, character, and extent of it have been submitted to the planning commission for review and

comment as to the compatibility of the proposal with the comprehensive plan of the community. In the event the planning commission finds the proposal to be in conflict with the comprehensive plan, the commission shall transmit its findings and the particulars of the nonconformity to the entity proposing the facility. If the entity proposing the facility determines to go forward with the project which conflicts with the comprehensive plan, the governing or policy making body of the entity shall publicly state its intention to proceed and the reasons for the action. A copy of this finding must be sent to the local governing body, the local planning commission, and published as a public notice in a newspaper of general circulation in the community at least thirty days prior to awarding a contract or beginning construction. Telephone, sewer and gas utilities, or electric suppliers, utilities and providers, whether publicly or privately owned, whose plans have been approved by the local governing body or a state or federal regulatory agency, or electric suppliers, utilities and providers who are acting in accordance with a legislatively delegated right pursuant to Chapter 27 or 31 of Title 58 or Chapter 49 of Title 33 are exempt from this provision. These utilities must submit construction information to the appropriate local planning commission.

HISTORY: 1994 Act No. 355, Section 1.

ARTICLE 5
Local Planning — Zoning

SECTION 6-29-710. Zoning ordinances; purposes.

(A) Zoning ordinances must be for the general purposes of guiding development in accordance with existing and future needs and promoting the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare. To these ends, zoning ordinances must be made with reasonable consideration of the following purposes, where applicable:

(1) to provide for adequate light, air, and open space;

(2) to prevent the overcrowding of land, to avoid undue concentration of population, and to lessen congestion in the streets;

(3) to facilitate the creation of a convenient, attractive, and harmonious community;

(4) to protect and preserve scenic, historic, or ecologically sensitive areas;

(5) to regulate the density and distribution of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports and approaches thereto, water supply, sanitation, protection against floods, public activities, and other purposes;

(6) to facilitate the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks, and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements. "Other public requirements" which the local governing body intends to address by a particular ordinance or action must be specified in the preamble or some other part of the ordinance or action;

(7) to secure safety from fire, flood, and other dangers; and

(8) to further the public welfare in any other regard specified by a local governing body.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-715. Church-related activities; zoning ordinances for single family residences.

(A) For purposes of this section, "church-related activities" does not include regularly scheduled worship services.

(B) Notwithstanding any other provision of law, no zoning ordinance of a municipality or county may prohibit church-related activities in a single-family residence.

HISTORY: 1998 Act No. 276, Section 2.

SECTION 6-29-720. Zoning districts; matters regulated; uniformity; zoning techniques.

(A) When the local planning commission has prepared and recommended and the governing body has adopted at least the land use element of the comprehensive plan as set forth in this chapter, the governing body of a municipality or county may adopt a zoning ordinance to help implement the comprehensive plan. The zoning ordinance shall create zoning districts of such number, shape, and size as the governing authority determines to be best suited to carry out the purposes of this chapter. Within each district the governing body may regulate:

(1) the use of buildings, structures, and land;

(2) the size, location, height, bulk, orientation, number of stories, erection, construction, reconstruction, alteration, demolition, or removal in whole or in part of buildings and other structures, including signage;

(3) the density of development, use, or occupancy of buildings, structures, or land;

(4) the areas and dimensions of land, water, and air space to be occupied by buildings and structures, and the size of yards, courts, and other open spaces;

(5) the amount of off-street parking and loading that must be provided, and restrictions or requirements related to the entry or use of motor vehicles on the land;

(6) other aspects of the site plan including, but not limited to, tree preservation, landscaping, buffers, lighting, and curb cuts; and

(7) other aspects of the development and use of land or structures necessary to accomplish the purposes set forth throughout this chapter.

(B) The regulations must be made in accordance with the comprehensive plan for the jurisdiction, and be made with a view to promoting the purposes set forth throughout this chapter. Except as provided in this chapter, all of these regulations must be uniform for each class or kind of building, structure, or use throughout each district, but the regulations in one district may differ from those in other districts.

(C) The zoning ordinance may utilize the following or any other zoning and planning techniques for implementation of the goals specified above. Failure to specify a particular technique does not cause use of that technique to be viewed as beyond the power of the local government choosing to use it:

(1) "cluster development" or the grouping of residential, commercial, or industrial uses within a subdivision or development site, permitting a reduction in the otherwise applicable lot size, while preserving substantial open space on the remainder of the parcel;

(2) "floating zone" or a zone which is described in the text of a zoning ordinance but is unmapped. A property owner may petition for the zone to be applied to a particular parcel meeting the minimum zoning district area requirements of the zoning ordinance through legislative action;

(3) "performance zoning" or zoning which specifies a minimum requirement or maximum limit on the effects of a land use rather than, or in addition to, specifying the use itself,

simultaneously assuring compatibility with surrounding development and increasing a developer's flexibility;

(4) "planned development district" or a development project comprised of housing of different types and densities and of compatible commercial uses, or shopping centers, office parks, and mixed-use developments. A planned development district is established by rezoning prior to development and is characterized by a unified site design for a mixed use development;

(5) "overlay zone" or a zone which imposes a set of requirements or relaxes a set of requirements imposed by the underlying zoning district when there is a special public interest in a particular geographic area that does not coincide with the underlying zone boundaries;

(6) "conditional uses" or zoning ordinance provisions that impose conditions, restrictions, or limitations on a permitted use that are in addition to the restrictions applicable to all land in the zoning district. The conditions, restrictions, or limitations must be set forth in the text of the zoning ordinance; and

(7) "priority investment zone" in which the governing authority adopts market-based incentives or relaxes or eliminates nonessential housing regulatory requirements, as these terms are defined in this chapter, to encourage private development in the priority investment zone. The governing authority also may provide that traditional neighborhood design and affordable housing, as these terms are defined in this chapter, must be permitted within the priority investment zone.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 3.

SECTION 6-29-730. Nonconformities.

The regulations may provide that land, buildings, and structures and the uses of them which are lawful at the time of the enactment or amendment of zoning regulations may be continued although not in conformity with the regulations or amendments, which is called a nonconformity. The governing authority of a municipality or county may provide in the zoning ordinance or resolution for the continuance, restoration, reconstruction, extension, or substitution of nonconformities. The governing authority also may provide for the termination of a nonconformity by specifying the period or periods in which the nonconformity is required to cease or be brought into conformance, or by providing a formula where the compulsory termination of nonconformities may be so fixed as to allow for the recovery or amortization of the investment in the nonconformity.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-740. Planned development districts.

In order to achieve the objectives of the comprehensive plan of the locality and to allow flexibility in development that will result in improved design, character, and quality of new mixed use developments and preserve natural and scenic features of open spaces, the local governing authority may provide for the establishment of planned development districts as amendments to a locally adopted zoning ordinance and official zoning map. The adopted planned development map is the zoning district map for the property. The planned development provisions must encourage innovative site planning for residential, commercial, institutional, and industrial developments within planned development districts. Planned development districts may provide for variations from other ordinances and the regulations of other established zoning districts concerning use, setbacks, lot size, density, bulk, and other requirements to accommodate flexibility in the arrangement of uses for the

general purpose of promoting and protecting the public health, safety, and general welfare. Amendments to a planned development district may be authorized by ordinance of the governing authority after recommendation from the planning commission. These amendments constitute zoning ordinance amendments and must follow prescribed procedures for the amendments. The adopted plan may include a method for minor modifications to the site plan or development provisions.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-750. Special development district parking facility plan; dedication.

In accordance with a special development district parking facility plan and program, which includes guidelines for preferred parking locations and indicates prohibited parking areas, the planning commission may recommend and the local governing body may adopt regulations which permit the reduction or waiver of parking requirements within the district in return for cash contributions or dedications of land earmarked for provision of public parking or public transit which may not be used for any other purpose. The cash contributions or the value of the land may not exceed the approximate cost to build the required spaces or provide the public transit that would have incurred had not the reduction or waiver been granted.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-760. Procedure for enactment or amendment of zoning regulation or map; notice and rights of landowners; time limit on challenges.

(A) Before enacting or amending any zoning regulations or maps, the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing on it, which must be advertised and conducted according to lawfully prescribed procedures. If no established procedures exist, then at least fifteen days' notice of the time and place of the public hearing must be given in a newspaper of general circulation in the municipality or county. In cases involving rezoning, conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. If the local government maintains a list of groups that have expressed an interest in being informed of zoning proceedings, notice of such meetings must be mailed to these groups. No change in or departure from the text or maps as recommended by the local planning commission may be made pursuant to the hearing unless the change or departure be first submitted to the planning commission for review and recommendation. The planning commission shall have a time prescribed in the ordinance which may not be more than thirty days within which to submit its report and recommendation on the change to the governing authority. If the planning commission fails to submit a report within the prescribed time period, it is deemed to have approved the change or departure. When the required public hearing is held by the planning commission, no public hearing by the governing authority is required before amending the zoning ordinance text or maps.

(B) If a landowner whose land is the subject of a proposed amendment will be allowed to present oral or written comments to the planning commission, at least ten days' notice and an opportunity to comment in the same manner must be given to other interested members of the public, including owners of adjoining property.

(C) An owner of adjoining land or his representative has standing to bring an action contesting the ordinance or amendment; however, this subsection does not create any new

substantive right in any party.

(D) No challenge to the adequacy of notice or challenge to the validity of a regulation or map, or amendment to it, whether enacted before or after the effective date of this section, may be made sixty days after the decision of the governing body if there has been substantial compliance with the notice requirements of this section or with established procedures of the governing authority or the planning commission.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-770. Governmental entities subject to zoning ordinances; exceptions.

(A) Agencies, departments, and subdivisions of this State that use real property, as owner or tenant, in any county or municipality in this State are subject to the zoning ordinances.

(B) A county or agency, department or subdivision of it that uses any real property, as owner or tenant, within the limits of any municipality in this State is subject to the zoning ordinances of the municipality.

(C) A municipality or agency, department or subdivision of it, that uses any real property, as owner or tenant, within the limits of any county in this State but not within the limits of the municipality is subject to the zoning ordinances of the county.

(D) The provisions of this section do not require a state agency, department, or subdivision to move from facilities occupied on June 18, 1976, regardless of whether or not their location is in violation of municipal or county zoning ordinances.

(E) The provisions of this section do not apply to a home serving nine or fewer mentally or physically handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency or department or under contract with the agency or department for that purpose. A home is construed to be a natural family or such similar term as may be utilized by any county or municipal zoning ordinance to refer to persons related by blood or marriage. Prior to locating the home for the handicapped persons, the appropriate state agency or department or the private entity operating the home under contract must first give prior notice to the local governing body administering the pertinent zoning laws, advising of the exact site of any proposed home. The notice must also identify the individual representing the agency, department, or private entity for site selection purposes. If the local governing body objects to the selected site, the governing body must notify the site selection representative of the entity seeking to establish the home within fifteen days of receiving notice and must appoint a representative to assist the entity in selection of a comparable alternate site or structure, or both. The site selection representative of the entity seeking to establish the home and the representative of the local governing body shall select a third mutually agreeable person. The three persons have forty-five days to make a final selection of the site by majority vote. This final selection is binding on the entity and the governing body. In the event no selection has been made by the end of the forty-five day period, the entity establishing the home shall select the site without further proceedings. An application for variance or special exception is not required. No person may intervene to prevent the establishment of a community residence without reasonable justification.

(F) Prospective residents of these homes must be screened by the licensing agency to ensure that the placement is appropriate.

(G) The licensing agency shall conduct reviews of these homes no less frequently than every six months for the purpose of promoting the rehabilitative purposes of the homes and their continued compatibility with their neighborhoods.

(H) The governing body of a county or municipality whose zoning ordinances are violated by the provisions of this section may apply to a court of competent jurisdiction for injunctive and such other relief as the court may consider proper.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-775. Use of property obtained from federal government.

Notwithstanding the provisions of Section 6-29-770 of the 1976 Code or any other provision of law, a state agency or entity that acquires real property from the federal government or from a state instrumentality or redevelopment agency that received it from the federal government shall be permitted to use the property in the same manner the federal government was permitted to use the property. Further, the property in the hands of the state agency or entity shall be subject only to the same restrictions, if any, as it was in the hands of the federal government, and no county or municipality of this State by zoning or other means may restrict this permitted use or enjoyment of the property.

HISTORY: 2002 Act No. 256, Section 3.

SECTION 6-29-780. Board of zoning appeals; membership; terms of office; vacancies; compensation.

(A) As a part of the administrative mechanism designed to enforce the zoning ordinance, the zoning ordinance may provide for the creation of a board to be known as the board of zoning appeals. Local governing bodies with a joint planning commission and adopting a common zoning ordinance may create a board to be known as the joint board of appeals. All of these boards are referred to as the board.

(B) The board consists of not less than three nor more than nine members, a majority of which constitutes a quorum, appointed by the governing authority or authorities of the area served. The members shall serve for overlapping terms of not less than three nor more than five years or after that time until their successors are appointed. A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment. The governing authority or authorities creating the board of zoning appeals may remove any member of the board for cause. The appointing authorities shall determine the amount of compensation, if any, to be paid to the members of a board of zoning appeals. None of the members shall hold any other public office or position in the municipality or county.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-790. Board of zoning appeals; officers; rules; meetings; notice; records.

The board shall elect one of its members chairman, who shall serve for one year or until he is re-elected or his successor is elected and qualified. The board shall appoint a secretary who may be an officer of the governing authority or of the zoning board. The board shall adopt rules of procedure in accordance with the provisions of an ordinance adopted pursuant to this chapter. Meetings of the board must be held at the call of the chairman and at such other times as the board may determine. Public notice of all meetings of the board of appeals shall be provided by publication

in a newspaper of general circulation in the municipality or county. In cases involving variances or special exceptions conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. The chairman or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which must be immediately filed in the office of the board and must be a public record.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-800. Powers of board of appeals; variances; special exceptions; remand; stay; hearing; decisions and orders.

(A) The board of appeals has the following powers:

(1) to hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;

(2) to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

(a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;

(b) these conditions do not generally apply to other property in the vicinity;

(c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

(d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

(i) The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two-thirds of the local adjustment board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.

(ii) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare;

(3) to permit uses by special exception subject to the terms and conditions for the uses

set forth for such uses in the zoning ordinance; and

(4) to remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review. A party's motion for remand may be denied if the board determines that the record is sufficient for review. The board must set a rehearing on the remanded matter without further public notice for a time certain within sixty days unless otherwise agreed to by the parties. The board must maintain a list of persons who express an interest in being informed when the remanded matter is set for rehearing, and notice of the rehearing must be mailed to these persons prior to the rehearing.

(B) Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality or county. The appeal must be taken within a reasonable time, as provided by the zoning ordinance or rules of the board, or both, by filing with the officer from whom the appeal is taken and with the board of appeals notice of appeal specifying the grounds for the appeal. If no time limit is provided, the appeal must be taken within thirty days from the date the appealing party has received actual notice of the action from which the appeal is taken. The officer from whom the appeal is taken immediately must transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(C) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In that case, proceedings may not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(D) The board must fix a reasonable time for the hearing of the appeal or other matter referred to the board, and give at least fifteen days' public notice of the hearing in a newspaper of general circulation in the community, as well as due notice to the parties in interest, and decide the appeal or matter within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney.

(E) In exercising the above power, the board of appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end, has all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. The board, in the execution of the duties specified in this chapter, may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction.

(F) All final decisions and orders of the board must be in writing and be permanently filed in the office of the board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the board which must be delivered to parties of interest by certified mail.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 2.

SECTION 6-29-810. Contempt; penalty.

In case of contempt by a party, witness, or other person before the board of appeals, the board may certify this fact to the circuit court of the county in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-820. Appeal from zoning board of appeals to circuit court; pre-litigation mediation; filing requirements.

(A) A person who may have a substantial interest in any decision of the board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the board to the circuit court in and for the county, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty days after the decision of the board is mailed.

(B) A property owner whose land is the subject of a decision of the board of appeals may appeal either:

(1) as provided in subsection (A); or

(2) by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-825.

Any notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is postmarked.

(C) Any filing of an appeal from a particular board of appeals decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(11)(a).

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 3, eff June 2, 2003.

SECTION 6-29-825. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

(A) If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the board of appeals.

(B) The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (A) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

(C) Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

(D) Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

(1) the local legislative governing body in public session; and

(2) the circuit court as provided in subsection (G).

(E) Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

(F) If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of:

(1) the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

(2) the failure to approve the settlement by the local governing body.

(G) The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

(1) in the same manner as provided by law for appeals from other judgments of the circuit court; or

(2) by filing an appeal pursuant to subsection (F).

HISTORY: 2003 Act No. 39, Section 4.

SECTION 6-29-830. Notice of appeal; transcript; supersedeas.

(A) Upon the filing of an appeal with a petition as provided in Section 6-29-820(A) or Section 6-29-825(F), the clerk of the circuit court must give immediate notice of the appeal to the secretary of the board and within thirty days from the time of the notice, the board must file with the clerk a duly certified copy of the proceedings held before the board of appeals, including a transcript of the evidence heard before the board, if any, and the decision of the board including its findings of fact and conclusions.

(B) The filing of an appeal in the circuit court from any decision of the board does not ipso facto act as a supersedeas, but the judge of the circuit court may in his discretion grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 5, eff June 2, 2003.

SECTION 6-29-840. Determination of appeal; costs; trial by jury.

(A) At the next term of the circuit court or in chambers, upon ten days' notice to the parties, the presiding judge of the circuit court of the county must proceed to hear and pass upon the appeal on the certified record of the board proceedings. The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the zoning board of appeals for rehearing. In determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law. In the event that the decision of the board is reversed by the circuit court, the board is charged with the costs, and the costs must be paid by the governing authority which established the board of appeals.

(B) When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the board of appeals, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 6.

SECTION 6-29-850. Appeal to Supreme Court.

A party in interest who is aggrieved by the judgment rendered by the circuit court upon the appeal may appeal in the manner provided by the South Carolina Appellate Court Rules.

HISTORY: 1994 Act No. 355, Section 1; 1999 Act No. 55, Section 10.

SECTION 6-29-860. Financing of board of zoning appeals.

The governing authority may appropriate such monies, otherwise unappropriated, as it considers fit to finance the work of the board of appeals and to generally provide for the enforcement of any zoning regulations and restrictions authorized under this chapter which are adopted and may accept and expend grants of money for those purposes from either private or public sources, whether local, state, or federal.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-870. Board of architectural review; membership; officers; rules; meetings; records.

(A) A local government which enacts a zoning ordinance which makes specific provision for the preservation and protection of historic and architecturally valuable districts and neighborhoods or significant or natural scenic areas, or protects or provides, or both, for the unique, special, or desired character of a defined district, corridor, or development area or any combination of it, by means of restriction and conditions governing the right to erect, demolish, remove in whole or in part, or alter the exterior appearance of all buildings or structures within the areas, may provide for appointment of a board of architectural review or similar body.

(B) The board shall consist of not more than ten members to be appointed by the governing body of the municipality or the governing body of the county which may restrict the membership on the board to those professionally qualified persons as it may desire. The governing authority or authorities creating the board may remove any member of the board which it has appointed.

(C) The appointing authorities shall determine the amount of compensation, if any, to be paid to the members of a board of architectural review. None of the members may hold any other public office or position in the municipality or county.

(D) The board shall elect one of its members chairman, who shall serve for one year or until he is re-elected or his successor is elected and qualified. The board shall appoint a secretary who may be an officer of the governing authority or of the board of architectural review. The board shall adopt rules of procedure in accordance with the provisions of any ordinance adopted pursuant to this chapter. Meetings of the board must be held at the call of the chairman and at such other times as the board may determine. The chairman or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which immediately must be filed in the office of the board and must be a public record.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-880. Powers of board of architectural review.

The board of architectural review has those powers involving the structures and neighborhoods as may be determined by the zoning ordinance. Decisions of the zoning administrator or other appropriate administrative official in matters under the purview of the board of architectural review may be appealed to the board where there is an alleged error in any order, requirement, determination, or decision.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-890. Appeal to board of architectural review.

(A) Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality or county. The appeal must be taken within a reasonable time, as provided by the zoning ordinance or rules of the board, or both, by filing with the officer from whom the appeal is taken and with the board of architectural review notice of appeal specifying the grounds of it. The officer from whom the appeal is taken immediately must transmit to the board all the papers constituting the record upon which the action appealed from was taken. Upon a motion by a party or the board's own motion, the board may remand a matter to an administrative official if the board determines the record is insufficient for review. A party's motion for remand may be denied if the board determines that the record is sufficient for review. The board must set a rehearing on the remanded matter without further public notice for a time certain within sixty days unless otherwise agreed to by the parties. The board must maintain a list of persons who express an interest in being informed when the remanded matter is set for rehearing, and notice of the rehearing must be mailed to these persons prior to the rehearing.

(B) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In that case, proceedings may not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application, upon notice to the officer from whom the appeal is taken, and on due cause shown.

(C) The board must fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice of the hearing, as well as due notice to the parties in interest, and decide the appeal or other matter within a reasonable time. At the hearing, any party may appear in person, by agent, or by attorney.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 7.

SECTION 6-29-900. Appeal from board of architectural review to circuit court; pre-litigation mediation; filing requirements.

(A) A person who may have a substantial interest in any decision of the board of architectural review or any officer, or agent of the appropriate governing authority may appeal from any decision of the board to the circuit court in and for the county by filing with the clerk of court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty days after the affected party receives actual notice of the decision of the board of architectural review.

(B) A property owner whose land is the subject of a decision of the board of architectural review may appeal either:

(1) as provided in subsection (A); or

(2) by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-915.

A notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is postmarked.

(C) Any filing of an appeal from a particular board of architectural review decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(11)(a).

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 8.

SECTION 6-29-910. Contempt; penalty.

In case of contempt by a party, witness, or other person before the board of architectural review, the board may certify the fact to the circuit court of the county in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-915. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

(A) If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the board of architectural review.

(B) The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (A) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

(C) Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

(D) Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

(1) the local legislative governing body in public session; and

(2) the circuit court as provided in subsection (G).

(E) Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

(F) If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth

plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of:

(1) the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

(2) the failure to approve the settlement by the local governing body.

(G) The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

(1) in the same manner as provided by law for appeals from other judgments of the circuit court; or

(2) by filing an appeal pursuant to subsection (F).

HISTORY: 2003 Act No. 39, Section 9.

SECTION 6-29-920. Notice of appeal; transcript; supersedeas.

(A) Upon filing of an appeal with a petition as provided in Section 6-29-900(A) or Section 6-29-915(F), the clerk of the circuit court must give immediate notice of the appeal to the secretary of the board and within thirty days from the time of the notice, the board must file with the clerk a duly certified copy of the proceedings held before the board of architectural review, including a transcript of the evidence heard before the board, if any, and the decision of the board including its findings of fact and conclusions.

(B) The filing of an appeal in the circuit court from any decision of the board does not ipso facto act as a supersedeas, but the judge of the circuit court may in his discretion grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 10.

SECTION 6-29-930. Determination of appeal; costs; trial by jury.

(A) At the next term of the circuit court or in chambers upon ten days' notice to the parties, the resident presiding judge of the circuit court of the county must proceed to hear and pass upon the appeal on the certified record of the board proceedings. The findings of fact by the board of architectural review are final and conclusive on the hearing of the appeal, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter must be remanded to the board of architectural review for rehearing. In determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law. In the event that the decision of the board is reversed by the circuit court, the board must be charged with the costs which must be paid by the governing authority which established the board of architectural review.

(B) When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the board of architectural review, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 11.

SECTION 6-29-940. Appeal to Supreme Court.

A party in interest who is aggrieved by the judgment rendered by the circuit court upon the appeal may appeal in the manner provided by the South Carolina Appellate Court Rules.

HISTORY: 1994 Act No. 355, Section 1; 1999 Act No. 55, Section 11.

SECTION 6-29-950. Enforcement of zoning ordinances; remedies for violations.

(A) The governing authorities of municipalities or counties may provide for the enforcement of any ordinance adopted pursuant to the provisions of this chapter by means of the withholding of building or zoning permits, or both, and the issuance of stop orders against any work undertaken by an entity not having a proper building or zoning permit, or both. It is unlawful to construct, reconstruct, alter, demolish, change the use of or occupy any land, building, or other structure without first obtaining the appropriate permit or permit approval. No permit may be issued or approved unless the requirements of this chapter or any ordinance adopted pursuant to it are complied with. It is unlawful for other officials to issue any permit for the use of any land, building, or structure, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure without the approval of the zoning administrator. A violation of any ordinance adopted pursuant to the provisions of this chapter is a misdemeanor. In case a building, structure, or land is or is proposed to be used in violation of any ordinance adopted pursuant to this chapter, the zoning administrator or other appropriate administrative officer, municipal or county attorney, or other appropriate authority of the municipality or county or an adjacent or neighboring property owner who would be specially damaged by the violation may in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure, or land. Each day the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues is considered a separate offense.

(B) In case a building, structure, or land is or is proposed to be used in violation of an ordinance adopted pursuant to this chapter, the zoning administrator or other designated administrative officer may in addition to other remedies issue and serve upon a person pursuing the activity or activities a stop order requiring that entity stop all activities in violation of the zoning ordinance.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-960. Conflict with other laws.

When the regulations made under authority of this chapter require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under another statute, or local ordinance or regulation, the regulations made under authority of this chapter govern. When the provisions of another statute require more restrictive standards than are required by the regulations made under authority of this chapter, the

provisions of that statute govern.

HISTORY: 1994 Act No. 355, Section 1.

ARTICLE 7
Local Planning — Land Development Regulation

SECTION 6-29-1110. Definitions.

As used in this chapter:

(1) "Affordable housing" means in the case of dwelling units for sale, housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than twenty-eight percent of the annual household income for a household earning no more than eighty percent of the area median income, by household size, for the metropolitan statistical area as published from time to time by the U.S. Department of Housing and Community Development (HUD) and, in the case of dwelling units for rent, housing for which the rent and utilities constitute no more than thirty percent of the annual household income for a household earning no more than eighty percent of the area median income, by household size for the metropolitan statistical area as published from time to time by HUD.

(2) "Land development" means the changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sale, lease, or any combination of owner and rental characteristics.

(3) "Market-based incentives" mean incentives that encourage private developers to meet the governing authority's goals as developed in this chapter. Incentives may include, but are not limited to:

(a) density bonuses, allowing developers to build at a density higher than residential zones typically permit, and greater density bonuses, allowing developers to build at a density higher than residential affordable units in development, or allowing developers to purchase density by paying into a local housing trust fund;

(b) relaxed zoning regulations including, but not limited to, minimum lot area requirements, limitations of multifamily dwellings, minimum setbacks, yard requirements, variances, reduced parking requirements, and modified street standards;

(c) reduced or waived fees including those fees levied on new development projects where affordable housing is addressed, reimburse permit fees to builder upon certification that dwelling unit is affordable and waive up to one hundred percent of sewer/water tap-in fees for affordable housing units;

(d) fast-track permitting including, but not limited to, streamlining the permitting process for new development projects and expediting affordable housing developments to help reduce cost and time delays;

(e) design flexibility allowing for greater design flexibility, creating preapproved design standards to allow for quick and easy approval, and promoting infill development, mixed use and accessory dwellings.

(4) "Subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivision which would involve the further division or relocation of lot lines

of any lot or lots within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record; however, the following exceptions are included within this definition only for the purpose of requiring that the local planning agency be informed and have a record of the subdivisions:

(a) the combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the governing authority;

(b) the division of land into parcels of five acres or more where no new street is involved and plats of these exceptions must be received as information by the planning agency which shall indicate that fact on the plats; and

(c) the combination or recombination of entire lots of record where no new street or change in existing streets is involved.

(5) "Traditional neighborhood design" means development designs intended to enhance the appearance and functionality of the new development so that it functions like a traditional neighborhood or town. These designs make possible reasonably high residential densities, a mixture of residential and commercial land uses, a range of single and multifamily housing types, and street connectivity both within the new development and to surrounding roadways, pedestrian, and bicycle features.

(6) "Nonessential housing regulatory requirements" mean those development standards and procedures that are determined by the local governing body to be not essential within a specific priority investment zone to protect the public health, safety, or welfare and that may otherwise make a proposed housing development economically infeasible. Nonessential housing regulatory requirements may include, but are not limited to:

(a) standards or requirements for minimum lot size, building size, building setbacks, spacing between buildings, impervious surfaces, open space, landscaping, buffering, reforestation, road width, pavements, parking, sidewalks, paved paths, culverts and storm water drainage, and sizing of water and sewer lines that are excessive; and

(b) application and review procedures that require or result in extensive submittals and lengthy review periods.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 4.

SECTION 6-29-1120. Legislative intent; purposes.

The public health, safety, economy, good order, appearance, convenience, morals, and general welfare require the harmonious, orderly, and progressive development of land within the municipalities and counties of the State. In furtherance of this general intent, the regulation of land development by municipalities, counties, or consolidated political subdivisions is authorized for the following purposes, among others:

(1) to encourage the development of economically sound and stable municipalities and counties;

(2) to assure the timely provision of required streets, utilities, and other facilities and services to new land developments;

(3) to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;

(4) to assure the provision of needed public open spaces and building sites in new

land developments through the dedication or reservation of land for recreational, educational, transportation, and other public purposes; and

(5) to assure, in general, the wise and timely development of new areas, and redevelopment of previously developed areas in harmony with the comprehensive plans of municipalities and counties.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1130. Regulations.

(A) When at least the community facilities element, the housing element, and the priority investment element of the comprehensive plan as authorized by this chapter have been adopted by the local planning commission and the local governing body or bodies, the local planning commission may prepare and recommend to the governing body or bodies for adoption regulations governing the development of land within the jurisdiction. These regulations may provide for the harmonious development of the municipality and the county; for coordination of streets within subdivision and other types of land developments with other existing or planned streets or official map streets; for the size of blocks and lots; for the dedication or reservation of land for streets, school sites, and recreation areas and of easements for utilities and other public services and facilities; and for the distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, appearance, prosperity, or the general welfare. In particular, the regulations shall prescribe that no land development plan, including subdivision plats, will be approved unless all land intended for use as building sites can be used safely for building purposes, without danger from flood or other inundation or from other menaces to health, safety, or public welfare.

(B) These regulations may include requirements as to the extent to which and the manner in which streets must be graded, surfaced, and improved, and water, sewers, septic tanks, and other utility mains, piping, connections, or other facilities must be installed as a condition precedent to the approval of the plan. The governing authority of the municipality and the governing authority of the county are given the power to adopt and to amend the land development regulations after a public hearing on it, giving at least thirty days' notice of the time and place by publication in a newspaper of general circulation in the municipality or county.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 5.

SECTION 6-29-1140. Development plan to comply with regulations; submission of unapproved plan for recording is a misdemeanor.

After the local governing authority has adopted land development regulations, no subdivision plat or other land development plan within the jurisdiction of the regulations may be filed or recorded in the office of the county where deeds are required to be recorded, and no building permit may be issued until the plat or plan bears the stamp of approval and is properly signed by the designated authority. The submission for filing or the recording of a subdivision plat or other land development plan without proper approval as required by this chapter is declared a misdemeanor and, upon conviction, is punishable as provided by law.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1145. Determining existence of restrictive covenant; effect.

(A) In an application for a permit, the local planning agency must inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.

(B) If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:

(1) in the application for the permit;

(2) from materials or information submitted by the person or persons requesting the permit; or

(3) from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

(C) As used in this section:

(1) "actual notice" is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants;

(2) "permit" does not mean an authorization to build or place a structure on a tract or parcel of land; and

(3) "restrictive covenant" does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land.

HISTORY: 2007 Act No. 45, Section 3, eff June 4, 2007, applicable to applications for permits filed on and after July 1, 2007; 2007 Act No. 113, Section 2, eff June 27, 2007.

SECTION 6-29-1150. Submission of plan or plat to planning commission; record; appeal.

(A) The land development regulations adopted by the governing authority must include a specific procedure for the submission and approval or disapproval by the planning commission or designated staff. These procedures may include requirements for submission of sketch plans, preliminary plans, and final plans for review and approval or disapproval. Time limits, not to exceed sixty days, must be set forth for action on plans or plats, or both, submitted for approval or disapproval. Failure of the designated authority to act within sixty days of the receipt of development plans or subdivision plats with all documentation required by the land development regulations is considered to constitute approval, and the developer must be issued a letter of approval and authorization to proceed based on the plans or plats and supporting documentation presented. The sixty-day time limit may be extended by mutual agreement.

(B) A record of all actions on all land development plans and subdivision plats with the grounds for approval or disapproval and any conditions attached to the action must be maintained as a public record. In addition, the developer must be notified in writing of the actions taken.

(C) Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the planning commission by any party in interest. The planning commission must act on the appeal within sixty days, and the action of the planning commission is final.

(D)(1) An appeal from the decision of the planning commission must be taken to the circuit court within thirty days after actual notice of the decision.

(2) A property owner whose land is the subject of a decision of the planning commission may appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-1155.

A notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is mailed.

(3) Any filing of an appeal from a particular planning commission decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(11)(a).

(4) When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the planning commission, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 12, eff June 2, 2003.

SECTION 6-29-1155. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

(A) If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the planning commission.

(B) The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (A) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

(C) Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

(D) Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

(1) the local legislative governing body in public session; and

(2) the circuit court as provided in subsection (G).

(E) Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

(F) If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of:

(1) the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

(2) the failure to approve the settlement by the local governing body.

(G) The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

(1) in the same manner as provided by law for appeals from other judgments of the circuit court; or

(2) by filing an appeal pursuant to subsection (F).

HISTORY: 2003 Act No. 39, Section 13, eff June 2, 2003.

SECTION 6-29-1160. Recording unapproved land development plan or plat; penalty; remedies.

The county official whose duty it is to accept and record real estate deeds and plats may not accept, file, or record a land development plan or subdivision plat involving a land area subject to land development regulations adopted pursuant to this chapter unless the development plan or subdivision plat has been properly approved. If a public official violates the provisions of this section, he is, in each instance, subject to the penalty provided in this article and the affected governing body, private individual, or corporation has rights and remedies as to enforcement or collection as are provided, and may enjoin any violations of them.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1170. Approval of plan or plat not acceptance of dedication of land.

The approval of the land development plan or subdivision plat may not be deemed to automatically constitute or effect an acceptance by the municipality or the county or the public of the dedication of any street, easement, or other ground shown upon the plat. Public acceptance of the lands must be by action of the governing body customary to these transactions.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1180. Surety bond for completion of site improvements.

In circumstances where the land development regulations adopted pursuant to this chapter require the installation and approval of site improvements prior to approval of the land development plan or subdivision plat for recording in the office of the county official whose duty it is to accept and record the instruments, the developer may be permitted to post a surety bond, certified check, or other instrument readily convertible to cash. The surety must be in an amount equal to at least one hundred twenty-five percent of the cost of the improvement. This surety must be in favor of the local government to ensure that, in the event of default by the developer, funds will be used to install the required improvements at the expense of the developer.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1190. Transfer of title to follow approval and recording of development plan; violation is a misdemeanor.

The owner or agent of the owner of any property being developed within the municipality or county may not transfer title to any lots or parts of the development unless the land development plan or subdivision has been approved by the local planning commission or designated authority and an approved plan or plat recorded in the office of the county charged with the responsibility of recording deeds, plats, and other property records. A transfer of title in violation of this provision is a misdemeanor and, upon conviction, must be punished in the discretion of the court. A description by metes and bounds in the instrument of transfer or other document used in the process of transfer does not exempt the transaction from these penalties. The municipality or county may enjoin the transfer by appropriate action.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1200. Approval of street names required; violation is a misdemeanor; changing street name.

(A) A local planning commission created under the provisions of this chapter shall, by proper certificate, approve and authorize the name of a street or road laid out within the territory over which the commission has jurisdiction. It is unlawful for a person in laying out a new street or road to name the street or road on a plat, by a marking or in a deed or instrument without first getting the approval of the planning commission. Any person violating this provision is guilty of a misdemeanor and, upon conviction, must be punished in the discretion of the court.

(B) A commission may, after reasonable notice through a newspaper having general circulation in which the commission is created and exists, change the name of a street or road within the boundary of its territorial jurisdiction:

(1) when there is duplication of names or other conditions which tend to confuse the traveling public or the delivery of mail, orders, or messages;

(2) when it is found that a change may simplify marking or giving of directions to persons seeking to locate addresses; or

(3) upon any other good and just reason that may appear to the commission.

(C) On the name being changed, after reasonable opportunity for a public hearing, the planning commission shall issue its certificate designating the change, which must be recorded in the office of the register of deeds or clerk of court, and the name changed and certified is the legal name of the street or road.

HISTORY: 1994 Act No. 355, Section 1; 1997 Act No. 34, Section 1.

SECTION 6-29-1210. Land development plan not required to execute a deed.

Under this chapter, the submission of a land development plan or land use plan is not a prerequisite and must not be required before the execution of a deed transferring undeveloped real property. A local governmental entity may still require the grantee to file a plat at the time the deed is recorded.

HISTORY: 2016 Act No. 144.

ARTICLE 9
Educational Requirements for Local Government Planning or Zoning Officials or Employees

SECTION 6-29-1310. Definitions.

As used in this article:

(1) "Advisory committee" means the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees;

(2) "Appointed official" means a planning commissioner, board of zoning appeals member, or board of architectural review member;

(3) "Clerk" means the clerk of the local governing body;

(4) "Local governing body" means the legislative governing body of a county or municipality;

(5) "Planning or zoning entity" means a planning commission, board of zoning appeals, or board of architectural review;

(6) "Professional employee" means a planning professional, zoning administrator, zoning official, or a deputy or assistant of a planning professional, zoning administrator, or zoning official.

HISTORY: 2003 Act No. 39, Section 14.

SECTION 6-29-1320. Identification of persons covered by act; compliance schedule.

(A) The local governing body must:

(1) by no later than December 31st of each year, identify the appointed officials and professional employees for the jurisdiction and provide a list of those appointed officials and professional employees to the clerk and each planning or zoning entity in the jurisdiction; and

(2) annually inform each planning or zoning entity in the jurisdiction of the requirements of this article.

(B) Appointed officials and professional employees must comply with the provisions of this article according to the following dates and populations based on the population figures of the latest official United States Census:

(1) municipalities and counties with a population of 35,000 and greater: by January 1, 2006; and

(2) municipalities and counties with a population under 35,000: by January 1, 2007.

HISTORY: 2003 Act No. 39, Section 14; 2004 Act No. 287, Section 3.

SECTION 6-29-1330. State Advisory Committee; creation; members; terms; duties; compensation; meetings; fees charged.

(A) There is created the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees.

(B) The advisory committee consists of five members appointed by the Governor. The advisory committee consists of:

(1) a planner recommended by the South Carolina Chapter of the American Planning Association;

(2) a municipal official or employee recommended by the Municipal Association of South Carolina;

(3) a county official or employee recommended by the South Carolina Association of Counties;

(4) a representative recommended by the University of South Carolina's Institute for Public Service and Policy Research; and

(5) a representative recommended by Clemson University's Department of Planning and Landscape Architecture. Recommendations must be submitted to the Governor not later than the thirty-first day of December of the year preceding the year in which appointments expire. If the Governor rejects any person recommended for appointment, the group or association who recommended the person must submit additional names to the Governor for consideration.

(C) The members of the advisory committee must serve a term of four years and until their successors are appointed and qualify; except that for the members first appointed to the advisory committee, the planner must serve a term of three years; the municipal official or employee and the county official or employee must each serve a term of two years; and the university representatives must each serve a term of one year. A vacancy on the advisory committee must be filled in the manner of the original appointment for the remainder of the unexpired term. The Governor may remove a member of the advisory committee in accordance with Section 1-3-240(B).

(D) The advisory committee's duties are to:

(1) compile and distribute a list of approved orientation and continuing education programs that satisfy the educational requirements in Section 6-29-1340;

(2) determine categories of persons with advanced degrees, training, or experience, that are eligible for exemption from the educational requirements in Section 6-29-1340; and

(3) make an annual report to the President Pro Tempore of the Senate and Speaker of the House of Representatives, no later than April fifteenth of each year, providing a detailed account of the advisory committee's:

(a) activities;

(b) expenses;

(c) fees collected; and

(d) determinations concerning approved education programs and categories of exemption.

(E) A list of approved education programs and categories of exemption by the advisory committee must be available for public distribution through notice in the State Register and posting on the General Assembly's Internet website. This list must be updated by the advisory committee at least annually.

(F) The members of the advisory committee must serve without compensation and must meet at a set location to which members must travel no more frequently than quarterly, at the call of the chairman selected by majority vote of at least a quorum of the members. Nothing in this subsection prohibits the chairman from using discretionary authority to conduct additional meetings by telephone conference if necessary. These telephone conference meetings may be conducted more frequently than quarterly. Three members of the advisory committee constitute a quorum. Decisions concerning the approval of education programs and categories of exemption must be made by majority vote with at least a quorum of members participating.

(G) The advisory committee may assess by majority vote of at least a quorum of the members a nominal fee to each entity applying for approval of an orientation or continuing education program; however, any fees charged must be applied to the operating expenses of the advisory committee and must not result in a net profit to the groups or associations that recommend the members of the advisory committee. An accounting of any fees collected by the advisory committee must be made in the advisory committee's annual report to the President Pro Tempore of the Senate and Speaker of the House of Representatives.

HISTORY: 2003 Act No. 39, Section 14; 2008 Act No. 273, Section 2, 2008.

SECTION 6-29-1340. Educational requirements; time-frame for completion; subjects.

(A) Unless expressly exempted as provided in Section 6-29-1350, each appointed official and professional employee must:

(1) no earlier than one hundred and eighty days prior to and no later than three hundred and sixty-five days after the initial date of appointment or employment, attend a minimum of six hours of orientation training in one or more of the subjects listed in subsection (C); and

(2) annually, after the first year of service or employment, but no later than three hundred and sixty-five days after each anniversary of the initial date of appointment or employment, attend no fewer than three hours of continuing education in any of the subjects listed in subsection (C).

(B) An appointed official or professional employee who attended six hours of orientation training for a prior appointment or employment is not required to comply with the orientation requirement for a subsequent appointment or employment after a break in service. However, unless expressly exempted as provided in Section 6-29-1350, upon a subsequent appointment or employment, the appointed official or professional employee must comply with an annual requirement of attending no fewer than three hours of continuing education as provided in this section.

(C) The subjects for the education required by subsection (A) may include, but not be limited to, the following:

(1) land use planning;
(2) zoning;
(3) floodplains;
(4) transportation;
(5) community facilities;
(6) ethics;
(7) public utilities;
(8) wireless telecommunications facilities;
(9) parliamentary procedure;
(10) public hearing procedure;
(11) administrative law;
(12) economic development;
(13) housing;
(14) public buildings;
(15) building construction;
(16) land subdivision; and
(17) powers and duties of the planning commission, board of zoning appeals, or board of architectural review.

(D) In order to meet the educational requirements of subsection (A), an educational program must be approved by the advisory committee.

HISTORY: 2003 Act No. 39, Section 14.

SECTION 6-29-1350. Exemption from educational requirements.

(A) An appointed official or professional employee who has one or more of the following qualifications is exempt from the educational requirements of Section 6-29-1340:

(1) certification by the American Institute of Certified Planners;

(2) a masters or doctorate degree in planning from an accredited college or university;

(3) a masters or doctorate degree or specialized training or experience in a field related to planning as determined by the advisory committee;

(4) a license to practice law in South Carolina.

(B) An appointed official or professional employee who is exempt from the educational requirements of Section 6-29-1340 must file a certification form and documentation of his exemption as required in Section 6-29-1360 by no later than the first anniversary date of his appointment or employment. An exemption is established by a single filing for the tenure of the appointed official or professional employee and does not require the filing of annual certification forms and conforming documentation.

HISTORY: 2003 Act No. 39, Section 14.

SECTION 6-29-1360. Certification.

(A) An appointed official or professional employee must certify that he has satisfied the educational requirements in Section 6-29-1340 by filing a certification form and documentation with the clerk no later than the anniversary date of the appointed official's appointment or professional employee's employment each year.

(B) Each certification form must substantially conform to the following form and all applicable portions of the form must be completed:

EDUCATIONAL REQUIREMENTS

CERTIFICATION FORM

FOR LOCAL GOVERNMENT PLANNING OR ZONING

OFFICIALS OR EMPLOYEES

To report compliance with the educational requirements, please complete and file this form each year with the clerk of the local governing body no later than the anniversary date of your appointment or employment. To report an exemption from the educational requirements, please complete and file this form with the clerk of the local governing body by no later than the first anniversary of your current appointment or employment. Failure to timely file this form may subject an appointed official to removal for cause and an employee to dismissal.

Name of Appointed Official or Employee: _____

Position: _____

Initial Date of Appointment or Employment: _____

Filing Date: _____

I have attended the following orientation or continuing education program(s) within the last three hundred and sixty-five days. (Please note that a program completed more than one hundred and eighty days prior to the date of your initial appointment or employment may not be used to satisfy this requirement.):

Program Name Sponsor Location Date Held Hours of Instruction

Also attached with this form is documentation that I attended the program(s).

OR

I am exempt from the orientation and continuing education requirements because (Please initial the applicable response on the line provided):

____ I am certified by the American Institute of Certified Planners.

____ I hold a masters or doctorate degree in planning from an accredited college or university.

____ I hold a masters or doctorate degree or have specialized training or experience in a field related to planning as determined by the State Advisory Committee on Educational Requirements for Local Government Planning or Zoning Officials and Employees. (Please describe your advanced degree or specialty on the line provided.)

_____

____ I am licensed to practice law in South Carolina.

Also attached with this form is documentation to confirm my exemption.

I certify that I have satisfied or am exempt from the educational requirements for local planning or zoning officials or employees.

Signature: _____

(C) Each appointed official and professional employee is responsible for obtaining written documentation that either:

(1) is signed by a representative of the sponsor of any approved orientation or continuing education program for which credit is claimed and acknowledges that the filer attended the program for which credit is claimed; or

(2) establishes the filer's exemption.

The documentation must be filed with the clerk as required by this section.

HISTORY: 2003 Act No. 39, Section 14.

SECTION 6-29-1370. Sponsorship and funding of programs; compliance and exemption; certification as public records.

(A) The local governing body is responsible for:

(1) sponsoring and providing approved education programs; or

(2) funding approved education programs provided by a sponsor other than the local governing body for the appointed officials and professional employees in the jurisdiction.

(B) The clerk must keep in the official public records originals of:

(1) all filed forms and documentation that certify compliance with educational requirements for three years after the calendar year in which each form is filed; and

(2) all filed forms and documentation that certify an exemption for the tenure of the appointed official or professional employee.

HISTORY: 2003 Act No. 39, Section 14.

SECTION 6-29-1380. Failure to complete training requirements; false documentation.

(A) An appointed official is subject to removal from office for cause as provided in Section 6-29-350, 6-29-780, or 6-29-870 if he:

(1) fails to complete the requisite number of hours of orientation training and continuing education within the time allotted under Section 6-29-1340; or

(2) fails to file the certification form and documentation required by Section 6-29-1360.

(B) A professional employee is subject to suspension or dismissal from employment relating to planning or zoning by the local governing body or planning or zoning entity if he:

(1) fails to complete the requisite number of hours of orientation training and continuing education within the time allotted under Section 6-29-1340; or

(2) fails to file the certification form and documentation required by Section 6-29-1360.

(C) A local governing body must not appoint a person who has falsified the certification form or documentation required by Section 6-29-1360 to serve in the capacity of an appointed official.

(D) A local governing body or planning or zoning entity must not employ a person who has falsified the certification form or documentation required by Section 6-29-1360 to serve in the capacity of a professional employee.

HISTORY: 2003 Act No. 39, Section 14.

ARTICLE 11
Vested Rights

SECTION 6-29-1510. Citation of article.

This article may be cited as the "Vested Rights Act".

HISTORY: 2004 Act No. 287, Section 2.

SECTION 6-29-1520. Definitions.

As used in this article:

(1) "Approved" or "approval" means a final action by the local governing body or an exhaustion of all administrative remedies that results in the authorization of a site specific development plan or a phased development plan.

(2) "Building permit" means a written warrant or license issued by a local building official that authorizes the construction or renovation of a building or structure at a specified location.

(3) "Conditionally approved" or "conditional approval" means an interim action taken by a local governing body that provides authorization for a site specific development plan or a phased development plan but is subject to approval.

(4) "Landowner" means an owner of a legal or equitable interest in real property including the heirs, devisees, successors, assigns, and personal representatives of the owner. "Landowner" may include a person holding a valid option to purchase real property pursuant to a contract with the owner to act as his agent or representative for purposes of submitting a proposed site specific development plan or a phased development plan pursuant to this article.

(5) "Local governing body" means: (a) the governing body of a county or municipality, or (b) a county or municipal body authorized by statute or by the governing body of the county or municipality to make land-use decisions.

(6) "Person" means an individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any legal entity as defined by South Carolina laws.

(7) "Phased development plan" means a development plan submitted to a local governing body by a landowner that shows the types and density or intensity of uses for a specific property or properties to be developed in phases, but which do not satisfy the requirements for a site specific development plan.

(8) "Real property" or "property" means all real property that is subject to the land use and development ordinances or regulations of a local governing body, and includes the earth, water, and air, above, below, or on the surface, and includes improvements or structures customarily regarded as a part of real property.

(9) "Site specific development plan" means a development plan submitted to a local governing body by a landowner describing with reasonable certainty the types and density or intensity of uses for a specific property or properties. The plan may be in the form of, but is not limited to, the following plans or approvals: planned unit development; subdivision plat; preliminary or general development plan; variance; conditional use or special use permit plan; conditional or special use district zoning plan; or other land-use approval designations as are used by a county or municipality.

(10) "Vested right" means the right to undertake and complete the development of property under the terms and conditions of a site specific development plan or a phased development plan as provided in this article and in the local land development ordinances or regulations adopted pursuant to this chapter.

HISTORY: 2004 Act No. 287, Section 2.

SECTION 6-29-1530. Two-year vested right established on approval of site specific development plan; conforming ordinances and regulations; renewal.

(A)(1) A vested right is established for two years upon the approval of a site specific development plan.

(2) On or before July 1, 2005, in the local land development ordinances or regulations adopted pursuant to this chapter, a local governing body must provide for:

(a) the establishment of a two-year vested right in an approved site specific development plan; and

(b) a process by which the landowner of real property with a vested right may apply at the end of the vesting period to the local governing body for an annual extension of the vested right. The local governing body must approve applications for at least five annual extensions of the vested right unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval.

(B) A local governing body may provide in its local land development ordinances or regulations adopted pursuant to this chapter for the establishment of a two-year vested right in a conditionally approved site specific development plan.

(C) A local governing body may provide in its local land development ordinances or regulations adopted pursuant to this chapter for the establishment of a vested right in an approved or conditionally approved phased development plan not to exceed five years.

HISTORY: 2004 Act No. 287, Section 2.

SECTION 6-29-1540. Conditions and limitations.

A vested right established by this article and in accordance with the standards and procedures in the land development ordinances or regulations adopted pursuant to this chapter is subject to the following conditions and limitations:

(1) the form and contents of a site specific development plan must be prescribed in the land development ordinances or regulations;

(2) the factors that constitute a site specific development plan sufficient to trigger a vested right must be included in the land development ordinances or regulations;

(3) if a local governing body establishes a vested right for a phased development plan, a site specific development plan may be required for approval with respect to each phase in accordance

with regulations in effect at the time of vesting;

(4) a vested right established under a conditionally approved site specific development plan or conditionally approved phased development plan may be terminated by the local governing body upon its determination, following notice and public hearing, that the landowner has failed to meet the terms of the conditional approval;

(5) the land development ordinances or regulations amended pursuant to this article must designate a vesting point earlier than the issuance of a building permit but not later than the approval by the local governing body of the site specific development plan or phased development plan that authorizes the developer or landowner to proceed with investment in grading, installation of utilities, streets, and other infrastructure, and to undertake other significant expenditures necessary to prepare for application for a building permit;

(6) a site specific development plan or phased development plan for which a variance, regulation, or special exception is necessary does not confer a vested right until the variance, regulation, or special exception is obtained;

(7) a vested right for a site specific development plan expires two years after vesting. The land development ordinances or regulations must authorize a process by which the landowner of real property with a vested right may apply at the end of the vesting period to the local governing body for an annual extension of the vested right. The local governing body must approve applications for at least five annual extensions of the vested right unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval. The land development ordinances or regulations may authorize the local governing body to:

(a) set a time of vesting for a phased development plan not to exceed five years; and

(b) extend the time for a vested site specific development plan to a total of five years upon a determination that there is just cause for extension and that the public interest is not adversely affected. Upon expiration of a vested right, a building permit may be issued for development only in accordance with applicable land development ordinances or regulations;

(8) a vested site specific development plan or vested phased development plan may be amended if approved by the local governing body pursuant to the provisions of the land development ordinances or regulations;

(9) a validly issued building permit does not expire or is not revoked upon expiration of a vested right, except for public safety reasons or as prescribed by the applicable building code;

(10) a vested right to a site specific development plan or phased development plan is subject to revocation by the local governing body upon its determination, after notice and public hearing, that there was a material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval;

(11) a vested site specific development plan or vested phased development plan is subject to later enacted federal, state, or local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and nonconforming structure and use regulations which do not provide for the grandfathering of the vested right. The issuance of a building permit vests the specific construction project authorized by the building permit to the building, fire, plumbing, electrical, and mechanical codes in force at the time of the issuance of the building permit;

(12) a vested site specific development plan or vested phased development plan is subject to later local governmental overlay zoning that imposes site plan-related requirements but does not affect allowable types, height as it affects density or intensity of uses, or density or intensity of uses;

(13) a change in the zoning district designation or land-use regulations made subsequent to vesting that affect real property does not operate to affect, prevent, or delay development of the real property

under a vested site specific development plan or vested phased development plan without consent of the landowner;

(14) if real property having a vested site specific development plan or vested phased development plan is annexed, the governing body of the municipality to which the real property has been annexed must determine, after notice and public hearing in which the landowner is allowed to present evidence, if the vested right is effective after the annexation;

(15) a local governing body must not require a landowner to waive his vested rights as a condition of approval or conditional approval of a site specific development plan or a phased development plan; and

(16) the land development ordinances or regulations adopted pursuant to this article may provide additional terms or phrases, consistent with the conditions and limitations of this section, that are necessary for the implementation or determination of vested rights.

HISTORY: 2004 Act No. 287, Section 2.

SECTION 6-29-1550. Vested right attaches to real property; applicability of laws relating to public health, safety and welfare.

A vested right pursuant to this section is not a personal right, but attaches to and runs with the applicable real property. The landowner and all successors to the landowner who secure a vested right pursuant to this article may rely upon and exercise the vested right for its duration subject to applicable federal, state, and local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and nonconforming structure and use regulations which do not provide for the grandfathering of the vested right. This article does not preclude judicial determination that a vested right exists pursuant to other statutory provisions. This article does not affect the provisions of a development agreement executed pursuant to the South Carolina Local Government Development Agreement Act in Chapter 31 of Title 6.

HISTORY: 2004 Act No. 287, Section 2.

SECTION 6-29-1560. Establishing vested right in absence of local ordinances providing therefor; significant affirmative government acts.

(A) If a local governing body does not have land development ordinances or regulations or fails to adopt an amendment to its land development ordinances or regulations as required by this section, a landowner has a vested right to proceed in accordance with an approved site specific development plan for a period of two years from the approval. The landowner of real property with a vested right may apply at the end of the vesting period to the local governing body for an annual extension of the vested right. The local governing body must approve applications for at least five annual extensions of the vested right unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval. For purposes of this section, the landowner's rights are considered vested in the types of land use and density or intensity of uses defined in the development plan and the vesting is not affected by later amendment to a zoning ordinance or land-use or development regulation if the landowner:

(1) obtains, or is the beneficiary of, a significant affirmative government act that remains in effect allowing development of a specific project;

(2) relies in good faith on the significant affirmative government act; and

(3) incurs significant obligations and expenses in diligent pursuit of the specific project in reliance on the significant affirmative government act.

(B) For the purposes of this section, the following are significant affirmative governmental acts allowing development of a specific project:

(1) the local governing body has accepted exactions or issued conditions that specify a use related to a zoning amendment;

(2) the local governing body has approved an application for a rezoning for a specific use;

(3) the local governing body has approved an application for a density or intensity of use;

(4) the local governing body or board of appeals has granted a special exception or use permit with conditions;

(5) the local governing body has approved a variance;

(6) the local governing body or its designated agent has approved a preliminary subdivision plat, site plan, or plan of phased development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; or

(7) the local governing body or its designated agent has approved a final subdivision plat, site plan, or plan of phased development for the landowner's property.

HISTORY: 2004 Act No. 287, Section 2.

ARTICLE 13
Federal Defense Facilities Utilization Integrity Protection

SECTION 6-29-1610. Short title.

This article may be cited as the "Federal Defense Facilities Utilization Integrity Protection Act".

HISTORY: 2005 Act No. 1, Section 1.

SECTION 6-29-1620. Legislative purpose.

The General Assembly finds:

(1) As South Carolina continues to grow, there is significant potential for uncoordinated development in areas contiguous to federal military installations that can undermine the integrity and utility of land and airspace currently used for mission readiness and training.

(2) Despite consistent cooperation on the part of local government planners and developers, this potential remains for unplanned development in areas that could undermine federal military utility of lands and airspace in South Carolina.

(3) It is, therefore, desirous and in the best interests of the people of South Carolina to enact processes that will ensure that development in areas near federal military installations is conducted in a coordinated manner that takes into account and provides a voice for federal military interests in planning and zoning decisions by local governments.

HISTORY: 2005 Act No. 1, Section 1.

SECTION 6-29-1625. Definitions.

(A) For purposes of this article, "federal military installations" includes Fort Jackson, Shaw Air Force Base, McEntire Air Force Base, Charleston Air Force Base, Beaufort Marine Corps Air Station, Beaufort Naval Hospital, Parris Island Marine Recruit Depot, and Charleston Naval Weapons Station.

(B) For purposes of this article, a "federal military installation overlay zone" is an "overlay zone" as defined in Section 6-29-720(C)(5) in a geographic area including a federal military installation as defined in this section.

HISTORY: 2005 Act No. 1, Section 1.

SECTION 6-29-1630. Local planning department investigations, recommendations and findings; incorporation into official maps.

(A) In any local government which has established a planning department or other entity, such as a board of zoning appeals, charged with the duty of establishing, reviewing, or enforcing comprehensive land use plans or zoning ordinances, that planning department or other entity, with respect to each proposed land use or zoning decision involving land that is located within a federal military installation overlay zone or, if there is no such overlay zone, within three thousand feet of any federal military installation, or within the three thousand foot Clear Zone and Accident Potential Zones Numbers I and II as prescribed in 32 C.F.R. Section 256, defining Air Installation Compatible Use Zones of a federal military airfield, shall:

(1) at least thirty days prior to any hearing conducted pursuant to Section 6-29-530 or 6-29-800, request from the commander of the federal military installation a written recommendation with supporting facts with regard to the matters specified in subsection (C) relating to the use of the property which is the subject of review; and

(2) upon receipt of the written recommendation specified in subsection (A) (1) make the written recommendations a part of the public record, and in addition to any other duties with which the planning department or other entity is charged by the local government, investigate and make recommendations of findings with respect to each of the matters enumerated in subsection (C).

(B) If the base commander does not submit a recommendation pursuant to subsection (A)(1) by the date of the public hearing, there is a presumption that the land use plan or zoning proposal does not have any adverse effect relative to the matters specified in subsection (C).

(C) The matters the planning department or other entity shall address in its investigation, recommendations, and findings must be:

(1) whether the land use plan or zoning proposal will permit a use that is suitable in view of the fact that the property under review is within the federal military installation overlay zone, or, if there is no such overlay zone located within three thousand feet of a federal military installation or within the three thousand foot Clear Zone and Accident Potential Zones Numbers I and II as prescribed in 32 C.F.R. Section 256, defining Air Installation Compatible Use Zones of a federal military airfield;

(2) whether the land use plan or zoning proposal will adversely affect the existing use or usability of nearby property within the federal military installation overlay zone, or, if there is no such overlay zone, within three thousand feet of a federal military installation, or within the three thousand foot Clear Zone and Accident Potential Zones Numbers I and II as prescribed in 32 C.F.R. Section 256, defining Air Installation Compatible Use Zones of a federal military airfield;

(3) whether the property to be affected by the land use plan or zoning proposal has a reasonable

economic use as currently zoned;

(4) whether the land use plan or zoning proposal results in a use which causes or may cause a safety concern with respect to excessive or burdensome use of existing streets, transportation facilities, utilities, or schools where adjacent or nearby property is used as a federal military installation;

(5) if the local government has an adopted land use plan, whether the zoning proposal is in conformity with the policy and intent of the land use plan given the proximity of a federal military installation; and

(6) whether there are other existing or changing conditions affecting the use of the nearby property such as a federal military installation which give supporting grounds for either approval or disapproval of the proposed land use plan or zoning proposal.

(D) Where practicable, local governments shall incorporate identified boundaries, easements, and restrictions for federal military installations into official maps as part of their responsibilities delineated in Section 6-29-340.

HISTORY: 2005 Act No. 1, Section 1.

SECTION 6-29-1640. Application to former or closing military installations.

Nothing in this article is to be construed to apply to former military installations, or approaches or access related thereto, that are in the process of closing or redeveloping pursuant to base realignment and closure proceedings, including the former naval base facility on the Cooper River in and near the City of North Charleston, nor to the planned uses of, or construction of facilities on or near, that property by the South Carolina State Ports Authority, nor to the construction and uses of transportation routes and facilities necessary or useful thereto.

HISTORY: 2005 Act No. 1, Section 1.

APPENDIX CC

Below are the provisions of the S.C. Local Government Development Agreement Act. These provisions, like any other, are impacted by court decisions and other provisions of the South Carolina Code of Laws. Any question involving the law should be answered in consultation with the county attorney. These are supplied with the intent to give a land use planning official or practitioner a starting point on their search for answers.

SECTION 6-31-10. Short title; legislative findings and intent; authorization for development agreements; provisions are supplemental to those extant.
SECTION 6-31-20. Definitions.
SECTION 6-31-30. Local governments authorized to enter into development agreements; approval of county or municipal governing body required.
SECTION 6-31-40. Developed property must contain certain number of acres of highland; permissible durations of agreements for differing amounts of highland content.
SECTION 6-31-50. Public hearings; notice and publication.
SECTION 6-31-60. What development agreement must provide; what it may provide; major modification requires public notice and hearing.
SECTION 6-31-70. Agreement and development must be consistent with local government comprehensive plan and land development regulations.
SECTION 6-31-80. Law in effect at time of agreement governs development; exceptions.
SECTION 6-31-90. Periodic review to assess compliance with agreement; material breach by developer; notice of breach; cure of breach or modification or termination of agreement.
SECTION 6-31-100. Amendment or cancellation of development agreement by mutual consent of parties or successors in interest.
SECTION 6-31-110. Validity and duration of agreement entered into prior to incorporation or annexation of affected area; subsequent modification or suspension by municipality.
SECTION 6-31-120. Developer to record agreement within fourteen days; burdens and benefits inure to successors in interest.
SECTION 6-31-130. Agreement to be modified or suspended to comply with later-enacted state or federal laws or regulations.
SECTION 6-31-140. Rights, duties, and privileges of gas and electricity suppliers, and of municipalities with respect to providing same, not affected; no extraterritorial powers.
SECTION 6-31-145. Applicability to local government of constitutional and statutory procedures for approval of debt.
SECTION 6-31-150. Invalidity of all or part of Section 6-31-140 invalidates chapter.
SECTION 6-31-160. Agreement may not contravene or supersede building, housing, electrical, plumbing, or gas code; compliance with such code if subsequently enacted.

TITLE 6, CHAPTER 31
South Carolina Local Government Development Agreement Act

SECTION 6-31-10. Short title; legislative findings and intent; authorization for development agreements; provisions are supplemental to those extant.

(A) This chapter may be cited as the "South Carolina Local Government Development Agreement Act".

(B)(1) The General Assembly finds: The lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning.

(2) Assurance to a developer that upon receipt of its development permits it may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, reduces the economic costs of development, allows for the orderly planning of public facilities and services, and allows for the equitable allocation of the cost of public services.

(3) Because the development approval process involves the expenditure of considerable sums of money, predictability encourages the maximum efficient utilization of resources at the least economic cost to the public.

(4) Public benefits derived from development agreements may include, but are not limited to, affordable housing, design standards, and on and off-site infrastructure and other improvements. These public benefits may be negotiated in return for the vesting of development rights for a specific period.

(5) Land planning and development involve review and action by multiple governmental agencies. The use of development agreements may facilitate the cooperation and coordination of the requirements and needs of the various governmental agencies having jurisdiction over land development.

(6) Development agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the development agreement or in any way hinder, restrict, or prevent the development of the project. Development agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of our State.

(C) It is the intent of the General Assembly to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development.

(D) This intent is effected by authorizing the appropriate local governments and agencies to enter into development agreements with developers, subject to the procedures and requirements of this chapter.

(E) This chapter must be regarded as supplemental and additional to the powers conferred upon local governments and other government agencies by other laws and must not be regarded as in derogation of any powers existing on the effective date of this chapter.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-20. Definitions.

As used in this chapter:

(1) "Comprehensive plan" means the master plan adopted pursuant to Sections 6-7-510, et seq., 5-23-490, et seq., or 4-27-600 and the official map adopted pursuant to Section 6-7-1210, et seq.

(2) "Developer" means a person, including a governmental agency or redevelopment authority created pursuant to the provisions of the Military Facilities Redevelopment Law, who intends to undertake any development and who has a legal or equitable interest in the property to be developed.

(3) "Development" means the planning for or carrying out of a building activity or mining operation, the making of a material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels. "Development", as designated in a law or development permit, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(4) "Development permit" includes a building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or any other official action of local government having the effect of permitting the development of property.

(5) "Governing body" means the county council of a county, the city council of a municipality, the governing body of a consolidated political subdivision, or any other chief governing body of a unit of local government, however designated.

(6) "Land development regulations" means ordinances and regulations enacted by the appropriate governing body for the regulation of any aspect of development and includes a local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of property.

(7) "Laws" means all ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies and rules adopted by a local government affecting the development of property and includes laws governing permitted uses of the property, governing density, and governing design, improvement, and construction standards and specifications, except as provided in Section 6-31-140 (A).

(8) "Property" means all real property subject to land use regulation by a local government and includes the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as a part of real property.

(9) "Local government" means any county, municipality, special district, or governmental entity of the State, county, municipality, or region established pursuant to law which exercises regulatory authority over, and grants development permits for land development or which provides public facilities.

(10) "Local planning commission" means any planning commission established pursuant to Sections 4-27-510, 5-23-410, or 6-7-320.

(11) "Person" means an individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, state agency, or any legal entity.

(12) "Public facilities" means major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

HISTORY: 1993 Act No. 150, Section 1; 1994 Act No. 462, Section 3.

SECTION 6-31-30. Local governments authorized to enter into development agreements; approval of county or municipal governing body required.

A local government may establish procedures and requirements, as provided in this chapter, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a county or municipality by the adoption of an ordinance.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-40. Developed property must contain certain number of acres of highland; permissible durations of agreements for differing amounts of highland content.

A local government may enter into a development agreement with a developer for the development of property as provided in this chapter provided the property contains twenty-five acres or more of highland. Development agreements involving property containing no more than two hundred fifty acres of highland shall be for a term not to exceed five years. Development agreements involving property containing one thousand acres or less of highland but more than two hundred fifty acres of highland shall be for a term not to exceed ten years. Development agreements involving property containing two thousand acres or less of highland but more than one thousand acres of highland shall be for a term not to exceed twenty years. Development agreements involving property containing more than two thousand acres and development agreements with a developer which is a redevelopment authority created pursuant to the provisions of the Military Facilities Redevelopment Law, regardless of the number of acres of property involved, may be for such term as the local government and the developer shall elect.

HISTORY: 1993 Act No. 150, Section 1; 1994 Act No. 462, Section 4.

SECTION 6-31-50. Public hearings; notice and publication.

(A) Before entering into a development agreement, a local government shall conduct at least two public hearings. At the option of the governing body, the public hearing may be held by the local planning commission.

(B)(1) Notice of intent to consider a development agreement must be advertised in a newspaper of general circulation in the county where the local government is located. If more than one hearing is to be held, the day, time, and place at which the second public hearing will be held must be announced at the first public hearing.

(2) The notice must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

(C) In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-60. What development agreement must provide; what it may provide; major modification requires public notice and hearing.

(A) A development agreement must include:

(1) a legal description of the property subject to the agreement and the names of its legal and equitable property owners;

(2) the duration of the agreement. However, the parties are not precluded from extending the termination date by mutual agreement or from entering into subsequent development agreements;

(3) the development uses permitted on the property, including population densities and building intensities and height;

(4) a description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development;

(5) a description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the development agreement;

(6) a description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms, or restrictions;

(7) a finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;

(8) a description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens; and

(9) a description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(B) A development agreement may provide that the entire development or any phase of it be commenced or completed within a specified period of time. The development agreement must provide a development schedule including commencement dates and interim completion dates at no greater than five year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to Section 6-31-90, but must be judged based upon the totality of the circumstances. The development agreement may include other defined performance standards to be met by the developer. If the developer requests a modification in the dates as set forth in the agreement and is able to demonstrate and establish that there is good cause to modify those dates, those dates must be modified by the local government. A major modification of the agreement may occur only after public notice and a public hearing by the local government.

(C) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement.

(D) The development agreement also may cover any other matter not inconsistent with this chapter not prohibited by law.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-70. Agreement and development must be consistent with local government comprehensive plan and land development regulations.

A development agreement and authorized development must be consistent with the local government's comprehensive plan and land development regulations.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-80. Law in effect at time of agreement governs development; exceptions.

(A) Subject to the provisions of Section 6-31-140 and unless otherwise provided by the development agreement, the laws applicable to development of the property subject to a development agreement, are those in force at the time of execution of the agreement.

(B) Subject to the provisions of Section 6-31-140, a local government may apply subsequently adopted laws to a development that is subject to a development agreement only if the local government has held a public hearing and determined:

(1) the laws are not in conflict with the laws governing the development agreement and do not prevent the development set forth in the development agreement;

(2) they are essential to the public health, safety, or welfare and the laws expressly state that they apply to a development that is subject to a development agreement;

(3) the laws are specifically anticipated and provided for in the development agreement;

(4) the local government demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement which changes, if not addressed by the local government, would pose a serious threat to the public health, safety, or welfare; or

(5) the development agreement is based on substantially and materially inaccurate information supplied by the developer.

(C) This section does not abrogate any rights preserved by Section 6-31-140 herein or that may vest pursuant to common law or otherwise in the absence of a development agreement.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-90. Periodic review to assess compliance with agreement; material breach by developer; notice of breach; cure of breach or modification or termination of agreement.

(A) Procedures established pursuant to Section 6-31-40 must include a provision for requiring periodic review by the zoning administrator, or, if the local government has no zoning administrator, by an appropriate officer of the local government, at least every twelve months, at which time the developer must be required to demonstrate good faith compliance with the terms of the development agreement.

(B) If, as a result of a periodic review, the local government finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the local government shall serve notice in writing, within a reasonable time after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer a reasonable time in which to cure the material breach.

(C) If the developer fails to cure the material breach within the time given, then the local

government unilaterally may terminate or modify the development agreement; provided, that the local government has first given the developer the opportunity:

(1) to rebut the finding and determination; or

(2) to consent to amend the development agreement to meet the concerns of the local government with respect to the findings and determinations.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-100. Amendment or cancellation of development agreement by mutual consent of parties or successors in interest.

A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-110. Validity and duration of agreement entered into prior to incorporation or annexation of affected area; subsequent modification or suspension by municipality.

(A) Except as otherwise provided in Section 6-31-130 and subject to the provisions of Section 6-31-140, if a newly-incorporated municipality or newly-annexed area comprises territory that was formerly unincorporated, any development agreement entered into by a local government before the effective date of the incorporation or annexation remains valid for the duration of the agreement, or eight years from the effective date of the incorporation or annexation, whichever is earlier. The parties to the development agreement and the municipality may agree that the development agreement remains valid for more than eight years; provided, that the longer period may not exceed fifteen years from the effective date of the incorporation or annexation. The parties to the development agreement and the municipality have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the unincorporated territory of the county.

(B) After incorporation or annexation the municipality may modify or suspend the provisions of the development agreement if the municipality determines that the failure of the municipality to do so would place the residents of the territory subject to the development agreement, or the residents of the municipality, or both, in a condition dangerous to their health or safety, or both.

(C) This section applies to any development agreement which meets all of the following:

(1) the application for the development agreement is submitted to the local government operating within the unincorporated territory before the date that the first signature was affixed to the petition for incorporation or annexation or the adoption of an annexation resolution pursuant to Chapter 1 or 3 of Title 5; and

(2) the local government operating within the unincorporated territory enters into the development agreement with the developer before the date of the election on the question of incorporation or annexation, or, in the case of an annexation without an election before the date that the municipality orders the annexation.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-120. Developer to record agreement within fourteen days; burdens and benefits inure to successors in interest.

Within fourteen days after a local government enters into a development agreement, the developer shall record the agreement with the register of mesne conveyance or clerk of court in the county where the property is located. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-130. Agreement to be modified or suspended to comply with later-enacted state or federal laws or regulations.

In the event state or federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, the provisions of the agreement must be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-140. Rights, duties, and privileges of gas and electricity suppliers, and of municipalities with respect to providing same, not affected; no extraterritorial powers.

(A) The provisions of this act are not intended nor may they be construed in any way to alter or amend in any way the rights, duties, and privileges of suppliers of electricity or natural gas or of municipalities with reference to the provision of electricity or gas service, including, but not limited to, the generation, transmission, distribution, or provision of electricity at wholesale, retail or in any other capacity.

(B) This chapter is not intended to grant to local governments or agencies any authority over property lying beyond their corporate limits.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-145. Applicability to local government of constitutional and statutory procedures for approval of debt.

In the event that any of the obligations of the local government in the development agreement constitute debt, the local government shall comply at the time of the obligation to incur such debt becomes enforceable against the local government with any applicable constitutional and statutory procedures for the approval of this debt.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-150. Invalidity of all or part of Section 6-31-140 invalidates chapter.

If Section 6-31-140 or any provision therein or the application of any provision therein is held invalid, the invalidity applies to this chapter in its entirety, to any and all provisions of the chapter,

and the application of this chapter or any provision of this chapter, and to this end the provisions of Section 6-31-140 of this chapter are not severable.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-160. Agreement may not contravene or supersede building, housing, electrical, plumbing, or gas code; compliance with such code if subsequently enacted.

Notwithstanding any other provision of law, a development agreement adopted pursuant to this chapter must comply with any building, housing, electrical, plumbing, and gas codes subsequently adopted by the governing body of a municipality or county as authorized by Chapter 9 of Title 6. Such development agreement may not include provisions which supersede or contravene the requirements of any building, housing, electrical, plumbing, and gas codes adopted by the governing body of a municipality or county.

HISTORY: 1993 Act No. 150, Section 1.

South Carolina
Association of Counties
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Columbia, S.C. 29202

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1-800-922-6081
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E-mail: scac@scac.sc
Website: www.sccounties.org

Flummoxed by FLUMs:

How detailed should a future land use map be?

2018 APA National Planning Conference – New Orleans, LA
April 23, 2018 10:15am – 11:30am

MODERATORS:

Darcie White, AICP
Director | Clarion Associates

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Geoff Butler, AICP
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Senior Planner | City of Reno, NV

Farhad Daroga
Special Projects Manager | City of Broken Arrow, OK

Agenda

① Role of the future land use map

② Recent trends

③ Factors to consider

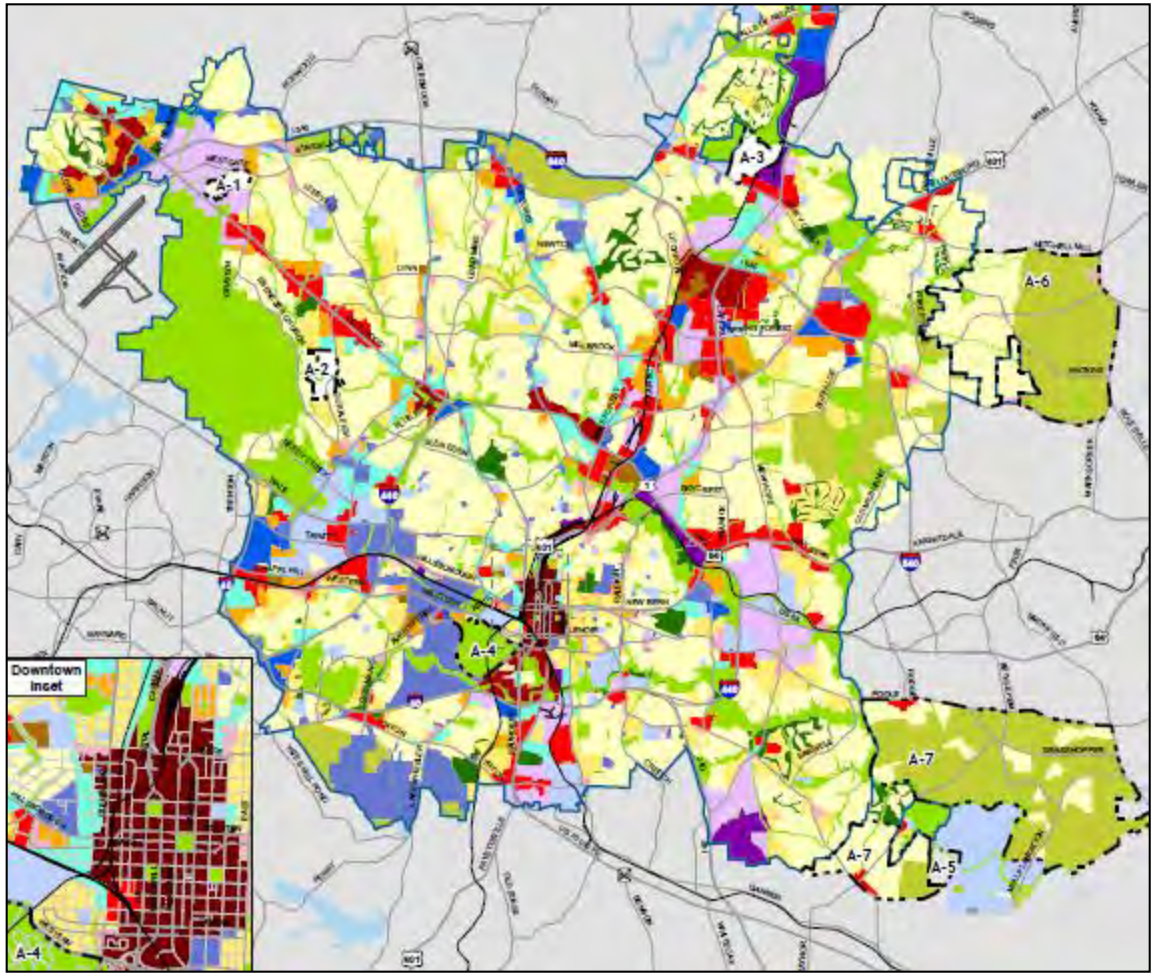
④ Ask the audience

⑤ Case studies

⑥ Discussion

Role of the FLUM

Guide future growth of the community…



(Source: www.raleighnc.gov)

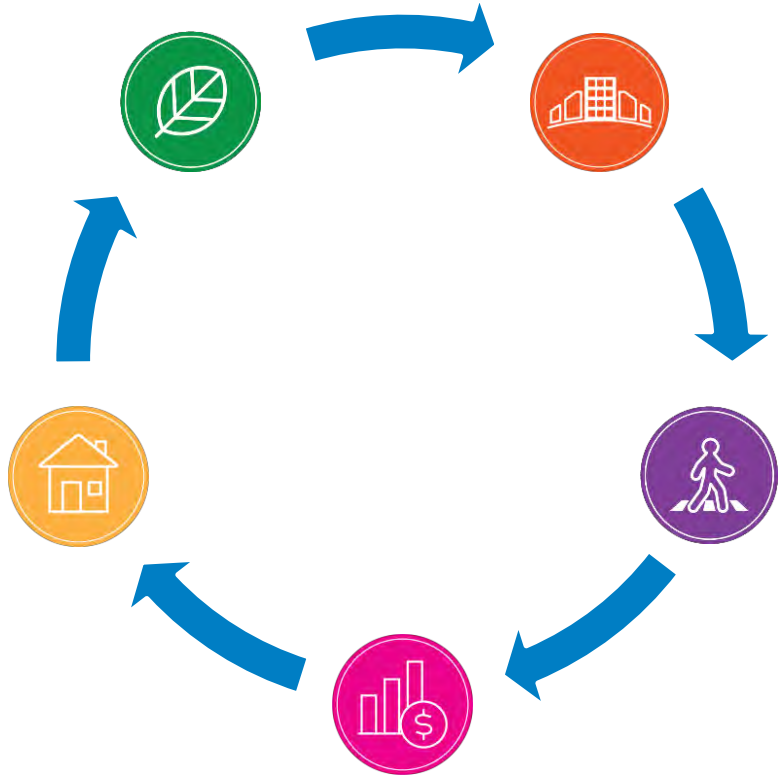
What is our vision?

Where and how should we grow?

- Overall mix of uses
- Density and intensity

Support the implementation of community priorities…

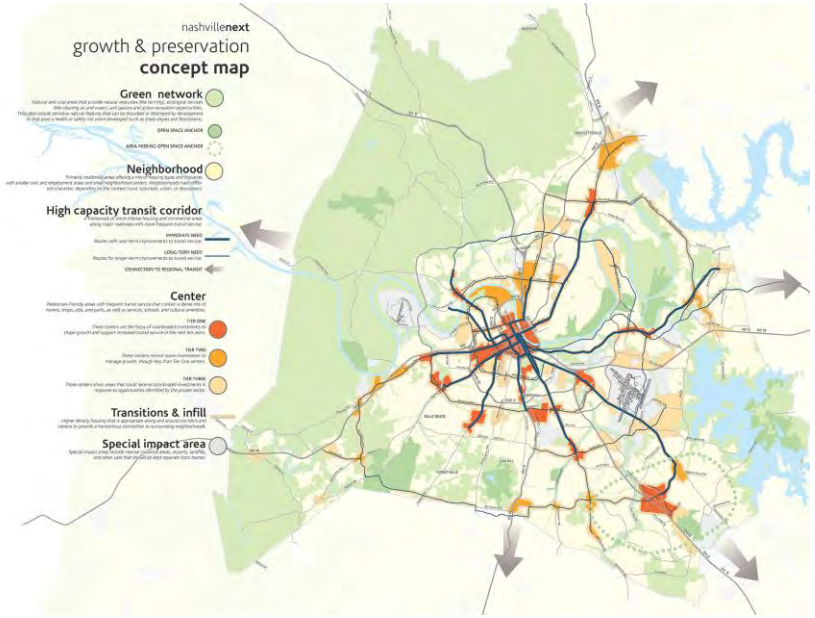
- Access to services
- Walkable centers and neighborhoods
- Expanded housing options
- Economic development
- Land use and transportation linkages
- Community resilience
- Fiscally sustainable growth



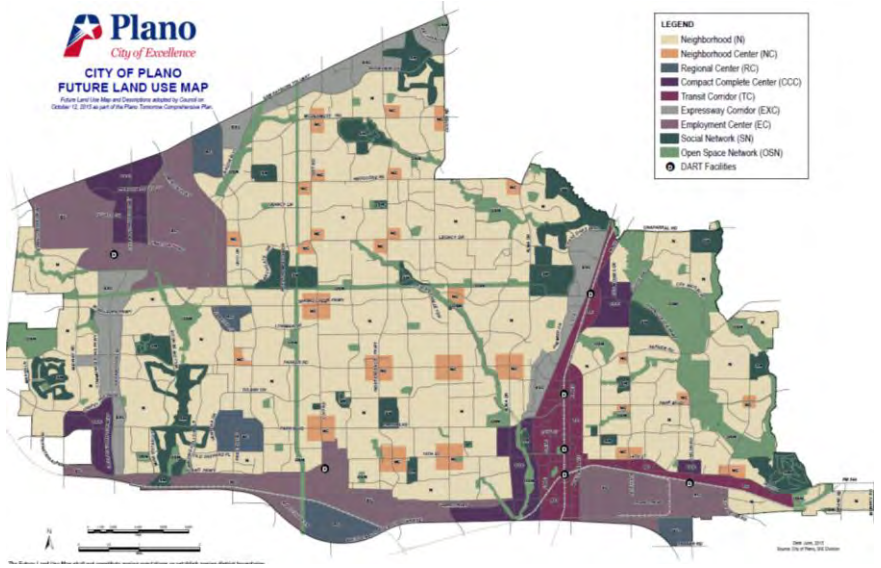
(Graphic: Clarion Associates)

Recent Trends

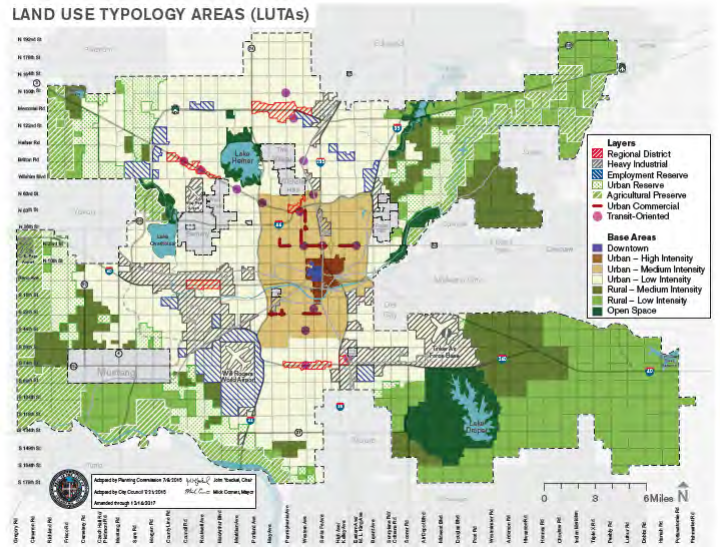
Varied level of detail and implementation approach…



Nashville Next (2016)



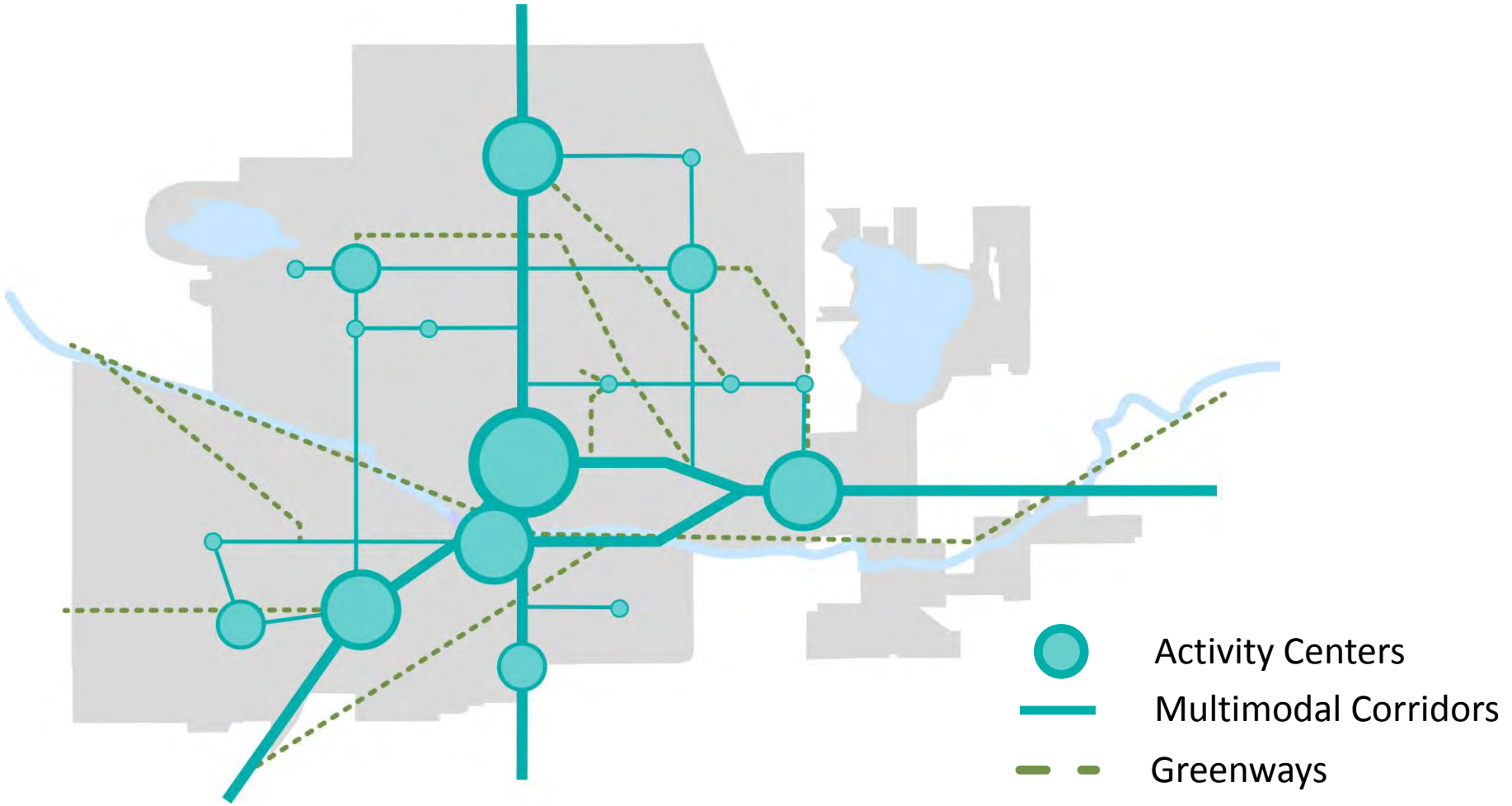
Plano Tomorrow (2017)



PlanOKC (2018)

With some common threads…

Hierarchy of centers and corridors….



(Graphic: Clarion Associates)

Emphasis on mixed neighborhoods….

Housing types

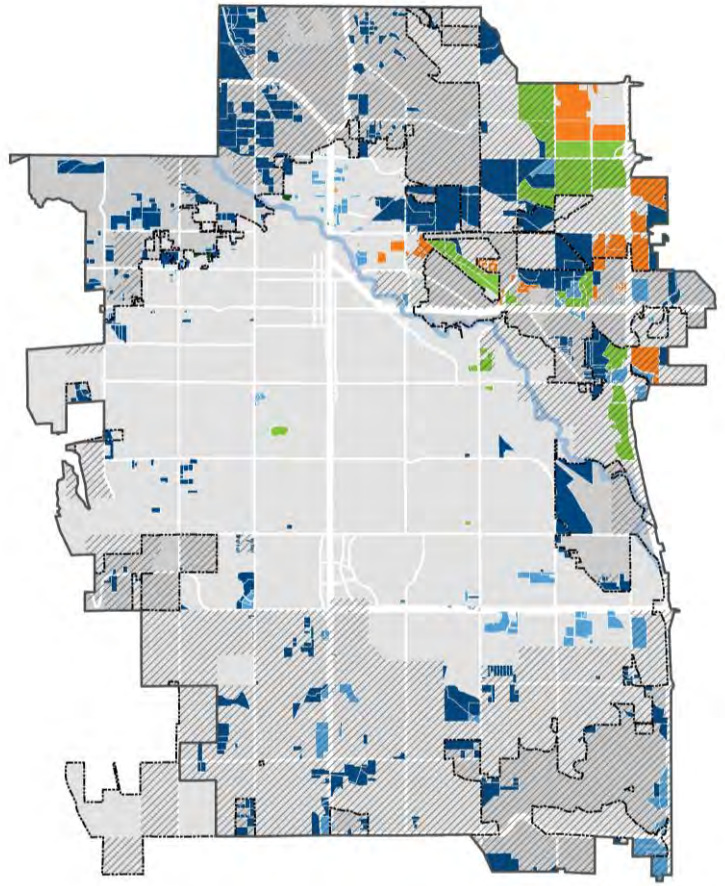
Supporting services

Density

(Photos: Clarion Associates)

Emphasis on factors influencing growth….

- Infrastructure and services
- Hazard mitigation
- Protection of environmental features
- Climate action/adaptation
- Community resilience
- Emerging transportation technologies

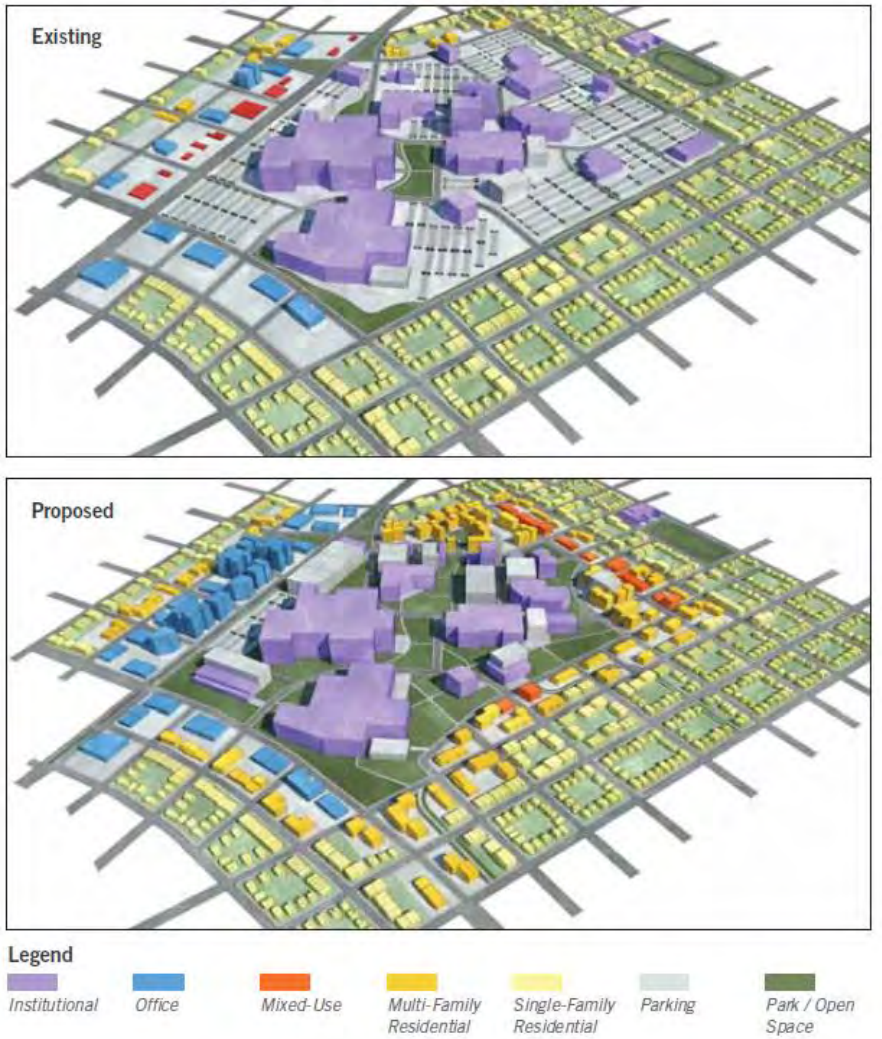


VACANT/ZONED LAND AND INFRASTRUCTURE AVAILABILITY

(Graphic: Clarion Associates)

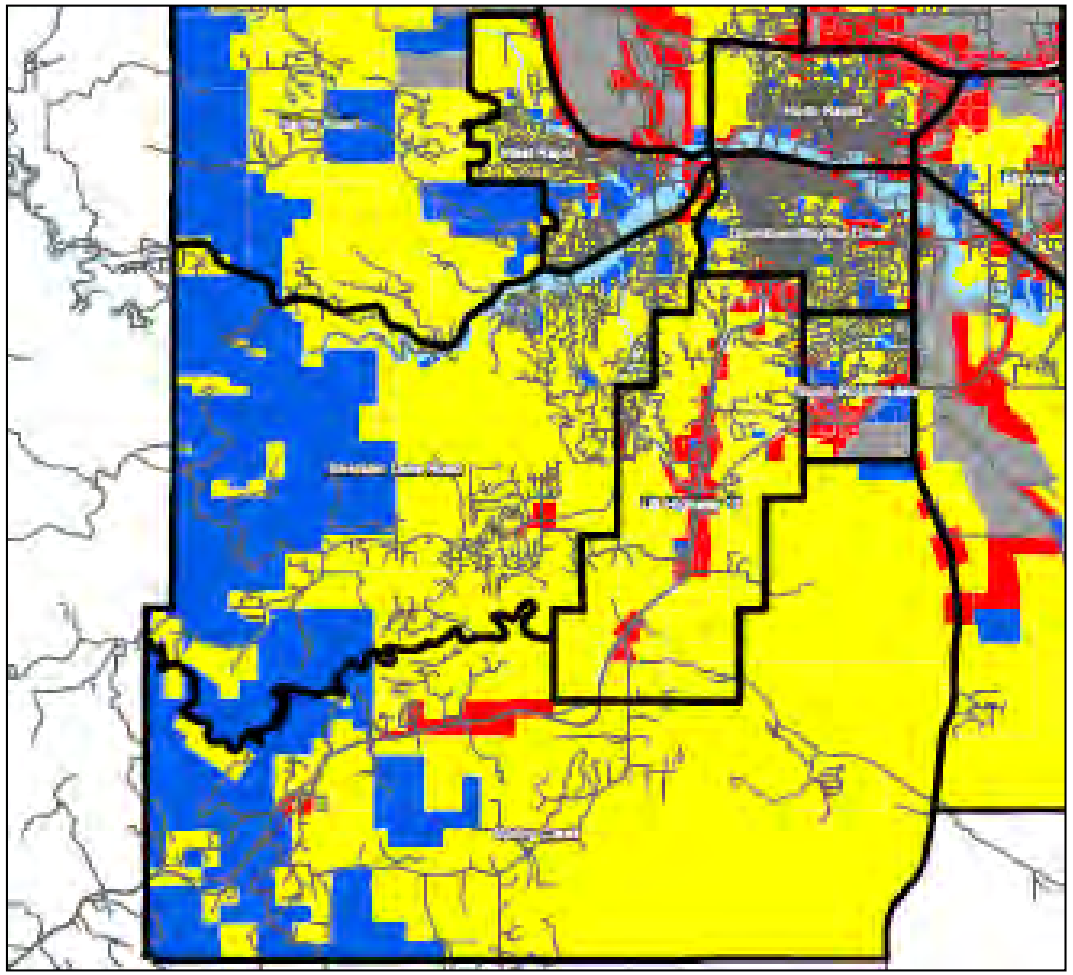
Emphasis on character and form….

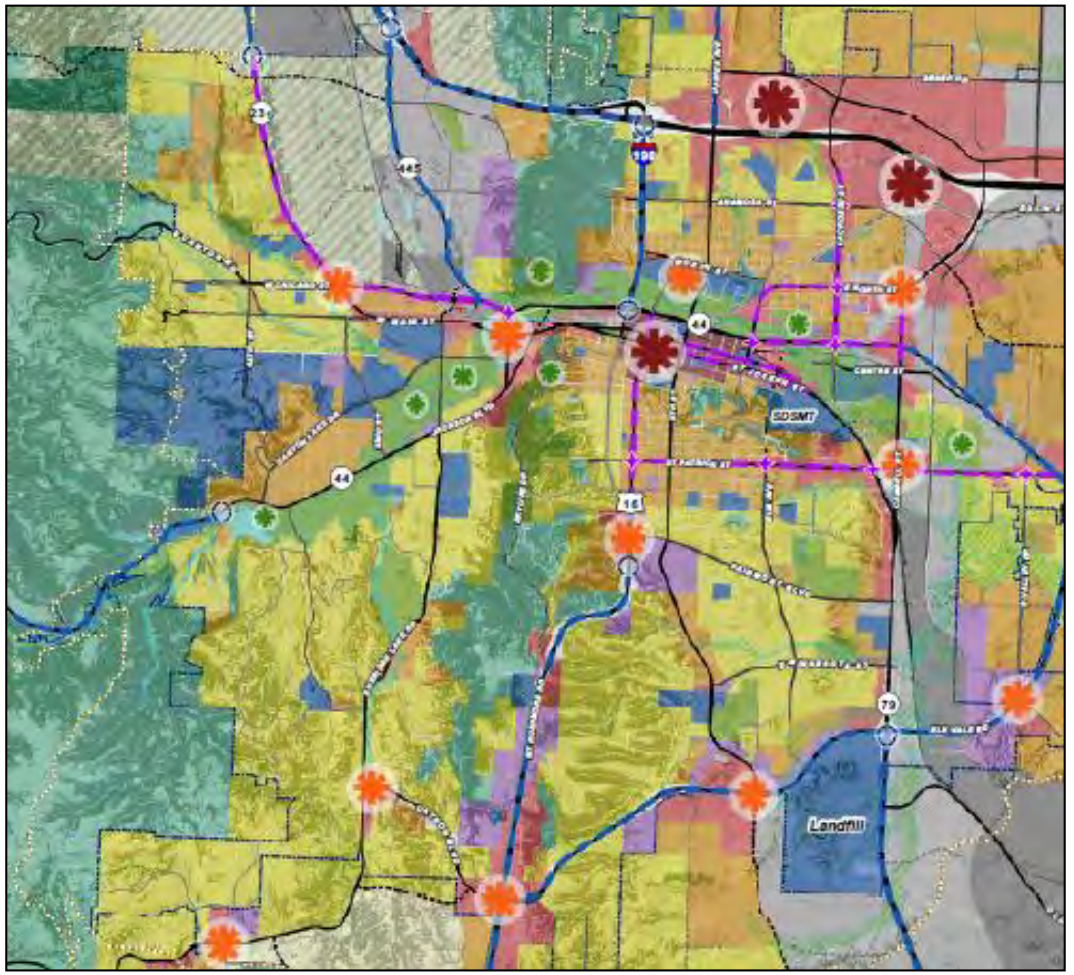
SATomorrow
San Antonio Comprehensive Plan
(Illustrations: MIG)



Factors to Consider

Balance between *flexibility* and *predictability*….





(Source: Clarion Associates)

Community and Stakeholder Engagement

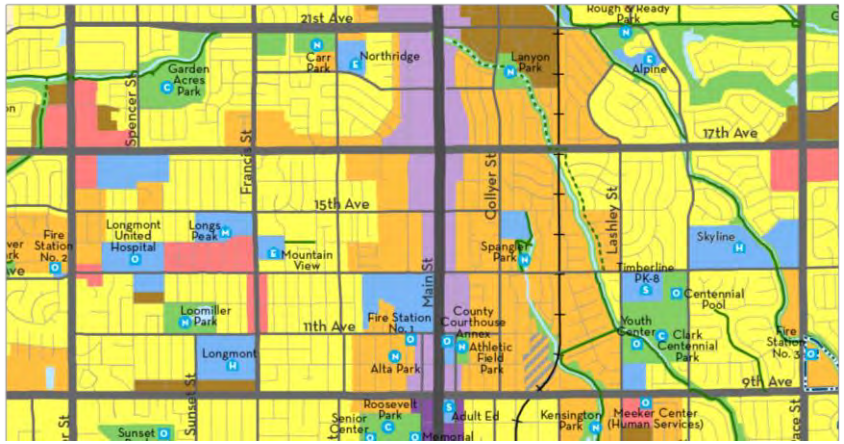
- Is there support for a new approach among key stakeholders?
  - Elected and appointed officials
  - Development community
  - Businesses
  - Neighborhood groups
  - Public at large
- How will you solicit and respond to feedback during the update process?

(Photo: Clarion Associates)

Implementation Strategy

- Existing vs. new tools
  - Do categories align with current code?
  - If not, what tools will be needed? Wholesale code rewrite or targeted updates?
  - Are specialized design guidelines/standards needed?
- Interim tools if code updates are needed (and lag behind plan adoption)
- Market feasibility of key concepts (and potential role of incentives)

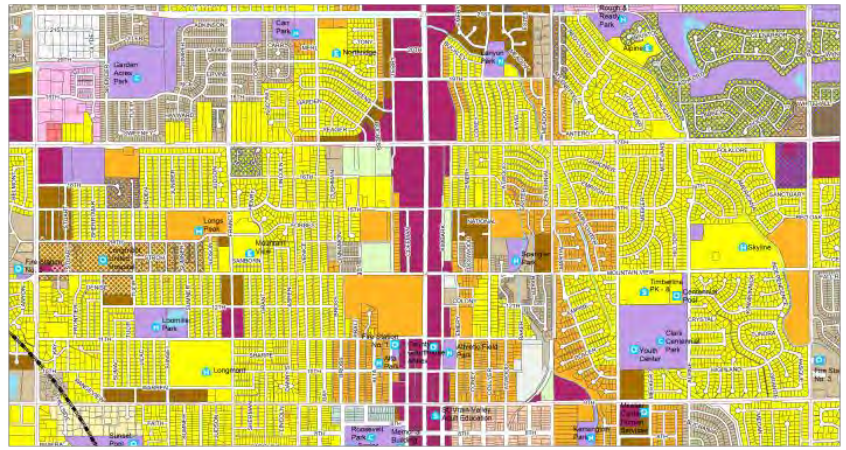
Land Use Map



Mixed-Use Corridor

Commercial

Zoning Map



Plan Administration and Monitoring

- Update Policies and Procedures
  - Major/minor updates
  - Frequency
- Tracking Mechanisms
  - Development review procedures/processes
  - Plan amendment requests

Ask the Audience

Where on the spectrum does your community's future land use map and categories fall?

A. Pretty detailed (actually a little hard to distinguish from our zoning map)

B. In the middle (more flexible in some areas or categories, but still pretty predictable)

C. Not detailed at all (very conceptual "blob" map)

Are you currently considering significant changes to your community's FLUM?

A. Yes

B. No

If yes, where on the spectrum are you leaning?

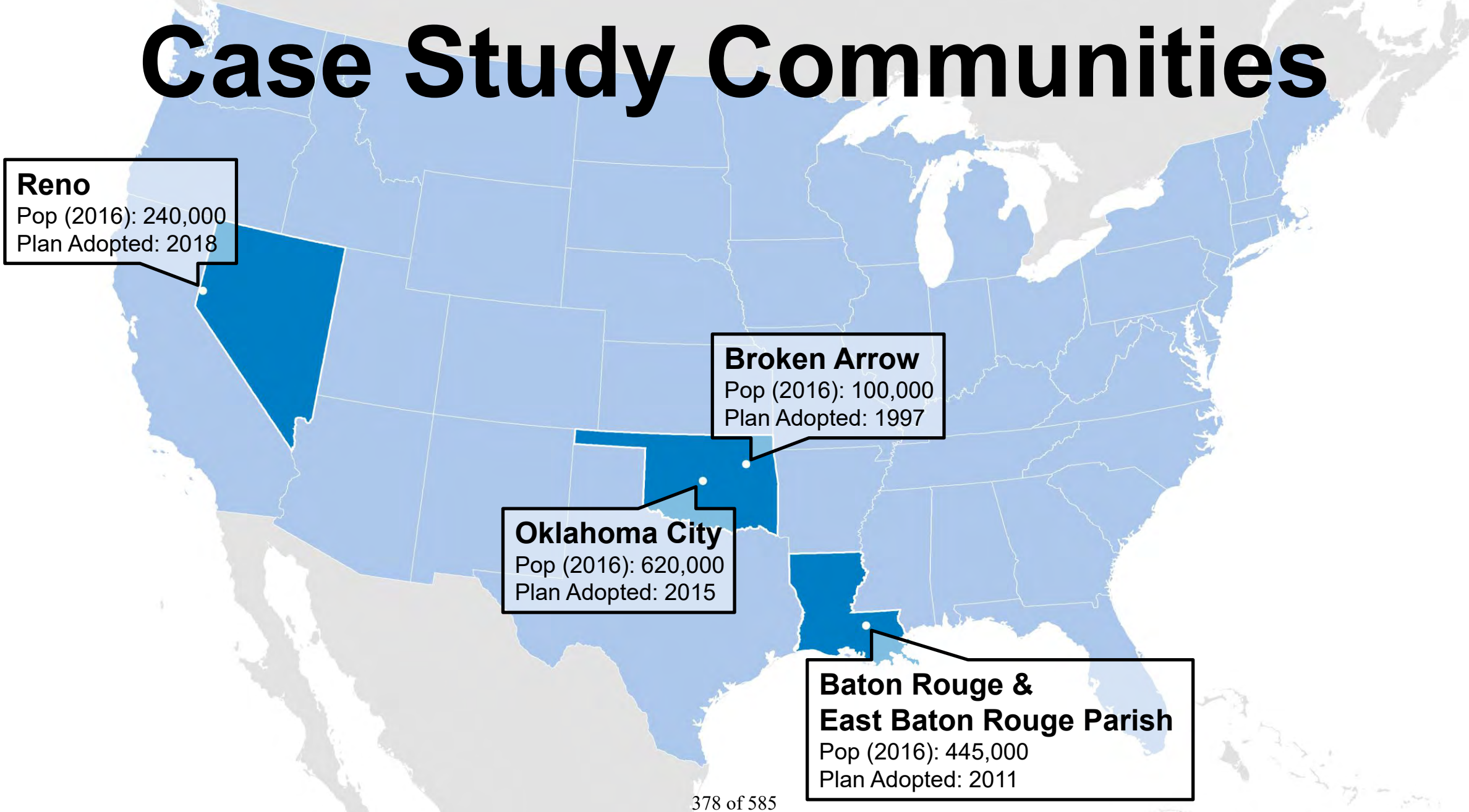
A. Adding more detail (seeking more predictability)

B. Backing off on the detail (seeking more flexibility)

C. Sticking with what works (current approach)

Case Studies

Case Study Communities



Source: US Census

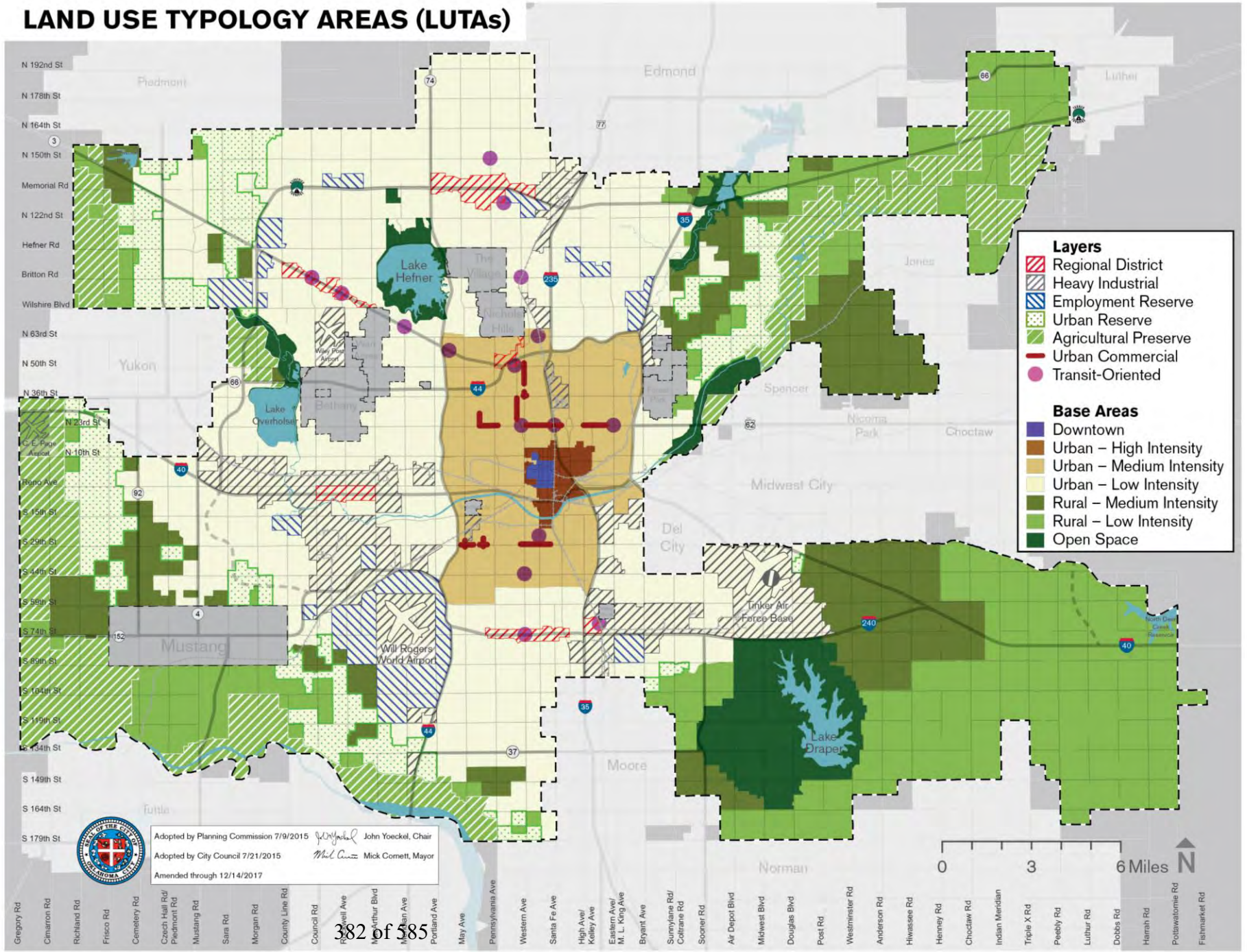
Geoff Butler, AICP, Assistant Planning Director

Photo: Cureduchenne.org


OKC


Coleord
Sheraton
plan okc
planning for a healthy future

LUTAs

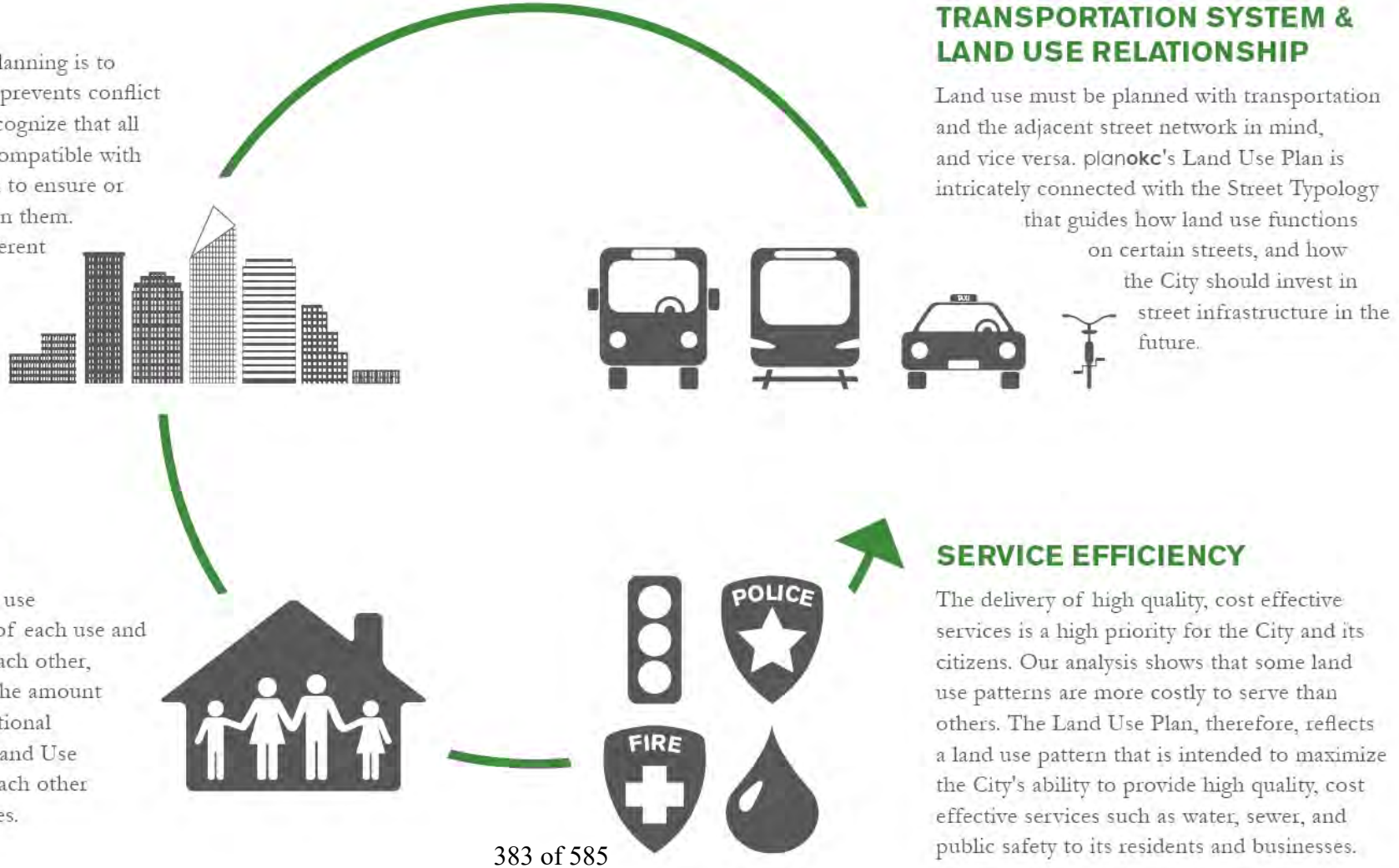

LAND USE TYPOLOGY AREAS (LUTAs)
Layers
Regional District
Heavy Industrial
Employment Reserve
Urban Reserve
Agricultural Preserve
Urban Commercial
Transit-Oriented
Base Areas
Downtown
Urban – High Intensity
Urban – Medium Intensity
Urban – Low Intensity
Rural – Medium Intensity
Rural – Low Intensity
Open Space
Adopted by Planning Commission 7/9/2015
John Yoeckel, Chair
Adopted by City Council 7/21/2015
Mick Cornett, Mayor
Amended through 12/14/2017
0
3
6 Miles
N
Lake Hefner
Lake Overholser
Lake Draper
Will Rogers World Airport
Tinker Air Force Base
Wiley Post Airport
C. E. Page Airport
Edmond
Yukon
Mustang
Midwest City
Del City
Moore
Norman
Piedmont
Luther
Jones
Spencer
Nicoma Park
Choctaw
Tuttle
N 192nd St
N 178th St
N 164th St
N 150th St
Memorial Rd
N 122nd St
Hefner Rd
Britton Rd
Wilshire Blvd
N 63rd St
N 50th St
N 36th St
N 23rd St
N 10th St
Reno Ave
S 15th St
S 29th St
S 44th St
S 59th St
S 74th St
S 89th St
S 104th St
S 119th St
S 134th St
S 149th St
S 164th St
S 179th St
Gregory Rd
Cimarron Rd
Richland Rd
Frisco Rd
Cemetery Rd
Czech Hall Rd/ Piedmont Rd
Mustang Rd
Sara Rd
Morgan Rd
County Line Rd
Council Rd
Portland Ave
May Ave
Pennsylvania Ave
Western Ave
Santa Fe Ave
High Ave/ Kelley Ave
Eastern Ave/ M. L. King Ave
Bryant Ave
Sunnylane Rd/ Coltrane Rd
Sooner Rd
Air Depot Blvd
Midwest Blvd
Douglas Blvd
Post Rd
Westminster Rd
Anderson Rd
Hiwassee Rd
Henney Rd
Choctaw Rd
Indian Meridian
Triple X Rd
Peebly Rd
Luther Rd
Dobbs Rd
Hamah Rd
Pottawatomie Rd
Fishmarket Rd

PRINCIPLES OF THE LAND USE PLAN

The concept of the Land Use Typology is to encourage a **mixture of uses** that work in harmony with each other within a particular area. It focuses on the relationship between **land use and the nearby transportation network**, considering the appropriate scale of existing and future development. The land use plan follows four key principles:

COMPATIBILITY

A key objective of land use planning is to create a land use pattern that prevents conflict between adjacent uses. We recognize that all land uses are not inherently compatible with others, but steps can be taken to ensure or improve compatibility between them. Successful integration of different land uses connects people to services and improves walkability and access to jobs, recreation, and other needs and amenities.



TRANSPORTATION SYSTEM & LAND USE RELATIONSHIP

Land use must be planned with transportation and the adjacent street network in mind, and vice versa. planokc's Land Use Plan is intricately connected with the Street Typology that guides how land use functions on certain streets, and how the City should invest in street infrastructure in the future.

INTENSITY OF USE

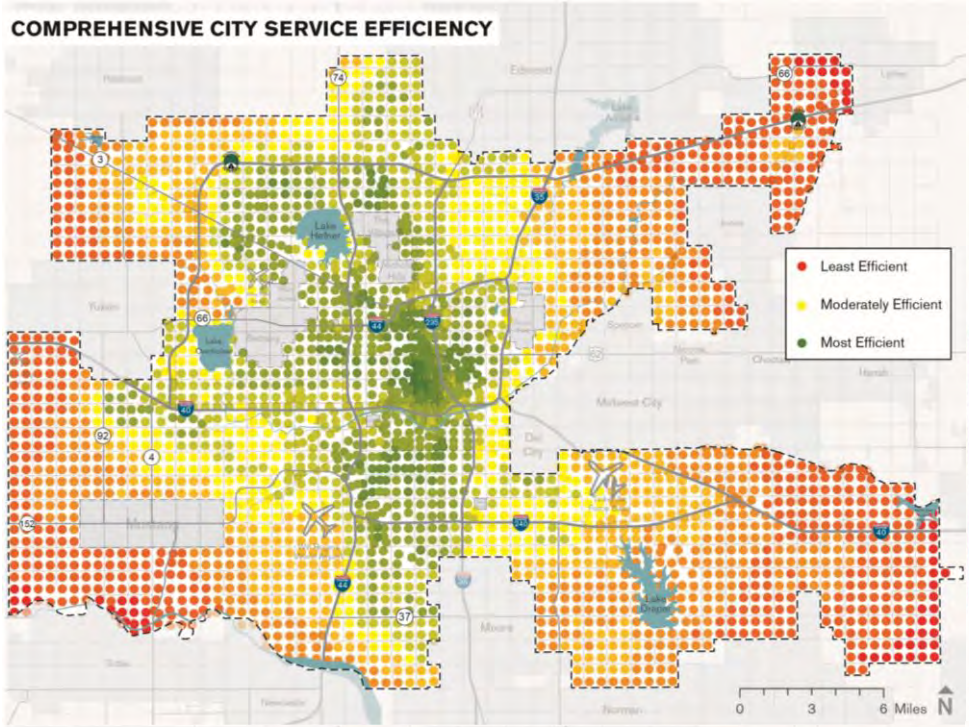
A central component of land use compatibility is the intensity of each use and how different uses relate to each other, whether it be building scale, the amount of traffic generated, or operational impacts. The LUTAs in the Land Use Plan are distinguished from each other based on intensity of land uses.

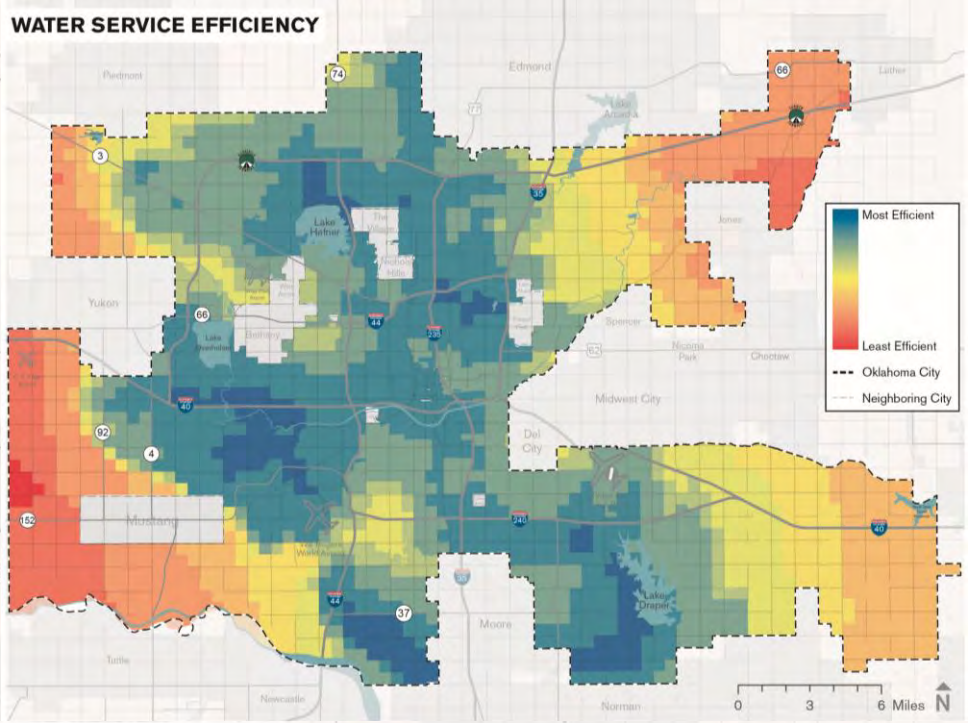
SERVICE EFFICIENCY

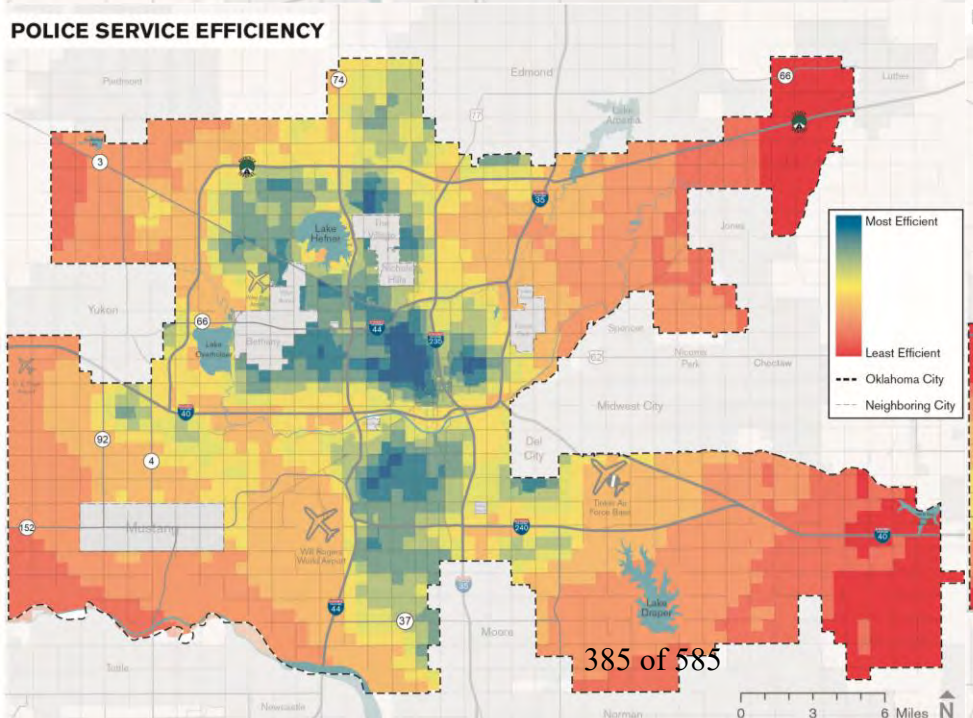
The delivery of high quality, cost effective services is a high priority for the City and its citizens. Our analysis shows that some land use patterns are more costly to serve than others. The Land Use Plan, therefore, reflects a land use pattern that is intended to maximize the City's ability to provide high quality, cost effective services such as water, sewer, and public safety to its residents and businesses.

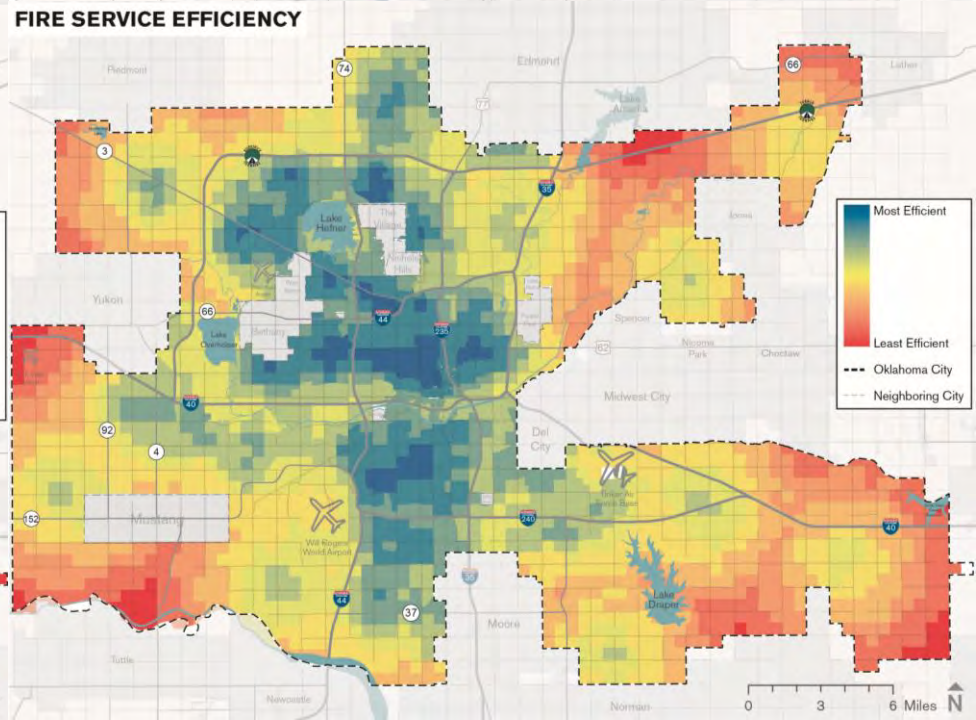
Compatibility

Efficiency

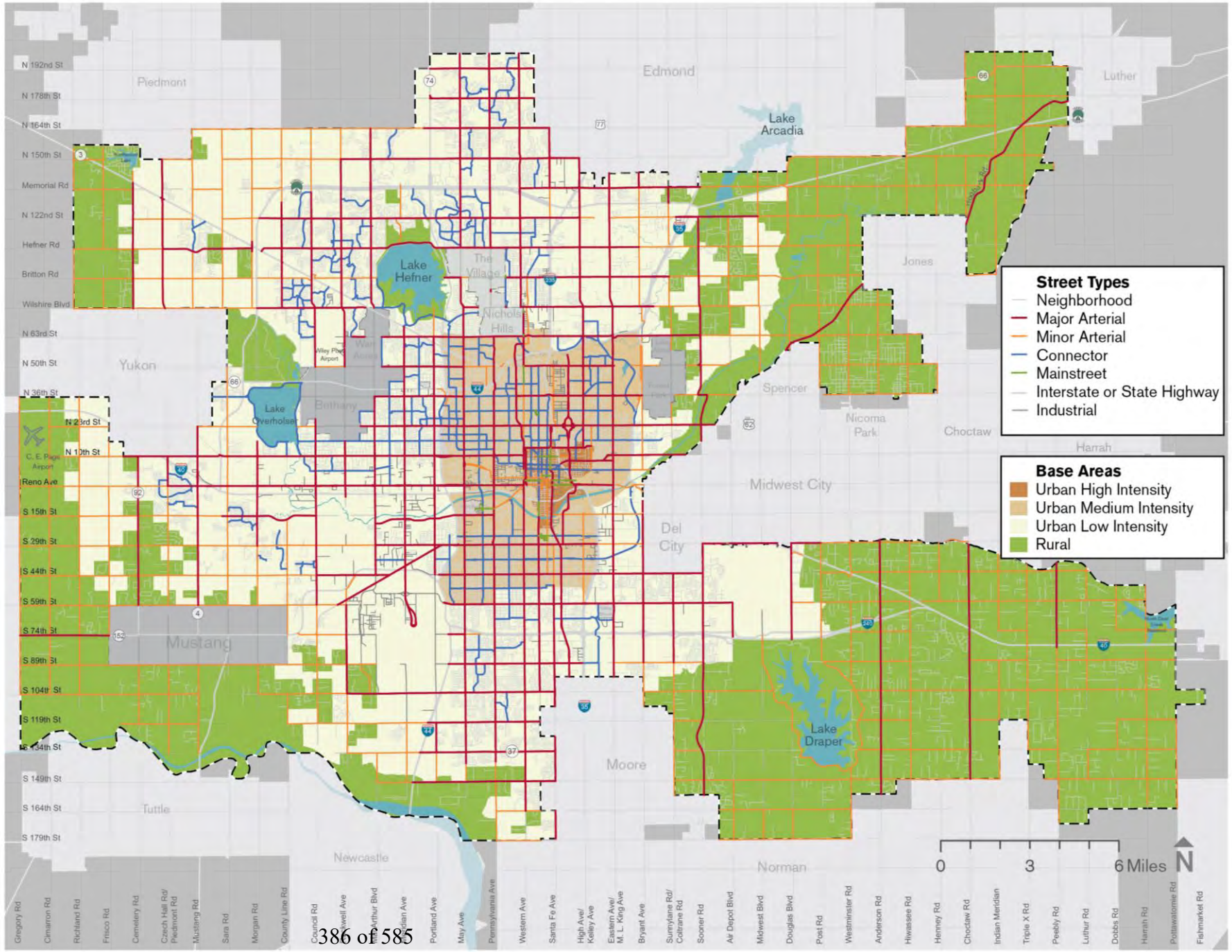

COMPREHENSIVE CITY SERVICE EFFICIENCY
Least Efficient
Moderately Efficient
Most Efficient
0 3 6 Miles
N


WATER SERVICE EFFICIENCY
Most Efficient
Least Efficient
Oklahoma City
Neighboring City
0 3 6 Miles
N

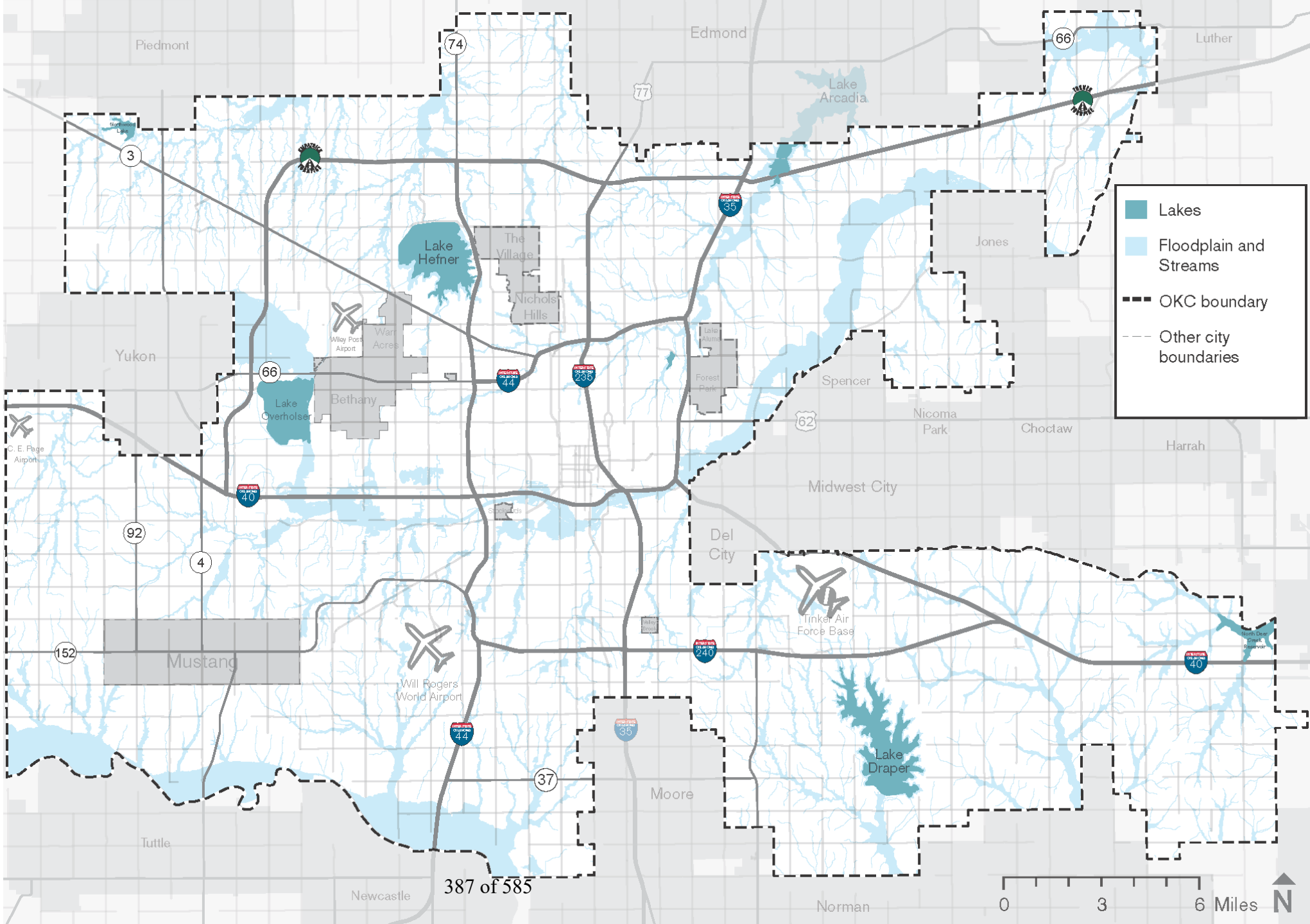

POLICE SERVICE EFFICIENCY
Most Efficient
Least Efficient
Oklahoma City
Neighboring City
0 3 6 Miles
N


FIRE SERVICE EFFICIENCY
Most Efficient
Least Efficient
Oklahoma City
Neighboring City
0 3 6 Miles
N

Transportation + Land Use

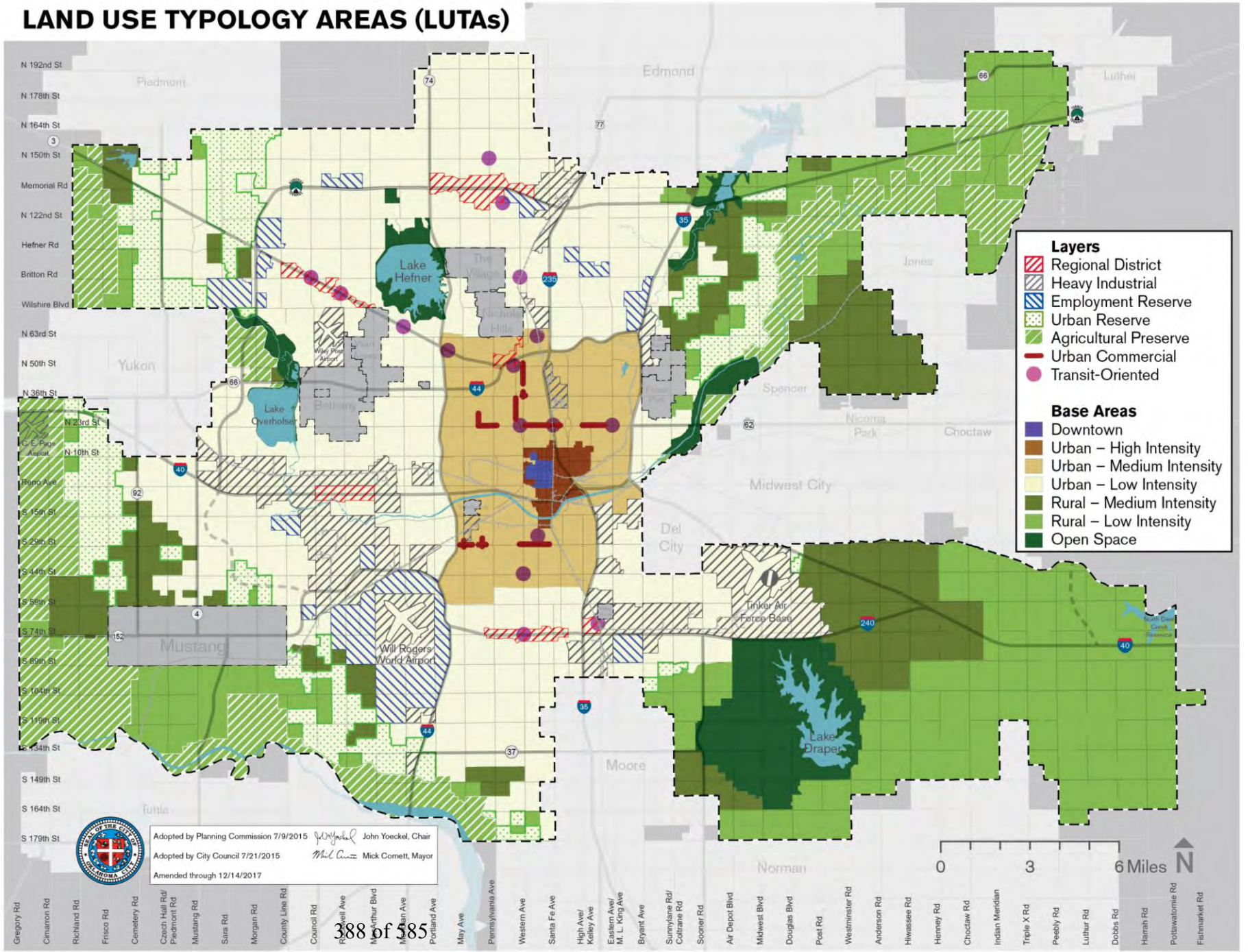


Environmentally Sensitive Areas



Pros & Cons

- **Pros**
  - Encourages integration of uses
  - Allows for flexibility
  - Reasonable predictability
- **Cons**
  - Waiting for supporting tools
  - Political process: a lot of negotiation



BR

CITY OF BATON ROUGE

PARISH OF EAST BATON ROUGE

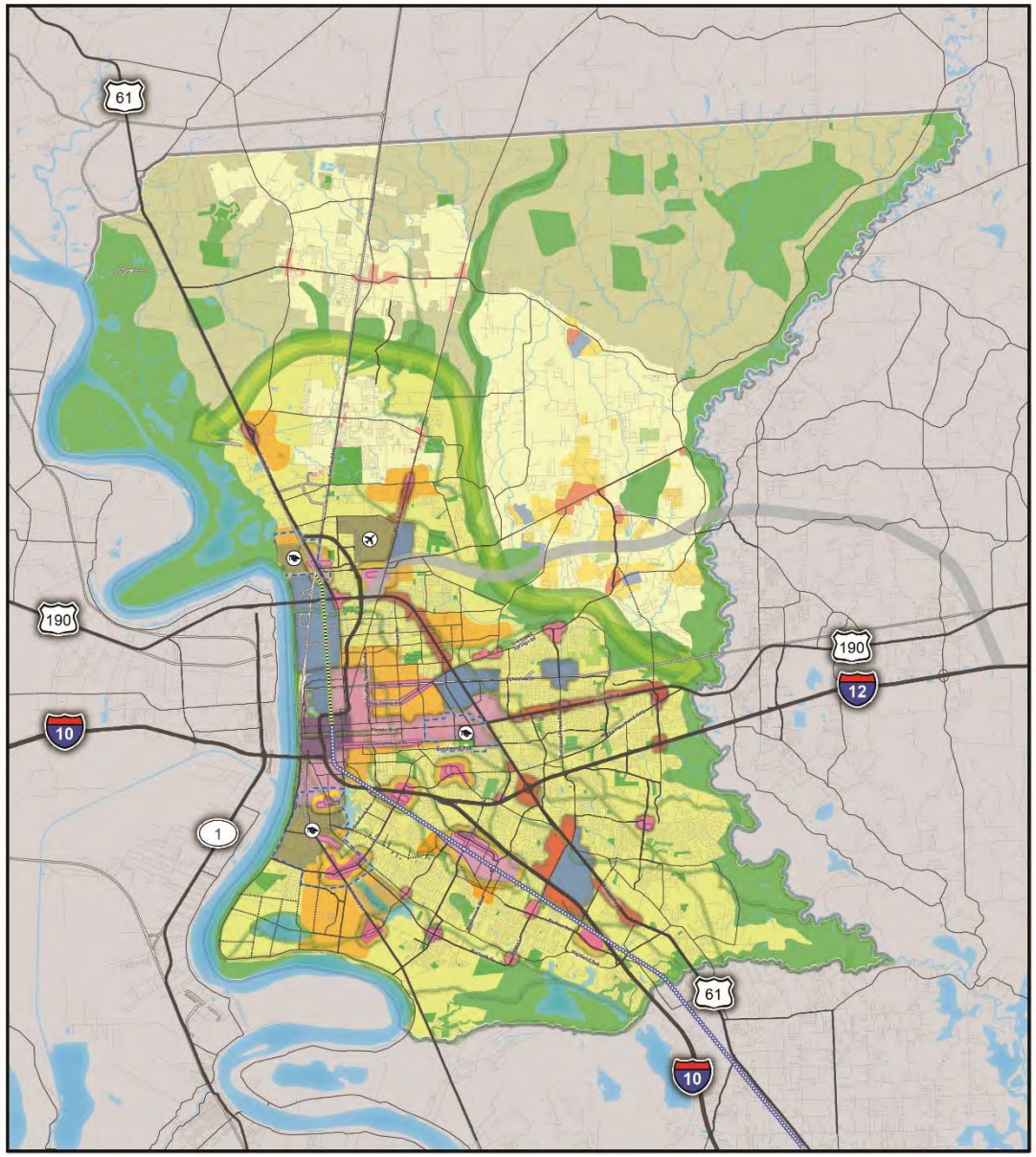
Frank Duke, FAICP, Planning Director

Photo: Wikimedia Commons

The Comprehensive Plan of Baton Rouge And East Baton Rouge Parish, Louisiana

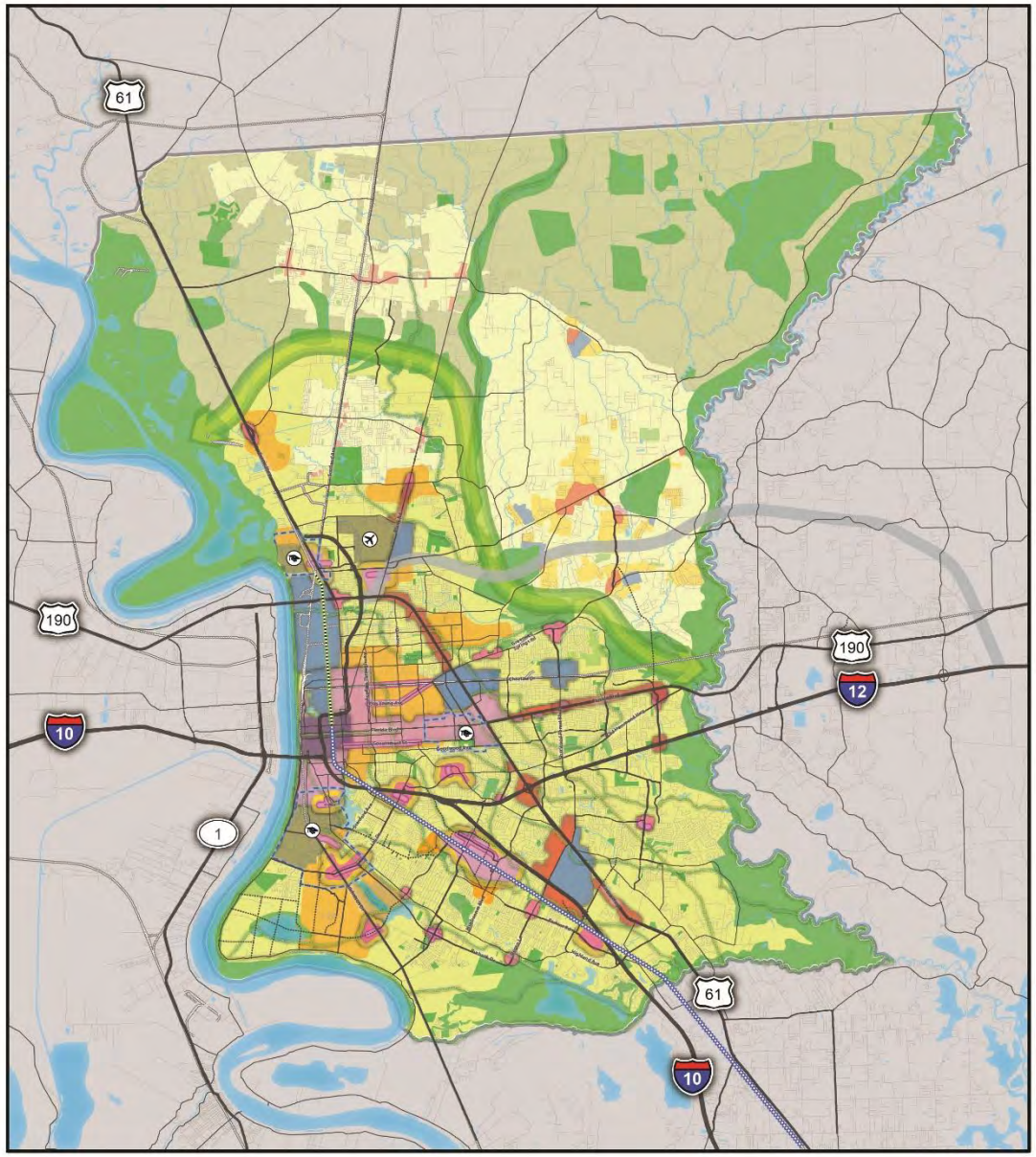
The FUTUREBR Vision

- **A community known for sustainability**
  - Economic
  - Environmental
  - Social Equity
- **Neighborhoods thrive with multiple housing options**
- **Attractive open spaces**
- **Options for getting around**



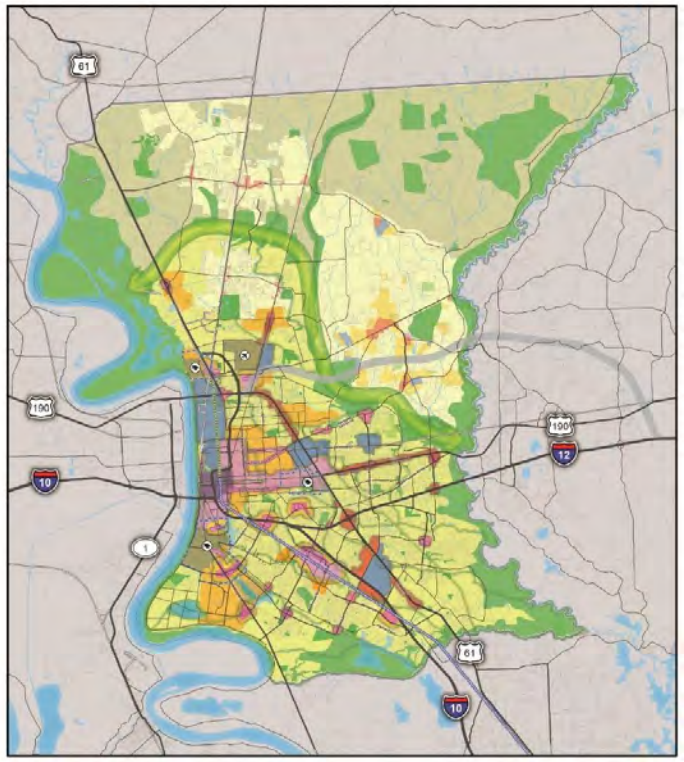
The FUTUREBR Vision

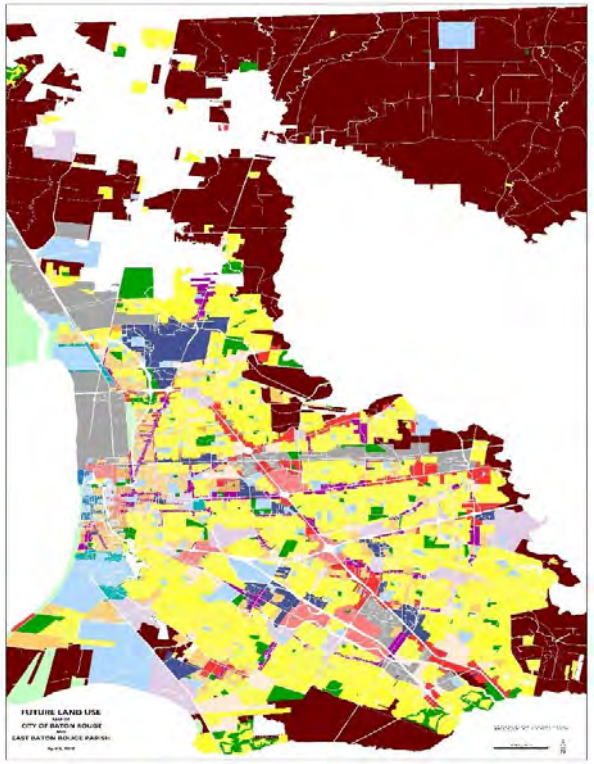
- Downtown
- Mixed-Use Centers and Corridors
- Main Streets
- Commercial Areas
- Employment Centers
- Neighborhoods
- Rural Communities
- Regional Parks
- University Districts



The FUTUREBR Land Use Map

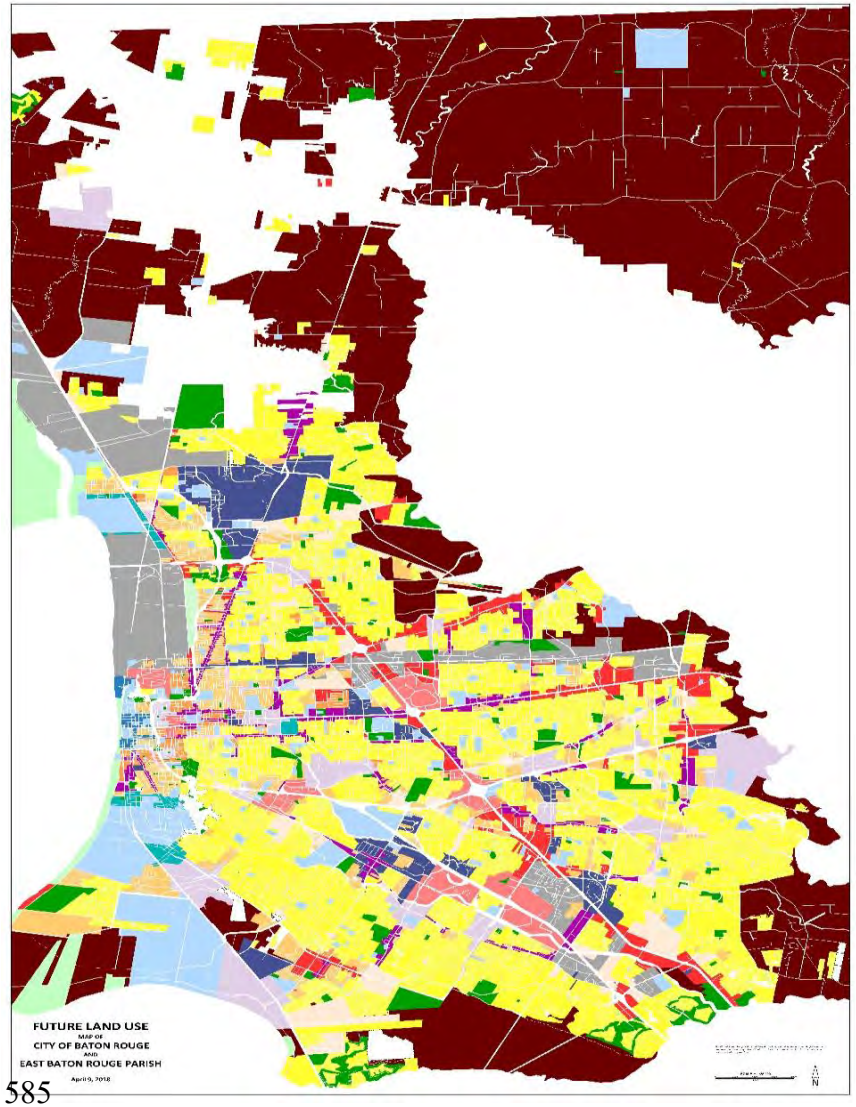
- **Important elements of Vision**
  - Distinct neighborhoods and districts
  - Self reliance and complete design
- **Land use pattern that reflects:**
  - Resilience
  - Pedestrian-friendly
  - Prosperity





The FUTUREBR Land Use Map

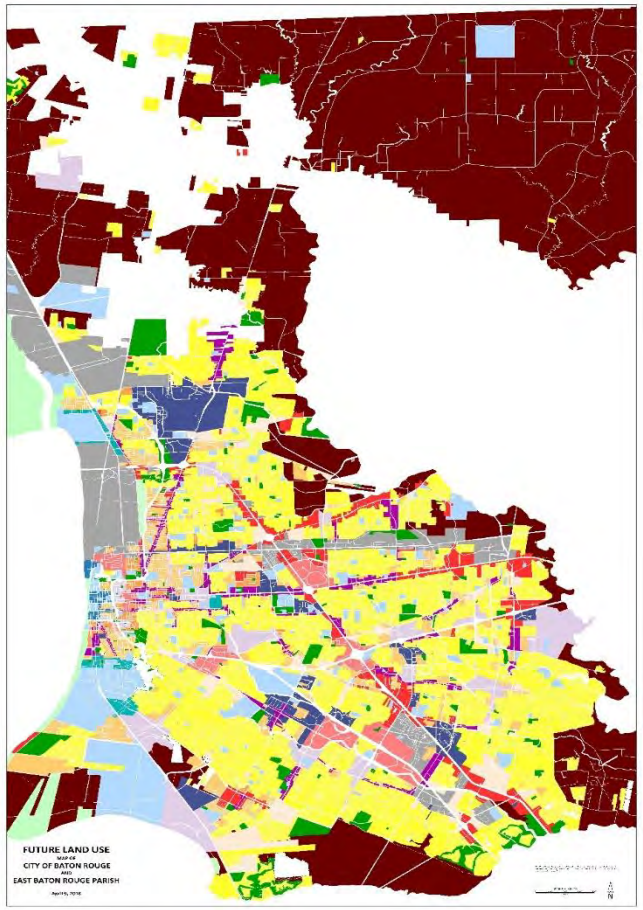
- Downtown
- Town Center
- Regional Center
- Neighborhood Center
- Mixed-Use Arterial
- Main Street
- Employment Center
- Commercial
- Industrial
- University District
- Institutional
- Rural
- Parks
- Open Space
- Urban Neighborhoods
- Compact Neighborhoods
- Residential Neighborhoods
- Planned Unit Development



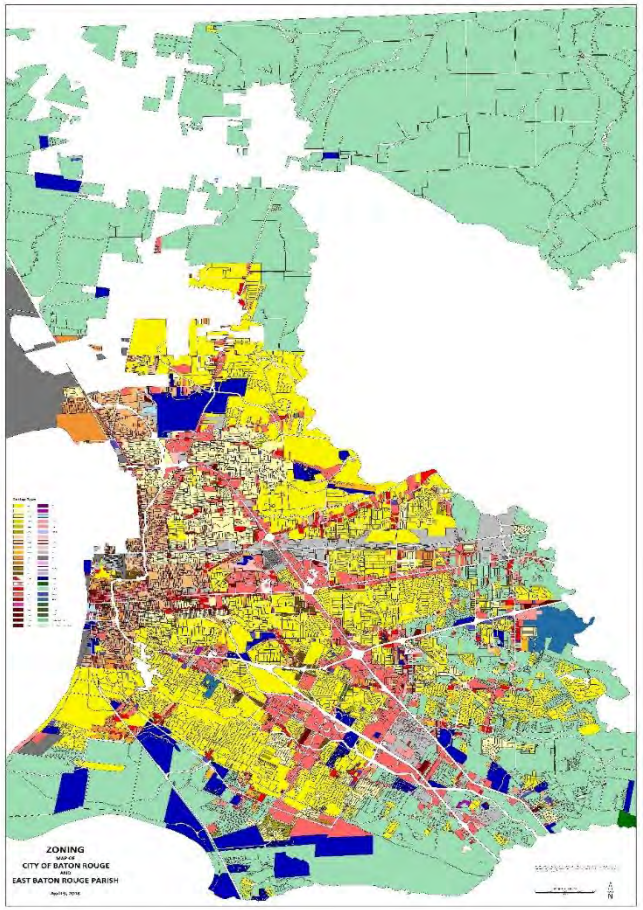
The FUTUREBR FLUM vs. UDC Zoning

No Relationship

18 FLUM categories



44 active zoning districts



The FUTUREBR Land Use Element

- **Land Use Action 1.1.1**
  - *Align all land use regulations including zoning ordinances, changes to the zoning map, subdivisions regulations, and the roadway plan with the Comprehensive Plan.*

- **Land Use Action 1.1.2**
  - *Review all regulatory actions relating to land use, subdivision, and development approvals in context with the Comprehensive Plan to ensure consistency.*

Neighborhoods and the FUTUREBR FLUM

- **Neighborhoods disliked**
  - Variety of uses allowed
  - Lack of density standards

- **Merchants Associations disliked heights allowed**

Staff and the FUTUREBR FLUM

- **Main Street**
  - Up to 3 stories
  - Cafes
  - Shops
  - Eateries
  - Housing on upper levels
- **Mixed Use Arterial**
  - Up to 5 stories
  - “Main Street” commercial buildings
- **Same street changed designation block by block**
- **Neighborhood Center**
  - Up to 3 stories
  - Dining
  - Retail
  - Services
  - Housing on upper levels
- **Town Center**
  - Up to 5 stories
  - Mixed use
- **Every designated NC had zoning inconsistent with designation**

FUTUREBR Lesson Learned

- **Do NOT adopt form-based FLUM without support for form-based zoning**

- **2018 Update**
  - Eliminating districts
  - Ensuring differentiation of districts
  - Establishing density controls
  - Eliminating districts that provide no information (PUDs)

Sienna Reid, AICP, Senior Planner

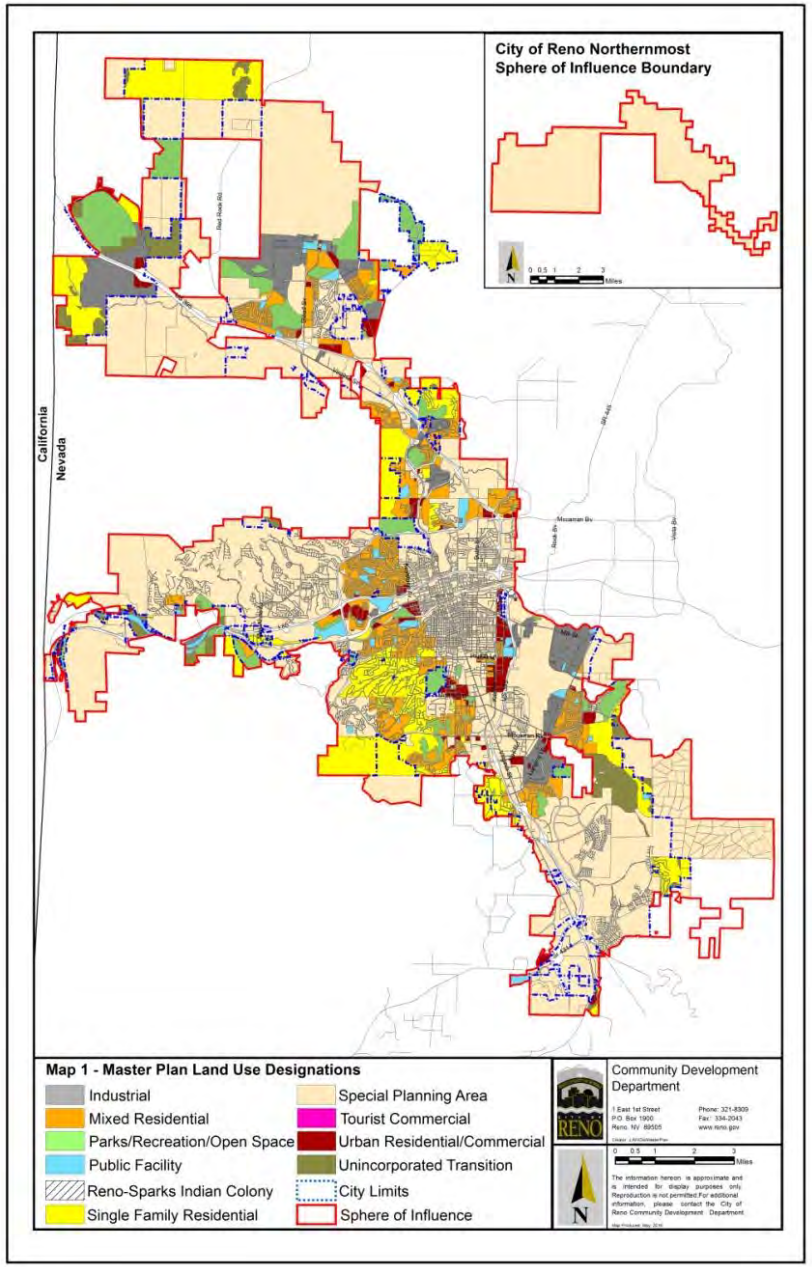
Photo: Reno Lens

REIMAGINERENO

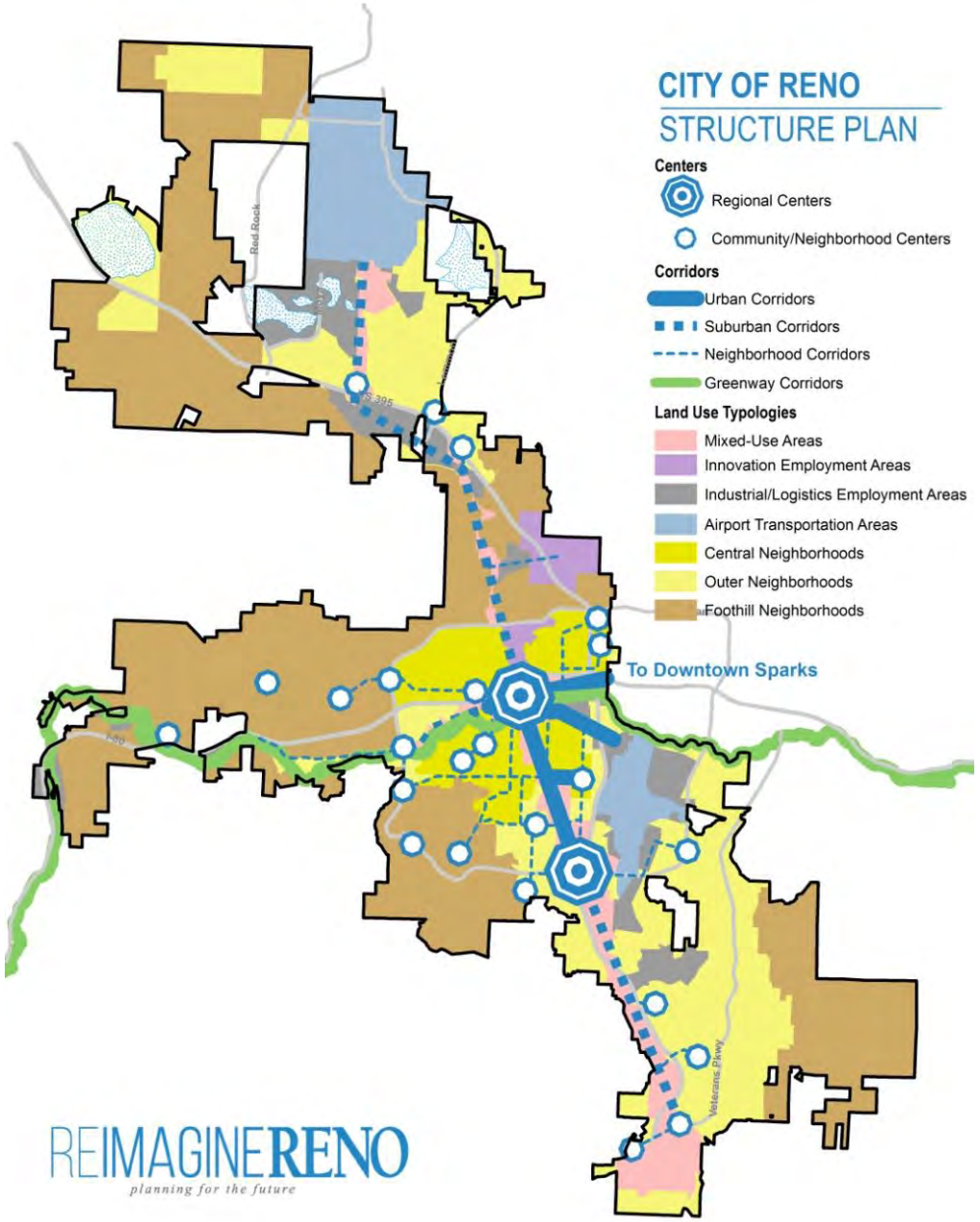
planning for the future

Objectives for Updated Land Use Plan

- More clearly convey “big picture” view of mix and distribution of planned land uses
- Support consolidation of existing center, corridor, and neighborhood plans with distinct land uses
- Reflect overall patterns of land use within individual PUDs
- Support tracking of citywide land demand and capacity analysis
- Address compatibility concerns such as urban/rural interface issues, context-sensitive infill and employment land viability



Structure Plan Framework



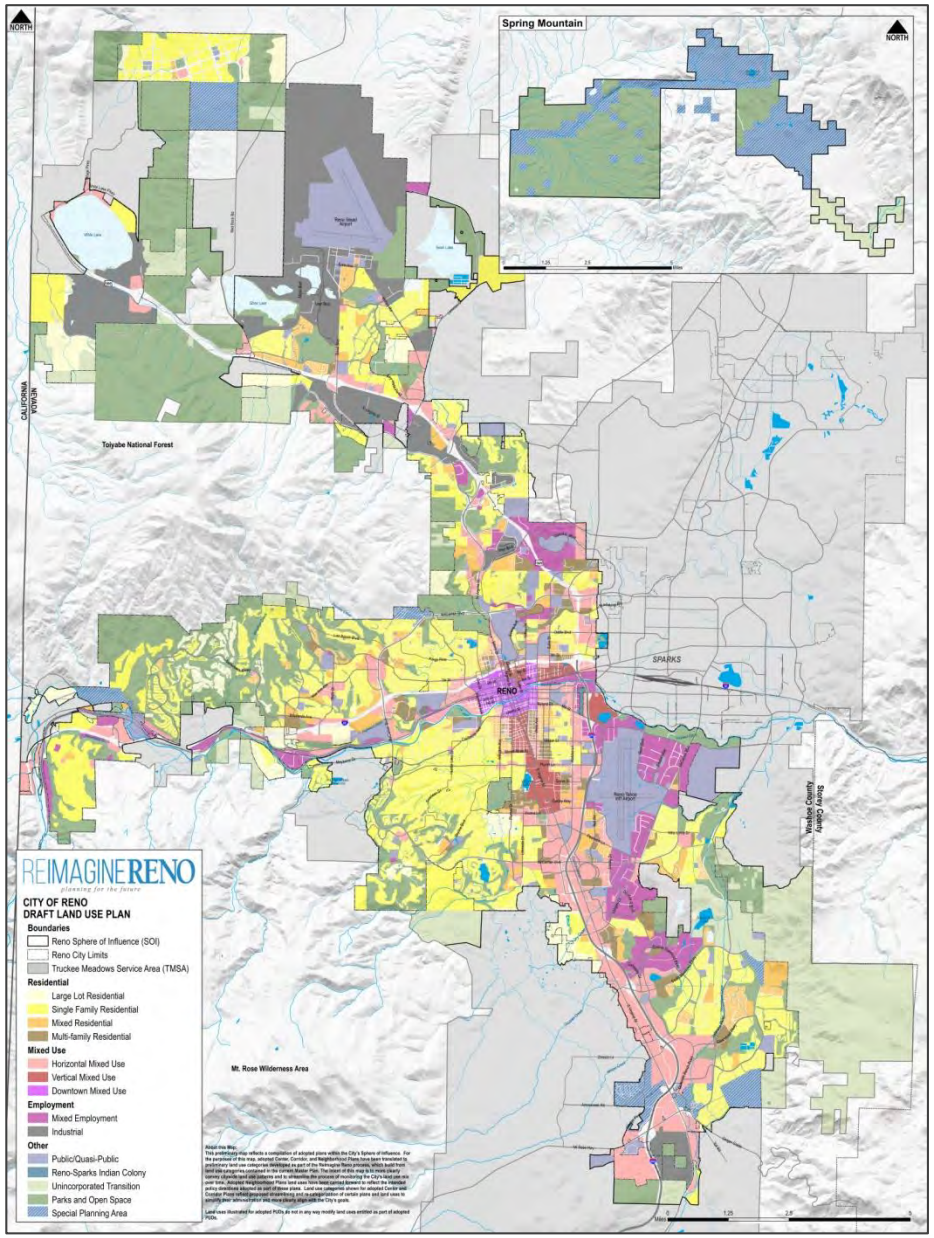
- Establishes overall growth framework:
  - Hierarchy of centers and corridors
  - Generalized patterns of development
- Supported by:
  - Design principles (policies)
  - Land use plan map
- Expands best practice policies to all areas of the City, not just those with plans

Land Use Categories

Updates to:

- Phase out Special Planning Area (SPA) designation
- Address housing and employment gaps and needs
- Reinforce infill and redevelopment priority areas
- Improve transitions in intensity at the urban fringe

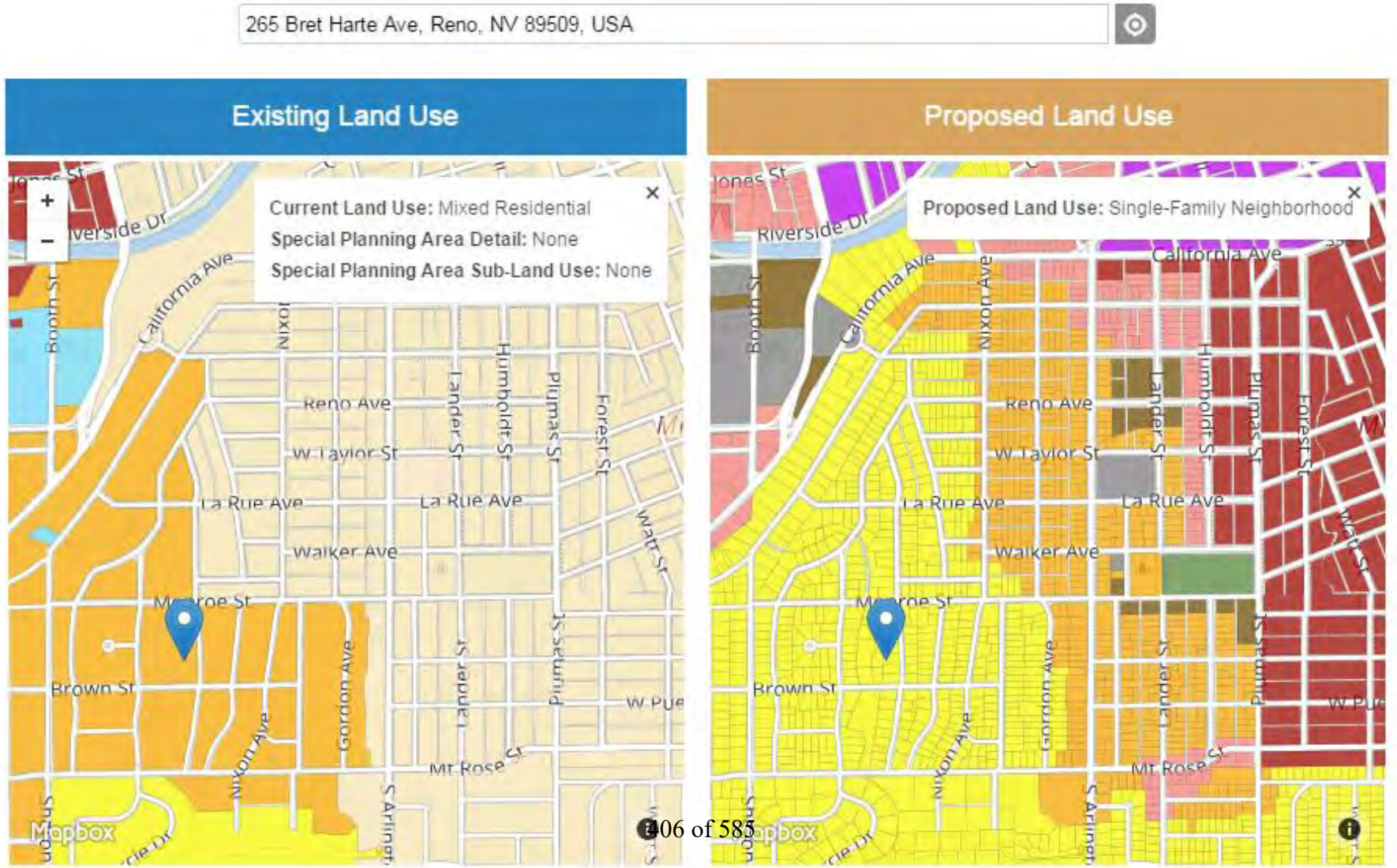
New Land Use Plan Map



- Translation to new land use categories based on:
  - Underlying zoning
  - Center, Corridor & Neighborhood plans
  - PUD/SPD handbooks
- Extended review process
  - Key choice direction
  - Initial preview
  - Comparison tool and comment period
  - Planning Commission vetting
  - City Council adoption

Comparison Mapping for Feedback

Comparison map at Reno.Gov/ReImagineReno



Pros/Cons

- **Pros**
  - Clearly see type and location of growth planned citywide
  - Supports land supply monitoring and policy evaluation
  - Moves away from many individual plans that were difficult to regularly update with limited staff
- **Cons**
  - Land use categories perceived by some as less flexible
  - Significant changes to PUD handbooks will trigger Master Plan amendments

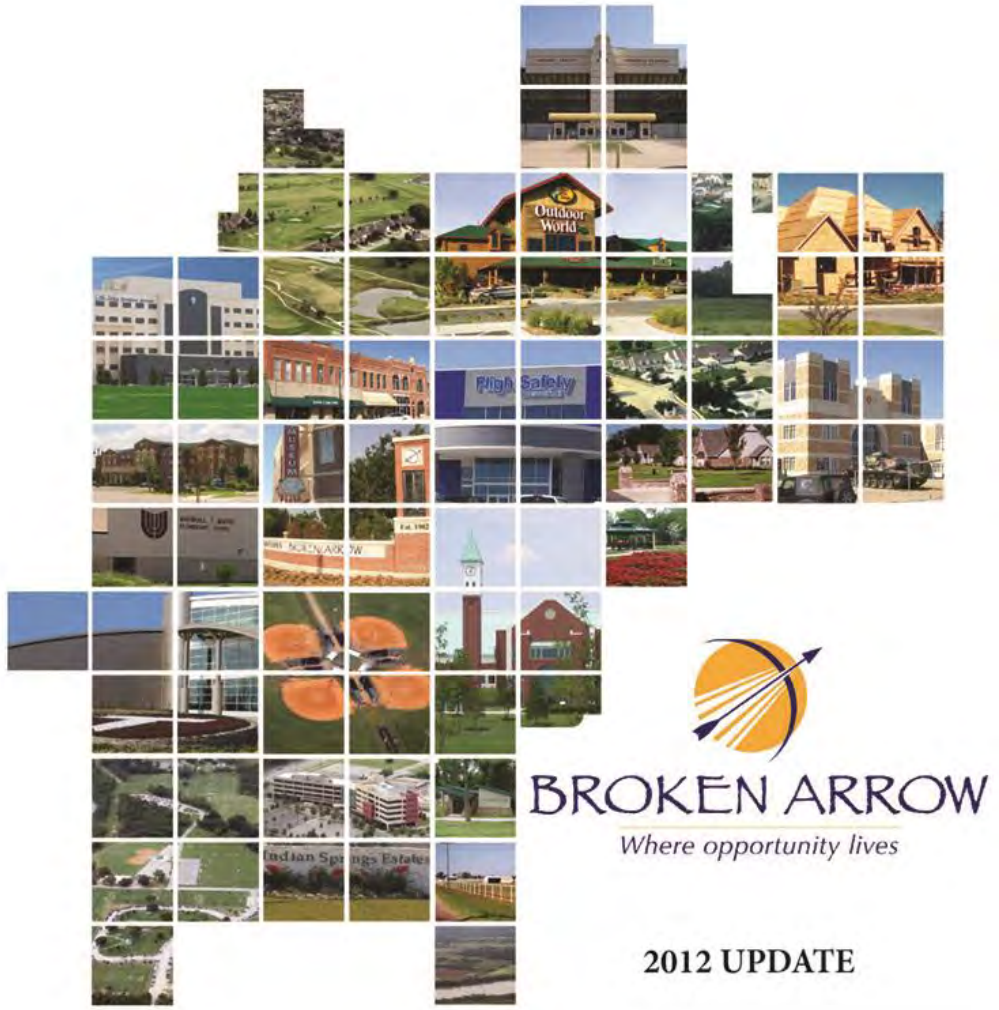
Lessons Learned

- Convenient feedback mechanisms well received
- Supporting information critical
  - FAQs for community
  - Translation detail for planning staff
  - Future zone change mapping
- Convey necessity of amendments for small adjustments and errors

Farhad Daroga, Special Projects Manager

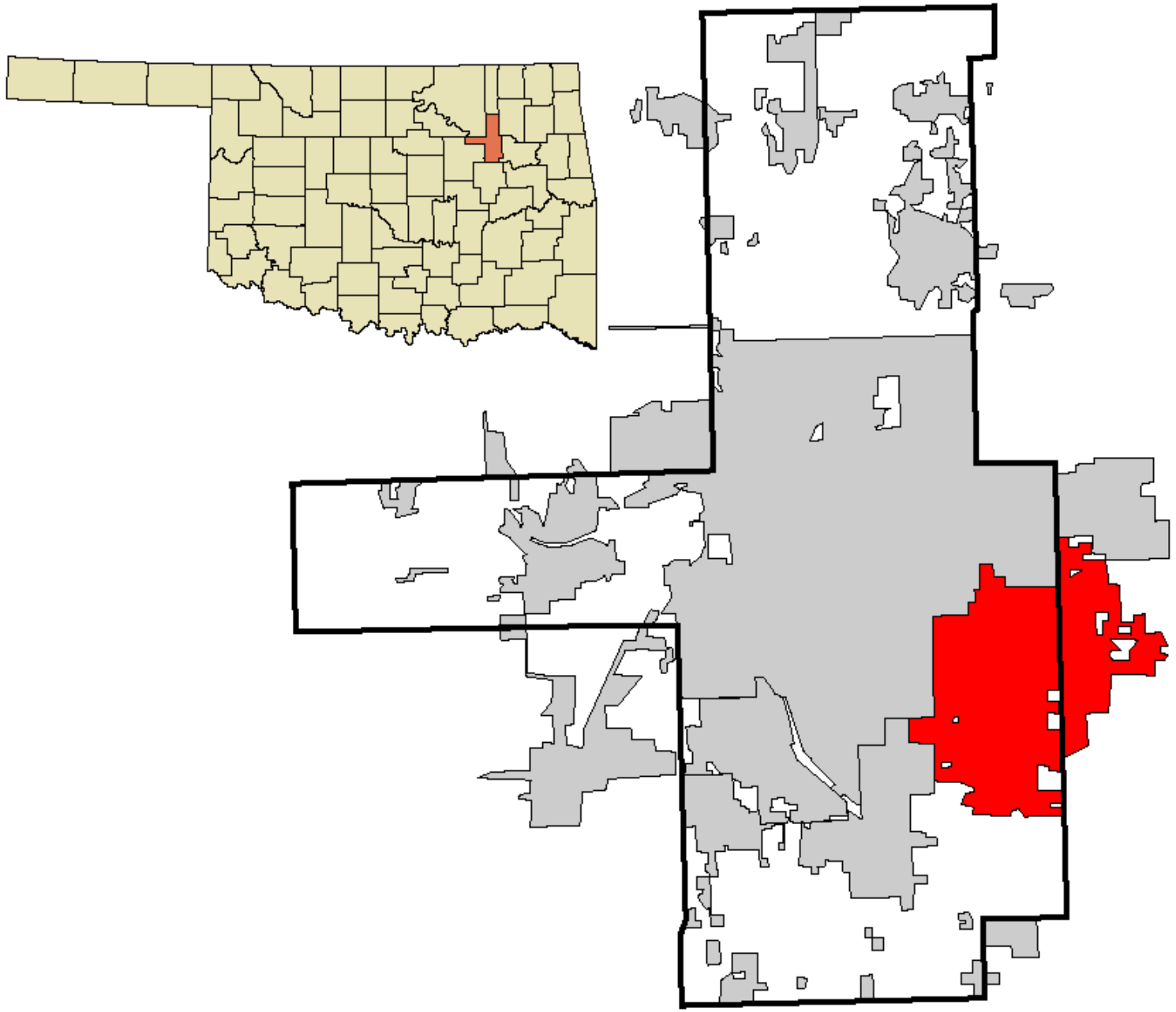
Photo: Tulsa World

Creating the Best Community



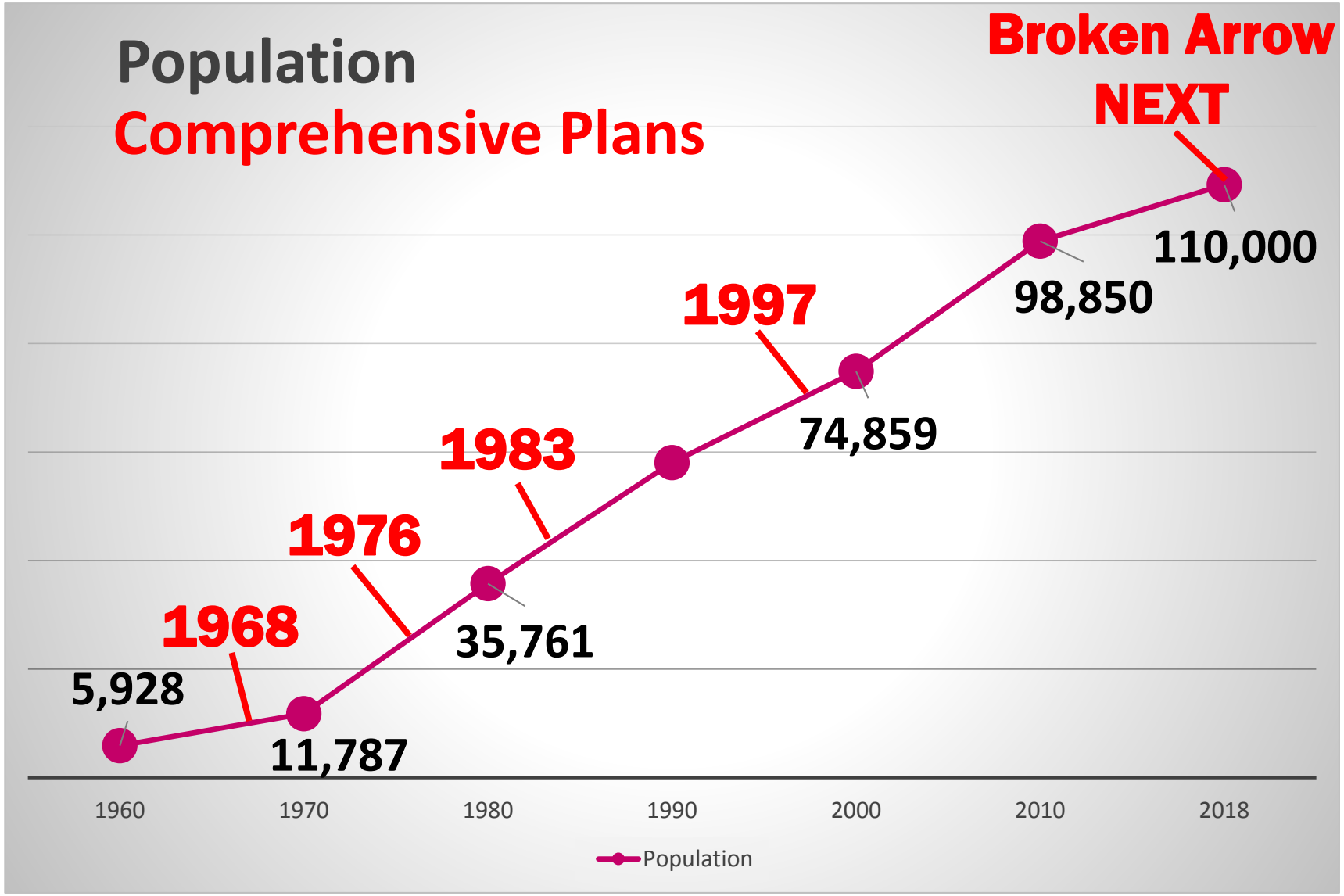
Location

- **Existing City Limits: 61 square miles**
- **Existing fenceline: 101 square miles**



Size

- Current population: ~110,000



Community's approach to the Comprehensive Plan

10 Major Concerns and Goals

1. Provide for longevity
2. Keep plan current
3. Vision and direction for future
4. Transparent and fair (Quality Image)
5. Undeveloped areas (More than 50%)
6. Increase non-residential development opportunities
7. Commercial development
8. Develop regulations and protocols
9. Infrastructure needs
10. Housing opportunities

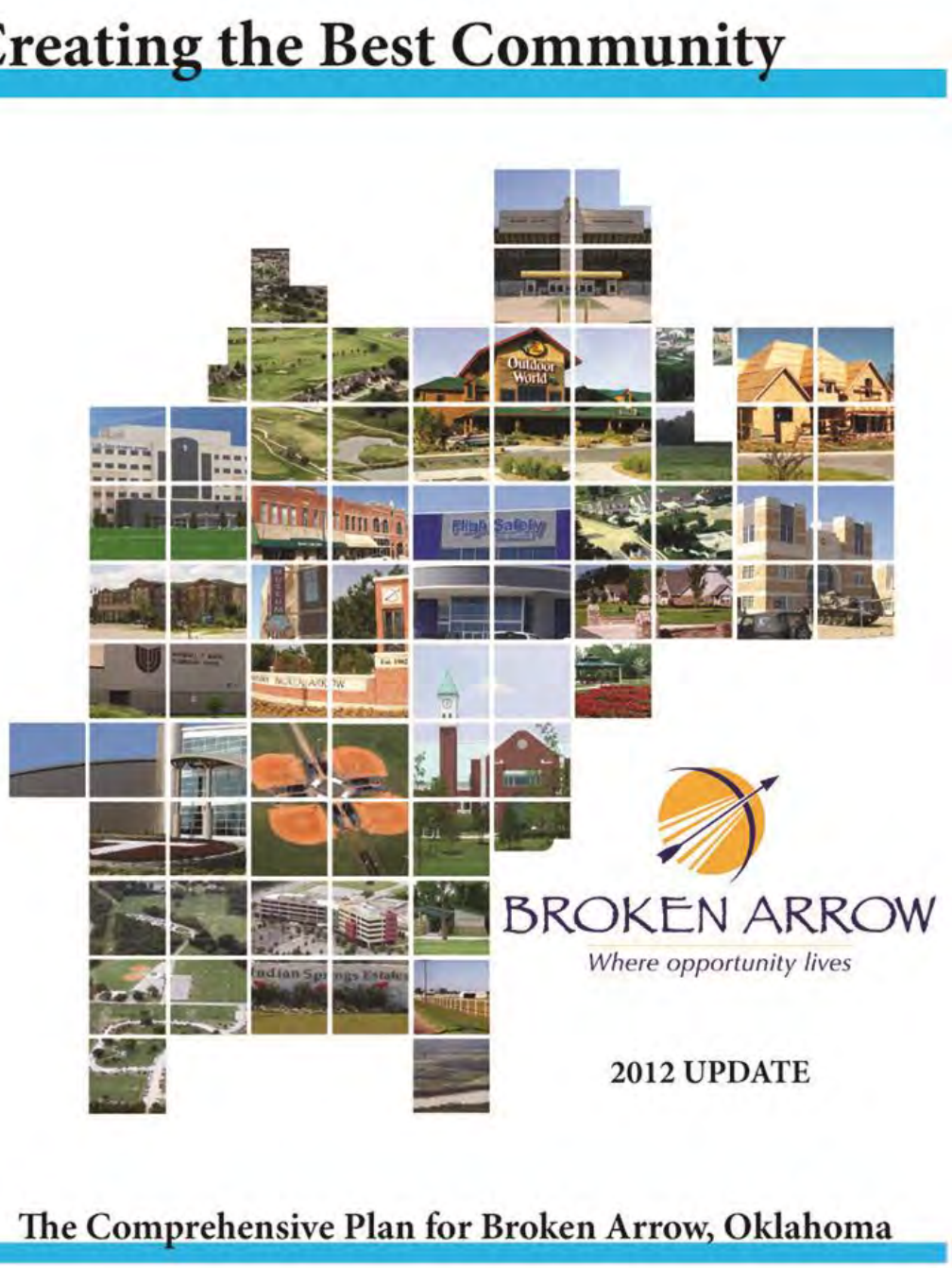
LUIS

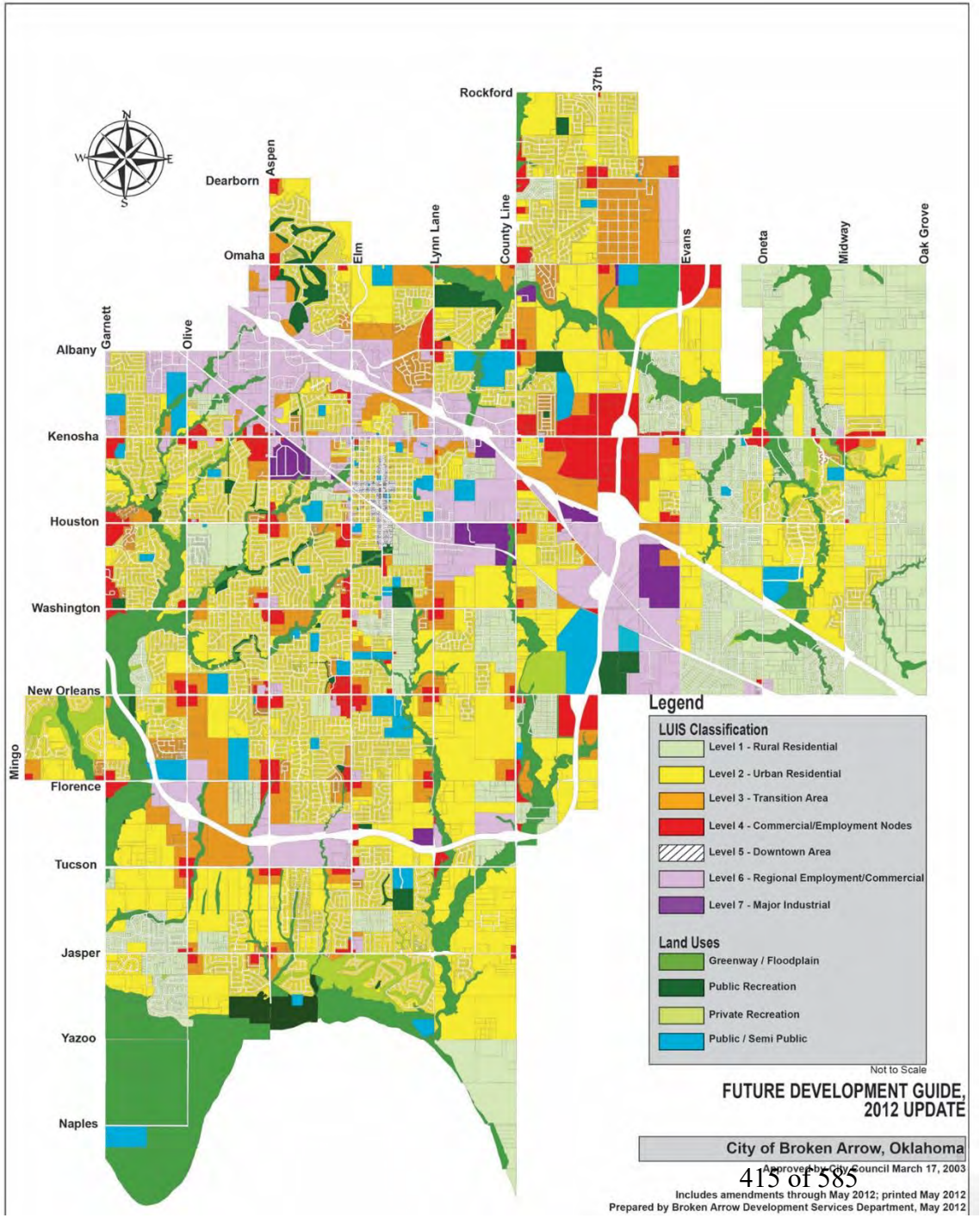
Land

Use

Intensity

System

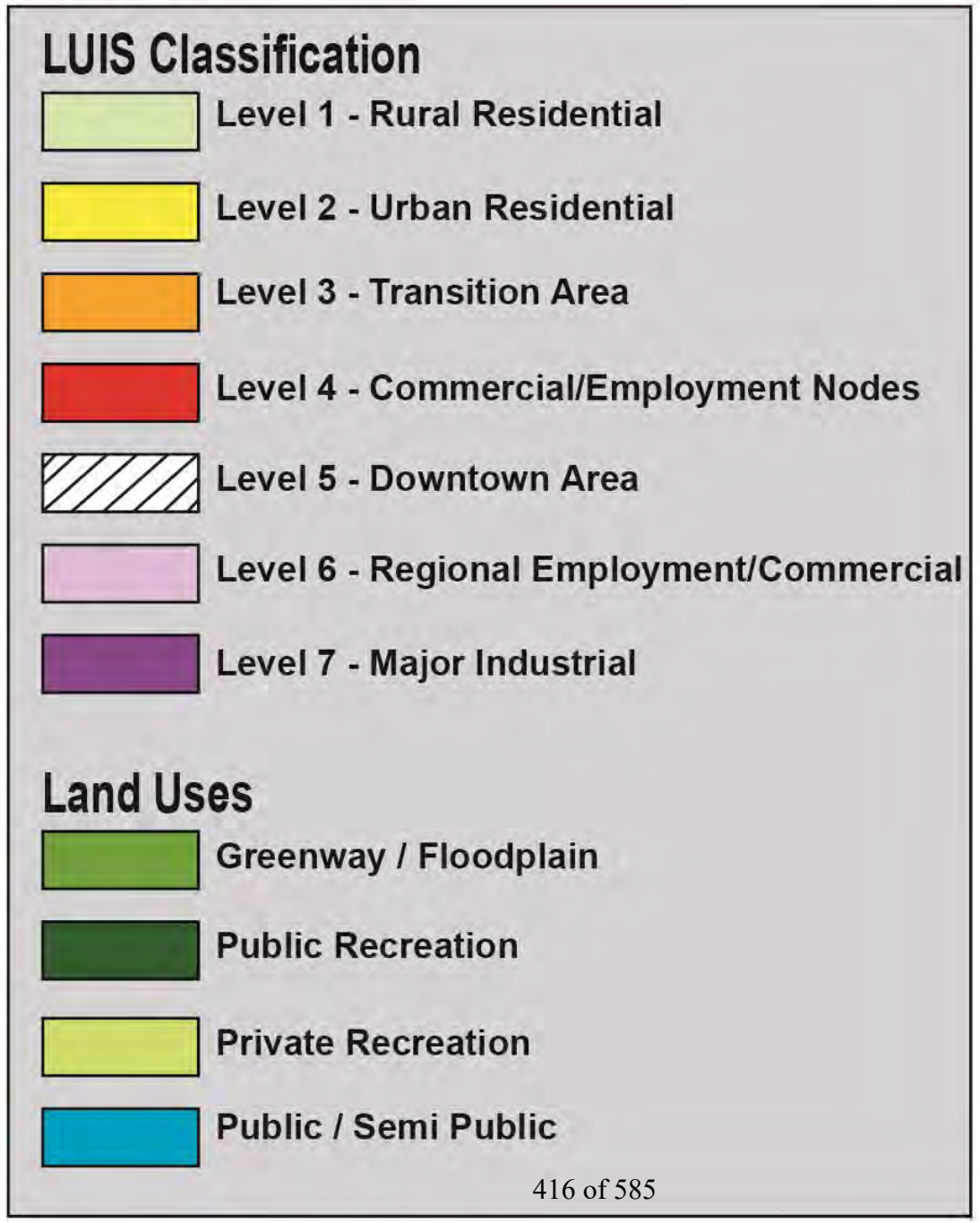




- 1997:
  45 square miles
  33,000 parcels

- 2017:
  61 square miles
  45,000 parcels

Legend



- 11 Land Use Categories

Zoning Categories

Land Use Intensity Classification System with Zoning Ordinance Effective 2-1-2008							
Zoning Districts	*Level 1*	*Level 2*	*Level 3*	*Level 4*	*Level 5*	*Level 6*	*Level 7*
A-1: Agricultural District	**Allowed**						
RE: Residential Estate District	**Allowed**						
RS-1: Single-Family Residential District	**Allowed**						
R-2: Single-Family Residential District	Possible	**Allowed**	Possible				
RS-2: Single-Family Residential District	Possible	**Allowed**	Possible				
RS-3: Single-Family Residential District	Possible	**Allowed**	Possible				
RD: Residential Duplex District		Possible	**Allowed**				
RM: Residential Multi-Family District			**Allowed**		Possible		
RMH: Residential Mobile Home District			**Allowed**				
NM: Neighborhood Mixed Use District			**Allowed**	**Allowed**			
CM: Community Mixed-Use District				**Allowed**			
DM: Downtown Mixed-Use Core District					**Allowed**		
DF: Downtown Fringe District			Possible		**Allowed**		
ON: Office Neighborhood District		Possible	**Allowed**	**Allowed**	Possible		
CN: Commercial Neighborhood District				**Allowed**	Possible	**Allowed**	
CG: Commercial General District				**Allowed**	Possible	**Allowed**	
CH: Commercial Heavy District						**Allowed**	Possible
IL: Industrial Light District						Possible	**Allowed**
IH: Industrial Heavy District							**Allowed**

Broken Arrow's LUIS Plan

- **In place for 20 years (1997)**
- **Update process**
  - Initially 2X per year
  - Since 2001: 4X per year
  - Same as Zoning hearing. Quarterly change dates approved each December
  - Implementation

FLUM/LUIS Takeaways

Pros and cons

- Very prescriptive and transparent
- Adopted policy – requires Planning Commission and City Council to follow plan (Have for 20+ years)
- Helps in decision making
- Excellent public review and easy for citizens to understand
- Land owners and developers know land use options
- Excellent for public knowledge; community has embraced it

Lessons learned

- As the City grows – possible need for more districts
- How does this system work with Special Area Plans
- Where and how do mixed use developments fit in
- Change in land use patterns
- Future initiatives and trends
- Technology

New Comprehensive Plan in progress – 2019

BROKEN ARROW next COMPREHENSIVE PLAN

BrokenArrowNext.com

Discussion

ZONING PRACTICE FEBRUARY 2021

AMERICAN PLANNING ASSOCIATION

ISSUE NUMBER 2

PRACTICE CONSISTENCY

2

Reconsidering the Role of Consistency in Plan Implementation

By John Zeanah, AICP

Consistency ensures that zoning and day-to-day land-use decisions are made in harmony with a community's comprehensive (or general) plan. While consistency arose from aims of cities to manage mostly outward growth, the trend of development away from cities has changed in recent years. Given trends of growth back into cities, consistency is still as relevant as during the growth management era. But for this tool to be effective, planners must consider how consistency can be defined and positioned flexibly to meet the dynamic environment of the developed city. How should the comprehensive plan address consistency? Is this tool still relevant for planners today? In this issue of *Zoning Practice*, we will consider how consistency is used in plan implementation to align zoning regulations and land-use decisions to the plan and connect horizontally the various complex systems that make up cities.

RECONSIDERING CONSISTENCY

The primary aim of the comprehensive plan should be implementation. And nowhere is plan implementation more possible than in the regulatory environment—the zoning ordinance and land-use decisions made through the development review process. A review of comprehensive plans from across the country suggests the application of consistency, one of the more important tools of plan implementation, has diminished. This is true in states both with and without a consistency doctrine part of their state statute. Later, we will see examples from three cities that address consistency in their comprehensive plans. Let's first examine some of the key reasons why cities should reconsider the role of consistency in implementing the comprehensive plan.

In communities throughout the United States, a prevailing role of public-sector planning is to facilitate market-led development. This is especially true in communities where public-sector resources are constrained by tight budgets or limited funding for uses other than public safety, including community development. Despite this, the comprehensive plan often seeks to cast a more optimistic, community-centered, and increasingly equitable vision of how to guide physical change in the city.

In order to achieve the vision cast in the comprehensive plan, cities rely heavily on implementing the plan through regulation. While the more common and obvious tool of regulatory planning is the zoning ordinance, much of the day-to-day experience of the planning office is development review, or in other words, permitting flexibility from the zoning ordinance in one form or the other. While the Standard Zoning Enabling Act called for the zoning ordinance to be made "in accordance with the comprehensive plan," no similar instruction is made for decisions that deviate from the zoning ordinance. The consistency doctrine ties these decisions back to the comprehensive plan.

Planners should also embrace consistency to position the comprehensive plan as the city's master plan, guiding policy and investment decisions across city systems to direct change in the built environment. Many state consistency statutes address this requirement of "horizontal consistency" across elements of the built environment including sewer, roads, public transit, and parks. While this notion dates to the genesis of the field of city planning, its importance has even greater relevance today as patterns of growth are more inwardly focused in cities across the United States and local government bureaucracies are larger, more complex, and more fragmented than a century ago.

Similarly, consistency helps to guide implementation of the plan's vision across other areas facing cities today: repurposing of vacant land, addressing issues of equity, stemming displacement of vulnerable populations, addressing climate change, or encouraging new forms of density in line with community character. Many of these plan goals are implemented through alignment of decisions about where and how the city and its neighborhoods will change, taking a systems view to the task of guiding development within a dynamic environment.

Today's comprehensive plan is increasingly shaped by significant community input. The practice of planning has grown to place greater emphasis on both the quantity and quality of public participation. Cities not only use multiple avenues of outreach to involve its residents, but these avenues are growing in sophistication to advance from community input to community decision making about the comprehensive plan. With this elevated position of public involvement comes elevated expectations the plan will be followed in its implementation. Otherwise, planning risks diminished legitimacy.

Finally, development review can take on higher stakes in cities with little remaining undeveloped land. Planning commissions and legislative bodies across the United States are often put in the position of casting difficult votes on contentious development proposals. While some argue legislative bodies may resist ceding authority to the comprehensive plan, a finding of consistency with the plan, especially where consistency is well defined, can provide rational basis or political cover on contested or unpopular decisions.

ORIGINS OF THE CONSISTENCY DEBATE

The consistency doctrine is rooted in the Standard State Zoning Enabling Act (SZEA) of 1926, which is adopted in some form in states across the United States. According to the SZEA, zoning regulations shall be established "in accordance with a comprehensive plan." While this genesis suggests subordination of land-use regulation to the comprehensive plan, the interpretation of this passage has been

much debated for nearly a century since its publication. Complicating matters was the publication, two years later, of the Standard State City Planning Enabling Act (SCPEA). While this document had the potential to breathe life into the comprehensive plan called for in the SZEA, the Planning Act confused the matter by not directly addressing the meaning or intent of the "comprehensive plan" of the SZEA. Further, following the SZEA, many state courts maintained the zoning ordinance and map could be treated as both zoning regulation and comprehensive plan if the ordinance is applied comprehensively.

Despite the confusion, the intent of the plan described in the SCPEA seems clear from how its drafters spoke of planning. At the National Conference on City Planning in 1928, Alfred Bettman described the role of planning as not only to address the "general distribution amongst various classes of uses" but also the "location and extent of new public improvements, grounds, and structures" (Kent 1964). Seventeen years prior, Frederick Law Olmsted Jr. argued in front of the same conference the plan was the necessary "machinery" to "avoid…both ignorantly wasteful action…and inaction in the control of the city's physical growth" (Kent 1964). This "machinery" was outlined in the SCPEA and included the zoning plan as one of its component parts. And though the breadth of today's comprehensive plan is considerably wider than the half-dozen principal elements found in plans of a century ago, its role in shaping cities remains essential for many of the same purposes articulated by early advocates of planning.

Nevertheless, the drafters of the SCPEA did not address the SZEA's reference to the "comprehensive plan." Additionally, a series of other defects and issues described in more detail below further complicated the relationship between the SZEA and the SCPEA.

First, the drafters of the SCPEA conspicuously labeled the subject of the act the "master plan," rather than the "comprehensive plan" (although it is also referred to as the "municipal plan" and "comprehensive master city plan"). Daniel Mandelker, writing in 1976, rejected the "master plan" conceived by the SCPEA as the same instrument as the "comprehensive plan" of the SZEA (Mandelker 1976). Mandelker argued the focus of the master plan was a city's capital improvement plan, and even though it included the zoning plan as a component, this zoning plan met the definition of the SZEA's "comprehensive plan." Indeed, the zoning plan was thought to be more specific than the master plan's general purpose described in the SCPEA's Purposes in View (Kent 1964).

Second, the drafters of the SCPEA left the act of preparing a master plan optional. Mandelker raises this key distinction between the comprehensive plan and master plan, arguing the SZEA was more direct in requiring zoning be made according to the comprehensive plan, thus requiring the comprehensive plan (Mandelker 1976). Following the publication of the SZEA, communities across the United States prepared zoning ordinances, often before preparing or adopting a comprehensive plan (or master plan). In early challenges, the courts held a zoning ordinance was valid so long as it was comprehensive in scope, but not necessarily based on a separate plan. While this finding was criticized notably by Professor Charles Haar in his 1955 article *In Accordance with a Comprehensive Plan*, the practice continues in many states today. However, these lingering issues serve as a basis for the question of whether consistency of zoning or land-use decisions should be made "in accordance" or "in basic harmony" with a city's comprehensive plan or general plan (DiMento 1980a).

Though many state codes mandate zoning be "in accordance with" a comprehensive plan, the introduction of the consistency doctrine into planning practice helps to clarify the role and authority of the plan and how it relates to zoning. These concepts, along with state statutes and the body of legal decisions, frame our contemporary understandings of the consistency doctrine in planning.

John Zeanah

Site of the former Graves Elementary School in Memphis, Tennessee. In 2020, the Memphis City Council rejected a request to convert the school into a light manufacturing facility due in part to inconsistency with the recently adopted comprehensive plan.

EXAMPLES OF THE CONSISTENCY DOCTRINE

The issue of consistency gained greater importance and prominence in planning practice and law through the growth management era that followed rapid suburbanization of metropolitan areas across the United States. During this time, planners were interested in making sure zoning would take its proper place subordinate to the comprehensive plan. Early adopters of the consistency doctrine in state law included those states that were leaders in growth management, such as Oregon, California, and Florida.

To make the most of this tool, several commenters on consistency have advocated for state and local governments to define consistency in law. Though numerous states now include consistency doctrines in state law, the construction of the doctrine varies from state to state. States such as Oregon, California, and Florida feature a stricter definition of consistency, whereas states such as Arizona and Tennessee have looser constructions of the consistency doctrine.

Arizona

A notable court decision on consistency is *Haines v. City of Phoenix* (727 P.2d 339, 1986) where the Appellant challenged the Phoenix City Council's decision to grant a

height waiver for a proposed high-rise office. The requested height was twice what was encouraged in both the city's general plan, the *Phoenix Concept Plan 2000*, and their specific plan for the area, the *Interim 1985 Plan*. The relevant statute in Arizona law states zoning regulations "shall be consistent with and conform to the adopted general plan of the municipality, if any." (Ariz. Rev. Stat. §9-462.01, 1999) This loose construction of consistency opened two primary questions for the *Haines* court that ultimately decided in favor of the city.

The first question posed was whether the city had adopted the general or specific plan. While the city argued it had not adopted either plan at the time of the subject decision, the fact that *Phoenix Concept Plan 2000* and *Interim 1985 Plan* met the definitions of a general plan and specific plan, respectively, were enough to persuade the court that "the city cannot avoid implementation of the statute by creating a plan and then stating it is not one."

The second question was whether the decision was consistent with the plan. Although the proposed building's height was twice the limit provided in both plans, the *Haines* court was reluctant to "substitute [its] judgment for that of the duly elected legislative body, the city council." In making its review based on consistency with the general plan, the *Haines* court noted other goals for the area beyond height limitations alone, such as concentration of growth within the area's core, commercial development along the subject corridor, and encouragement of open space. Considering these multiple factors, the court upheld the city's decision to grant the waiver.

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A view of the subject site of *Haines v. City of Phoenix* today.

Kentucky

A second example of loose consistency comes from the statute in Kentucky. Whereas the Arizona statute provides a good example of loose construction, the Kentucky statute is a good example of loose application. The Kentucky statute requires a zoning change to include a finding of consistency unless a finding can be made "that there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area." (Ky. Rev. Stat. §100.213, 1997). This condition suggests any decision that deviates from the comprehensive plan on the basis of the plan's inability to properly address dynamic circumstances surrounding the zoning decision may be found consistent. The Court of Appeals of Kentucky stated in *Hougham v. Lexington-Fayette Urban County Government* (29 S.W.3d 370, 2000), "in the scheme of planning and zoning, our society is constantly changing, which requires the continuing review and updates to our comprehensive plans," before ruling in favor of the Lexington-Fayette Urban County Council's denial of a zoning change request consistent with the comprehensive plan. Going further, the court reasoned "just because the zone change request complies with the comprehensive plan…does not mean the zone request must be granted."

California

Representative of more strict consistency, the consistency requirements of the state of California draw their origin from A.B. 1301, the 1973 state bill that put most of these statutes in place (DiMento 1980b). These statutes include requirements that all cities and counties develop a general plan, that plans be internally consistent, and that zoning ordinances be consistent with the plan, among other requirements (DiMento 1980b). According to California law, a zoning ordinance is consistent with the general plan if it has been adopted and "if the various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in such a plan." While this passage suggests consistency with all elements of the plan must be met, the Court of Appeals in California has held the nature of inconsistency among the various elements of the plan are important factors to consider, and that decisions should "not obstruct their attainment," but ultimately "the land use policy…is fundamental" (154 Cal.App.4th 807, 2007; 74 Cal. Rptr. 2d 1, 1998). A recent California appeals court decision from 2019 affirmed the city of Sacramento's broad discretion to determine a project's consistency with the general plan (__Cal. App. 5th __, 2019) "in a manner that best achieves the City's overall goals" (City of Sacramento 2015).

Recent Examples

Tennessee and North Carolina have added consistency statutes to their codes in recent years—Tennessee in 2008 and North Carolina in 2005 and later amended in 2017 and 2019. Tennessee's statute is effective only when the comprehensive plan is adopted by the legislative body by ordinance. Upon adoption of the plan by the legislative body, decisions of the body, along with the planning commission and the board of zoning appeals, except when granting variances (added in 2010), must be consistent with

the comprehensive plan (Tn. Rev. Stat. §13-4-202, 2010). Without adoption by the legislative body, the doctrine does not apply. In North Carolina, the consistency statute adopted in 2005 fit the Arizona model: the planning commission and legislative body must *consider* any adopted plan when making a zoning decision (NC Rev. Stat. §160A-383, 2005). In 2017, the statute was strengthened to require a statement of consistency accompany any land-use decision following one of the following three forms:

1. A statement approving the proposed zoning amendment and describing its consistency with an adopted comprehensive plan;
2. A statement rejecting the proposed zoning amendment and describing its inconsistency with an adopted comprehensive plan; or
3. A statement approving the zoning amendment and declaring the approval a plan amendment plan, an explanation of the change in conditions considered, and an explanation why the zoning amendment was reasonable and in the public interest in the zoning amendment. (NC Rev. Stat. §160A-383, 2017)

The statute was modified again in 2019, striking the three forms noted above and requiring the governing body to approve a statement of consistency or inconsistency associated with a proposed zoning change. The revised statute permits an inconsistent zoning amendment to have the effect of amending the plan concurrently.

THE NEED FOR DEFINITION

In cases cited above, particularly in Arizona and Kentucky, the lack of criteria available to guide the decision of consistency left the interpretation to the court's discretion. In expressing its reluctance to "substitute [its] judgment for that of the duly elected legislative body," the *Haines* court affirmed a suggestion of Joseph DiMento that "a fairly attentive legislative response" to defining consistency was necessary to bring clarity to the implementation of the plan (DiMento 1980a).

DiMento called the act of defining consistency a "fundamental and most obvious recommendation" (DiMento 1980a). Other commenters identified the need for a clear definition of consistency. Daniel Mandelker argued defining consistency should consider "both a spatial and timing dimension" (Mandelker 1976) and Richard Babcock advocated in *The Zoning Game* for revisions to the enabling acts to account for how land-use decisions affect the community at large (Babcock 1966).

An example of consistency legislation can be found in the American Planning Association's *Growing Smart Legislative Guidebook*, which leans toward a stricter construction of the consistency doctrine, recommending:

> The local planning agency shall find that proposed land development regulations, a proposed amendment to existing land development regulations, or a proposed land-use action is consistent with the local comprehensive plan when the regulations, amendment, or action:
>
> - furthers, or at least does not interfere with, the goals and policies contained in the local comprehensive plan;
> - is compatible with the proposed future land uses and densities and/or intensities contained in the local comprehensive plan; and
> - carries out, as applicable, any specific proposals for community facilities, including transportation facilities, other specific public actions, or actions proposed by nonprofit and for-profit organizations that are contained in the local comprehensive plan.
>
> In determining whether the regulations, amendment, or action satisfies the requirements of subparagraph (a) above, the local planning agency may take into account any relevant guidelines contained in the local comprehensive plan (American Planning Association 2002).

These examples raise questions on how consistency should be defined. Must the land-use decision be consistent with all elements of the plan? Are some elements more critical to achieving consistency than others? Can the circumstances in the community change in a manner that renders the adopted plan's recommendations out of date? DiMento argues "although precision in the definition of consistency is elusive, a clear meaning must be developed before efficacious law can be realized" (DiMento 1980a).

To account for this elusiveness, DiMento further argued a precise definition does not restrict flexibility in the application of consistency. To apply this flexibility, DiMento offers six questions to be considered to enforce consistency (DiMento 1980a):

- Did the jurisdiction promote the spirit of the consistency reform through policies, programs, and planning?
- Is there a history of broad-based participation by citizens in the development of regulations?
- Has a heavy burden been placed on those who have sought approval of actions inconsistent with the plan?
- Have attempts been made to strengthen planning in the jurisdiction in the period since consistency reform was adopted?
- Has planning been sufficiently comprehensive to address the decision being challenged?
- Is an important regional, state, or federal interest jeopardized by failure to achieve consistency?

These questions reinforce many of the reasons for using consistency in plan implementation described earlier in this article. While state statute benefits from definition, looser construction permits the municipal, county, or regional planning agency to articulate its definition of consistency through the adopted comprehensive plan.

For example, let's revisit the consistency doctrine of the state of Tennessee: "After the adoption of the general plan by a legislative body, any land use decisions thereafter made by that legislative body, the respective planning commission or board of zoning appeals…must be consistent with the plan." What is clear are decisions subject to consistency; what is not clear is how consistency is defined. Such an opening is one the planning agency should address in the comprehensive plan when possible. The benefits to this approach are sound justification for land-use decisions made thereafter, a clear signal to the community on the type of development expected, and more faithful implementation of the comprehensive plan.

CONSISTENCY IN PRACTICE

Finally, let's review how cities in three of the states we have discussed—California, North Carolina, and Tennessee—have sought to define consistency in their comprehensive plans. Two cases provide examples of how cities can define consistency and ascribe decision criteria to guide decision makers, planners, developers, and the community on the use of the comprehensive plan in land-use matters.

Sacramento, California

At the center of the 2019 California court ruling mentioned above is the language of consistency in Sacramento's *2035 General Plan*. The definition of consistency provided in the plan mirrors language often seen in state statutes where definition is provided.

> The City, in its sole discretion, shall determine a proposed project's consistency with the City's General Plan. Consistency is achieved if a project will further the overall objectives and policies of the General Plan and not obstruct their attainment, recognizing that a proposed project may be consistent with the overall objectives of the General Plan, but not with each and every policy thereof. In all instances, in making a determination of consistency, the City may use its discretion to balance and harmonize policies with other complementary or countervailing policies in a manner that best achieves the City's overall goals. (City of Sacramento 2015)

As we saw earlier in the article, the California court's ruling supports the city of Sacramento's "sole discretion" to determine consistency "in a manner than best achieves the City's overall goals," but without decision criteria, the *2035 General Plan* leaves the plan's user blind to the considerations that ultimately weigh into each individual finding. The statement appears to have withstood legal challenge, but does its lack of clarity on how decisions are made harm plan implementation?

Raleigh, North Carolina

One of the better examples of a comprehensive plan defining consistency can be found in Raleigh's *2030 Comprehensive Plan*. The plan has been updated more than once since its adoption in 2009, eight years before the recent amendment to the North Carolina consistency law. But from the outset, Raleigh's *2030 Comprehensive Plan* contained a one-page explanation for how the city will evaluate zoning proposals for consistency with the plan. The evaluation guide provides a few important points, including: "designation of an area with a particular land use category does not mean that the most intense zoning district…is automatically recommended" and while "the Future Land Use Map documents the general recommended future use for each designated areas… other types of uses may be compatible…and deemed to be consistent with the Comprehensive Plan." (City of Raleigh 2020)

The plan also includes a set of evaluation questions used to determine the consistency of a zoning proposal with the comprehensive plan:

> Determination of the conformance of a proposed use or zone with the Comprehensive Plan should include consideration of the following questions:
>
> - Is the proposal consistent with the vision, themes, and policies contained within the Comprehensive Plan?
> - Is the use being considered specifically designated on the Future Land Use Map in the area where its location is proposed?
> - If the use is not specifically designated on the Future Land Use Map in the area where its location is proposed, would the benefits of its establishment to the owner, neighbors, surrounding community, and public interest outweigh the detriments, and would the proposed uses under the new zoning adversely alter the recommended land use and character of the area?
> - Will community facilities and streets be available at city standards to serve the use proposed for the property?

A recent update to the plan includes a dot next to each plan policy that contributes to a determination of consistency. Similarly, each staff report for a zoning proposal made in Raleigh addresses consistency of the proposal with the comprehensive plan through direct responses to the questions posed above.

Memphis, Tennessee

Following the example of Raleigh, the city of Memphis included evaluation criteria for consistency in the *Memphis 3.0 Comprehensive Plan*. The plan includes a two-page "Using The Plan" section as a preface to the Future Land Use Planning Map and future land-use designations. The section begins with a restatement of the legal basis of the plan, including the consistency doctrine from Tennessee state law. The plan indicates the purpose of the Future Land Use Planning Map is to "guide the City on land use decisions, streets, transportation, transit, public investments in infrastructure and civic spaces, and investment and incentives in housing, neighborhoods, and job centers." In doing so, the plan affirms the internal consistency among the various elements of the plan (City of Memphis 2019).

The decision criteria of the plan begins: "Pursuant to the legal basis of the plan, the test of "consistency" with the plan is only applied to land use decisions, or when an application is made to change or deviate from zoning." Further, the plan outlines the decision criteria, stating:

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In an early test of the consistency criteria in Memphis, the city council voted to allow a neighboring gas station to expand its parking on this previously residential lot.

When making land use decisions, the Land Use Control Board [Memphis's name for the Planning Commission], Memphis City Council, and Board of Adjustment shall consider all of the following elements of the *Memphis 3.0 General Plan* in its determination of consistency:

1. The Future Land Use Planning Map;
2. The land use category descriptions and graphic portrayals, including whether the proposed use would be compatible with the zone districts listed in the zoning notes, the proposed building(s) fit the listed form and location characteristics, and existing, adjacent land uses and zoning;
3. The degree of change map;
4. The degree of change descriptions;
5. The objectives and actions articulated in Goal 1, Complete, Cohesive Communities;
6. Any other pertinent sections of the Memphis 3.0 General Plan that address land use recommendations; and
7. When making recommendations to the Land Use Control Board, Memphis City Council and Board of Adjustment and when consulting with applicants on the appropriateness of a particular land use application, the Office of Planning and Development shall consider all of the sections of the Memphis 3.0 General Plan cited in Paragraphs 1 through 6 of this Sub-Section in its determination of consistency.

Like in Raleigh, each development proposal is evaluated for consistency against these criteria in each staff report and a clear statement on the front page of the staff report summarizes the findings.

CONCLUSION

While the debate over the intent of the enabling acts may not be settled, practitioners and defenders of the comprehensive plan should act to strengthen the role of consistency in plan implementation, whether their state includes an explicit consistency doctrine or not. To do this, planners should work within their comprehensive plans to define consistency and draft clear, but flexible decision criteria for considering the consistency of land-use decisions with the plan. To be effective, planners must work with their legislative bodies to elevate the plan and the practice of consistency into law and daily practice.

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VOL. 38, NO. 2

The American Planning Association will lead the way to equitable, thriving communities by creating unique insights, as well as innovative and practical approaches that enable the planning community to anticipate and successfully adapt to the needs of a rapidly changing world.

Zoning Practice (ISSN 1548–0135) is a monthly publication of the American Planning Association. Joel Albizo, FASAE, CAE, Chief Executive Officer; Petra Hurtado, PHD, Research Director; Joseph DeAngelis, AICP, and David Morley, AICP, Editors.

Subscriptions are available for $95 (U.S.) and $120 (foreign). Missing and damaged print issues: Contact APA Customer Service (312-431-9100 or subscriptions@planning.org) within 90 days of the publication date.

Printed on recycled paper, including 50-70% recycled fiber and 10% postconsumer waste.

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2

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July/August 2021

PAS MEMO

Guiding Plan Implementation With Degree of Change

By John Zeanah, AICP

In 2019, the City of Memphis completed the *Memphis 3.0 Comprehensive Plan*, the city's first comprehensive plan since 1981 and guide for a new direction of growth (Figure 1). The headline of the vision statement is brief, yet bold: "Build up, not out."

For the last 200 years Memphis had followed the opposite path—outward, mostly eastward, to balloon to 340 square miles with a population density of less than 2,000 persons per square mile. Planners and the public agreed: the path of new growth should no longer create an ever-expanding city but should lead back to the city's core and neighborhoods, many of which had been blighted from disinvestment.

As comprehensive plan vision statements go, "build up, not out" was memorable and effective. But while the public embraced the plan's vision, it led to questions. How far up? And where? And when? Memphis's planners used an emerging tool called "Degree of Change" to answer these questions and organize the plan's implementation and the various actors engaged.

Comprehensive plans are often criticized for lack of focus on implementation, or lack of practicality or equity. While the comprehensive plan is often an expression of the community's optimism, idealism, and vision, the prevailing role of public-sector planning in communities throughout the United States is to facilitate market-led development. Effective plan implementation beyond the limitations of regulating market-led development requires the comprehensive plan to contain clear and organized polices and investments.

Using the Degree of Change approach in the comprehensive plan helps to address the plan's limitations, provides clarity and strategy to the pace of change desired or expected from the plan, and focuses the process of implementing the plan to address questions of where, when, and how.

This issue of *PAS Memo* makes the case for using Degree of Change and illustrates the most effective ways to apply this concept to the comprehensive plan. This article will discuss in depth the experience of Memphis, where the author serves as director of the planning division.

Figure 1. The Memphis 3.0 Comprehensive Plan (City of Memphis)

What is Degree of Change?

If the purpose of the comprehensive plan is to direct change in the physical pattern of a city's development, Degree of Change is used to direct how much change will be recommended in different areas of the city. Considering degree recognizes that change happens differently in places throughout the city. Degree of Change can be used to provide a menu of implementation actions that match communities' appetites for change with the amount of support and investment appropriate for realizing that change.

This concept has gained some use in recent comprehensive plans, notably in three recent Daniel Burnham

Award-winning plans—*Plan Cincinnati*, *Kaua'i General Plan*, and *Memphis 3.0*.

In addition to this recognition by the American Planning Association, these three plans share participation by Opticos Design among the project teams. As Daniel Parolek, one of the co-founders of Opticos Design, notes in his recently published book, *Missing Middle Housing*, "most community members typically envision…widespread and dramatic change everywhere, but the reality is that many planning efforts are really targeted for more incremental change" (Parolek 2020).

To address this, Parolek recommends including Degree of Change as part of the comprehensive plan to help define the pace of physical transformation communities will experience. As a starting point, Parolek recommends in *Missing Middle Housing* the following three degrees of change:

- **Maintain**: Smaller, more incremental changes, mostly reinforcing the existing scale of an area.
- **Evolve**: Opportunities for small to medium-sized public and private investments or projects, creating minor changes in scale and targeting opportunity sites.
- **Transform**: Opportunities for larger-scale changes such as a significant increase in scale and possibly mix of uses, with changes more likely to be widespread and not on focused sites.

Opticos Design used these degrees of change in two communities—Cincinnati (Figure 2) and Kauai, Hawaii. Meanwhile, the City of Memphis took a different path to the inclusion of Degree of Change in its comprehensive plan. For Memphis, the question started not as how to articulate the pace of change to the community, but how to influence redevelopment of many of the city's historically disinvested neighborhoods in the older areas of the city.

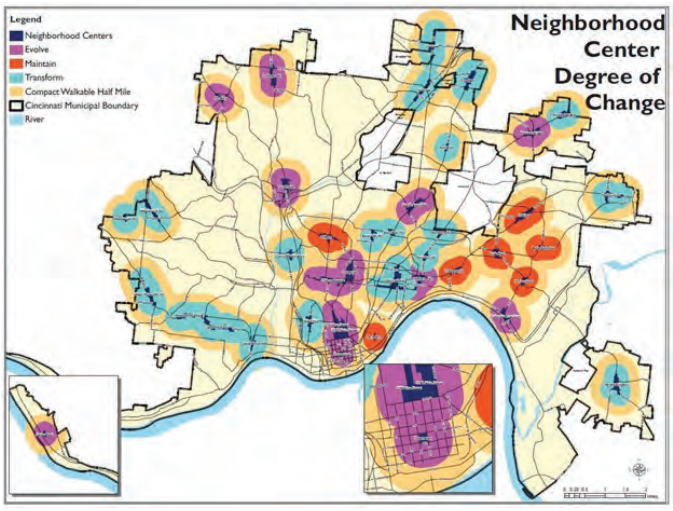


Figure 2. Neighborhood Center Degree of Change from PlanCincinnati *(City of Cincinnati)*

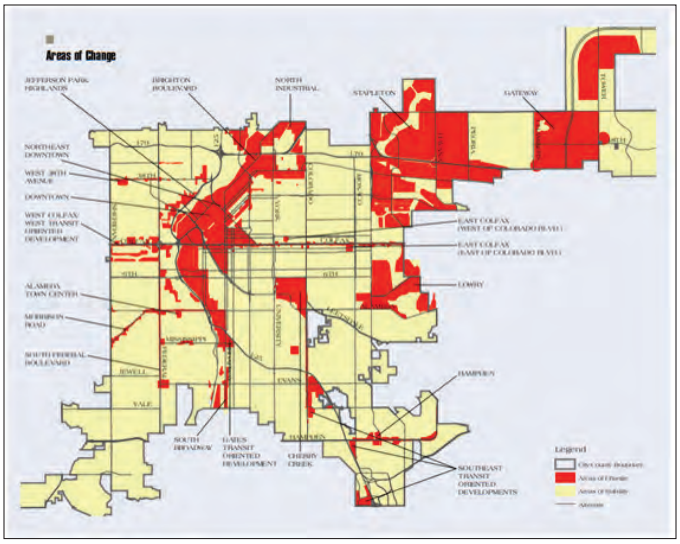


Figure 3. Areas of Change from Blueprint Denver *(City of Denver)*

The Case for Degree of Change

Early in the planning process for *Memphis 3.0*, the City took inspiration from the City of Denver's 2002 *Blueprint Denver* plan strategy to direct growth in 26 designated "areas of change" (see the sidebar on p. 3). *Blueprint Denver*'s approach was adopted as a growth management strategy, dividing the city into areas of change and areas of stability (Figure 3).

In a 2016 visit to Denver, a delegation of Memphis leaders discussed the value of such a framework but identified the need for a third category to acknowledge the Memphis plan's challenge not of managing growth and expansion, but of enabling growth within the "developed city."

The question facing Memphis was how to bring back previously developed areas of the city that had succumbed to decline through disinvestment and market exodus. This suggested a role of the plan and public sector to stimulate market activity in neighborhoods that had experienced decline. To achieve this, planners needed to consider not only how places would develop, but how the public, quasi-public, nonprofit, and private sectors would participate in that development in both the short and long term.

Constraints on Planning

The comprehensive plan (or master plan) was first envisioned to guide orderly development through a zoning plan as well as through provision of streets, utilities, and parks. This vision was articulated in the 1928 Standard City Planning Enabling Act (SCPEA), along with the directive that "the city plan is an organic whole, every part of which…is organically interrelated with every other part." What was lacking in the SCPEA, however, was a framework or even suggestion that the plan establish an approach for interrelating these elements or their implementation.

In the years that followed, cities often produced single-purpose plan elements separate from a comprehensive plan (Scott 1969). Plan implementation was to be executed not just by

Rethinking "Areas of Change" in Denver

Blueprint Denver's "areas of change" and "areas of stability" represent an innovation in comprehensive planning and an important precedent to the concept of Degree of Change.

Since the adoption of *Blueprint Denver in 2002*, areas of change experienced five times more investment than areas of stability—a clear measure of the success of the plan. But like Memphis, planners in Denver recognized the limitations of a binary choice between change and stability. Places change differently. In today's comprehensive plan, cities need to account for these various factors and contributors of change to guide growth more effectively, especially in developed communities.

In the 2019 update to *Blueprint Denver*, planners introduced a new approach to frame the city's growth strategy. The city moved away from areas of change and areas of stability to focus most planned growth to regional centers, community centers and corridors, and high-intensity residential areas in downtown and urban centers.

Implicit in this new strategy, however, was an expanded framework of community change. Ranging from more to less change, the updated plan frames change as "transform," for areas expected to experience significant character change; "connect," for areas focused on improving access to opportunity; "integrate," to address areas with populations vulnerable to displacement; and "enrich," where change is meant to strengthen communities in an inclusive way.

regulation, but through capital improvements. Many of these capital resources were intended for geographic expansion of cities largely supporting a pattern of suburban, single-family sprawl in most areas of the United States. The first subdivision laws were generated from the imminent need to control the platting of city lots to ensure cities could make the necessary capital improvements to support new development—streets, public buildings, and public utilities. Very quickly, municipal governments realized how much this demand would overextend their resources (Kent 1964).

Over time, expanding cities found it more difficult to provide resources for expenditures on public works and civic uses as shrinking budgets gave way to basic operational needs. In Memphis, the percentage of local dollars spent on parks, public transit, and public works represented 36 percent of the overall budget in 1980. By 2015, the same share had fallen to 10 percent, while public safety costs increased from 48 percent of the budget to 64 percent of the budget over the same period.

The City of Memphis had followed a plan of outward growth recommended in its 1981 *Memphis 2000 Policy Plan*. The result of *Memphis 2000* was an increase in land area by 25 percent, from 270 square miles to 340 square miles, with only a five percent increase in population. This imbalance meant the greater increase in obligations due to annexation was not absorbed by newcomers to the city, but rather in the established areas of the city, many of which also experienced the burden of blighting effects from disinvestment.

Meanwhile, other funding sources, such as federal block grants, had been added to the chest of resources cities could use to promote growth, development, or redevelopment (early on, in the form of destabilizing urban renewal and slum clearance). However, over time, federal investment in community development began to wane. Between 1980 and 2015, nationwide Community Development Block Grant (CDBG) funding dropped from roughly $10 billion to $3 billion (in 2016 dollars) (Boyd 2014; US HUD 2021).

Today, Memphis receives approximately $6 million annually in CDBG funding, half of what it received just two decades prior. Memphis, like many cities, has come to rely on a variety of tax incentives, credits, and philanthropic resources to buttress investment in community redevelopment. But the bottom line is that even with these new, diverse resources, many cities are faced with tighter budgets and growing needs.

Fragmentation of Planning

For successful implementation of today's comprehensive plans, public resources, regulations, and actions need to be targeted. But this can be challenging without a framework for interrelating the elements of the plan and its implementation.

Adding to this challenge is the growing fragmentation of the planning environment in most cities, in which roles of planning have not only been delegated across multiple city agencies, but to quasi-governmental and nonprofit organizations as well. While the comprehensive plan ideally serves as a resource to direct implementation, the more planning is fragmented and decentralized, the more difficult it is to achieve coordination.

In the case of Memphis, the city had delegated street planning to the engineering division, utilities planning to the public works division and public utility, and parks planning to the parks division, with no framework established by the planning division to carry out the task of connecting these single-purpose activities. Adding to this fragmentation, planning of community and economic development in the city had been assigned to the downtown commission, the economic development board, the community redevelopment authority, the housing authority, the school board, and several single-purpose public facilities authorities and conservancies. Beyond this, several community-based nonprofits had undertaken planning functions, including four housing and community development nonprofits operating across the city and several more operating at the neighborhood level.

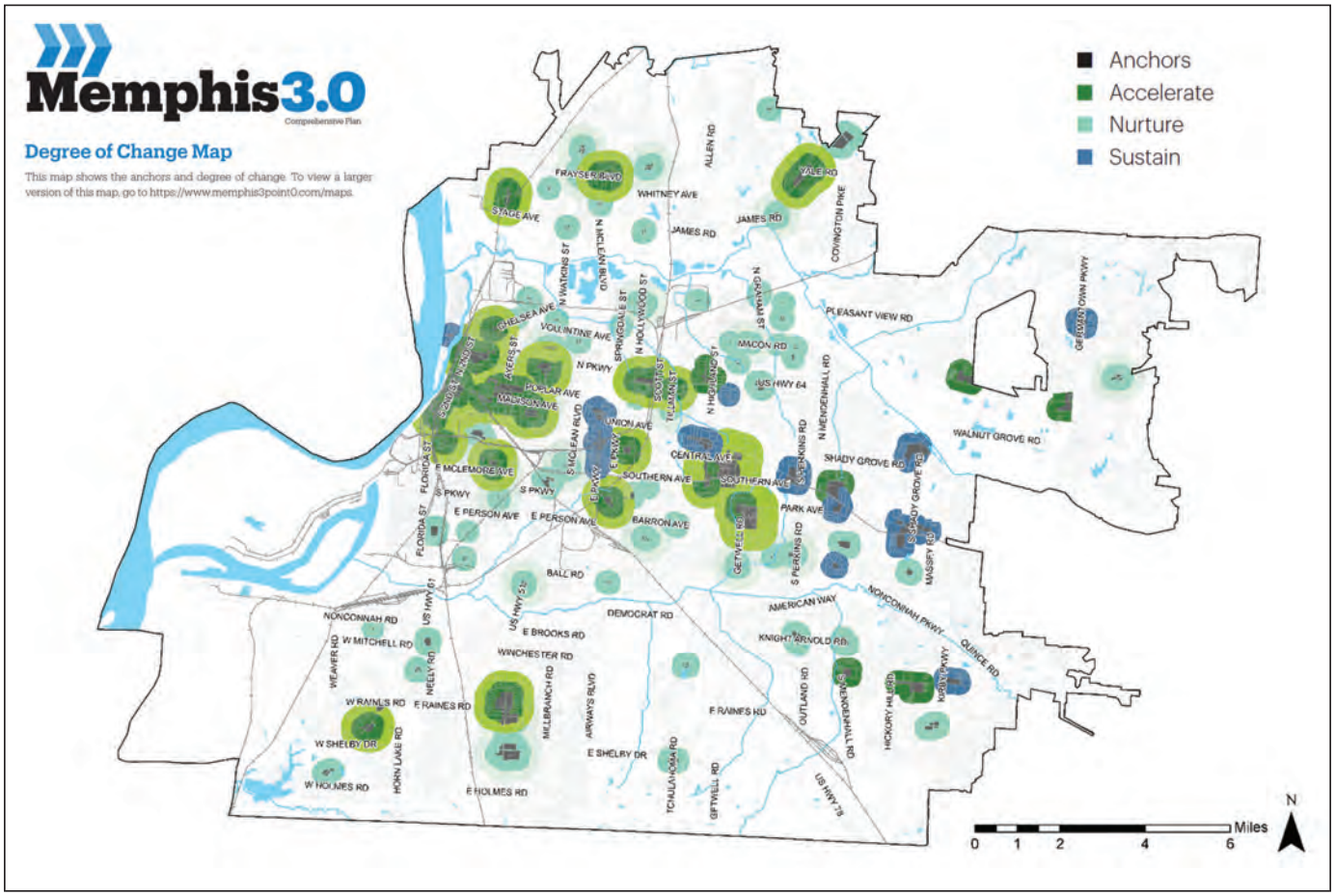


Figure 4. Degree of Change map from Memphis 3.0 (City of Memphis)

In Memphis, the comprehensive plan was expected to guide not only traditional plan elements such as land use, transportation, and housing, but the various forms of implementation and actors engaged in plan implementation. *Memphis 3.0* achieved this goal by using Degree of Change.

Planning the Developed City

By 2015, Memphis had annexed to its physical limit. The following year, new mayor Jim Strickland would begin a series of moves to restrict future outward growth and focus new development inward. Mayor Strickland, like the planners and public engaged in the planning process, recognized the failure of continued outward growth to support the future of Memphis and its neighborhoods.

The first move was to cut off access to the city's sewer system to developments in the city's unincorporated reserve areas. In 2014, the State of Tennessee's General Assembly had drastically shifted its stance on municipal annexation, making the process much more difficult for a city like Memphis to continue growth by expanding its boundaries.

The second move was for the city to begin the process of shrinking those boundaries through de-annexation of roughly 10 percent of its land area (home to only about one percent of the city's population) by December 30, 2020.

The third move was the initiation of *Memphis 3.0*, the City's first comprehensive plan since the *Memphis 2000* plan of 1981. The plan's vision statement—"build up, not out"—is a clear departure from the growth policy of old that resulted in suburban sprawl and urban disinvestment. The vision and strategy of the plan focuses growth, policy, and investments in the core city and neighborhood centers to create more dense, mixed-use, mixed-income, walkable, transit-served communities.

These are worthy goals. Virtually none of the city's residents who participated in the plan process disagreed with the idea of rebuilding disinvested neighborhoods, improving existing communities rather than creating new ones, or improving mobility through transit improvements and walkability. But even though Memphians knew density was the only viable future, some of its associations caused discomfort.

Developed cities like Memphis face a confluence of growth challenges: few greenfield sites, established neighborhoods impacted by development proposals, and changing tastes of consumers seeking urban living. To plan for growth in the developed city, traditional planning approaches are inadequate. Memphis, like Cincinnati, took an approach that focused growth on established neighborhood centers, targeting "anchors" that contained clusters of community assets and

presented the greatest opportunity to grow into walkable, transit-oriented neighborhoods.

But as Parolek notes, dramatic change does not occur everywhere growth is planned, and communities change in different ways. How can the comprehensive plan account for this? And how can it enable desired levels of change?

Places Change Differently

The idea for using Degree of Change in *Plan Cincinnati* (adopted in 2012) came from principles similar to those promoted by renowned landscape architect Ian McHarg—layering assets, institutions, building form, and other significant characteristics of neighborhoods to arrive at a framework for community character (Keough-Jurs 2021). Beginning with the end in mind (walkable neighborhood centers), planners sought to achieve the desired character from each neighborhood's starting point.

Cincinnati's use of Degree of Change followed Parolek's recommended framework: *Maintain* for areas where desired character is in place; *Evolve* for areas with potential but missing pieces achieved by small investments or regulatory changes; and *Transform* for areas with services or auto-oriented uses, but no defined urban character.

Years later, Memphis followed a similar process. Planners and community members collaborated in a three-part series of mapping and observing neighborhood centers and clusters of community assets, defining areas along a series of definitions of neighborhood "anchors," and determining each area's Degree of Change.

In *Memphis 3.0*, anchors are defined by three Degree of Change designations (Figure 4, p. 4): *Accelerate* for areas that can absorb growth more rapidly; *Sustain* for areas that have reached maturity in character; and *Nurture* for areas that have experienced disinvestment and need investment to stabilize the community, support community assets, and protect and encourage affordable housing.

Using Degree of Change

From the beginning of the planning process leading to *Memphis 3.0*, it was clear that to be successful, the plan must provide targeted guidance on where change would occur and how to direct actions and investments of the public, private, nonprofit, and philanthropic sectors.

The preparation of the comprehensive plan allows a community the opportunity to shape a vision of growth and change over time. Traditional approaches and tools to preparing the comprehensive plan tend to address technical issues and solutions facing the expansion of the built environment. Today, most cities face a different set of adaptive challenges as the focus is on working in developed neighborhoods and districts, often with fewer public resources and more actors engaged in implementation.

To meet the demands of these dynamic circumstances, planners must use the comprehensive plan to consider how each area of a city changes differently and organize fragmented approaches to planning into a clear, consistent strategy for implementation. Using a Degree of Change framework can help planners organize and communicate the plan's vision in this way.

Understanding Market Dynamics

In most cities, the dominant form of planning is facilitating market-led development, and public resources may limit where the local government can lead or provide financial support. Any city engaging in comprehensive planning must understand its market dynamics and plan accordingly.

In the case of Memphis, the city started its comprehensive planning process first by conducting a market analysis to consider trends in housing, commercial, and industrial development. The result was a stark picture of continued concentration of market-led development inside the city's central corridor, with pockets of activity in other neighborhoods across the city.

With the results of the market analysis in hand, planners engaged the public in an exercise of considering three growth scenarios for the future: one that continued the trends of market-led development, one that focused the city's attention onto several main corridors, and one that focused on neighborhood centers.

Not surprisingly, the community reacted strongly against continuing market trends. But to change this trajectory, the city's challenges were recognizing the limitations of planning for a sprawled city with weak private-market activity outside of the city's central corridor and the inherent demands to enhance the character of existing communities. To do this, planners focused on enabling the nurturing and growth of urban assets, especially those in communities that have experienced historic disinvestment.

Degree of Change Framework

The Degree of Change framework of the comprehensive plan should serve to connect the interrelated elements of the plan to direct implementation. The plan's Degree of Change framework should generally describe the nature, intent, and methods of change in varying ways experienced in the city.

Cincinnati provides a good example of Degree of Change focused on density, intensity, and form; Denver's update to "areas of change" and "areas of stability" considers social dimensions of growth to express how communities experience change differently. Memphis blends these considerations with factors of implementation, timing, and investment. These factors were included in the Memphis framework to account for market dynamics and the fragmentation of planning and plan implementation responsibilities across public, quasi-public, nonprofit, private, and philanthropic partners engaged in city building.

In their 1996 book *Remaking Planning*, authors Tim Brindley, Yvonne Rydin, and Gerry Stoker observed similar patterns of fragmentation in the 1980s–90s planning environment in United Kingdom cities, primarily the result of relaxed land-use controls and transfer of planning and development authority to quasi-governmental agencies.

Table 1. Degree of Change Framework for Memphis

	Market Position	*Partners Involved*
Accelerate	Strong or marginal markets that can absorb growth more rapidly to intensify the existing pattern of a place	Mix of primarily private and philanthropic resources with public support
Sustain	Strong markets that have reached maturity in character	Limited public support and private resources
Nurture	Weak market areas that have experienced disinvestment and need investment to stabilize the community, support community assets, and protect and encourage affordable housing	Primarily public, quasi-public, and philanthropic resources

To describe their observations, Brindley et al. proposed a typology of planning approaches used by public, quasi-public, and private sector actors and how they might differ in strong, marginal, and weak markets (Brindley et al 1996). This proposed typology provided a model to the approach taken by Memphis to distinguish between *Accelerate*, *Sustain*, and *Nurture* areas of the city. Using the definitions of these areas described above, Table 1 illustrates generally the role of partners in implementation.

For each Degree of Change, *Memphis 3.0* defines the characteristics of each type of change and provides typical action steps associated with plan implementation. Recognizing the market dynamics present in communities across Memphis, the comprehensive plan seeks to guide private investment by relying more on regulation and development review in *Sustain* areas, recommending public financial support in the form of subsidy for market-led development in *Accelerate* areas, and positioning the public and philanthropic sectors to lead investment to stimulate change in disinvested *Nurture* areas of the city. From each of these approaches or Degrees of Change, planners established the framework shown in Figures 5–7 (pp. 6–7) on ways to enable desired levels of growth in these three degrees.

Engaging the Community

A priority of the *Memphis 3.0* planning process was to reflect the needs and desires of Memphians by seeking contributions from as much of the community as possible, with a priority on involving groups historically disconnected from planning.

The multiphase participatory process included multiple avenues for residents and stakeholders to share opinions and recommendations on city and district-scale priorities and actions. Planners worked with community groups, artists, ar-

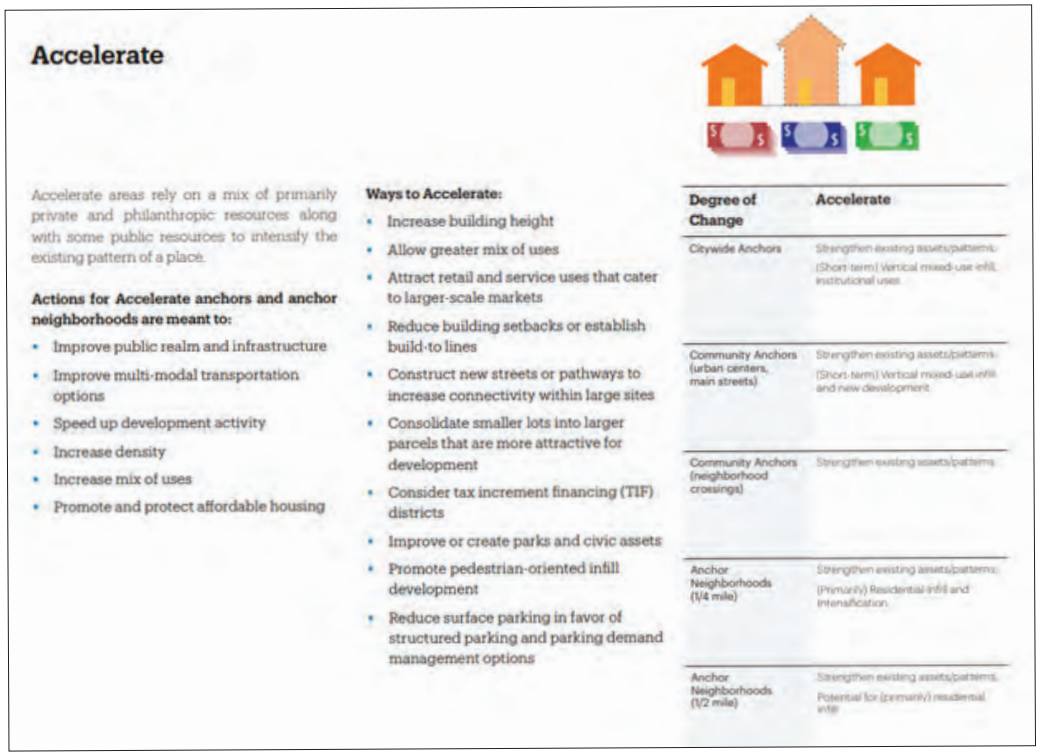
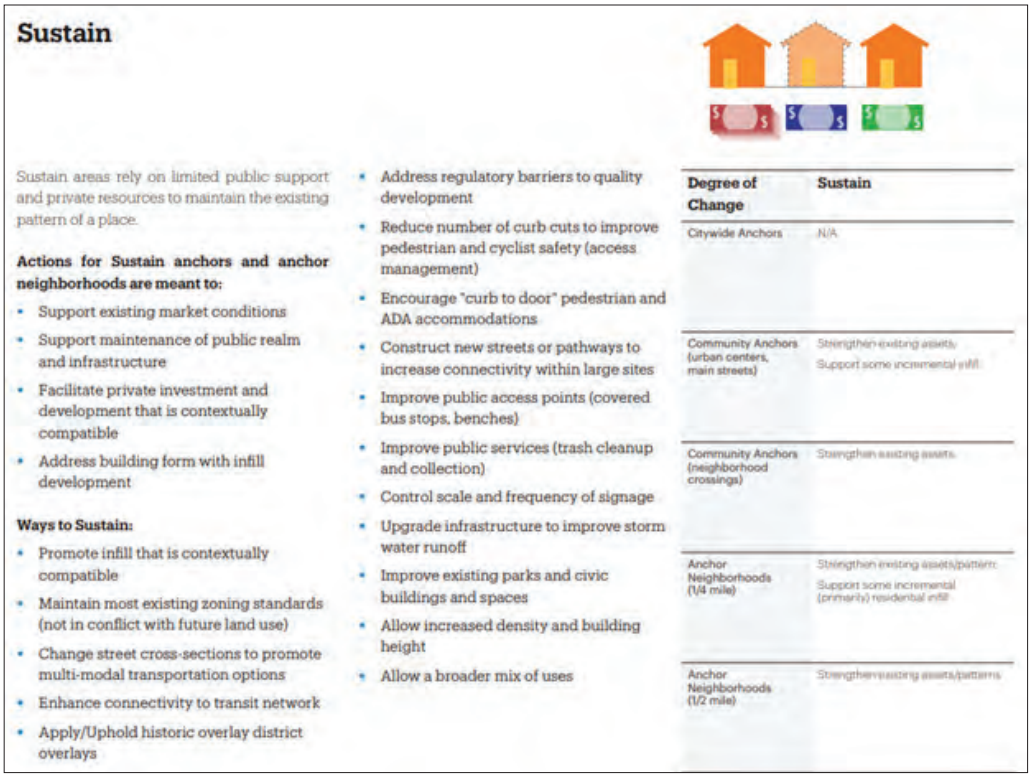


Figure 5. The Accelerate *Degree of Change from Memphis 3.0 (City of Memphis)*



Sustain

Sustain areas rely on limited public support and private resources to maintain the existing pattern of a place.

Actions for Sustain anchors and anchor neighborhoods are meant to:

- Support existing market conditions
- Support maintenance of public realm and infrastructure
- Facilitate private investment and development that is contextually compatible
- Address building form with infill development

Ways to Sustain:

- Promote infill that is contextually compatible
- Maintain most existing zoning standards (not in conflict with future land use)
- Change street cross-sections to promote multi-modal transportation options
- Enhance connectivity to transit network
- Apply/Uphold historic overlay district overlays
- Address regulatory barriers to quality development
- Reduce number of curb cuts to improve pedestrian and cyclist safety (access management)
- Encourage "curb to door" pedestrian and ADA accommodations
- Construct new streets or pathways to increase connectivity within large sites
- Improve public access points (covered bus stops, benches)
- Improve public services (trash cleanup and collection)
- Control scale and frequency of signage
- Upgrade infrastructure to improve storm water runoff
- Improve existing parks and civic buildings and spaces
- Allow increased density and building height
- Allow a broader mix of uses

Degree of Change	Sustain
Citywide Anchors	N/A
Community Anchors (urban centers, main streets)	Strengthen existing assets Support some incremental infill
Community Anchors (neighborhood crossings)	Strengthen existing assets
Anchor Neighborhoods (1/4 mile)	Strengthen existing assets/pattern Support some incremental (primarily) residential infill
Anchor Neighborhoods (1/2 mile)	Strengthen existing assets/patterns

Figure 6. The Sustain *Degree of Change from Memphis 3.0 (City of Memphis)*

Nurture

Nurture areas rely primarily on public and philanthropic resources to stabilize the existing pattern of a place.

Actions for Nurture anchors and anchor neighborhoods are meant to:

- Stabilize the community
- Protect and support community assets
- Protect and stabilize existing affordable housing
- Promote activities that will stimulate market activity

Ways to Nurture:

- "Road diets" — reduce the number of lanes to make room for wider sidewalks, bike lanes, and/or on-street parking
- Improve pedestrian realm (sidewalks, crosswalks, planting buffer and street trees, street lights, street furniture)
- Repurpose vacant land as temporary civic space
- Grants for small business frontage improvement
- Reduce number of curb cuts to improve pedestrian and cyclist safety (access management)
- Enhance connectivity to transit network
- Introduce or improve bike lanes and sidewalks
- Improve public access points (covered bus stops, benches)
- Improve public services (trash cleanup and collection)
- Control scale and frequency of signage
- Plan community programs on streets or vacant lots (markets, festivals)
- Upgrade infrastructure to improve flood control and internet access
- Improve existing parks and civic buildings and spaces
- Allow increased density and building height
- Allow a broader mix of uses

Degree of Change	Nurture
Citywide Anchors	N/A
Community Anchors (urban centers, main streets)	Strengthen existing assets/patterns to ready for future new development
Community Anchors (neighborhood crossings)	Strengthen existing assets/patterns Public investment focused service delivery
Anchor Neighborhoods (1/4 mile)	Strengthen existing assets/patterns to ready for future residential development
Anchor Neighborhoods (1/2 mile)	Strengthen existing assets/patterns

Figure 7. The Nurture *Degree of Change from Memphis 3.0 (City of Memphis)*

chitects, and nonprofits to identify and understand local assets and issues, shaping the plan's guiding principles and leading to the city's vision of "build up, not out." The result of the plan's engagement was input from over 15,000 Memphians who influenced the plan through a variety of channels, including more than 400 meetings and events.

Engagement was anchored in a commitment to fair, equitable, and accessible community involvement, allowing every

resident the opportunity to have a voice. At the beginning of the planning process, planners developed a community involvement plan focused on four shared commitments: transparency, responsiveness, community orientation, and flexibility. To meet these commitments, planners structured the planning process around background and data collection, vision and goal setting, future growth scenario planning, and plan development, with the community engaged at each stage.

While Parolek notes that community members often envision widespread change everywhere, it is worth asking what the planners' role in promoting this perception may be. Often, comprehensive plans cast ambitious visions for communities and cities, but lack clarity and direction on how to achieve the change envisioned. Clarity and direction in the plan's land-use element and policies are necessary to ensure the community can understand and follow the intended strategy.

To inform decisions on Degree of Change, planners worked with communities to consider how market dynamics enabled or limited the scale or pace of change in neighborhoods and to identify the community's vision for future growth and preferred areas of growth and change. Finally, in a series of planning workshops in each planning district of the city, planners worked with community members to identify community centers or clusters of key assets that would form the "anchors" of the plan. During these workshops, planners asked residents to think about what change looks like for each area, both big and small. These exercises helped to elicit feedback from communities necessary for determining each anchor's Degree of Change and how changes could shape anchors, influence investment decisions, and encourage development activity in the surrounding area.

Policies Change Differently

Planning for change in developed cities requires a different approach than traditional methods of land-use planning focused on defining the density of new places. In planning for established places, planners should first aim to understand what makes a community's built environment distinct and engaging.

To define elements of a community's physical character, Memphis developed a land-use plan following a foundation of community character to illustrate development intensity and form to enable reinvestment to fit each place in ways that are recognizable and meaningful to residents.

As an example, the intersection of Summer Avenue and National Street is mix of single-story commercial buildings, new and old. Once considered a neighborhood downtown, it has gradually become predominantly auto-oriented with highway commercial uses (Figure 8).

This area was designated as the most important anchor for redevelopment within the Jackson planning district and was deemed central to the revival of the nearby Highland Heights neighborhood. To achieve these goals, the plan recommends the character change from its low intensity character to a higher-intensity "urban Main Street" (Figure 9). Based on the transformative change in character recommended and pace of change desired, the anchor was designated an *Accelerate* Degree of Change.

To guide plan implementation, planners may treat application of regulation with more urgency in *Accelerate* anchors such as Summer and National. First, this is accomplished through the development review process. For project applications located in anchor areas, planners review applications for consistency with the comprehensive plan, considering whether the application is consistent not only with the plan's future land-use map, but also the area's Degree of Change (this is described in greater detail in the February 2021 issue of *Zoning Practice*).

Policies and actions identified in the plan elements related to communities, parks and public spaces, housing, and transportation also consider how anchors and Degrees

Figure 8. Existing conditions at Summer and National in Memphis (City of Memphis)

Figure 9. Illustrated concept of Urban Main Street Anchor (City of Memphis)

Figure 10. A Nurture *Degree of Change implementation project from* Memphis 3.0 *(Self Tucker Architects/City of Memphis)*

of Change should be prioritized or treated differently. For example, *Accelerate* anchors receive higher priority as planners consider zoning map amendments to implement the comprehensive plan.

Since plan adoption in 2019, planners have followed the Degree of Change framework to address targeted areas for rezonings, rather than pursuing a complete re-mapping of the city's zoning. The city has recently re-zoned the Summer and National area from an auto-oriented commercial use district to a mixed-use district that encourages increased height, greater mix of uses, and build-to requirements, all of which are strategies identified in the Degree of Change framework as "Ways to Accelerate" (see Figure 5 above).

Guiding Investment

Degree of Change has been the framework used by the city to not only guide decisions in the planning office, but across divisions and agencies. The plan directs investments in sewer, parks, and streets in *Accelerate* and *Nurture* anchors where change is anticipated and support of public resources is most needed.

The adoption of *Memphis 3.0* and the implementation framework organized by Degree of Change prepared Memphis to better direct a significant infusion of public investment announced in January 2021. Fiscal discipline in the wake of unbridled outward growth, combined with deannexation and sewer restrictions, ultimately prepared local officials to issue $200 million in bond indebtedness to invest in the city again through public infrastructure, affordable housing, parks and greenways, and reinvigoration of diminished public assets. Of this funding package, nearly $80 million will go toward investments intended to activate implementation of *Memphis 3.0* in and around over 50 anchors throughout the city.

While this is a significant milestone for public investment in Memphis neighborhoods, the preparation of the funding package required decisions on where to invest and how much. The comprehensive plan's Degree of Change framework gave clear direction to the city and leadership to quickly make these decisions. The plan's focus on anchors provides the target areas for new investment; the plan's Degree of Change framework directs public dollars to lead in *Nurture* areas (Figure 10) to stimulate private-market interest in the medium or long term and to support in *Accelerate* areas where private investment is leading transformation.

This guidance has also been used to direct activities of quasi-governmental agencies, including those with the authority to grant incentives. Coinciding with the adoption of the comprehensive plan, the redevelopment authority amended its workable program map to target tax increment financing only in anchor areas defined by the plan. Shortly after, the agency amended the boundaries of its largest and most well-funded

district to encompass two *Nurture* anchors nearby, sending much-needed funding to these historically disinvested neighborhoods. Later, the downtown commission launched its own master planning process, using the city's comprehensive plan as its foundation. Last, the city and transit authority recently initiated planning for its first bus rapid transit corridor, using the plan's anchors as the primary guide for selecting future stops and Degree of Change to determine where to focus the most intense change in planned development along the corridor.

Action Steps for Planners

As planners embark upon the comprehensive planning process in their own communities, they should consider whether the Degree of Change framework could serve as a useful structure for implementing the plan's policies, guiding regulatory and fiscal decision making, and enabling change. The experience of Memphis in its *Memphis 3.0* planning process suggests the following steps for using Degree of Change.

Involve the Community Throughout the Process

Plan ahead for how the community will influence the comprehensive plan throughout the process. Determine your values for community involvement, and think ahead about what the planning team will share and what you will ask the community to share. Define the community's role in making decisions throughout the planning process, including how they will shape and use the plan's Degree of Change framework and structure public input methods and exercises that lead to decision making.

Understand the Market

Gather market insights about your city early in the planning process. Go into the comprehensive planning process with an understanding of where and how market-led development alone directs growth. Use the comprehensive plan to challenge market dynamics and influence growth in new directions, especially in ways that support reinvestment in weak markets. Consider submarkets within your city that have different dynamics and require different measures to induce or stimulate private-sector development activity. Markets are fluid and planning and implementation can contribute to change.

Develop a Degree of Change Framework

Organize a Degree of Change framework that considers the way places change in your city. Ask questions such as: How will character changes be different? How quickly could or should places change? What types of actions help to enable change? Who enables change? Establish guidance on how places change differently based on the selected Degrees of Change, similar to the examples from Memphis. Be sure to consider the roles of policy, investment, and the various actors involved in community development.

Set Targets or Anchors

Similar to the approaches of Memphis and Cincinnati, identify city and neighborhood assets and institutions and start thinking about how to build around those strengths. Consider building form, density and intensity, community character, and public infrastructure, as well as the state of the (sub)market and the actors involved in community change. Determine the plan's targets for desired character of the anchors or areas and what it takes to achieve targets. Revisit the questions from the Degree of Change framework to assess how the area could or should change over time.

Interrelate Plan Elements

Degree of Change is most valuable when it helps direct not only decisions around character, form, and land use, but also policy, investment, and timing. Use Degree of Change to direct the development of the plan's policies and actions. Not all policies or actions in the plan elements have universal application across the city. Use Degree of Change to direct or prioritize policies and actions, especially in plan elements addressing roles of departments and quasi-governmental agencies outside of the planning department. Degree of Change should direct timing, priority, and location of public investments as well. Use Degree of Change to shape the CIP or other planning for public improvements.

Track Progress

In Memphis, we continue to revisit Degree of Change through implementation. Is change taking place the way we expected? Is development occurring in targeted areas and by Degree of Change in ways we expected? And at the scale we expected? Are departments and quasi-governmental agencies aligning their investments, incentives, and initiatives through the same framework? Starting out, we began tracking this in a quarterly report prepared by the planning department but involving multiple agencies across the city. Going forward, the city plans to begin using a data dashboard that helps to routinely measure the effectiveness of the plan and the Degree of Change framework.

Conclusion

The role of the comprehensive plan is not only to express a unified, or collective, vision for growth of a city, but also to frame the relationship among the various elements of the plan and guide the implementation of those elements.

Since the advent of the comprehensive plan, cities have struggled to interrelate these elements successfully and guide implementation effectively. These issues are further compounded by fragmentation of planning functions across multiple public and quasi-governmental agencies, nonprofit organizations, and other actors responsible for a community's development.

Planners in communities large and small must find effective solutions to coordinate across these fragmented actors to unify not only the vision but the areas of focus, timing, and means and methods of implementation. This coordination is necessary for any comprehensive plan to deliver on the public sector's role to bring about necessary change in communities across the city, while balancing the pace and placement of regulation to lead the private sector toward delivering on this vision through implementation.

Getting implementation right is the most important step of the comprehensive planning process. Using Degree of Change can be an effective planning method to ensure successful implementation.

About the Author

John Zeanah, AICP, is director of the Memphis and Shelby County Division of Planning and Development. He leads a cross-functional division providing planning, zoning, and building services to the city and county. Among his accomplishments, he led the development and adoption of the *Memphis 3.0* Comprehensive Plan, winner of APA's Daniel Burnham Award for a Comprehensive Plan for 2020 and a Charter Award from the Congress of the New Urbanism in 2021. He earned his master's degree in city and regional planning from the University of Memphis, where he now teaches land-use controls as an adjunct faculty member.

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PAS Memo *is a publication of APA's Planning Advisory Service. Joel Albizo, FASAE, CAE, Chief Executive Officer; Petra Hurtado, PHD, Research Director; Ann F. Dillemuth, AICP, PAS Editor. Learn more at planning.org/pas.*

PAS Memo *(ISSN 2169-1908) is published by the American Planning Association, 205 N. Michigan Ave., Suite 1200, Chicago, IL 60601-5927;* planning.org.

RICHLAND COUNTY ADMINISTRATION
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Agenda Briefing

Prepared by:	Chris Eversmann, PE			**Title**:	Deputy Director
Department:	Public Works	**Division:**		Solid Waste & Recycling (SWR)	
Date Prepared:	July 12, 2021	**Meeting Date:**		September 28, 2021	
Legal Review	Elizabeth McLean via email			**Date:**	Septemer 21, 2021
Budget Review	James Hayes via email			**Date:**	July 13, 2021
Finance Review	Stacey Hamm via email			**Date:**	July 19, 2021
Approved for consideration:	Assistant County Administrator		John M. Thompson, Ph.D., MBA, CPM, SCCEM		
Committee	Development & Services				
Subject:	Richland County Code of Ordinances, Chapter 12				

STAFF'S RECOMMENDED ACTION:

Staff recommends approval of the re-write of the Richland County Code of Ordinances, Chapter 12, renamed "Solid Waste, Recycling, and Public Sanitation."

Request for Council Reconsideration: ☑Yes

FIDUCIARY:

Are funds allocated in the department's current fiscal year budget?		Yes	☑	No
If no, is a budget amendment necessary?		Yes	☑	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

This re-write of Chapter 12 of the Richland County Code of Ordinances will generally be revenue / cost neutral in the short term (zero-to-two years). However, it may have positive fiscal impacts in the mid-to-long term (beyond two years):

- Improve the efficiency of yard waste collected at curbside;
- Place realistic limits on yard waste, bulk items, and white good collected at curbside;
- Define Municipal Solid Waste Management (MSWM) program elements and their revenue source;

These improvements will help contain costs of future County MSWM Program as well as ensure that millage and fees are appropriately set.

COUNTY ATTORNEY'S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

The ordinance is a "working" document. Changes are expected before second reading.

REGULATORY COMPLIANCE:

This proposed ordinance is consistent with provisions of the South Carolina Solid Waste Policy and Management Act of 1991.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

This Ordinance is completely restructured and rewritten in an effort to:

- Address / define current County Solid Waste Management (MSWM) Programs;
- Update terminology;
- Reflect / codify best practices;
- Address / define the Solid Waste Fund and revenue sources;
- Eliminate unnecessary redundancy with other Ordinance Chapters;
- Establish and document procedures for the annual calculation of uniform fee for the Residential / Small Business Curbside Collection Program;
- Establish the requirement for yard waste to be bagged, boxed, or bundled;

The re-written ordinance is contained in Attachment 'A'. A Summary of Changes chart is included in Attachment 'B,' and the current ordinance is included in Attachment 'C'.

ADDITIONAL COMMENTS FOR CONSIDERATION:

This extensive Ordinance re-write also:

- Provides a comprehensive, updated Definitions Section;
- Adds a description of the County's Recycling Program;
- Maintains the 1.8 multiplier factor between standard and enhanced curbside collection program levels of service.

ATTACHMENTS:

1. Draft ordinance with attachments
2. Summary of chages
3. Current ordinance

CHAPTER 12: SOLID WASTE, RECYCLING, AND PUBLIC SANITATION

ARTICLE I. ADMINISTRATION

Sec. 12-1. In General.

Richland County shall manage the solid waste stream on behalf of its citizens in order to preserve and protect public health and welfare and to promote a suitable quality of life for residents and visitors. It shall perform these missions with appropriate staff, equipment, programs, and facilities and in accordance with applicable Federal and State Laws and Regulations. The task of solid waste management shall be discharged by the Director of Public Works.

Sec. 12-2. Definitions.

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

-A-

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

Apartment: Any building containing more than four (4) contiguous dwelling units or any group of buildings or mobile homes located on a single parcel that contains a total of six (6) or more dwelling units regardless of ownership of the dwelling units.

-B-

Bulk Waste ("Bulk Items"): Large appliances, air conditioners, furniture, mattresses, box springs, yard furniture, large toys, grills, push mowers, bicycles, and playground equipment. The following items are not considered bulk waste: Gym / exercise equipment, pianos, organs, pool tables, electronics, riding mowers, automotive equipment, fencing, decks, swimming pools (any size except small form plastic pools), animal shelters, demolition debris, building debris and any other item of such weight that two adults cannot easily lift.

Bulk Waste Container (a.k.a. – "Roll Off container"): A manufactured container suitable for emptying by mechanical equipment.

-C-

Class Three Waste: Non-hazardous commercial and industrial wastes that are permitted by SCDHEC to be disposed of in a Class Three landfill. See also: Municipal Solid Waste (MSW) and Garbage.

Class Two Waste: The waste streams listed in Appendix I, Acceptable Waste For Class Two Landfills, of SC Regulation 61-107.19, Solid Waste Management: Solid Waste Landfills and Structural Fill. The list will be posted at each County disposal facility. See also: Construction and Demolition (C&D) Waste.

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

Collection Area: A quasi-official subdivided area of the County for the purpose of solid waste management program administration.

Commercial Establishment: Any hotel, apartment, rooming house, business, industrial, public or semi-public establishment of any nature. See also: Apartment.

Commercial Waste: Trash and garbage generated by apartments, operation of stores, offices, restaurants and other places of business and industrial establishments (excluding industrial waste as defined herein).

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

Contaminant / Contamination: Generally applied in the context of recycling. Items, to include plastic bags, garbage, or items not approved for the County's Recycling Program, intermingled with items intended for pickup. The presence of this contamination may preclude pickup, causing an interruption of efficient collection operations. See also: "Non-compliant Pile / Roll Cart", "Mixed Pile", and "Mixed Waste."

County: Richland County, South Carolina.

County Administrator: The Richland County Administrator.

County Council: The governing body of Richland County, South Carolina.

Curbside: The area within the right-of-way or easement immediately adjacent to a public road, highway, street, etc. For purposes of this ordinance chapter, curbside will be considered as the area within six (6) feet of the edge of the public road, highway, street, etc., unless deemed otherwise by the Director. Curbside shall not extend past the road right-of-way or easement except in those cases where the road right-of-way or easement ends at the edge of the traveled way of the road.

Curbside Collector: (a.k.a. – Collections Contractor) The person that has entered into a contract with the County to provide specified solid waste curbside collection services. The solid wastes eligible for curbside service from dwelling units and small businesses are: garbage, household waste, yard waste, recyclables, bulk items, and white goods as defined herein.

-D-

Debris: Includes, but is not limited to, miscellaneous equipment, yard toys, furniture, packaging items, shipping containers, waste tires, construction and demolition (C&D) waste, bricks, blocks, concrete, asphalt, metals, lumber, trees, tree limbs, tree stumps, brush or parts thereof, or stumps, and/or building materials or solid waste of any description that are deemed by the Director or designee to be a nuisance, potentially deleterious to public health, public sanitation and/or public safety.

Department: The Richland County Department of Public Works.

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

Director: The Richland County Director of Public Works.

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

Disposal Facility: All contiguous land, structures, other appurtenances and improvements on the land used for treating, storing, or disposing of solid waste pursuant to a solid waste disposal permit issued by DHEC. A facility may consist of several treatment, storage, or disposal operational units, including, but not limited to, one or more landfills, surface impoundments, or combination thereof.

Domicile: A residential dwelling to include single and multi-family configurations.

Dumpster: A type of movable waste container designed to be brought and taken away by a special collection vehicle, or to a bin that a specially designed garbage truck lifts, empties into its hopper, and lowers, on the spot. The word is a generic trademark of Dumpster, an American brand name for a specific design.

Dwelling unit: One or more habitable rooms which are intended to be occupied by one (1) family with facilities for living, sleeping, cooking, and eating and from which the County would collect solid waste; excludes commercial, industrial and manufacturing establishments.

-G-

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

-H-

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

Household: One or more people who occupy a dwelling unit as their usual place of residence.

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

Household Quantities: Quantities of solid waste reasonably generated in the course of typical daily domestic activities from a dwelling unit. Household quantities typically would fit into the assigned roll cart.

-I-

Illegal Dump: A solid waste or debris pile of any size that was placed in an unauthorized location for an unauthorized purpose.

Illegal Pile: A non-compliant pile of solid waste that has not been made compliant for collection over a 15-day period of time and is, therefore, in violation of this ordinance and subject to enforcement action.

Industrial waste: Solid waste generated from industrial or manufacturing processes including, but not limited to, factories and treatment plants.

Intergovernmental Agreement (IGA): An agreement for services between the County and another governmental entity (often contained herein) whether Federal, State, or local and any department, division, unit or subdivision thereof.

-L-

Legal residence: A residential dwelling unit that is occupied by the owner of the dwelling unit, thus designated their legal residence by the county Tax Assessor. Owners may designate only one legal residence in the state.

Litter: Waste products that have been discarded, intentionally or unintentionally, without consent, at an unsuitable location. Includes items blown or thrown from a vehicle or property.

-M-

Materials Recovery Facility (MRF): A specialized facility that receives, separates and prepares recyclable materials for marketing to end-user manufacturers.

Mixed Pile: A solid waste pile, placed at curbside by the homeowner for the purpose of collection as part of the Residential / Small Business Curbside Collection Program, but which intermingles incompatible waste types and, therefore, cannot be efficiently collected for transportation and disposal. See also "Non-compliant Pile."

Mixed Waste: The intermingling of incompatible waste types (such as yard waste and garbage).

Municipal Solid Waste (MSW): Everyday items that are used and then throw away, such as product packaging, grass clippings, furniture, clothing, bottles, food scraps, newspapers, appliances, paint, and batteries. See also "Garbage."

Municipal Solid Waste Management (MSWM): A broad term that describes various policies, procedures, programs, and services that are directly or indirectly related to the safe and efficient management of the Solid Waste Stream on behalf of a Community.

-N-

Non-compliant Pile / Roll Cart: A solid waste pile or Roll Cart, placed at curbside by the homeowner for the purpose of collection as part of the Residential / Small Business Curbside Collection Program, but which does not comply with applicable standards contained herein.

-R-

Recovered Material: Those solid wastes which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream.

Recyclable Material (Recyclables): Those wastes which are capable of being recycled and which would otherwise be processed or disposed of as solid waste. For purposes of this ordinance chapter, only those recyclables specifically listed by the county will be collected for recycling.

Residential / Small Business Curbside Collection Program: An MSWM Program, administered by the County, by which various types of solid waste (garbage, yard waste, recycling, bulk items, and white goods) are picked up by Curbside Collection contractors from single family residences and some small businesses for transportation to an appropriate disposal facility.

Residential Property: Property which contains residential dwelling units other than those defined in this section as apartments.

Roll Cart: A container, mounted on wheels, which is issued to citizens by the County for the storage of garbage or recyclables between pick up by Collection Contractors.

Roll Cart Fee: An individual fee charged for the delivery of a roll cart (garbage or recycling) for a new, or newly re-activated, service in the Residential / Small Business Curbside Collection Program. The fee is for the delivery, handling, and management of the Roll Cart; not for its purchase.

-S-

Sanitary landfill: The method of disposing of solid waste in an SCDHEC Permitted Disposal Facility by the placement of an earth cover thereon which meets the regulations promulgated by that Agency.

Scavenging: Rummaging through, taking or gathering items from County owned or privately owned solid waste management facilities or solid waste containers, including, but not limited to, bags, roll carts, bins, or roll-offs, or dumpsters of solid waste (which also includes recyclables).

Small Business: Any business entity registered with the South Carolina Secretary of State that produces no more garbage and household type waste during any county-defined solid waste collection cycle than will fill two (2) 90-gallon roll carts and has only one location inside the County. A small business becomes an “eligible small business” when a request for curbside collection service has been made and the initial Solid Waste Service Initiation Fee and Roll Cart Fee have both been paid.

Solid Waste: Garbage, household waste, debris, commercial waste, industrial waste, yard waste, white goods, ashes, rubbish, paper, junk, building materials, glass or plastic bottles, other glass, cans and any other discarded or abandoned material, including solid, liquid, semisolid or contained gaseous matter.

Solid Waste Service Fee (a.k.a. – Residential / Small Business Curbside Collection Program Fee): The annual charge established by County Council for all single family households and eligible small businesses to fund the Residential / Small Business Curbside Collection Program in the Unincorporated Area of the County.

Solid Waste Service Initiation Fee: The initial curbside collection service fee established by County Council for new households or small businesses or to re-establish service for existing single family households and small businesses where service was discontinued and Roll Carts have been removed in the Unincorporated Area of the County. Computed on a *per diem*, *pro rata* basis and payable before service is commenced.

Solid Waste Stream: The entire life cycle flow of the garbage produced – from putting out the garbage and recycling for pickup to landfilling, energy production, and the reuse of recycled materials.

Special Waste: Items of solid waste permitted in the solid waste stream for disposal, but not collected as part of the Residential / Small Business Curbside Collection Program such as carpet or C&D Debris.

-V-

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

-W-

White Goods: Large appliances, usually electrical or natural gas powered, that are used domestically such as refrigerators and washing machines (often white in color).

-Y-

Yard waste: Any and all accumulations of grass, leaves, pine straw, small trees, branches, limbs, brush, shrubs, vines and other similar items generated by the typical maintenance of lawns, shrubs, gardens, and trees from residential properties or eligible small business properties. Includes branches, sticks, and limbs less than four (4) inches in diameter and less than four (4) feet in length.

Sec. 12-3. Enforcement.

(a) Appointed Solid Waste & Recycling Code Enforcement Officers (hereinafter "Refuse Control Officers") shall have the authority to enforce all the provisions of this chapter and may issue warning letters, warning tickets, and citations for violations of those provisions. The violator may either appear in the designated magistrate's court of the County on a date determined by the court to answer to the charged violation(s) of the appropriate

article and section of this chapter or may pay the fine and associated court costs at the magistrate court office prior to the court hearing.

(b) If any solid waste improperly or illegally disposed of in violation of this chapter can be identified as having last belonged to, been in the possession of, sent to, or received by, or to have been the property of any person prior to its being disposed of as prohibited herein, such identification shall be presumed to be *prima facie* evidence that such person disposed of or caused to be disposed of such solid waste in violation of this chapter.

(c) Solid waste placed at curbside for collection shall be considered property of Richland County unless reclaimed by the generator of the waste. Solid waste delivered to any county owned solid waste management facility shall be considered property of Richland County. It shall be unlawful for anyone to take solid waste belonging to Richland County without prior written authorization of Richland County.

(d) Proof of means used for proper disposal of solid wastes at businesses and commercial enterprises shall be presented to a County Refuse Control Officer when requested. This includes, but is not limited to, businesses engaged in lawn maintenance, landscaping, tree trimming / removal, and transporting of any solid waste in Richland County.

(e) Refuse Control Officers shall use Form S-438 when issuing citations unless approved otherwise in writing by the County Administrator. These Officers may, when they deem appropriate, issue a warning letter or a warning tickets for violations of this chapter. The warning ticket shall be of a design and content approved by the County Administrator.

Sec. 12-4. Penalties.

Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than thirty (30) days or fined not more than one thousand, ninety-two and 50/100 ($1,092.50) dollars, or both. Each day's continuing violation constitutes a separate and distinct offense, unless otherwise specified.

Sec. 12-5. Applicability.

Provisions of this Ordinance shall apply to all Unincorporated areas within the County as well as Municipalities that subscribe to County Solid Waste Management Programs through Intergovernmental Agreement (IGA).

Sec. 12-6. Reserved for Future Use.

Sec. 12-7. Reserved for Future Use.

ARTICLE II. FINANCE

Sec. 12-8. In General.

Richland County shall assess such taxes and fees necessary to manage, administer, and enforce in an equitable and effective manner, a Municipal Solid Waste Management (MSWM) Program as described herein.

Sec. 12-9. Solid Waste Fund.

Richland County shall maintain a Solid Waste Fund for the purpose of paying for a Municipal Solid Waste Management (MSWM) Program, and associated support activities. The Fund shall be maintained through the collection of various fees, taxes, and other revenues such as grants. A fund balance equal to half of the average annual operating costs of the Solid Waste & Recycling Division over the past three-year period shall be the financial goal. Bond revenue for solid waste related capital projects shall be otherwise accounted for and not considered as part of the Solid Waste Fund. Current and future Host County Fee payments for the siting of solid waste facilities within the County shall be directed to the Solid Waste Fund.

Sec. 12-10. Millage.

Richland County shall levy a countywide millage, to include all municipalities therein, for the purpose of raising revenue to generally cover the cost of:

Countywide-generated residential Municipal Solid Waste (MSW) disposal in a Class Three Landfill
Administration of a Countywide Solid Waste Management Program
Countywide-generated residential disposal of C&D Debris and Yardwaste in an appropriate, SCDHEC permitted Landfill (this does NOT include Contractor-generated waste from residential construction, or tree removal / pruning / trimming)
Operation of County Drop-Off and Recycling Centers
Processing of recyclable materials generated by the County Residential / Small Business Curbside Collection Program and Special Recycling Events

This charge shall appear on County Real and Personal Property Tax Notices.

Sec. 12-11. Fees.

A schedule of solid waste related fees charged by Richland County is contained in Attachment 'A' to this Chapter. These fees shall be reviewed and established on an annual basis in order to cover the cost of associated solid waste services. These fees shall generally cover the cost of:

The Residential / Small Business Curbside Collection Program

Disposal of C&D Debris and Yardwaste in a County Operated Landfill (generated by non-residential customers – businesses and governmental entities)
Processing of other specialized recycling material such as Electronic Waste, Tires, or Mattresses

The fee for the Residential / Small Business Curbside Collection Program shall appear on County Real Property Tax Notices. All other fees will be collected or invoiced at the point of sale.

Sec. 12-12. Grants.

The Director of Public Works shall participate in applicable grant programs, either recurring or individual, administered by SCDHEC, or other entities, for the purpose of mitigating local costs and projects associated with MSW Management and solid waste reduction and recycling on behalf of Richland County.

Sec. 12-13. Partial Year Assessments for the Residential / Small Business Curbside Collection Program.

(a) All new service Residential / Small Business Curbside Collection Program customers (new residence or newly activated service) shall be charged a Partial Year Fee for the initial, partial year of curbside collection service received at the designated service level.

(b) Partial year service fees for new residences shall be computed on a *pro rata* basis and paid along with the Roll Cart Fee following the issuance of the Certificate of Occupancy (CO).

(c) Thereafter, annual fees will be charged on the Real Property Tax Notice. It shall be the duty of the Auditor to include the assessment with the annual property tax notices.

Sec. 12-14. Annual schedule of fees and assessments.

The Director of Public Works shall, on an annual basis and concurrent with the Budget Process, review and update a Master Schedule of all solid waste fees for the purpose of ensuring adequate revenue for associated, fee-based solid waste management programs established herein. This schedule shall be reviewed and approved by County Council annually.

Sec. 12-15. Determination of assessments; inclusion in tax notice.

(a) The Director of Public Works shall maintain and reconcile, on at least an annual basis, a complete list of all Residential / Small Business Curbside Collection Program customers and their designated program level of service. This list shall serve as the basis for monthly contractor payment and annual tax notice issuance by the Auditor. The levels of service and their associated multipliers follow:

- Standard (S) curbside placement / collection of MSW and Recycling (1.0 multiplier);
- Backyard (B) placement / collection of MSW and Recycling (1.8 multiplier);
- Disability – Backyard (DB) placement / collection of MSW and Recycling (1.0 multiplier).

(b) These levels of service and their associated multipliers of the uniform fee shall be applied by the Auditor to Annual Real Property Tax Notices.

Sec. 12-16. Reserved for Future Use.

Sec. 12-17. Reserved for Future Use.

ARTICLE III. RESIDENTIAL / SMALL BUSINESS CURBSIDE COLLECTION PROGRAM

Sec. 12-18. In General.

The County shall provide a program of regular collection of Municipal Solid Waste (MSW) from single family residences as well as from eligible small businesses and local entities such as churches and neighborhood facilities within the unincorporated County. This service may be extended to like customers within small municipalities based on Intergovernmental Agreement (IGA) and assessment of program fees. No solid waste of any kind, or roll cart, shall be placed in or near a stormwater drainage course so as to impede the flow thereof. All Roll Carts, piles, and bulk items placed at curbside with the intention of pickup as part of the Residential / Small Business Curbside Collection Program are subject to inspection by County Solid Waste Staff or their agents for compliance with standards contained herein.

Sec. 12-19. Conditions for Residential / Small Business Curbside Collection Program.

Solid Waste collection shall be provided under the following conditions:

- Unincorporated areas of the County, or
- Small Municipalities covered by an IGA for solid waste services, and
- Residential, Single family homes, or
- Residential, Duplexes, Triplexes, or Quadraplexes, or
- Small / home-based businesses located within residential areas, or
- Ancillary facilities located within residential areas such as recreation centers or Churches that generate small volumes of solid waste, or
- Other facilities located within residential areas that generate small volumes of solid waste and, in the judgment of the Director of Public Works, would practically benefit from participation in this program.

Sec. 12-20. Garbage.

(a) Garbage shall only be collected from residential and small businesses in residential areas by Collection Contractors who are employed by the County.

(b) Garbage shall be collected in the unincorporated portion of the County by roll cart service under the following conditions:

1) One (1) Roll Cart shall be issued to each single family residential household / small business in the unincorporated area of the County. These roll carts shall remain the property of the County for use by the household to which they are issued. Residents who damage roll carts issued to them shall pay for repairing or replacement of the carts. Carts that are damaged as a result of mishandling by collection contractors will be repaired at County's expense.

(c) Eligible Small Business entities participating in this program may receive up to two (2) roll carts if requested and paid for.

(d) Roll Carts shall be placed at curbside of the nearest public road, no later than 7:00 a.m. on the day of collection. Roll Carts shall be removed from the curbside by the residents no later than 7:30 p.m. on the designated day of collection.

(e) For residential collection, small quantities of garbage in excess of the capacity of the roll cart will be collected if neatly placed in tied plastic bags and placed at curbside along with the roll cart.

Sec. 12-21. Yard waste.

(a) Yard waste shall only be collected from residential and small businesses in residential areas by Collection Contractors who are employed by the County.

(b) Yard waste shall be collected in the unincorporated portion of the County under the following conditions:

1) Yard waste (Sticks, hedge clippings, and small brush) shall be bagged, boxed, or bundled in order to facilitate efficient pick up. A volume roughly equivalent to two (2) roll carts (180 gallons / or a pile measuring approximately six feet (6') in length, three feet (3') in width, and two feet (2') in height) / or six, 30-gallon yard waste bags) shall be placed within six (6) feet of curbside of the nearest public road and shall be collected on a designated day.

2) Larger tree branches and heavy brush which do not exceed four (4) inches in diameter shall be cut in lengths not exceeding four (4) feet and stacked in a neat, compact pile in front of the residence adjacent to the curb, but such piles shall not extend into the streets.

3) Exclusions: Tree trunks, branches and limbs having a length greater than four (4) feet and diameter greater than four (4) inches are not deemed yard waste, thus are not eligible for curbside collection. Waste generated from either a tree removal (including the stump) or de-limbing of a tree greater than four (4) inches in diameter at the tree base at ground level is not considered yard waste, thus is not eligible for curbside collection. Re-sizing waste from a tree removal, from a stump removal or from de-limbing an ineligible tree to make it meet the above dimensions does not make it eligible for curbside collection. Waste generated from clearing a lot or cutting shrubbery back to the stump or trunk is not considered yard waste, thus is not eligible for curbside collection.

(c) Dirt, sand, and mulch, other than those small residual quantities incidental to yard waste collection, shall not be accepted for curbside collection.

Sec. 12-22. Recycling.

(a) Recycling shall only be collected from residential and small businesses in residential areas by Collection Contractors who are employed by the County.

(b) Recycling shall be collected in the entire unincorporated portion of the County by roll cart service under the following conditions:

1) One (1) Roll Cart shall be issued to each single family residential household / small business in the unincorporated area of the County. These roll carts shall remain the property of the County for use by the household to which they are issued. Residents who damage roll carts issued to them shall pay for repairing or replacement of the carts. Carts that are damaged as a result of mishandling by collection contractors will be repaired at County's expense.

(c) Roll carts shall be placed at curbside of the nearest public road, no later than 7:00 a.m. on the day of collection. Roll Carts shall be removed from the curbside by the residents no later than 7:30 p.m. on the designated day of collection.

(d) Authorized recyclable materials previously containing food or beverages shall be properly prepared by the resident prior to placement in the recycling roll cart. Aerosol cans shall be excluded from the recycling stream. Cardboard shall be broken down / flattened for efficient handling and collection. Recycling shall not be mixed with garbage or other contaminants. Recyclable materials shall not be placed in bags.

(e) Collection Contractors may refuse to collect curbside recycling if the material is found to be contaminated by non-recyclables. Collectors may attach information to the Roll Cart explaining why the material was not collected. The resident shall remove the non-recyclable material identified as contamination before the next scheduled recycling collection day in order to be serviced.

(f) The Director of Public Works shall, on an annual basis, review the official list of commodities eligible for recycling based on market conditions and recommend additions or deletions to the County Administrator. The Director of Public Information shall lead and manage the public information campaign necessary to this program.

Sec. 12-23. Bulk Items (a.k.a. “Brown Goods”).

Residential / Small Business curbside collection customers may request, at no extra charge, the pickup and disposal of Bulk Items such as indoor and outdoor furniture, large yard toys, mattresses, *etc* by requesting an appointment for pickup. Bulk Items shall only be placed at

curbside following a confirmed, scheduled appointment for pickup and shall not remain at curbside indefinitely. Limit of four items per appointment request.

Sec. 12-24. White Goods.

White Goods shall be collected and managed in the same manner as Bulk Items. All large appliances, such as refrigerators, shall have doors removed prior to placement at curbside.

Sec. 12-25. Enhanced ("Backyard") Service.

(a) An enhanced level of service (a.k.a. – "Backyard Service") shall be made available to neighborhoods that request it and have established Homeowners' Association (HOA) covenants supporting same as well as to individual homes in which the occupants cannot physically place their garbage or recycling roll carts at curbside for standard pickup.

(b) Neighborhoods desiring a higher level of service may request backyard pick-up pursuant to the following conditions:

1) The subdivision must have a duly organized, active Homeowners Association (HOA) and such request shall be made by said association.

2) At the time that the HOA requests the higher level of service, said association shall provide either a certified true copy of the results of a certified ballot mailed to each homeowner and tallied by a certified public accountant (CPA), or a certified true copy of the minutes of the meeting where the decision was made by majority vote to request said higher level of service. Said minutes shall be signed and attested by the President and Secretary of the HOA; the association must also certify that all homeowners were notified of the meeting at least ten (10) days in advance and must furnish a copy of the notice.

3) At the time that the HOA makes the request, said association shall clearly define the geographic boundaries of the area encompassed in the request, including tax map sheet references.

4) All requests for an enhanced level of service (backyard pick-up) shall be made to the Director of Public Works and approved by the County Administrator.

5) Under no circumstances shall the county provide the higher level of roll cart service (backyard pick-up) to any subdivision which does not have deed restrictions which prohibit curbside pick-up.

(c) Disabled citizens may receive enhanced ("backyard") service for roll cart (garbage and recycling) service collection at no extra change. This special exception may be granted when the General Manager of Solid Waste & Recycling determines that there is no

capable adult readily available who is physically capable of rolling the cart to and from the curb. Application for this consideration must be in the form of a letter from the attending physician and needs to be updated annually.

Sec. 12-26. Uniform Fee Structure.

The Fee Structure used to generate revenue for the Residential / Small Business Curbside Collection Program shall be normalized and uniform throughout all areas served (Unincorporated County and Small Municipalities through IGAs) such that variations in collection area locations, collection contractor bids, or development density or do not cause undue financial burden to individual customers. The Director of Public Works shall, on an annual basis, update the calculation of the fee in advance of annual distribution of real property tax notices. A multiplier to the uniform fee for basic service shall be applied for neighborhood Enhanced ("Backyard") Service. A sample calculation is contained in Attachment 'B' to this Chapter.

Sec. 12-27. Small Business (Quasi-Residential) Service.

(a) Though the intent of the Residential / Small Business Curbside Collection Program is to primarily serve single family residential customers, there are others for whom providing this service is appropriate, convenient, and efficient. Such quasi-residential customers are generally referred to as "eligible small businesses" (even though they might not technically be a "small business", *per se*) and may include:
   - Duplex through Quadraplex residential customers;
   - Other residential customers besides Apartments;
   - Neighborhood pavilions or recreation centers;
   - Small, home-based businesses;
   - Small local government facilities such as fire / EMS stations;
   - Churches.

(b) Additionally, in order to participate in this program, such facilities must:
   - Be physically located along an established residential collection route;
   - Generate quantities and types of solid waste consistent with typical single family residences;
   - Pay all associated solid waste fees and taxes;
   - Be approved by the Director of Public Works for participation in the program.

Sec. 12-28. Roll Carts.

Roll Carts of approximately 90-gallon capacity shall be used in the collection of solid waste when deemed efficient and effective. Roll Carts shall be purchased, owned, delivered, and collected by the County or its designated agent. Fees may be charged for initial Roll Cart delivery or replacement. A fee for repair, replacement and delivery may be charged to the home owner in

the event of damage or destruction due to negligence or theft. Roll Carts shall be kept clean and free of accumulated waste and shall be treated with an effective insecticide by the user thereof, if necessary, to prevent nuisance.

Sec. 12-29. Items ineligible for Residential / Small Business Curbside Collection Service.

(a) Dead animals. Dead animals shall not be collected. Dead household pets shall be collected by the County Department of Animal Care if placed in plastic bags at curbside and if that Department is notified. Proper disposal of all other dead animals shall be the responsibility of property owners.

(b) Building materials. The County shall not be responsible for collecting or hauling discarded building material, dirt, rock, or industrial and hazardous waste.

Sec. 12-30. Exemption from roll cart service and fees for disabled homeowners.

(a) An exemption from roll cart service and fees for disabled homeowners in the unincorporated areas of the county is available. Such handicapped homeowners shall apply for said exemption to the General Manager of Solid Waste & Recycling. Such applicant must be handicapped and housebound and must live next to a relative or caretaker who shall agree to assume responsibility for the handicapped homeowner's garbage disposal. Application for this consideration must be in the form of a letter from the attending physician and needs to be updated annually.

(b) The Director of Public Works shall recommend approval or denial of the handicapped homeowner's application for exemption from roll cart service and fees. Final approval or denial of exemption from Roll Cart service and fees shall be made by the County Administrator.

ARTICLE IV. DROP OFF CENTERS AND SPECIAL COLLECTION EVENTS

Sec. 12-33. In General.

The Director of Public Works may maintain additional solid waste facilities and conduct such special events for the purpose of augmenting the efficient collection of various types of Solid Waste and recyclable materials from County residential customers. These facilities may collect materials that are permitted in the waste stream for disposal or recycling, but not included for collection at curbside. These facilities shall not receive garbage. These facilities shall not receive any waste generated outside of the County. Only County residents are authorized to use County Operated Drop Off Centers.

Sec. 12-34. Construction & Demolition (C&D) Debris.

Drop Off Centers may accept for disposal or recycling Construction & Demolition (C&D) Debris generated by County Residents, performing home improvement projects on their Residential Property. The Director of Public Works may prescribe quantity limitations based on efficiency and facility limitations.

Sec. 12-35. Yard waste and landscaping debris.

Drop Off Centers may accept for disposal, Yard Waste and Landscaping Debris generated by County Residents, performing yard maintenance at their Residential Property. The Director of Public Works may prescribe quantity limitations based on efficiency and facility limitations.

Sec. 12-36. Recycling.

Drop Off Centers may accept for recycling, various items, generated by County Residents at their domiciles. The Director of Public Works may prescribe commodity and quantity limitations based on efficiency and facility limitations.

Sec. 12-37. Bulk Items.

Drop Off Centers may accept for disposal, Bulk Items generated by County Residents at their domiciles. The Director of Public Works may prescribe quantity limitations based on efficiency and facility limitations.

Sec. 12-38. White Goods.

Drop Off Centers may accept for disposal, White Goods generated by County Residents at their Residential Property. The Director of Public Works may prescribe quantity limitations based on efficiency and facility limitations.

Sec. 12-39. Special Collection Events.

The Director of Public Works may conduct on occasion, either on an individual basis or in partnership with municipalities or neighboring counties, Special Collection Events to promote the proper collection and disposal or recycling of items such as paint, household hazardous waste, sensitive documents for shredding, tires, electronic waste (ewaste), and scrap metal / white goods. The Director of Public Works may prescribe commodity and quantity limitations based on efficiency and facility limitations.

Sec. 12-40. Community "Clean Sweep" Events.

The Director of Public Works may conduct a program to support volunteer citizens efforts at the neighborhood level to clean up and beautify their communities.

Sec. 12-41. Reserved for Future Use.

ARTICLE V. RECYCLING

Sec. 12-42. In General.

(a) The County shall, consistent with State Law, conduct a program of residential recycling in order to:
   - Conserve Natural Resources and Landfill Space;
   - Promote economic development and security;
   - Protect the environment;
   - Conserve energy

(b) The County shall also promote and encourage commercial and business recycling. Participation in recycling programs is encouraged and voluntary.

Sec. 12-43. Residential Recycling.

Residential recycling will primarily be promoted through the Residential / Small Business Curbside Collection Program and may be supplemented through collections at Special Collection Events and Drop Off Centers.

Sec. 12-44. Commercial and Business Recycling.

Commercial and Business Recycling will primarily be promoted through education and voluntary reporting.

Sec. 12-45. Commodities.

The Director of Public Works shall, on an annual basis, and in consultation with the General Manager of Solid Waste & Recycling, recommend to the County Administrator, a list of commodities to be included in the Residential / Small Business Curbside Collection Program. This recommendation shall be based on forecasts of recycling commodities' market conditions. The County Director of Public Information shall promote and publicize current information regarding commodities for recycling.

Sec. 12-46. Recovered Materials.

Materials collected through all County Recycling Programs are County property. The County shall ensure the services of a Materials Recovery Facility (MRF) in order to process recovered materials

for recycling. Any revenue generated from the sale of recovered materials shall be deposited into the Solid Waste Fund.

Sec. 12-47. Reporting.

The County shall account for and report recycling activity in a form and manner consistent with State and Federal law.

Sec. 12-48. Reserved for Future Use.

Sec. 12-49. Reserved for Future Use.

ARTICLE VI. TRANSPORTATION AND DISPOSAL OF SOLID WASTE

Sec. 12-50. In General.

The transportation and disposal of solid waste shall be conducted by authorized personnel and in accordance with all applicable State and Federal Laws.

Sec. 12-51. Transportation of Solid Waste.

(a) It shall be unlawful for any person to haul, convey or cause to be conveyed any refuse upon or along the public streets and roadways except when the material transported is adequately secured in such a manner as to prevent it from falling, leaking, or being blown from transporting vehicles. The owner or driver of the offending vehicle shall be personally responsible for any violation of this section.

(b) It shall be a violation of this article for any person not authorized by the County to collect and haul any refuse other than that arising from his or her own accumulation within any area of the County in which solid waste collection service is provided by the County.

Sec. 12-52. Use of County operated solid waste management facilities.

Only County residents or specifically authorized agents of the County (*i.e.* – Curbside Collection Contractors) are authorized to use County operated solid waste management facilities, including landfills, as determined by the Director of Public Works. Such solid waste management facilities shall, under non-emergent conditions, only accept solid waste that is generated within the County. Fees may be charged in a consistent, uniform, and equitable manner.

Sec. 12-53. Garbage.

Garbage shall only be disposed of in an appropriate Class Three Landfill permitted by the South Carolina Department of Health and Environmental Control (SCDHEC).

Sec. 12-54. Construction & Demolition (C&D) Debris.

C&D Debris shall only be disposed of in an appropriate Class Two Landfill permitted by the South Carolina Department of Health and Environmental Control (SCDHEC).

Sec. 12-55. Other Common Waste Types.

Other commonly generated waste types, such as Electronic Waste (e-waste), Tires, Mattresses, or "Household Quantities" of Hazardous Waste shall be accepted and disposed of (or recycled) by the County in appropriate manners at permitted facilities.

Sec. 12-56. Reserved for Future Use.

Sec. 12-57. Reserved for Future Use.

ARTICLE VIII. ENFORCEMENT

Sec. 12-58. In General.

The Director of Public Works shall maintain a Refuse Control Section composed of duly appointed Codes Enforcement Officers who shall enforce the provisions of this Chapter.

Sec. 12-59. Littering.

It shall be unlawful for any person to discharge litter, in any quantity, from their person, vehicle, property, or any other conveyance.

Sec. 12-60. Illegal Dumping.

(a) It shall be unlawful for any person to dump, allow another person to dump, or cause to be dumped any garbage, debris, household trash, litter, junk, appliances, equipment, cans, bottles, paper, trees, tree limbs, tree stumps, brush or parts thereof, or any other solid waste, anywhere in the unincorporated area of the county, except at an SCDHEC approved landfill. Failure of the owner to sufficiently limit access to the property where dumping is occurring shall be considered to be allowing another person to dump, thus would be unlawful.

(b) The above provisions shall not apply to the dumping on private property, with the owner's written permission of sand, dirt, and stone for use as a fill to raise the elevation of land; provided, the same is not maintained in an unsightly condition and, further provided, the owner of the property on which such material is dumped agrees to level such dumped material with appropriate grading equipment to ensure compliance with best management practices for stormwater management.

Sec. 12-61. Covering vehicle loads.

It shall be unlawful for vehicles of any kind, transporting solid waste in any quantity, to fail in ensuring that said waste is contained therein by maintaining an adequate cover and containment throughout transit.

Sec. 12-62. Debris on Lots.

(a) Declaration of nuisance. Debris allowed to accumulate and remain on any lot or parcel of land in a developed residential area within the county may be deemed and declared a nuisance in the judgement of the County Director of Public Works. For the purpose of this action, "residential area" is defined as property zoned for a residential use, platted for residential use with a plat having been begun, installation of utilities having been begun and construction of residential units being commenced.

(b) Duty of owner, etc, to remove. It shall be the duty of any owner, lessee, occupant, agent, or representative of the owner of any lot or parcel of land in a developed residential area within the county to remove such debris as often as may be necessary to prevent the accumulation of such debris.

(c) Notice to owner, etc, to remove. Whenever the Director of Public Works shall find that debris has been allowed to accumulate and remain upon any lot or parcel of land in a developed residential area within the county in such a manner as to constitute a nuisance, he may serve written notice upon the owner, or the occupant of the premises, or upon the agent or representative of the owner of such land having control thereof to comply with the provisions of this section. It shall be sufficient notification to deliver the notice to the person to whom it is addressed or to deposit a copy of such in the United States mail, properly stamped, certified, and directed to the person to whom the notice is addressed, or to post a copy of the notice upon such premises.

(d) Failure to comply with notice. If the person to whom the notice is directed, under the provisions of the preceding subsection fails, or neglects to cause such debris to be removed from any such premises within ten (10) days after such notice has been served or deposited in the United States mail, or posted upon premises, such person shall be deemed guilty of a misdemeanor and subject to the penalty provisions of this chapter.

(e) Removal by County. In the event any property is determined to be a nuisance, and twenty (20) days has elapsed after such notice has been served, deposited in the United States mail, or posted upon the premises, then the Department of Public Works or its duly authorized agent or representative may enter upon any such lands and abate such nuisance by removing the debris, and the cost of doing so may become a charge to the property owner, or may be recovered by the county through judgment proceedings initiated in a court of competent jurisdiction.

Sec. 12-63. Scavenging.

It shall be unlawful for any person to rummage through, take or gather items from County-owned or privately owned solid waste management facilities or any County-owned or privately owned solid waste management containers, including, but not limited to, bags, roll carts for garbage or recycling, bins, roll-off containers, or dumpsters.

Sec. 12-64. Evictions.

The placement of household goods and contents from a lawful eviction process, may, if necessary, be addressed in the same manner of the provision of Debris on a Lot (Sec. 12-62. above). Debris resulting from the lawful eviction process is assumed to be a mixed pile and therefore ineligible for collection under the Residential / Small Business Curbside Collection Program.

Sec. 12-65. Collected Solid Waste is County Property.

Once picked up for collection from the Residential / Business Curbside Collection Program, or disposed of in any County Solid Waste Management Facility, all Solid Waste is County Property whose disposition is the responsibility of the County.

Sec. 12-66. Penalties.

(a) If any of the matter or material dumped in violation of this Chapter can be identified as having last belonged to, been in the possession of, sent to, or received by, or to have been the property of any person, firm, or corporation prior to its being dumped as prohibited herein, such identification shall be presumed to be *prima facie* evidence that such owner dumped or caused to be dumped such matter or material in violation of this Chapter.

(b) Appointed Refuse Control Officers shall have the authority to enforce all the provisions of this chapter and shall issue summons to violators of any provision to appear in the Magistrate's Court of the County to answer to the charge of violation of the appropriate section of this chapter.

(c) Any person who violates the provisions of this Chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than thirty (30) days or fined not more than one thousand, ninety-two and 50/100 ($1,092.50) dollars, or both. Each day's continuing violation shall constitute a separate and distinct offense, unless otherwise specified.

Sec. 12-67. Miscellaneous Enforcement Provisions.

(a) If a non-compliant solid waste pile or roll cart, placed at curbside as part of the Residential / Small Business Curbside Collection Program, is not, in whole, brought into compliance for collection within a 15-day period following notification of non-compliance by the County, it shall be deemed to be an Illegal Pile and considered Illegal Dumping.

(b) Preparation and storage of residential and/or small business solid waste for collection. It shall be the duty of the occupant or owner of any residential premises, or the owner or operator of any small business, to store all garbage properly, pending collection and disposal. Residential excess garbage beyond that which can be placed in the roll cart shall be neatly placed in sealed plastic bags alongside carts on designated collection days.

(c) All garbage receptacles except single-use paper or plastic bags and cardboard boxes shall be kept clean and free of accumulated waste and shall be treated with an effective insecticide, if necessary, to prevent nuisance.

(d) Proof of means used for disposal of solid wastes by businesses and commercial enterprises shall be presented to the Refuse Control Officers when requested by said Officer.

(e) Each property owner shall prevent the continued, excessive and unsightly accumulation of refuse upon the property occupied by him (or her) or on a public thoroughfare adjoining his or her property.

(f) It shall be a violation of this article to place or cause to be placed in any dumpster, solid waste receptacle, or bulk container for collection any acid, explosive material, flammable liquids or dangerous or corrosive material of any kind, or any other hazardous waste.

(g) No person other than the owner thereof, his or her agents or employees, or employees of contractors of the county for the collection of solid waste shall tamper or meddle with any garbage container or the contents thereof, or remove the contents of the container from the location where the same shall have been placed by the owner thereof or his agents.

(h) Property owners shall be prohibited from receiving for deposit in their refuse containers any type refuse that originates outside their designated collection area.

(i) Property owners shall be responsible for policing any strewn refuse resulting from broken bags, garbage not properly prepared for collection or from any other cause other than contractor mishandling.

(j) It shall be unlawful for a Resident / Small Business Owner to repeatedly leave Roll Carts at curbside in residential areas beyond the prescribed daily period for collection.

ARTICLE IX. CONSTRUCTION, MODIFICATION, EXPANSION, AND/OR OPERATION OF SOLID WASTE MANAGEMENT FACILITIES, BENEFICIAL LANDFILLS, AND COMPOSTING FACILITIES

Sec. 12-68. In General.

All solid waste management facilities, beneficial landfills, and composting facilities shall adhere to all Federal and State rules and regulations, and all local zoning land use and other applicable local ordinances.

Attachments.

Attachment A – Annual Solid Waste Fee Schedule (Sample)

Attachment B – Residential / Small Business Curbside Collection Program Uniform Fee Calculation Worksheet (Sample)

Department of Public Works (DPW)
Solid Waste & Recycling Division (SWR)
FY-2X Annual Solid Waste Master Fee Schedule (Sample)
Updated: 22-Jun-21

Residential / Small Business Curbside Collection Fee (Standard Level of Service) *	$	323.70	Per Roll Cart Serviced	Annually
Residential / Small Business Curbside Collection Fee (Enhanced Level of Service) *	$	582.66	Per Roll Cart Serviced	Annually
Residential / Small Business Curbside Collection Fee (Enhanced Level of Service / Disability) *	$	323.70	Per Roll Cart Serviced	Annually
Construction & Demolition (C&D) Debris	$	24.00	Per ton	
Yard Waste / Land Clearing Debris	$	24.00	Per ton	
Bulk Items / Brown Goods	$	24.00	Per ton	
Roll Cart Fee	$	68.00	Per Roll Cart Serviced	
White Goods / Scrap Metal	$	24.00	Per ton	
Waste Tire	$	15.00	Per ton	Or $1.50 each
Mattress / Box Springs	$	24.00	Per ton	
Electronic Waste (Broken Televisions or Monitors)	$	0.72	Per pound	
Electronic Waste (Intact Televisions or Monitors)	$	0.33	Per pound	
Electronic Waste (All other ewaste)	$	0.20	Per pound	

Notes - * Initial Solid Waste Service Initiation Fee shall be calculated on a pro rata, per diem basis.

(ATTACHMENT 'A')

Department of Public Works (DPW)

Solid Waste & Recycling Division (SWR)

FY-2X Annual Residential / Small Business Curbside Collection Program Uniform Fee Calculation Worksheet (Sample)

Updated: 22-Jun-21

Collection Area	# Customer Roll Carts	Bid Price / Roll Cart ($)	Total Monthly Cost ($)	Comments
1	18,348	$ 20.00	$ 366,960.00	
2	10,350	$ 22.13	$ 229,045.50	Includes the Town of Blythewood
3	15,678	$ 18.50	$ 290,043.00	
4	17,716	$ 19.23	$ 340,678.68	
5A	8,627	$ 21.60	$ 186,343.20	
5B	1,689	$ 19.78	$ 33,408.42	
6	10,529	$ 19.61	$ 206,473.69	
7	5,877	$ 20.48	$ 120,360.96	
Total	**88,814**		**$ 1,773,313.45**	

Total Monthly Program Cost	$ 1,773,313.45	
	X 12	
Total Annual Program Cost	**$ 21,279,761.40**	
Annual Cost Per Roll Cart Serviced	$ 21,279,761.40 / 88,814	**$ 239.60**
Monthly Cost Per Roll Cart Serviced	$ 239.60 / 12	**$ 19.97**
	$ 19.97	
Enhanced (Backyard) Level of Service Multiplier	X 2.0	
	$ 39.93	
Annual Cost (Standard Level of Service)	**$ 239.60**	
Annual Cost (Enhanced Level of Service)	**$ 479.20**	

(Signature)

Certified True and Correct:
County Administrator
22-Jun-21

(ATTACHMENT 'B')

Department of Public Works (DPW)
Solid Waste & Recycling Division
Richland County Code of Ordinances, Chapter 12 Re-write
Summary of Changes
Updated: 7/13/21

Existing Ordinance			New Ordinance
Article	**Section**	**Title**	**Comment**
I		**In General**	
	12-1	Dumping within rights-of-way prohibited	Sec 12-60
	12-2	Litter Control	Sec 12-59
	12-3	Scavenging through greenboxes	Sec 12-63
	12-4	Debris on lots	Sec 12-62
	12-5	Penalties	Sec 12-66
	12-6	County landfills not accept garbage, refuse and other waste material generated outside county	Sec 12-52
	12-7	Reserved	NA
	12-8	Reserved	NA
	12-9	Reserved	NA
	12-10	Reserved	NA
II		**Collection and Disposal**	
	12-11	Applicability	Sec 12-19
	12-12	Definitions	Sec 12-2
	12-13	Administration and enforcement	Sec 12-3
	12-14	General conditions for granting contracts for residential and small business solid waste collection	Redundant - Removed
	12-15	Conditions for residential and small business solid waste collection - Garbage	Sec 12-20
	12-16	Conditions for residential and small business solid waste collection - Yard trash and other household articles	Sec 12-21
	12-17	Additional levels of residential solid waste collection	Sec 12-25
	12-18	Preparation and storage of residential and/or small business solid waste for collection	Sec 12-18
	12-18.1	Exemption from roll cart service and fees for handicapped homeowners	Sec 12-30
	12-19	Transportation of refuse	Sec 12-51
	12-20	Items not covered in residential or small business solid waste collection service	Sec 12-29
	12-21	Unlawful disposal generally	Sec 12-58
	12-22	Collected refuse is county property	Sec 12-65
	12-23	Assessment for residential solid waste collection and small business solid waste collection	Sec 12-13
	12-24	Determination of assessments; inclusion in tax notice	Sec 12-15
	12-25	Lien; hearing required to raise lien amount of charge	Obsolete - Removed
	12-26	County landfill fees	Sec 12-11
	12-27	Corrugated cardboard banned from all landfills	Obsolete - Removed
	12-28	Out-of-county waste banned from all county landfills	Sec 12-52

	12-29	Reserved	NA
	12-30	Reserved	NA
	12-31	Reserved	NA
	12-32	Reserved	NA
	12-33	Reserved	NA
	12-34	Reserved	NA
	12-35	Reserved	NA
	12-36	Reserved	NA
	12-37	Reserved	NA
	12-38	Reserved	NA
	12-39	Reserved	NA
	12-40	Reserved	NA

III		**Contruction, Modification, Expansion, and/or Operation of Solid Waste Management Facilities, Benefical…**	
	12-41	Federal, state and local law	Sec 12-68
	12-42	Reserved	NA
	12-43	Reserved	NA
	12-44	Reserved	NA
	12-45	Reserved	NA
	12-46	Reserved	NA
	12-47	Reserved	NA

CHAPTER 12: GARBAGE, TRASH AND REFUSE*

*Editor's note--At the discretion of the editor, Ord. No. 954-82, effective Jan. 1, 1984, has been included as having superseded §§ 12-2, 12-4, and all of Art. II, formerly comprising §§ 12-11--12-21. Ord. No. 954-82 had been saved from repeal by § 1-10(7); it was not specifically amendatory. The provisions codified as old §§ 12-2, 12-4 and 12-11--12-21 derived from Code 1976, §§ 8-2001--8-2013 and Ord. No. 649-80, effective June 6, 1979.

Cross reference(s)---Dumping on private property, § 2-199; hazardous chemicals, Ch. 13; health, Ch. 14; sewers and sewage disposal; weeds and rank vegetation, § 18-4; § 24-61 et seq.

State law reference(s)--Garbage collection and disposal in counties, S.C. Code 1976, § 44-55-1010 et seq; solid waste collection and disposal by counties, S.C. Code 1976, § 44-55-1210 et seq.

ARTICLE I. IN GENERAL

Sec. 12-1. Dumping within rights-of-way prohibited.

It shall be unlawful for any person to dump, throw, drop, leave, or in any way deposit any garbage, ashes, rubbish, paper, trash, litter, refuse, building materials, glass bottles, glass or cans on any property belonging to another on or along any street, road, highway, curb, sidewalk, or public right-of-way, except as required by the authorized and franchised garbage collector for that district; nor shall any person throw or deposit any refuse in any stream or other body of water within the boundaries of the county.

(Code 1976, § 11-4001; Ord. No. 389-77, § 1, 4-20-77)

Cross reference(s)--See also § 12-21.

State law reference(s)--Similar provisions, S.C. Code 1976, § 16-11-700.

Sec. 12-2. Litter control.

(a) Responsibility of driver. When litter is thrown from a vehicle, the driver shall be held responsible regardless of who throws the litter out of the vehicle.

(b) Procedures. The following procedures shall be followed by refuse control officers when citing violators of this provision of this section:

(1) In accordance with South Carolina Code 1976, section 16-11-710, the county refuse control officers shall hereby be authorized to accept a cash bond in lieu of requiring an immediate court appearance by a person who has been charged in a violation of ordinances and laws relating to litter control. Checks shall be accepted instead of cash.

(2) Refuse control officers shall use Form S-438 when issuing citations.

(3) In cases where bail is accepted by arresting officers, the violator's copy of the summons (blue) shall serve as the receipt for the offender. Bail monies shall be properly secured during nonworking hours by the refuse control officer. Prior to the trial, the arresting officer shall turn the bail bond over to the magistrate who signs the receipt portion of the summons for the arresting officer. Strict accountability shall be required in accordance with established procedures of the county's finance department (Ordinance No. 233-1015-75, Sections 1 and 2).

(Ord. No. 954-82, § 11, 1-1-84)

Sec. 12-3. Scavenging through greenboxes.

It shall be unlawful for any person to rummage through, remove, or salvage items from or otherwise scavenge from or tamper with any county-owned greenbox, solid waste container or the area located around green boxes and containers located within the unincorporated area of the county.

(Code 1976, § 11-1003; Ord. No. 794-81, §§ I, II, 4-2-81; Ord. No. 999-82, § I, 12-1-82; Ord. No. 1907-89, § IV, 9-5-89; Ord. No. 006-02HR, § I, 3-19-02)

Sec. 12-4. Debris on lots.

(a) Definition. For purpose of this section, the term "debris" means refuse, rubbish, trash, garbage, offal, junk, spilth, waste, litter, and/or building materials that are determined to be deleterious to good health and public sanitation.

(b) Declaration of nuisance. Debris allowed to accumulate and remain on any lot or parcel of land in a developed residential area within the county may be deemed and declared a nuisance in the judgement of the county public works director. For the purpose of this action, "residential area" is defined as property zoned for a residential use, platted for residential use with a plat having been begun, installation of utilities having been begun and construction of residential units being commenced.

(c) Duty of owner, etc., to remove. It shall be the duty of any owner, lessee, occupant, agent, or representative of the owner of any lot or parcel of land in a developed residential area within the county to remove such debris as often as may be necessary to prevent the accumulation of such debris.

(d) Notice to owner, etc., to remove. Whenever the county public works director shall find that debris has been allowed to accumulate and remain upon any lot or parcel of land in a developed residential area within the county in such a manner as to constitute a nuisance, s/he may serve written notice upon the owner, or the occupant of the premises, or upon the agent or representative of the owner of such land having control thereof to comply with the provisions of this section. It shall be sufficient notification to deliver the notice to the person to whom it is addressed or to deposit a copy of such in the United States mail, properly stamped, certified, and directed to the person to whom the notice is addressed, or to post a copy of the notice upon such premises.

(e) Failure to comply with notice. If the person to whom the notice is directed, under the provisions of the preceding subsection fails, or neglects to cause such debris to be removed from any such premises within ten (10) days after such notice has been served or deposited in the United States mail, or posted upon premises, such person shall be deemed guilty of a misdemeanor and subject to the penalty provisions of this chapter.

(f) Removal by county. In the event any property is determined to be a nuisance, and twenty (20) days has elapsed after such notice has been served, deposited in the United States mail, or posted upon the premises, then the department of public works or its duly authorized agent or representative may enter upon any such lands and abate such nuisance by removing the debris, and the cost of doing so may become a lien upon the property

affected, or may be recovered by the county through judgment proceedings initiated in a court of competent jurisdiction.

(g) Work may be done by county upon request. Upon the written request by the owner or the person in control of any lot or parcel of land covered by this section, and the payment to the county for the services, the department of public services may enter upon any such lands and remove the debris therefrom, the charge and cost of such service to be paid into the county treasury.

(Ord. No. 1130-84, §§ 1-7, 3-6-84; Ord. No. 1611-87, §§ 1-5, 5-5-87; Ord. No. 1843-89, §§ I-III, 3-7-89; Ord. No. 2086-91, §§ I, II, 4-16-91; Ord. No. 051-02HR, § II, 9-17-02)

Sec. 12-5. Penalties.

(a) If any of the matter or material dumped in violation of this chapter can be identified as having last belonged to, been in the possession of, sent to, or received by, or to have been the property of any person, firm, or corporation prior to its being dumped as prohibited herein, such identification shall be presumed to be prima facie evidence that such owner dumped or caused to be dumped such matter or material in violation of this chapter.

(b) Appointed refuse control officers shall have the authority to enforce all the provisions of this chapter and shall issue summons to violators of any provision to appear in the magistrate's court of the county to answer to the charge of violation of the appropriate section of this chapter.

(c) Any person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than thirty (30) days or fined not more than five hundred ($500.00) dollars, or both. Each day's continuing violation shall constitute a separate and distinct offense, unless otherwise specified.

(Ord. No. 954-82, §§ 12-1, 13-1, 13-2, 1-1-84; Ord. No. 023-01HR, § I, 4-17-01; Ord. No. 051-02HR, § II, 9-17-02)

Sec. 12-6. County landfills not to accept garbage, refuse and other waste material generated outside county.

(a) The Richland County Landfill shall not accept garbage, refuse or other waste material which is generated outside of the county.

(b) Before being allowed to dump garbage, refuse, or other waste material in the county landfill, the person dumping said material shall sign a statement authenticating that said material was generated within the county.

(c) Any and each false statement signed by a person dumping material referred to in subsection (b) of this section shall constitute a violation of this chapter.

(d) The term "generated," as used in this section, shall mean the point of origin of garbage, refuse, or other waste material. Sludge from waste treatment plants located outside of the county which treat waste generated in the county may be accepted to the extent that the sludge is generated in the county.

(e) Any dispute as to the point of origin of garbage, refuse, or other waste material shall be decided by the director of public works and utilities.

(Ord. No. 1703-88, § 2, 1-5-88; Ord. No. 1736-99, §§ I--III, 4-19-88; Ord. No. 051-02HR, § II, 9-17-02)

Secs. 12-7--12-10. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL

Sec. 12-11. Applicability.

This article shall apply to the preparation, storage, collection, transportation and disposal of all refuse in the area under jurisdiction of the county council as presently or hereafter established. It shall prescribe rules and regulations relating to collection and disposal of solid waste; prescribing rules and regulations for hauling garbage, refuse and other waste material within and through the county; providing for the proper disposal of solid waste; prohibiting littering and illegal dumping within the unincorporated area of the county, and providing penalties for violation thereof. This article provides for the assessment of service charges to finance the cost of solid waste collection.
(Ord. No. 954-82, § 2, 1-1-84; Ord. No. 093- 05HR, § 1, 12-6-05)

Sec. 12-12. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely discretionary.

Apartment: Any building containing more than four (4) contiguous dwelling units or any group of buildings or mobile homes located on a single lot which contains a total of six (6) or more dwelling units.

Bulk container: A manufacturing container suitable for emptying by mechanical equipment and approved by the director of public works.

Code: The Code of Richland County, South Carolina.

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

Commercial refuse: Trash and garbage generated by apartments, operation of stores, offices, restaurants and other places of business and industrial establishments (excluding industrial waste as defined herein).

Contractor: The person or persons, partnership, or corporation which has entered into a contract with the county to perform solid waste collection.

County: Richland County, South Carolina.

County administrator: The county administrator or his designated agent.

Disposal facility: Any facility or location where any treatment, utilization, processing or disposition of solid waste occurs.

Dwelling unit: One or more habitable rooms which are intended to be occupied by one (1) family with facilities for living, sleeping, cooking and eating and from which the county would collect refuse; excludes commercial, industrial and manufacturing establishments.

Franchise collector: The person or persons, partnership or corporation which has entered into a franchise agreement with the county to perform solid waste collection.

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

Garden and yard trash: Any and all accumulations of grass, leaves, small trees and branches (not exceeding four (4) inches in diameter), shrubs, vines and other similar items generated by the maintenance of lawns, shrubs, gardens and trees from residential properties.

Hazardous materials: Wastes that are defined as hazardous by state law and the state department of health and environmental control regulations.

Health officer: The county health officer or his authorized deputy, agent or representative or other person as the county council may designate in lieu of such health officer.

Household trash: Any and all accumulations of materials from the operation of a home which are not included within the definition of garbage. Household trash shall include all bulky appliances, furniture, boxes and yard toys.

Industrial waste: Any and all debris and waste products generated by canning, manufacturing, food processing (excluding restaurants), land clearing, building construction or alteration and public works type construction projects whether performed by a governmental agency or by contract.

Refuse: Includes both garbage and trash as defined in this section.

Residential property: Property which contains residential dwelling units other than those defined in this section as apartments.

Residential refuse: Refuse generated by residential property as defined in this section.

Roll cart: Garbage containers, mounted on wheels, which are issued to citizens by the county. Containers are used to store garbage between collections by franchise collectors.

Sanitary landfill: The method of disposing of refuse by placing an earth cover thereon which meets the regulations of the state department of health and environmental control.

Small business: Any business entity registered with the Secretary of State that produces no more solid waste during any County defined solid waste collection cycle than will fill two (2) County-issued roll carts.

Special material: These are bulky materials or other special wastes that are not stored in roll carts and cannot be picked up by a normally used collection vehicle.

Trash: Unless specifically provided to the contrary, shall include and mean household trash and garden and yard trash as defined herein.

(Ord. No. 954-82, § 3, 1-1-84; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-13. Administration and enforcement.

(a) The director of public works shall be responsible for the administration and enforcement of the provisions of this article. He or she may request assistance from the various departments and other officials of the county as may be necessary for the orderly implementation of this article. Regulations promulgated to carry out this article shall be subject to prior review and approval of county council.

(b) Proof of means used for disposal of solid wastes by businesses and commercial enterprises shall be presented to the refuse control officers when requested by them.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-14. General conditions for granting contracts for residential and small business solid waste collection.

(a) The entire unincorporated area of the county shall be designated as a roll cart service area and shall be divided into eight (8) service areas with these areas to be plainly outlined on a map of the county. Such maps shall be made a part of the contract with the collectors and shall be available for public inspection..

(b) Contracts shall be obtained as follows:

(1) After the initial awarding of the service areas, the option to bid on any or all of the service areas shall be open to all contractors, or subcontractors, who are garbage collectors for the county, or said areas may be awarded through open, competitive bidding.

(2) If all service areas are not successfully awarded through the above method, areas shall be awarded pursuant to the Richland County Code of Ordinances, Chapter 2, Article X, Division 2, Competitive purchasing policy. Anyone submitting a bid or proposal must meet all qualifications and criteria set forth for collectors.

(3) A lone bid or proposal for a specific service area shall not warrant automatic award of the franchise to the lone bidder or proposer.

(4) Should any contractor, or subcontractor, be found to be involved in collusion, in any way, through his or her own acts or those of any agent, said contractor or subcontractor, shall be disqualified from bidding or proposing.

(5) Successful contractors shall offer to purchase existing solid waste collection vehicles from current contractors within the respective service areas who were unsuccessful in renewing or renegotiating a contract. The value of the equipment will be determined by an independent appraiser.

(6) Successful contractors will be encouraged to hire employees of current contractors, within the respective service area, who were unsuccessful in renewing or renegotiating a contract.

(7) a. In the event that a contractor shall lose his contract through the expiration of his or her contract through the expiration of the contract or otherwise, or in the event that he or she subcontracts his or her area, then county council may, at its option, do any of the following:

1. Contract with the subcontractor without competitive bidding, pursuant to section 2-612(c)(3) and (10);

2. Open the area to competitive bidding by the contractors authorized to operate in Richland County; or

3. Open the area to competitive public bidding.

b. In the event that a contractor is a partnership, corporation, or entity other than an individual, and such contractor anticipates a sale or transfer of the ownership and/or management of the business to a third party, then the county administrator shall, at his discretion, give written approval or denial of the assignment of the contractor's contract rights under the contractor's franchise to the third party. Written approval of the county administrator shall be obtained prior to the third party's assumption of the contractor's duties in the service area.

c. In the event that a contractor who is a partnership, corporation, or entity other than an individual fails to obtain the prior written approval of the county administrator as required by section 12-14(b)(7)b. above, the county may competitively bid such contractor's service area.

(c) Monthly payments shall be made by the director of finance to the contractors. The contractors shall be allowed to petition county council for payment increase, based upon significant change of circumstances in the cost of delivering collection services.

(d) Collectors shall not be permitted to change boundaries of collection areas or to enter into agreements with subcontractors without prior written approval of the county administrator.

(e) All collectors under contract with the county shall continue service to customers as outlined in the contract.

(f) All bonds, insurance and other contractual obligations shall be adhered to by all contractors. Such contract requirements shall be reviewed and/or evaluated on a routine basis, and if, at any time, a collector is found to be in violation of any contract requirement, the collector shall be given fifteen (15) days to correct the violation. Should the collector fail to show compliance with the contract after the fifteen-day grace period, he or she shall automatically forfeit his or her franchise.

(g) The county administrator shall make available to the contractors any information gathered by the county which might assist the collector in submitting his or her cost and/or bid.

(h) Contractors shall not be required to pay the standard landfill dumping fees for residential solid waste or for small business solid waste delivered to the Richland County Landfill.

(i) Contracts with the franchise shall be for a period not to exceed five (5) years.

(j) Any contract may be extended at the option of county council and the contractor for a period not to exceed five (5) years, notwithstanding any contract language to the contrary. Any subcontractor who has assumed the duties and responsibilities of another contractor may, at the option of county council, be substituted as the original contractor of the service area.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 1859-89, § I, 4-18-89; Ord. No. 1917-89, § I, 10-3-89; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-15. Conditions for residential and small business solid waste collection--Garbage.

(a) Garbage shall be collected only by collectors who are franchised by the county.

(b) Garbage shall be collected in the entire unincorporated portion of the county by roll cart service under the following conditions:

(1) One (1) roll cart shall be issued to each household in the unincorporated area of the county. The roll carts remain the property of the county for use by the household to which they are issued. Residents who damage roll carts issued to them shall pay for repairing the carts or purchase replacement carts from the county. Carts that are damaged through normal use as a result of being emptied by contractors will be repaired at county's expense. Collection will be suspended at any location at which a roll cart is missing or at which a roll cart is damaged to such an extent as to interfere with normal collection methods.

(2) A small business may request up to two (2) county-issued roll-carts for use in scheduled solid waste collection by the franchise collector. The roll carts remain the property of the county for use by the small business to which they are issued. Anyone who damages a roll cart that is issued to them shall pay for repairing the carts or purchase replacement carts from the county. Carts that are damaged through normal use as a result of being emptied by contractors will be repaired at county's expense. Collection will be suspended at any location at which a roll cart is missing or at which a roll cart is damaged to such an extent as to interfere with normal collection methods.

(3) Except as described in section 12-17(b) and (c), infra, roll carts shall be placed at curbside of the nearest public road, no later than 7:00 a.m. on the day of collection. Carts shall be removed from the curbside by the residents no later than 7:30 p.m. on the day of collection.

(4) For residential collection, garbage in excess of the capacity of the roll cart will be collected if placed in plastic bags and placed at curbside along with the roll cart.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-16. Conditions for residential and small business solid waste collection--Yard trash and other household articles.

(a) Refuse shall be collected only by collectors who are franchised by the county.

(b) Yard trash and other household articles shall be collected in the entire unincorporated portion of the county under the following conditions:

(1) Yard trash, including all bagged or boxed trash and the equivalent of two (2) roll carts of loose trash, placed at curbside of the nearest public road, shall be collected once each week. This article does not intend to require that yard trash be bagged, boxed or bundled; however, such practice will be encouraged.

(2) Yard trash and other household/business articles not suitable for placement in a roll cart, plastic bag or trash container sack may be placed for collection as follows:

a. Tree branches and heavy brush which do not exceed four (4) inches in diameter shall be cut in lengths not exceeding four (4) feet in length and stacked in a compact pile in front of the residence adjacent to the curb, but such piles shall not extend into the streets;

b. Sticks, hedge clippings, small brush and leaves shall be placed in neat piles at curbside.

(3) Within one (1) week of each month, contractors shall remove all household/ business furnishings, appliances, large yard toys and other large household/business articles, when placed in front of the residence or business at the nearest public road. All large appliances shall have doors removed prior to placement at the curb.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-17. Additional levels of residential solid waste collection.

(a) Citizens living more than three hundred (300) feet from a public road may use either roll carts or other suitable containers to place solid waste awaiting collection. If a roll cart is not used by the property owner, payment for the cart will not be assessed.

(b) Handicapped citizens may receive backyard service for garbage collection. This special exception may be granted when the appropriate county official determines that there is no person living in the house who is physically capable of rolling the cart to and from the curb. In such instances, the cart will be dumped only once per week, on the second day of collection (Thursday or Friday). Provided, however, that yard trash will be collected only from the nearest public road, as set forth hereinabove.

(c) Subdivisions desiring a higher level of service may request backyard pick-up pursuant to the following conditions:

(1) The subdivision must have a duly organized homeowners' association and such request shall be made by said association.

(2) At the time that the homeowners' association requests the higher level of service, said association shall provide either a certified true copy of the results of a certified ballot mailed to each homeowner and tallied by a certified public accountant, or a certified true copy of the minutes of the meeting where the decision was made by majority vote to request said higher level of service. Said minutes shall be signed and attested by the president and secretary of the homeowners' association; the association must also certify that all homeowners were notified of the meeting at least ten (10) days in advance and must furnish a copy of the notice.

(3) At the time that the homeowners' association makes the request, said association shall clearly define the geographic boundaries of the area encompassed in the request, including tax map sheet references.

(4) The cost of the higher level of roll cart service (backyard pick-up) shall be placed on the tax bills of all residents in the subdivision, however, said cost shall not exceed 1.8 times the basic curb service charge. In addition to the garbage collection charge, the county shall be entitled to collect the total cost of administering this program, which shall be divided among the individual homeowners on an equitable basis by the finance department annually.

(5) All requests for the higher level of service (backyard pick-up) shall be made to and approved by the county administrator.

(6) Under no circumstances shall the county provide the higher level of roll cart service (backyard pick-up) to any subdivision which does not have deed restrictions which prohibit curbside pick-up.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 1567-86, § 1, 12-30-86; Ord. No. 093-05HR, § 1, 12-6-05)

Sec. 12-18. Preparation and storage of residential and/or small business solid waste for collection.

(a) It shall be the duty of the occupant or owner of any residential premises, or the owner or operator of any small business, to store all refuse properly, including garbage and

trash, pending collection and disposal. Residential excess garbage beyond that which can be placed in the roll cart shall be placed in plastic bags alongside carts on collection days.

(b) All garbage receptacles except single-use paper or plastic bags and cardboard boxes shall be kept clean and free of accumulated waste and shall be treated with an effective insecticide, if necessary, to prevent nuisance.

(c) Each owner shall prevent the continued, excessive and unsightly accumulation of refuse upon the property occupied by him (or her) or a public thoroughfare adjoining his or her property. Unlicensed automobiles and other vehicles shall not be permitted to be kept except at appropriate commercial establishments. Removal and disposal of unlicensed vehicles shall be the responsibility of property owners where such vehicles are located.

(d) It shall be a violation of this article to place or cause to be placed in any refuse can or bulk container for collection any acid, explosive material, inflammable liquids or dangerous or corrosive material of any kind, or any other hazardous waste.

(e) No person other than the owner thereof, his or her agents or employees, or employees of contractors of the county for the collection of refuse shall tamper or meddle with any garbage container or the contents thereof, or remove the contents of the container from the location where the same shall have been placed by the owner thereof or his agents.

(f) Property owners shall be prohibited from receiving for deposit in their refuse containers any type refuse that originates outside their designated collection area.

(g) Property owners shall be responsible for policing any strewn refuse resulting from broken bags, garbage not properly prepared for collection or from any other cause other than contractor mishandling.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-18.1. Exemption from roll cart service and fees for handicapped homeowners.

There is hereby provided an exemption from roll cart service and fees for handicapped homeowners in the unincorporated areas of the county. Such handicapped homeowners shall apply for said exemption at the solid waste division of the public works department. Such applicant must be handicapped and housebound and must live next to a relative or caretaker who shall agree to assume responsibility for the handicapped homeowner's garbage disposal.

The director of public works shall recommend approval or denial of the handicapped homeowners application for exemption from roll cart service and fees. Final approval or denial of exemption from roll cart service and fees shall be made by the county administrator.

(Ord. No. 1926-89, § I, 11-7-89; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-19. Transportation of refuse.

(a) It shall be unlawful for any person to haul, convey or cause to be conveyed any refuse upon or along the public streets and roadways except when the material transported is adequately secured in such a manner as to prevent it from falling, leaking or being blown from transporting vehicles. The owner or driver of the offending vehicle shall be personally responsible for any violation of this section.

(b) It shall be a violation of this article for any person not authorized by the county to collect and haul any refuse other than that arising from his or her own accumulation within any area of the county in which refuse collection service is maintained by the county.
(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-20. Items not covered in residential or small business solid waste collection service.

(a) Dead animals. Dead animals, other than household pets, shall not be collected. Dead household pets shall be collected by the county animal care department if placed in plastic bags at curbside and if that department is notified. All other dead animals shall be the responsibility of property owners.

(b) Building materials. The county shall not be responsible for collecting or hauling discarded building material, dirt, rock or industrial and hazardous waste.
(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-21. Unlawful disposal generally.

(a) It shall be unlawful for any person, firm, or corporation to dump or cause to be dumped any garbage, trash, litter, junk, appliances, equipment, cans, bottles, paper, trees, tree limbs, tree stumps, brush or parts thereof, anywhere in the unincorporated area of the county except at approved sanitary landfills.

(b) The above provisions shall not apply to the dumping on private property, with the owner's written permission, of sand, dirt, broken brick, blocks, or broken pavement or other suitable material for use as a fill to raise the elevation of land; provided, the same is not maintained in an unsightly condition and, further provided, the owner of the property on which such material is dumped agrees to level such dumped material with appropriate grading equipment.
(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 006- 02HR, § II, 3-19-02; Ord. No. 093-05HR, § I, 12- 6-05)

Sec. 12-22. Collected refuse is county property.

All refuse collected by county forces or collectors under contract with the county shall be disposed of and/or delivered to such places and used for such purposes as may be ordered by the county.
(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-23. Assessment for residential solid waste collection and small business solid waste collection.

(a) Residential. Owners of residential property in the unincorporated area of the county, as currently or may hereinafter exist, shall be assessed a service charge for the purpose of financing the collection of solid waste. The assessment for solid waste collection shall reflect a level of service and benefit provided to the owner and shall be determined by the county council. The procedures for collecting the assessment for solid waste collection for new houses shall be as follows:

(1) Before issuing a certificate of occupancy pursuant to section 6-57 of this Code, the director, solid waste management department shall collect from the applicant an amount of money equivalent to the pro rata portion of solid waste assessment for the year in which the applicant is seeking the certificate.

(2) Beginning with the first calendar year after which the certificate of occupancy pursuant to section 6-57 of this Code applied for, the assessment for such services shall be collected through a uniform service charge added to the annual real property tax bill. Furthermore, all penalties applicable to delinquent payment of property taxes shall apply to the uniform service charge for solid waste collection.

(b) Businesses and commercial enterprises. Businesses and commercial enterprises (other than small businesses) shall not be provided garbage collection service by the county; therefore, they shall not be assessed a charge. These activities shall be responsible for the disposal of their garbage, refuse and industrial waste.

(c) Small businesses. Owners of small business in the unincorporated area of the county, as currently or may hereinafter exist, shall be assessed a service charge two (2) times the residential rate per roll-cart for the purpose of financing the collection of solid waste.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 1849-89, § I, 3-21-89; Ord. No. 1918-89, § I, 10-3-89; Ord. No. 020-95HR, § I, 3-21-95; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-24. Determination of assessments; inclusion in tax notice.

The county council shall annually determine the assessments to be levied for garbage services, based upon, among other things, the level of services provided the property, the amount of funds required to finance solid waste collection, and the benefit received by the property and advise the auditor of the assessment to be collected. It shall be the duty of the auditor to include the assessment with the annual property tax notices. The county director of finance shall establish a solid waste collection fund and all receipts collected by the treasurer from the assessments for the purpose of solid waste collection shall be credited to the fund.

(Ord. No. 954-82, § 4-3, 1-1-84; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-25. Lien; hearing required to raise lien amount of charge.

(a) If the notice or notices prescribed by subsection (b) shall have been given and the hearing required pursuant thereto shall have been held, all solid waste collection service charges imposed by the county pursuant to this article and not paid when due and payable shall constitute a lien upon the real estate to which the solid waste collection service concerned relates so long as the charges remain unpaid. It is the intention of the county that in addition to such other rights and remedies as may be available to the governing body in law or in equity for the collection of such charges, the lien may be enforced by the governing body in the same manner and fashion as the lien of property taxes on real estate.

(b) Prior to the furnishing of any solid waste collection service for which the prescribed service charge shall, pursuant to subsection (a), become a lien on the property affected and prior to any subsequent increase in any solid waste collection service charge, county council shall hold a hearing on the proposed charges providing property owners an opportunity, if desired, to appear and be heard in person or by counsel before the county

council. Not less than ten (10) days' published notice of this public hearing shall be given in a newspaper of general circulation in the county. Such notice shall state the time and place of the public hearing and shall notify property owners of the nature and quantum of the proposed service charges. Following such hearing, action shall be taken by the county council and published notice of its decision shall be given in a newspaper of general circulation in the county, not less than ten (10) days prior to the effective date of the charges. This notice shall set forth the charges being imposed in such a manner as to notify property owners thereof. Any property owner aggrieved by the action of the county council may proceed by appeal in the court of common pleas for the county, to have such court review the action taken by the county council at which time the court will determine the validity and reasonableness of the solid waste service charge. Solid waste collection service charges not intended to become liens in the case of nonpayment may be imposed and subsequently increased upon any user without such notice and hearing. The appeal provided for herein shall be pursuant to the provisions of chapter 7 of Title 18, of the South Carolina Code of Laws, 1976, providing for appeals to the court of common pleas.
(Ord. No. 954-82, §§ 4-4, 4-5, 1-1-84; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-26. County landfill fees.

The following fees shall be charged for all materials dumped in a county landfill:

(a) Normal garbage and trash: Twenty four dollars ($24.00) per ton.

(b) Tires: Thirty dollars ($30.00) per ton.

(c) DHEC-controlled waste: Thirty dollars ($30.00) per ton.

(d) Baled nylon filament: Twenty dollars ($20.00) per ton.

(e) Waste containing nylon filament: One hundred dollars ($100.00) per ton.

(Ord. No. 1703-88, § 1, 1-5-88; Ord. No. 1906-89, § 1, 9-5-89; Ord. No. 2023-90, § I, 9-4-90; Ord. No. 2144-91, § I, 10-15-91; Ord. No. 018-95HR, § I, 3-21-95; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-27. Corrugated cardboard banned from all landfills.

(a) Corrugated cardboard shall be banned from all county operated landfills located in the unincorporated areas of Richland County. This ban does not apply to any construction and demolition landfill.

(b) The manager of the solid waste division of the public works department and/or his or her designees, are hereby authorized to implement such programs and procedures as deemed necessary to further implement this program; to inspect all loads designated for any county operated landfill located in the unincorporated areas of the county to insure compliance with this section; to inspect such loads for corrugated cardboard content; and to impose such surcharges as set forth herein for violations of this section.

(c) The manager of the solid waste division of the public works department and/or his or her designees, shall issue a warning for any first occurrence where a load is found to consist of more than ten percent (10%) corrugated cardboard. Upon a second occurrence, the Director and/or his or her designees, shall impose a charge of forty eight dollars ($48.00) per ton for loads that consist of more than ten percent (10%) corrugated cardboard. This amount will be the entire tipping fee charged for such loads. For any third

or subsequent occurrence, a charge of seventy two dollars ($72.00) per ton shall be collected.

(d) The manager of the solid waste division of the public works department and/or his or her designees, shall be authorized to establish recycling centers throughout the county to accept corrugated cardboard and other recyclable materials.

(Ord. No. 024-95HR, § I, 5-2-95; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-28. Out-of-county waste banned from all county landfills.

(a) All solid and other wastes generated from outside the boundaries of the county are banned from being dumped in any county operated landfill.

(b) The manager of the solid waste division of the public works department and/or his or her designees, are hereby authorized to implement such programs and procedures as deemed necessary to further implement this ban; to inspect all loads designated for the county landfill(s) for any violations thereof; and to issue warrants according to law for any violations of this section.

(c) Any residential and/or small business solid waste collector found in violation of this section by the county council shall forfeit their contract with the county.

(d) The manager of the solid waste division of the public works department may seek an injunction to enforce the provisions of this section.

(e) Violations of this section shall be deemed to be a misdemeanor, and any shall subject the violator to a fine not exceeding one thousand dollars ($1,000.00), imprisonment not exceeding thirty (30) days, or both.

(Ord. No. 045-95HR, § I, 6-6-95; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-29--12-40. Reserved.

ARTICLE III. CONSTRUCTION, MODIFICATION, EXPANSION, AND/OR OPERATION OF SOLID WASTE MANAGEMENT FACILITIES, BENEFICIAL LANDFILLS, AND COMPOSTING FACILITIES

Editor's note--Nonamendatory Ord. No. 065-94, §§ III--VIII, adopted Sept. 6, 1994, has been included herein as a new Art. III, §§ 12-41--12-46, at the discretion of the editor.

Cross reference(s)--Hazardous materials, § 13-1 et seq.; zoning, Chapter 26.

Sec. 12-41. Federal, state and local law.

All solid waste management facilities, beneficial landfills, and composting facilities shall adhere to all federal and state rules and regulations, and all local zoning land use and other applicable local ordinances.

(Ord. No. 008-09HR, § I, 3-4-08)

Sections 12-42 – 12-47. Reserved.

RICHLAND COUNTY ADMINISTRATION
2020 Hampton Street, Suite 4069
Columbia, SC 29204
803-576-2050

Agenda Briefing

Prepared by:	John Ansell		**Title**:	General Manager	
Department:	Public Works	**Division:**	Solid Waste & Recycling		
Date Prepared:	May 05, 2021	**Meeting Date:**	June 22, 2021		
Legal Review	Elizabeth McLean via email		**Date:**	June 10, 2021	
Budget Review	James Hayes via email		**Date:**	June 14, 2021	
Finance Review	Stacey Hamm via email		**Date:**	June 10, 2021	
Approved for consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM			
Committee	Development & Services				
Subject:	Adoption of the Richland County Solid Waste Management Plan (SWMP)				

STAFF'S RECOMMENDED ACTION:

The Solid Waste & Recycling Division Staff recommends that County Council adopt and implement the updated 2021 Richland County Solid Waste Management Plan as required by the South Carolina Solid Waste Policy and Management Act of 1991.

Request for Council Reconsideration: ☐Yes

FIDUCIARY:

Are funds allocated in the department's current fiscal year budget?	☑	Yes		No
If no, is a budget amendment necessary?		Yes		No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

The Solid Waste Management Plan (SWMP) was prepared by HDR Consulting at a cost of $25,800.00. Purchase order CPS19056 was established for this plan.

COUNTY ATTORNEY'S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

None.

REGULATORY COMPLIANCE:

The South Carolina Solid Waste Policy and Management Act of 1991 requires preparation of local solid waste management plans.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

The Solid Waste Management Plan for Richland County, South Carolina, has been prepared in compliance with the South Carolina Solid Waste Policy and Management Act of 1991 (SC SWPM Act). The goals of the Plan, along with the recommended methods for implementation, are contained herein.

The purpose of this document is to accurately depict the background and current conditions of the solid waste management system in Richland County and to establish a plan by which the County can enter into a new era of solid waste management.

In developing this Solid Waste Management Plan, the Solid Waste & Recycling Division Staff agreed that the goals of this effort would be:

- To identify any deficiencies in existing solid waste management programs and systems which should be addressed in order to meet local needs and protect public health and the environment.

- To guide the County in what solid waste management programs and facilities should be implemented and developed in the future, and

- To maintain a Solid Waste Management Plan which is in compliance with State requirements and local objectives.

ADDITIONAL COMMENTS FOR CONSIDERATION:

The original Richland County Solid Waste Management Plan was created in 1994. Revisions were made in 2005 and 2011. The 2021 plan includes current population trends, describes legislative authority, expands on our county wide recycling program, provides current economic trends and expands on existing and future of Solid Waste Management here in Richland County. The Solid Waste Industry changes continuously and this revised plan will allow Richland County to keep up with current industry standards and those for the future.

ATTACHMENTS:

1. Richland County Solid Waste Management Plan

2021 Solid Waste Management Plan

Richland County

Richland County, South Carolina

May 4, 2021

HDR No. 10164014

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Appendix C – Richland County Council Meeting Minutes

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1 Executive Summary

1.1 Introduction

The Solid Waste Policy and Management Act of 1991 (Act) requires the South Carolina Department of Health and Environmental Control (SC DHEC) to publish a Solid Waste Management Plan (State Plan). The most recent revision to the State Plan was published in 1999.

The Act also requires preparation of "local" solid waste management plans. Richland County initially developed a Solid Waste Management Plan for Richland County (Plan) in 1994 and updated it in April 2005. The Plan was again updated in 2011 but was not approved by the Richland County Council. The purpose of this revision is to update the Plan by incorporating information through Fiscal Year (FY) 2019 to correspond with the latest South Carolina Solid Waste Management Annual Report, as well as to generate planning for a future period of twenty years. For the purposes of this Plan, fiscal year is defined as July 1 through June 30 (i.e. FY 2019 is from July 1, 2018 to June 30, 2019). This update to the Plan has been organized to follow the 1999 State Plan and has been prepared so that information presented in the Plan can be readily incorporated into the appropriate chapters of the State Plan. It is recommended that the Richland County Solid Waste Management Plan be reviewed annually and updated every five years.

A brief synopsis of each Section of the 2021 Solid Waste Management Plan is provided in the remainder of this section.

1.2 Legislative Authority

Subtitle D of the Resource Conservation and Recovery Act of 1976 (RCRA) is a federal law, which was established to provide nationwide standards for management of solid waste. Because South Carolina adopted the standards outlined in Subtitle D, the United States Environmental Protection Agency (EPA) gave authorization to the State to enforce solid waste management standards.

The State law that largely governs the management of solid waste in South Carolina is the Solid Waste Policy and Management Act of 1991 (Act). The Act required SC DHEC to develop South Carolina's Solid Waste Management Plan. The Act also provided minimum standards as to the content of the Plan. Also included as part of the Act, SC DHEC was given responsibility in the development and promulgation of various regulations intended to establish minimum standards for the construction, maintenance, operation, and closure of solid waste management facilities.

Section 44-96-80(J) of the Act gives the Governing body of a county the responsibility and authority to provide for the operation of solid waste management facilities. The Governing body of the Richland County Solid Waste & Recycling Division is the Richland County Council.

A copy of the Richland County Cody of Ordinance for management of solid waste (Chapter 12) is provided in *Appendix A*.

1.3 Demographics

Using the US Census Data (Census 2010) population projection growth rate, the permanent population of Richland County in FY 2019 was estimated to be 414,576. The projections are based on an estimated 0.96 percent annual growth rate through 2020; annual growth rate from 2020 to 2025 is estimated to be 0.74 percent, from 2025 through the remainder of the 20-year planning period is estimated to be 0.67 percent. The permanent population is estimated to be 479,224 people in FY 2040.

1.4 Existing and Future Solid Waste Management

According to the South Carolina Solid Waste Management Annual Report for FY 2019, each South Carolinian generated an average of 5.2 pounds per day of Municipal Solid Waste (MSW) and an average of 3.7 pounds per day of the generated MSW was disposed. Additionally, the State's per capita MSW recycling rate was an average 1.5 pounds per day. Comparatively, for Richland County in FY 2019, SC DHEC reported that Richland County had a residential per capita generation rate of 4.3 pounds per day, a per capita MSW disposal rate of 3.7 pounds per day, as well as a per capita MSW recycling rate of 0.59 pounds per day.

Collection and transfer of waste for disposal in Richland County is accomplished by varying means throughout the County, depending on the particular location. The collection of solid waste for the majority of Richland County's population is either curbside or staffed drop-off centers.

There are three permitted Class 3 Landfills within Richland County. The commercially operated, privately-owned Waste Management of Richland Landfill has an estimated 25.1 years of remaining life based on its permitted disposal rate. Based on current disposal rates, it has 30 years of remaining life. The Richland Landfill accepts the majority of the State's imported waste. The Richland Landfill has notified the County that it is planning to request an increase in the annual disposal rate for the landfill. The commercially operated, privately-owned Northeast Landfill, LLC has an estimated 10.8 years of remaining life based on its permitted disposal rate. Based on current disposal rates, it has 34.7 years of remaining life. The non-commercially operated, privately-owned Dominion Energy Wateree Station Landfill has an estimated remaining airspace of 15.1 million cubic yards. Its estimated remaining life was reported by SC DHEC in the FY 2019 South Carolina Solid Waste Management Annual Report as not applicable.

There are three permitted Class 2 Landfills within Richland County. The commercially operated, publicly owned Richland County Construction & Demolition Debris (C&D) Landfill has approximately 11 years of remaining life. The commercially operated, privately-owned Carolina Grading Inc. Landfill has approximately 150 years of remaining life. The non-commercially operated, privately-owned International Paper – Eastover Landfill has approximately nine years of remaining life.

The 1991 Solid Waste Management Act placed disposal bans (cannot be landfilled) on lead-acid batteries, used oil, yard trash & land-clearing debris, whole waste tires, and white goods. Beginning July 1, 2011, certain electronic wastes were banned from disposal in landfills in South

Carolina. Richland County provides collection, recycling, and disposal services for the banned items.

A list of SC DHEC permitted or registered solid waste facilities located within Richland County is located in *Appendix B*.

1.5 Local Government Oversight

All of the incorporated areas of Richland County, including the Cities/Towns of Arcadia Lakes, Blythewood, Cayce, Columbia, Eastover, Forest Acres, and Irmo, as well as the unincorporated collection system generate funds in support of their systems through user fees and/or property taxes. These user fees and/or property taxes pay for collection, recycling and mulching, public education, as well as disposal. The annual fee for curbside collection is included in each Richland County property owner's annual tax bill. The Town of Blythewood has an intergovernmental agreement (IGA) with Richland County whereby the solid waste services in Blythewood will be managed by Richland County.

It is the responsibility of the Richland County Solid Waste & Recycling Division to address the planning of solid waste management facilities. Richland County's primary sources of revenue to cover costs for siting, construction, operation, closure, and post-closure care of any proposed solid waste management facilities for the 20-year planning period are generated from residential solid waste fees, tipping fees, roll cart fees and sales from recyclables. Ordinance No. 954-82 plays an important role in providing a means of funding for all solid waste management and recycling facilities located in Richland County. According to Ordinance No. 954-82, the Richland County Solid Waste & Recycling Division shall annually determine the assessments to be levied for garbage services mainly based upon the level of services provided the property, the amount of funds required to finance solid waste collection, and the benefit received by the property, and advise the auditor of the assessment to be collected. It is the auditor's duty to include the assessment with the annual property tax notices. The county director of finance shall be the one to establish a solid waste enterprise fund. All receipts collected by the treasurer from the assessments for the purpose of solid waste collection will be credited to the established fund.

1.6 Goals, Policies, Strategies & Barriers

The Richland County Solid Waste & Recycling Division intends to incorporate the goals and policies set by the State into its solid waste program. Through Richland County's recycling and public education programs, significant effort has been made toward recycling and reduction of solid waste. As funding allows, the Richland County Solid Waste & Recycling Division intends to capitalize on opportunities to achieve the per capita waste generation goal and continue to work toward exceeding the recycling goal set by the State Plan. The greatest barriers to increasing solid waste reduction and recycling include adequate and affordable markets for recyclables, available funding, and education.

1.7 Public Participation, Plan Revision, and Consistency with State and Local Solid Waste Management Plan

The 2021 Richland County Solid Waste Management Plan was prepared utilizing input from local governments. While Section 44-96-80(N) of the South Carolina Solid Waste Policy and Management Act calls for the formation of a Solid Waste Advisory Council, it was decided that this formation was unnecessary as the Richland County Solid Waste & Recycling Division and local governments provided sufficient review of the Plan. This Plan will instead be submitted straight to Richland County Council by the Richland County Solid Waste & Recycling Division. Meeting minutes documenting the Richland County Council review of the Richland County Solid Waste Management Plan will be provided to SC DHEC and eventually be located in *Appendix C* of this Plan.

The Richland County Solid Waste Management Plan will be updated every five years, at a minimum. Revisions of the Richland County Solid Waste Management Plan require endorsement of the Richland County Solid Waste & Recycling Division and the Richland County Council.

Section 44-96-290(F) of the Act states no permit to construct a new solid waste management facility or to expand an existing solid waste management facility within a county or municipality may be issued by SC DHEC unless:

- The proposed facility or expansion is consistent with the local or regional solid waste management plan and the state solid waste management plan; and
- The host jurisdiction and the jurisdiction generating solid waste destined for the proposed facility or expansion can demonstrate that they are actively involved in and have a strategy for meeting the statewide goal of waste reduction established in this chapter.

All permit applications for solid waste management facilities must be submitted to SC DHEC and reviewed for consistency with the State Solid Waste Management Plan and the 2021 Richland County Solid Waste Management Plan.

2 Legislative Authority

2.1 Introduction

The purpose of this section is to describe the legislative authority for preparation of this plan.

2.2 Federal

The EPA regulates solid waste under the authority of RCRA. Non-hazardous solid waste is governed by Parts 257 and 258 of the Code of Federal Regulations. Part 258, better known as RCRA Subtitle D, establishes criteria for municipal solid waste landfills and was published in the Federal Register on October 9, 1991. The intent of this section is to establish a framework for federal, state and local government cooperation in controlling the management of non-hazardous solid waste. The federal role in this arrangement is to establish the general regulatory direction, by providing minimum nationwide standards for protecting human health and the environment and to provide technical assistance to states for planning and developing their own environmentally sound waste management practices.

2.3 State

The principle state law that governs solid waste management is the South Carolina Solid Waste Policy and Management Act of 1991 (Act).

The Act outlines its purpose as follows:

1. to protect the public health and safety, protect and preserve the environment of the State and recover resources which have the potential for further usefulness by providing for, in the most environmentally safe, economically feasible and cost- effective manner, the storage, collection, transport, separation, treatment, processing, recycling and disposal of solid waste;
2. to establish and maintain a cooperative state program for providing planning assistance, technical assistance, and financial assistance to local governments for solid waste management;
3. to require local governments to adequately plan for and provide efficient, environmentally acceptable solid waste management services and programs;
4. to promote the establishment of resource recovery systems that preserve and enhance the quality of air, water and land resources;
5. to ensure that solid waste is transported, stored, treated, processed and disposed of in a manner adequate to protect human health, safety, welfare and the environment;
6. to promote the reduction, recycling, reuse and treatment of solid waste and the recycling of materials which would otherwise be disposed of as solid waste;
7. to encourage local governments to utilize all means reasonably available to promote efficient and proper methods of managing solid waste, which may include contracting with private entities to provide management services or operate management facilities on behalf of the local government, when it is cost effective to do so;

8. to promote the education of the general public and the training of solid waste professionals to reduce the generation of solid waste, to ensure proper disposal of solid waste and to encourage recycling;
9. to encourage the development of waste reduction and recycling programs through planning assistance, technical assistance, grants and other incentives;
10. to encourage the development of the state's recycling industries by promoting the successful development of markets for recycled items and by promoting the acceleration and advancement of the technology used in manufacturing processes that use recycled items;
11. to establish a leadership role for the State in recycling efforts by requiring the General Assembly, the Governor's Office, the Judiciary and all state agencies to separate solid waste for recycling and by granting a preference in state procurement policies to products with recycled content;
12. to require counties to develop and implement source separation, resource recovery or recycling programs or all of the above, or enhance existing programs so that valuable materials may be returned to productive use, energy and natural resources conserved and the useful life of solid waste management facilities extended;
13. to require local government and state agencies to determine the full cost of providing storage, collection, transport, separation, treatment, recycling and disposal of solid waste in an environmentally safe manner; and
14. to encourage local governments to pursue a regional approach to solid waste management.

The Act required SC DHEC to develop the South Carolina Solid Waste Management Plan (Plan). As stated in Section 44-96-60 of the Act, the Plan shall, at a minimum, include:

1. an inventory of the amounts and types of solid waste currently being disposed of at solid waste disposal facilities in this State, both in the municipal solid waste stream and in the industrial solid waste stream;
2. an estimate of solid waste which will require disposal at solid waste disposal facilities in this State projected for the 20-year period following this chapter's effective date;
3. an estimate of the current capacity in this state to manage solid waste, including an identification of each solid waste management facility and a projection of its remaining useful life;
4. an evaluation of current solid waste management practices, including without limitation waste reduction, recycling, incineration, storage, processing, disposal and export;
5. an analysis of the types of solid waste facilities which will be needed to manage the state's solid waste during the projected 20-year period;
6. a description of procedures by which the state may facilitate the siting, construction and operation of new facilities needed to manage the state's solid waste over the projected 20-year period;
7. an evaluation of existing local government solid waste management programs, including recommendations, if necessary, on ways to improve such programs;

8. a description of the means by which the State shall achieve its statewide solid waste recycling and reduction goals; including recommendations on which categories of solid waste material should be recycled;
9. procedures and requirements for meeting state goals for waste reduction and recycling, including composting and objectives for waste-to-energy implementation and sanitary landfilling;
10. a description of existing state programs and recommendations for new programs or activities that will be needed to assist local governments in meeting their responsibilities under this article, whether by financial, technical or other forms of aid;
11. procedures by which local governments and regions may request assistance from SC DHEC;
12. procedures for encouraging and ensuring cooperative efforts in solid waste management by the State, local governments and private industry, including a description of the means by which the State may encourage local governments to pursue a regional approach to solid waste management;
13. minimum standards and procedures developed after consulting with local government officials which must be met by a county or region in its solid waste management plan, including the procedures that will be used to provide input from private industry and from private citizens;
14. a comprehensive analysis of the amounts and types of hazardous waste currently being disposed if in municipal solid waste landfills and recommendations regarding more appropriate means of managing such waste;
15. a description of the public education programs to be developed in consultation with local governments, other state agencies, and business and industry organizations to inform the public of solid waste management practices in this State and the need for and benefits of recycling, reduction, and other methods of managing the solid waste generated in this State;
16. a description of the program for the certification of operators of solid waste management facilities;
17. recommendations on whether to require that certain solid waste materials be made degradable and, if so, which categories of materials; and
18. a fiscal impact statement identifying the cost incurred by SC DHEC in preparing the State Solid Waste Management Plan and that which will be incurred in carrying out all of SC DHEC's duties and responsibilities under this chapter, including the number of new employees that may be necessary, and an estimate of the revenues that will be raised by the various fees authorized by this chapter.

SC DHEC published the first State Solid Waste Management Plan, pursuant to the Act, on November 27, 1992. In mid-1999, SC DHEC published the 1999 South Carolina Solid Waste Management Plan that was intended to be a revision and update of the 1992 Plan.

In an effort to streamline the regulatory process for permitting of solid waste landfills, SC DHEC promulgated a new landfill regulation that based disposal of waste on the waste's chemical and physical properties and not the source of generation of the waste, except for municipal solid waste. On May 23, 2008, Regulation 61-107.19, Solid Waste Landfills and Structural Fill,

became effective. The regulation established minimum standards for site selection, design, operation, and closure of all solid waste landfills and structural fill areas. The regulation replaced R.61-107.11, Construction, Demolition, and Land- clearing Debris Landfills; R.61-107.13, Municipal Solid Waste Incinerator Ash Landfills; 61-107.16, Industrial Solid Waste Landfills; and, 61-107.258, Municipal Solid Waste Landfills. The landfill classifications established by R.61-107.19 are reflected in Section 4, Existing and Future Solid Waste Management.

Another regulatory change that has occurred is the revision to R.61-107.17, Demonstration of Need. The revisions to the regulation became effective on June 26, 2009. Changes in the regulation drastically reduced allowable increases in the maximum annual disposal rate for Class 2 and Class 3 Landfills. Another important revision to the regulation provides for only one replacement of an existing Class 2 or Class 3 Landfill that has exhausted its capacity. From a planning standpoint, it is imperative that the capacity of the existing site be utilized to the maximum extent before moving to a replacement site.

A regulatory change occurred in R.61-107.4 Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, which became effective on June 26, 2015. Changes in the regulation were related to feedstock categories for composting.

The SC Solid Waste Policy and Management Act of 1991, Section 44-96-360 of the 1976 Code, was amended on May 3, 2018 with requirements for C&D recyclers and processors. Specifically, all unpermitted C&D debris recycling and processing facilities in existence prior to or on May 3, 2018 were required to register with SC DHEC (by July 3, 2018); submit a permit application (if required based on information provided in the registration) within 12 months of the effective date of the amendment (by July 3, 2019); and obtain a permit within 24 months of the effective date (July 2, 2020). Any new facility (after May 3, 2018) that plans to process or recycle C&D debris must register or obtain a permit before beginning operations. All registered C&D debris recycling and processing facilities must submit an annual report by March 1 to SC DHEC. In addition, facility records must be maintained for no less than three years.

Additionally, as part of this 2018 amendment, Section 44-96-85 was added to establish the Solid Waste Emergency Fund. The department shall transfer 2.5 percent of the funds remitted quarterly to the Solid Waste Management Trust Fund to a special sub-fund designated as the Solid Waste Emergency Fund. The department shall deposit quarterly payments into the Solid Waste Emergency Fund until the unencumbered balance equals $1,500,000. Section 44-96-120 (relating to the Solid Waste Management Trust Fund) was also amended to include funding of the Solid Waste Emergency Fund in the list of authorized Solid Waste Management Trust Fund expenditures. Lastly, Section 44-96-290 (relating to Solid Waste Management Facility Permitting) was amended to allow the Department to limit Demonstration of Need (DON) requirements, to remove local land use and zoning ordinances from a construction permit to build a new solid waste management facility or expand an existing facility, and to require a person seeking a construction permit to provide documentation of compliance with local land use and zoning ordinances.

2.4 Local Government

Section 44-96-80(J) of the Act gives the governing body of a county the responsibility and authority to provide for the operation of solid waste management facilities. The current governing body of Richland County is the Richland County Council.

Section 44-96-80(K) of the Act gives the governing body of a county the authority to enact such ordinances that may be necessary to carry out these responsibilities regarding solid waste management.

The primary County Ordinance regarding solid waste, Chapter 12 in the Code of Ordinances entitled “Garbage, Trash and Refuse", is provided in *Appendix A*. County-wide collection and disposition of solid waste allows for more effective implementation of the County's integrated solid waste management plan. It is anticipated that this County Ordinance will be updated in the near future to more accurately reflect current strategies and operations of solid waste management.

Section 44-96-80(A) of the Act requires the governing body of a county to develop a solid waste management plan. It also outlines the minimum requirements that are to be addressed in the Plan. These requirements include the following:

1. an estimate of the amount of solid waste currently disposed of at the solid waste disposal facilities within that county or region and a projection of the amount of solid waste that will be disposed of at solid waste disposal facilities during the 20-year period following this chapter's effective date;
2. an estimate of the current capacity within that county or region to manage solid waste including identification of each solid waste management facility and a projection of its useful life;
3. an analysis of the existing and new solid waste facilities that will be needed to manage the solid waste generated within that county or region during the projected 20-year period;
4. an estimate of the cost of implementing the solid waste management plan within that county or region;
5. an estimate of the revenue that each local government or region needs and intends to make available to fund implementation of the solid waste management plan;
6. an estimate of the cost of siting, constructing, and bringing into operation any new facilities needed to manage solid waste within that county or region during the projected 20-year period;
7. a description and estimate of the sources and amount of revenues that can be made available for the siting, construction, and operation of the new solid waste management facilities;
8. a description of resource recovery, or recycling program, or both, which shall be implemented in each county or region and shall include, at a minimum, the following:
    a. a designation of a recycling coordinator;
    b. an identification of the categories of solid waste materials to be source separate, recovered, recycled, or all of the above;

   c. an identification of the means by which such materials will be collected and marketed;
   d. a description of the incentives or penalties, or both, that will be used to ensure compliance with the recycling program; and
   e. a description of the public education program that will be used to inform the public of the need for and benefits of source separation, recovery, and recycling and of the requirements of the recycling program; and
9. a description of efforts, in addition to the recycling program, which will be undertaken within that county or region to meet the solid waste reduction goal as established on a statewide basis in Section 44-96-50.

The Richland County Solid Waste & Recycling Division is currently responsible for preparing the Richland County Solid Waste Management Plan. Richland County initially developed a Solid Waste Management Plan in 1994 and updated it in April 2005. Updates to the 2005 Plan have been made since then but were never approved by County Council. This Plan, the 2021 Richland County Solid Waste Management Plan, is prepared for the purpose of meeting the requirements of Section 44-96-80 of the Act.

Each of the municipalities within Richland County have solid waste related ordinances within their respective jurisdictions, including:

- **Town of Arcadia Lakes:** The Town of Arcadia Lakes covers solid waste related matters in Chapter 6, Article V, Garbage and Refuse of the Town Code of Ordinances.
- **Town of Blythewood:** The Town of Blythewood has an IGA with Richland County such that the County will collect the Town's waste as part of its collection; therefore, solid waste management in the Town of Blythewood also abides by Chapter 12 of the Richland County Code of Ordinances.
- **City of Cayce:** The City of Cayce covers solid waste related matters in Chapter 34 Solid Waste Management of the City Code of Ordinances.
- **City of Columbia:** The City of Columbia covers solid waste related matters in Chapter 19 Solid Waste Management of the City Code of Ordinances.
- **Town of Eastover:** The Town of Eastover covers solid waste under its Article 3 Ordinances.
- **City of Forest Acres:** The City of Forest Acres covers solid waste related matters in Chapter 8 Garbage and Trash of the City Code of Ordinances.
- **Town of Irmo:** The Town of Irmo covers solid waste related matters in Chapter 26 Solid Waste Management of the Town Code of Ordinances.

3 Demographics

3.1 Introduction

There are multiple sources of population information available. For the purpose of this Plan, the method to project Richland County's population utilized the data reported in the South Carolina Solid Waste Management Annual Reports (SC DHEC) for 2015, 2016, 2017, 2018, and 2019. US Census Data sourced from the SC Revenue and Fiscal Affairs Office was then used to project future yearly populations.

According to the US Census, the population projection increased by an annual average of 0.96 percent between 2015 and 2020; by 0.74 percent between 2020 and 2025; and by 0.67 percent between 2025 and 2030. The permanent resident population is estimated to be 479,224 in FY 2040, as shown in Table 3.1.

Table 3.1 Population projection – Richland County

Fiscal Year	Permanent Residents[+]
2015	401,566
2016	407,051
2017	409,549
2018	411,592
2019	414,576
2020	420,845
2021	423,960
2022	427,098
2023	430,259
2024	433,444
2025	436,420
2026	439,336
2027	442,271
2028	445,227
2029	448,201
2030	451,000
2031	454,013
2032	457,047
2033	460,101
2034	463,175
2035	463,530
2036	466,627
2037	469,745
2038	472,884
2039	476,043
2040	479,224

[+] Unless otherwise noted, permanent residents are estimated from South Carolina State Projections. See note below.
* Population growth rates were calculated from the Census Bureau's FY 2020, FY 2025, FY 2030 and FY 2035 population estimates. (Note that the population counts in this analysis diverge slightly from Census counts due to the availability of actual population counts in 2015 through 2019.)

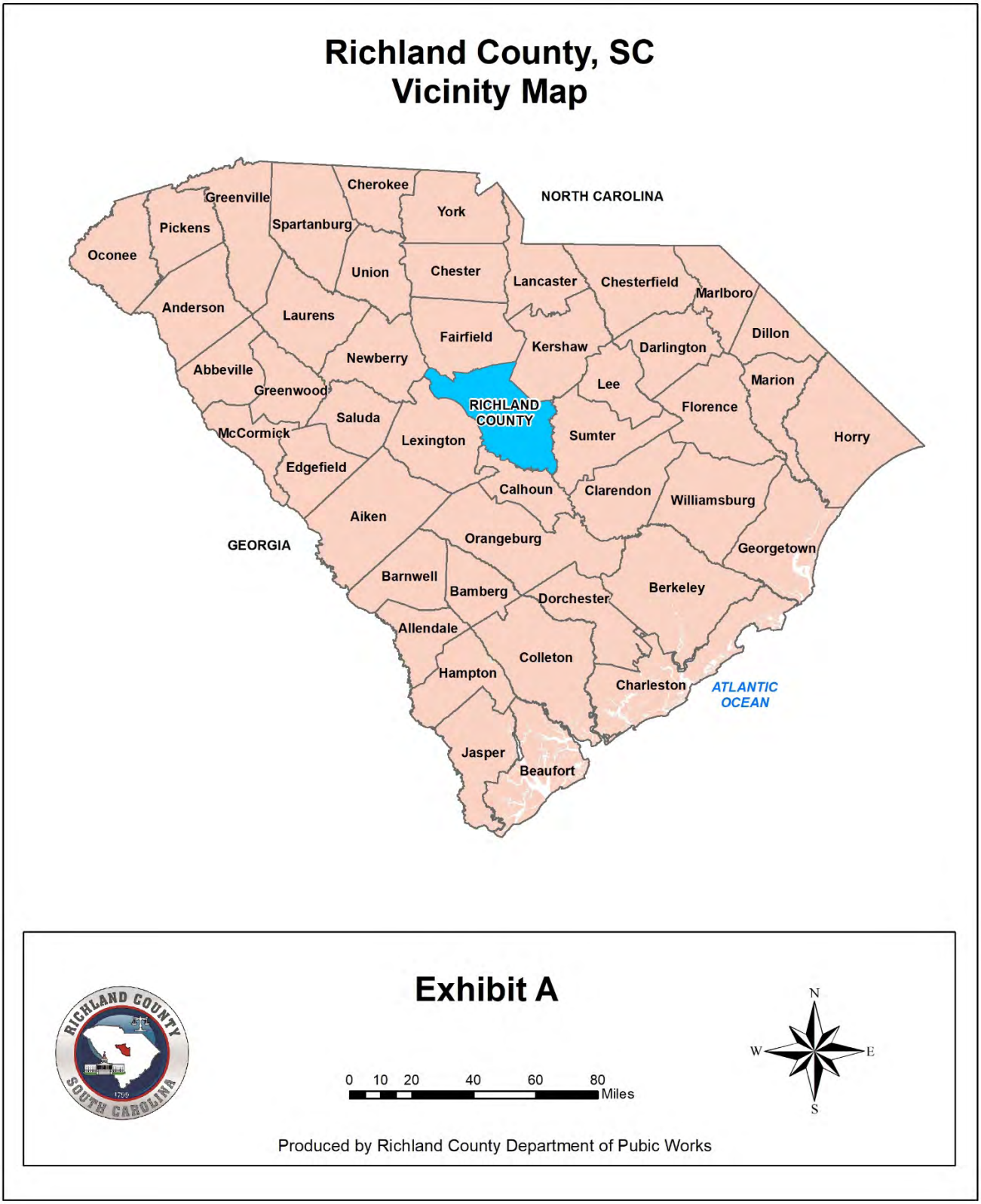

Exhibit A - Vicinity map

3.2 Economic Trends

The characteristics of a local economy are significant indicators of growth. Changes in the economic base will directly affect solid waste management within Richland County and must be an integral part of solid waste planning. The availability and type of employment impacts the demand for housing, retail trade, and services. As Table 3.2 illustrates, from 2013 to 2019, Richland County's labor force has increased by approximately 8,088 people, a gain of approximately 4.2 percent. Within the last 10 years, according to Richland County, the unemployment rate in Richland County has ranged from a low of 2.2 percent in 2019 to a high of 9.4 percent in 2010. As the unemployment rate of Richland County decreases, the waste stream generated through industrial and commercial business should increase as a result of increased production. It should be noted that some of the labor force in Richland County may not work within the County limits and some employed in Richland County may reside in other counties. Richland County's unemployment rate has consistently been either equal or slightly higher than the Columbia Metropolitan Statistical Area (MSA) average unemployment rate over the past seven years.

Table 3.2 Richland County labor force characteristics (2013-2019)

Year	County Labor Force	County Unemployment Rate (%)	Columbia MSA Labor Force	Columbia MSA Unemployment Rate (%)
2013[+]	190,867	6.9	382,165	6.7
2014[+]	194,126	6.0	389,806	5.8
2015[+]	198,804	5.7	398,970	5.5
2016[+]	200,628	4.7	402,727	4.5
2017[+]	199,987	4.8	402,734	4.1
2018[+]	198,511	3.3	399,043	3.2
2019*	198,955	2.2	402,903	2.2

[+] Unless otherwise noted, labor force data is reported from Richland County Economic Development. http://richlandcountysc.com/Workforce/Unemployment.

* December 2019 Richland County Labor Force. http://richlandcountysc.com/Workforce/Labor-Force.

Industry and business in Richland County are crucial factors in solid waste planning. As the member of industries and businesses in the County increase, the amount of waste generated within the County increases.

In an effort to attract industry to Richland County, several commercial and industrial parks have been developed. Currently, 12 industrial parks are located in Richland County (*Exhibit B*):

1. Blythewood Industrial Park (Megasite) - Blythewood Industrial Park is a developing Industrial Park able to locate a large, single-user original equipment manufacturer (OEM) encompassing 1,349 acres between Blythewood Road and US Highway 21 and along Community Road with approximately two miles of Interstate 77 frontage.
2. Buckner Industrial Park - The approximately 26-acre Buckner Industrial Park is located less than one-half mile from Interstate 20, Interchange 70. The site is a developing industrial park, zoned light manufacturing (M-1). The surrounding land use is both industrial and commercial.

3. Carolina Pines Industrial Park - Carolina Pines Industrial Park is approximately 70 acres and is located on US Highway 21 at Interstate 77. The site is zoned for light industry.
4. Carolina Research Park – Carolina Research Park consists of approximately 260 acres located on Farrow Road (SC 555) at Interstate 77.
5. Fontaine Business Center - The Fontaine Business Center is 28 acres located on SC Road 277 approximately two miles south of Interstate 20. The site is a developing industrial park and the surrounding land use is predominately industrial and commercial in nature.
6. Northpoint Industrial Park - Located within the northwest quadrant of the Interstate 77 and US Highway 21 Interchange, Northpoint Industrial Park encompasses approximately 380 acres. The site is a developing industrial park and the surrounding land use is industrial and commercial.
7. Pineview Industrial Park - Pineview Industrial Park is 780 acres zoned for light manufacturing (M-1). The site is located off of SC Highway 768 approximately two miles from US Highway 378.
8. Pontiac Business Center Park - Pontiac Business Center Park is approximately 60 acres zoned as M-1-Distribution. Interstate 20 provides interstate access approximately one-half mile from the site.
9. Richland Northeast Industrial Park - Richland Northeast Industrial Park encompasses approximately 310 acres located along US Highway 1. The site is a developmental industrial park with protective convents.
10. Seventy-Seven Business Park - Seventy-Seven Business Park is a developing industrial park located on Farrow Road (SC 555) consisting of approximately 200 acres. The site is located approximately one-half mile from Interstate 77.
11. Shop Grove Commerce Park – Shop Grove Commerce Park is approximately 43 acres zoned as light industrial (M-1). The park is located at Shop Road and Shop Grove Drive just north of Pineview Industrial Park.
12. Spears Creek Commerce Park – Spears Creek Commerce Park is zoned as light industrial (M-1) consisting of approximately 50 acres. Interstate 20 and SC Road 53 provide access to the Park.

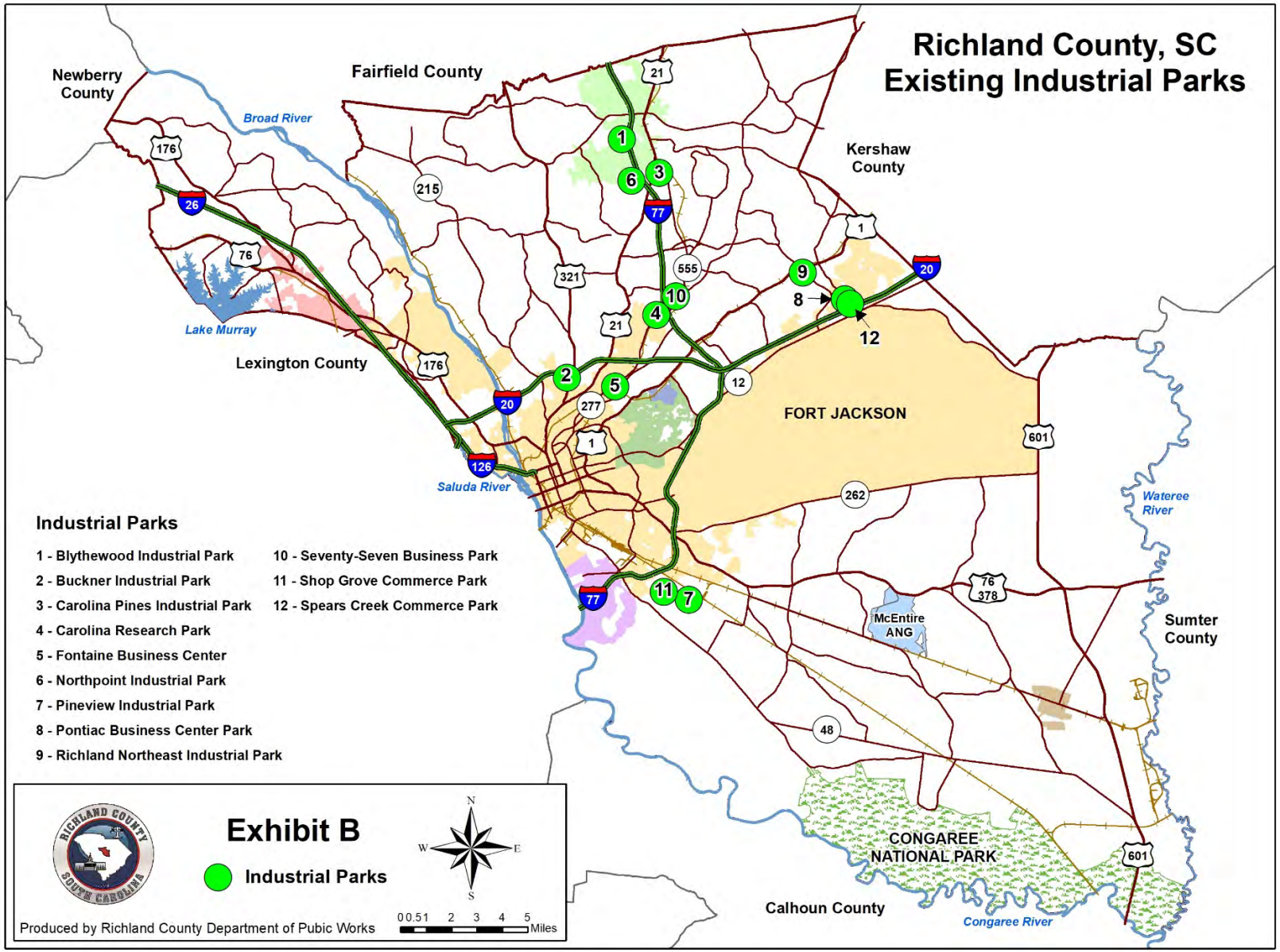

Exhibit B - Industrial parks

3.3 Land Use

Land use is an important characteristic to be evaluated in the development and implementation of a solid waste management system because it indicates areas of growth and urban development, both of which result in increased waste generation. In addition, area of concentrated growth can cause congestion, which could adversely affect the collection and transportation of solid waste.

Richland County encompasses approximately 756 square miles including the municipalities of Arcadia Lakes, Blythewood, Cayce, Columbia, Eastover, Forest Acres and Irmo. Most of the land within Richland County is privately owned with the exception of Harbison Environmental Education State Forest, Congaree Swamp National Park, Fort Jackson U.S. Military Reservation, McEntire Joint National Guard Base, and land owned by the County and its municipalities. Richland County has a population density of approximately 508 people per square mile, ranking second out of 46 counties in South Carolina according to the US Census 2010.

Harbison State Forest is located approximately nine miles direct from City of Columbia along the Broad River. The Forest encompasses 2,177 acres of forest land and contains 12 miles of nature trails designed for walking, jogging, hiking, and bicycling, ranging from easy to moderately difficult. The area serves primarily as an educational and recreational green space for metropolitan Columbia and the state of South Carolina.

Congaree Swamp National Park is located approximately 20 miles southeast of the City of Columbia. The National Park rests on a floodplain of the Congaree River. The Park was authorized as a unit of the National Park Service on October 18, 1976. On June 30, 1983, the site was recognized as an International Biosphere Reserve. Congaree Swamp National Park offers a boardwalk loop 2.3 miles long, over twenty miles of hiking trails and 18 miles of canoe trails.

Fort Jackson Military Reservation encompasses more than 52,000 acres of land. Serving as a military base along Interstate 77. The post has its own family housing units, golf course, recreation areas, recycling drop-off center, etc. Fort Jackson is the largest and most active Initial Entry Training Center in the United States Army and has a significant economic impact on the Richland County area.

The McEntire Joint National Guard Base, formed in 1946, is a 2,400-acre base located approximately 12 miles east of Columbia. Under normal operating conditions, the Base has a daily population of 1,000 persons, both enlisted and civilian, with an overall available capacity of 4,000 persons. The Base does not have residential housing. Disposed waste is collected in on-site dumpsters which are serviced by Waste Management. The Base has its own government program, not affiliated with Richland County, for on-base recycling called the “Quality Recycling Program”. The program is managed by Pratt Recycling located at 120 Atlas Road in Columbia, South Carolina. The program includes the collection of plastic, cardboard, aluminum, steel, waste oil, and cooking oil/grease.

Richland County is located in the central part of the state and has excellent transportation access to the Interstates and federal highway system. There are three Interstates and five U.S. Highways including Interstate 77, Interstate 26 and Interstate 20. Interstate 20 intersects the central part of the County east to west, which gives excellent access to Columbia, SC and its outlying communities. Interstate 77, the beltway to Charlotte, North Carolina, begins in Columbia and provides access to Interstate 26. Interstate 26, located along the west boundary of the County, provides access to Columbia. It originates from Charleston, South Carolina and runs all the way up through Spartanburg, South Carolina. These three Interstates support most of Richland County's transportation needs, but some major US and SC Highways are as follows:

- US Highway 601 (north-south) Kershaw County to Calhoun County
- US Highway 378/76 (east-west) Columbia, SC to Sumter, SC
- US Highway 1 (east-west) Columbia, SC to Camden, SC
- US Highway 21 (north-south) Columbia, SC to Ridgeway, SC
- US Highway 321 (north-south) US 21 to Winnsboro, SC
- SC Highway 12 (east-west) Columbia, SC to Camden, SC
- SC Highway 262 (east-west) US 378 to US 601
- SC Highway 277 (east-west) Columbia, SC to Interstate 77
- SC Highway 555 (north-south) Columbia, SC to US 21

Other modes of transportation include truck, rail, and air. Freight railroad service providers are CSX and Norfolk Southern. Amtrak provides passenger railroad service. Central Midlands provides local bus service daily. Greyhound Bus Line and Southeastern Stages provide national bus service daily. Columbia Metropolitan Airport, located in Columbia, provides commercial air service and Columbia's Owens Field serves as the local airport. Columbia was designated a foreign trade zone in 1986 with currently four freight carriers. The four freight carriers that provided airborne service are Airborne Express, Emery Worldwide, Federal Express, and Mid Atlantic Freight. Richland County has 44 truck freight carriers and10 truck terminals. Charleston is the nearest port facility, which is approximately 110 miles from Columbia.

Richland County contains an adequate amount of utility services. Water service providers are Richland County Utilities, Carolina Water Service Inc., Chapin Water System, and City of Columbia. The eight sanitary sewer service providers are Richland County Utilities, Carolina Water Service Inc., Chapin Sewer System, City of Columbia, East Richland County Public Service District, Midlands Utility Inc., Palmetto of Richland County LLC, and Palmetto Utilities Inc. Four electricity service providers to the area are Central Electric Power Cooperative, Mid-Carolina Electric Cooperative, Dominion Energy (previously known as SCE&G), and Tri-County Electric Cooperative. Dominion Energy provides natural gas service to the area.

The majority of urban and built-up areas are situated within corporation limits of the municipalities within the County, such as, the City of Columbia, the City of Cayce, Town of Irmo, City of Forest Acres, Town of Arcadia Lakes, Town of Eastover and Town of Blythewood. The remaining municipalities are relatively small, having populations of less than 1,000 residents. According to population data obtained by the South Carolina Office of Research and Statistics,

Richland County has experienced moderate growth, primarily in the unincorporated areas of the County. Residential and commercial development is expected to increase as the larger municipal areas and the neighboring counties continue to experience growth. As residential, commercial, and industrial development increases in the County, additional solid waste collection locations should be evaluated to accommodate the increase in waste generation. For instance, it is anticipated that a new waste materials drop-off center will need to be constructed to service the northwest area of Richland County. Similarly, the northeast area of the County only has a partially servicing drop-off center (i.e. the Clemson Road Recycling Drop-Off Site) that will need to be expanded to act as a full-service center or moved to another location. In addition, as traffic in Richland County increases, the traffic patterns for solid waste transport should also be evaluated. For example, due to unsafe traffic patterns and volume at the Lower Richland Drop-Off Center, the site is expected to be re-evaluated to find a replacement site in a safer location with safer access for residents.

4 Existing and Future Solid Waste Management

4.1 Introduction

Section 44-96-60 of the Solid Waste Policy and Management Act requires that the State's existing solid waste management be assessed and that the State's future solid waste management needs be determined and addressed.

The information in this chapter describes existing and future solid waste management in Richland County.

4.2 Generation & Characterization

4.2.1 Existing Conditions

The FY 2019 South Carolina Solid Waste Management Annual Report determined, based on FY 2019 figures, that each South Carolinian disposed an average 3.7 pounds per day of Municipal Solid Waste (MSW). It should be noted that according to the FY 2019 South Carolina Solid Waste Management Annual Report, MSW does not include other waste types such as industrial process waste, construction and demolition (C&D) debris, land-clearing debris, automobile bodies, combustion ash and other items. The FY 2019 South Carolina Solid Waste Management Annual Report further determined that based on FY 2019 figures, each South Carolinian generates an average 5.2 pounds per day of MSW.

For Richland County in FY 2019, SC DHEC reported that 414,576 Richland County residents disposed of 280,396 tons of MSW and recycled 44,644 tons of MSW, resulting in a per capita MSW disposal rate of 3.7 pounds per day and a per capita MSW recycling rate of 0.59 pounds per day, respectively. Similarly, in FY 2019, Richland County residents generated 325,040 tons of MSW, resulting in a per capita generation rate of 4.3 pounds per day. Table 4.1 shows per capita MSW disposal and generation rates for Richland County residents for FY 2013 to FY 2019.

Table 4.1. Richland County per capita existing waste rates (2013-2019)

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
MSW Disposed (tons)*	263,456	258,569	249,128	237,489	266,846	280,452	280,396
MSW Recycled (tons)*	76,467	114,740	82,923	76,861	84,103	51,351	44,644
Grand Total MSW Generated (tons)	339,923	373,309	332,051	314,350	350,949	331,803	325,040
Permanent Population*	393,830	399,256	401,566	407,051	409,549	411,592	414,576
Per Capita Daily MSW Disposed (lbs)*	3.7	3.6	3.4	3.2	3.6	3.7	3.7
Per Capita Daily MSW Recycled (lbs)*	1.1	1.6	1.1	1.0	1.1	0.68	0.59
Per Capita Daily MSW Generation (lbs)*	4.7	5.1	4.5	4.2	4.7	4.4	4.3

* FY 13-FY 19 South Carolina Solid Waste Management Annual Reports, SC DHEC.

4.2.2 Future Conditions

To project future tonnages of MSW, the average disposal, recycling, and generation per capita rates (for FY 2013 to FY 2019) were applied to the projected populations for the 20-year planning period (FY 2020 to FY 2040). It is assumed that the per capita rates will remain unchanged over time. Assuming the population in FY 2040 is 479,224 people, it is projected that the total tons of MSW disposed based on the County's average MSW disposal rate (3.6 lb/p/d) is approximately 314,850 tons; the total tons of MSW recycled based on the County's average MSW recycling rate (1.0 lb/p/d) is approximately 87,458 tons; and the total tons of MSW generated based on the County's average MSW generation rate (4.6 lb/p/d) is approximately 402,309 tons. It is important to note that MSW projections do not include other waste types such as industrial process waste, construction and demolition (C&D) debris, land-clearing debris, automobile bodies, combustion ash and other items. Please refer to *Table 4.2* for projections of MSW disposal, recycling, and generation in the County for the planning period (FY 2020 to FY 2040).

Table 4.2 Richland County per capita projected waste rates (2020-2040)

	FY 2020	FY 2025	FY 2030	FY 2035	FY 2040
Projected Population	420,845	436,420	451,000	463,530	479,224
Projected MSW Disposed (tons)	276,495	286,728	296,307	304,539	314,850
Projected MSW Recycled (tons)	76,804	79,647	82,308	84,594	87,458
Projected MSW Generated (tons)	353,299	366,375	378,615	389,133	402,309
Average Per Capita Daily MSW Disposed (lbs)	3.6	3.6	3.6	3.6	3.6
Average Per Capita Daily MSW Recycled (lbs)	1.0	1.0	1.0	1.0	1.0
Average Per Capita Daily MSW Generation (lbs)	4.6	4.6	4.6	4.6	4.6

4.3 Collection & Transfer

Collection and transfer of waste in Richland County is accomplished by varying means throughout the County depending on the particular area. There are six incorporated areas within Richland County that have separate collection, including Arcadia Lakes, Cayce, Columbia, Eastover, Forest Acres, and Irmo, which provide for collection and transfer of waste within their respective incorporated limits. Although considered as an incorporated area, Richland County has an intergovernmental agreement (IGA) with the Town of Blythewood where the County will collect the Town's waste as part of its collection. The unincorporated areas of Richland County comprise the remaining area of Richland County. The collection and transfer of waste for each of these areas is described in more detail below.

4.3.1 Unincorporated Areas of Richland County

The unincorporated area of Richland County is provided residential solid waste collection and recycling services via staffed drop-off centers located throughout the County (*Exhibit C*) and by private haulers. Additional drop-off centers will be added as needed to serve the unincorporated area of Richland County.

Curbside collection is provided by private haulers and available for the following materials:

- Aluminum cans
- Cans (e.g., steel, aerosol)
- Cardboard (e.g., shipping and pizza boxes)
- Cartons (e.g., milk, juice, broth)
- Glass bottles and jars (brown, green, clear)
- Paper (e.g., catalogs, magazines, newspaper and inserts, office paper, unwanted mail, paper bags, envelopes)
- Paperboard (e.g., cereal boxes, shoe boxes)
- Plastic bottles, jars, and jugs
- Telephone books

The staffed Lower Richland Drop-Off Center, located at 10531 Garners Ferry Road, collects the following materials Monday through Saturday from 8:00 AM to 5:00 PM and Sunday from 12:30 PM to 5:00 PM (the center is closed on Tuesdays and Thursdays):

- Aluminum cans
- Antifreeze
- Appliances, large (e.g., refrigerators, washers, dryers)
- Batteries, lead-acid (car, truck, boat)
- Cans (e.g., steel, aerosol)
- Cardboard (e.g., shipping and pizza boxes)
- Cartons (e.g., milk, juice, broth)
- Cooking oil
- Electronics, household (televisions, computers, computer monitors, printers and other electronic equipment)
- Farmer oil (up to 55 gallons)
- Fluorescent bulbs
- Glass bottles and jars (brown, green, clear)
- Latex Paint
- Oil/gasoline mixtures
- Paper (e.g., catalogs, magazines, newspaper and inserts, office paper, unwanted mail, paper bags, envelopes)
- Paperboard (e.g., cereal boxes, shoe boxes)
- Plastic bottles, jars, and jugs
- Telephone books
- Tires
- Used motor oil and oil filters

The staffed drop-off center at the Richland County C&D Landfill, located at 1070 Caughman Road North in Columbia, collects the following materials Monday through Friday from 7:00 AM to 4:30 PM and Saturday from 7:00 AM to 12:30 PM:

- Aluminum cans
- Appliances, large (e.g., refrigerators, washers, dryers)
- Cans (e.g., steel, aerosol)
- Cardboard (e.g., shipping and pizza boxes)
- Cartons (e.g., milk, juice, broth)
- Cooking oil
- Electronics, household (televisions, computers, computer monitors, printers and other electronic equipment)
- Farmer oil (up to 55 gallons)
- Fluorescent bulbs
- Glass bottles and jars (brown, green, clear)
- Latex Paint
- Mattress and Box Springs
- Oil/gasoline mixtures
- Paper (e.g., catalogs, magazines, newspaper and inserts, office paper, unwanted mail, paper bags, envelopes)
- Paperboard (e.g., cereal boxes, shoe boxes)
- Plastic bottles, jars, and jugs
- Tires
- Used motor oil and oil filters

The staffed drop-off center at the Clemson Road Recycling Drop-Off Site, located at 900 Clemson Road, collects the following materials Tuesday, Thursday, and Friday through Sunday from 9:00 AM to 6:00 PM:

- Aluminum cans
- Cans (e.g., steel, aerosol)
- Cardboard (e.g., shipping and pizza boxes)
- Cartons (e.g., milk, juice, broth)
- Cooking oil
- Glass bottles and jars (brown, green, clear)
- Paper (e.g., catalogs, magazines, newspaper and inserts, office paper, unwanted mail, paper bags, envelopes)
- Paperboard (e.g., cereal boxes, shoe boxes)
- Plastic bottles, jars, and jugs
- Telephone books

Waste generated by commercial (business) entities throughout the unincorporated areas of Richland County is collected by private contractors.

Currently, the unincorporated area of Richland County does not have a solid waste transfer station facility. A transfer station facility is not anticipated to be needed or required in the unincorporated area to meet Richland County's unincorporated area collection and transfer needs during the 20-year planning period.

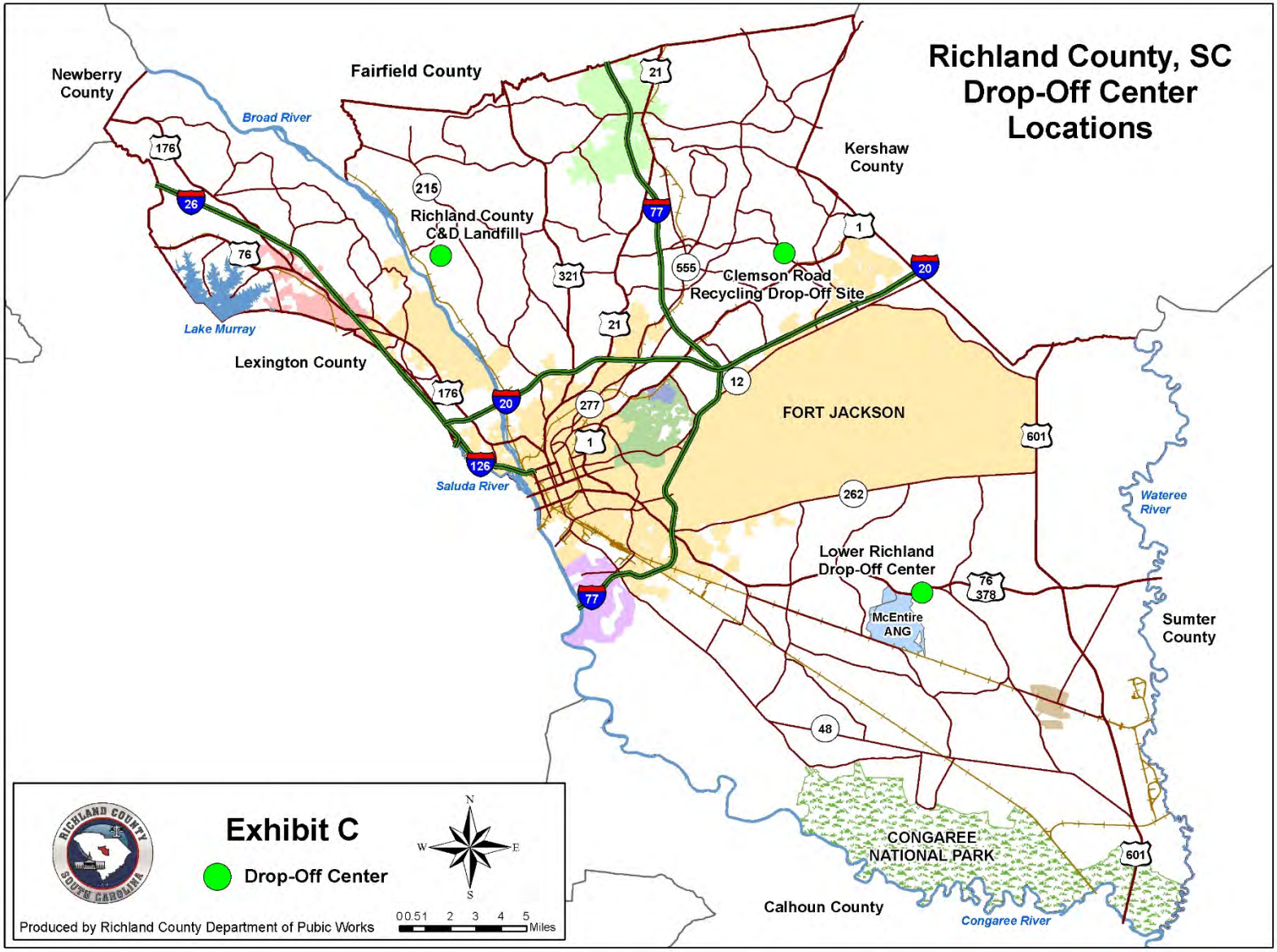

Exhibit C - Drop-off center

4.3.2 Incorporated Areas of Richland County

The incorporated areas are as follows (*Exhibit D*):

TOWN OF ARCADIA LAKES

- Curbside collection of the following items: cans (aluminum, steel); cardboard; plastic bottles, jars and jugs; paper (magazines, newspaper and inserts); paper board; empty aerosol cans; glass; junk mail; and office paper.
- Available drop-off centers: Richland County C&D Landfill and Lower Richland Drop-Off Center.

TOWN OF BLYTHEWOOD

- Although considered as an incorporated area, the Town has an IGA with Richland County where the Town's waste will be collected and managed as part of Richland County's solid waste services.

CITY OF CAYCE

- Household waste is collected curbside on a weekly basis. The waste is then disposed of at the Richland Landfill (Waste Management).
- Residential yard waste, preferably bagged, will be collected on regular household waste collection days. Tree limbs should not be longer than six feet in length and six inches in diameter. In normal season quantities, yard waste will be removed by the City of Cayce. If feasible, abnormal quantities may be collected after normal collection is completed. A fee for collection of abnormal quantities shall be collected in advance as set by the City manager and determined based on costs of personnel, equipment, and landfill fees. Whole trees, stumps, and land-clearing debris will not be collected by the City but shall be disposed of by the property owner or contractor performing removal.
- The City of Cayce picks up bulk items once a month, typically on the last Wednesday of every month. Bulk items include refrigerators, stoves, water heaters, air conditioners, freezers, washers and dryers, and furniture (e.g., sofas, chairs, mattresses, box springs, rugs, carpets, dressers, recliners, tables, etc.).
- Residential recycling is not required in the City of Cayce, but highly encouraged. Residents can purchase recycling bins at City Hall. Recycling is collected weekly, along with MSW and yard trash. Recycling roll carts have been provided in three neighborhoods within Cayce (Concord Park, Hunter's Mill and Moss Creek) through a pilot program. These carts are picked up every other week.
- The following products are recyclable as part of Cayce's Curbside Recycling Program: Newspaper and inserts; newspaper-like paper; plastic milk jugs and soda bottles; clear and colored plastic items coded #1 through #7; any metal or aluminum food cans; magazines; office paper; junk mail; phone books; and cardboard.
- The Program does not accept the following items at this time: Glass food containers in all colors; paint cans; and pesticide containers.
- There is a collection fee to pick up tires which must be paid in advance of pickup.
- The City does not pick up C&D on a regular basis but if the City can feasibly remove the debris it will be done for a fee paid in advance.

CITY OF COLUMBIA

- Curbside collection of the following items: aluminum cans, foil, trays and pie pans; cans (aluminum, steel, aerosol); cardboard (e.g., shipping and pizza boxes); cartons (e.g., milk, juice, broth); glass bottles and jars (brown, green, clear); paper (e.g., magazines, newspaper and inserts, office paper, unwanted mail, paper bags, greeting cards, envelopes); paperboard (e.g., cereal boxes, shoe boxes); plastic bottles, jars, jugs and other containers (e.g., beverage bottles, yogurt containers, butter tubs, frozen dinner trays); and telephone books.
- Cooking oil (cooking oil, fats and greases) is accepted from households only at the Public Works facility at 2910 Colonial Drive. The facility is open from 9:30 AM and 3:30 PM, Monday-through Friday. Please note that cooking oil containers are not accepted for recycling at this site.
- Electronics, household equipment (televisions, computers, computer monitors, printers and other electronic equipment) and all fluorescent bulbs from City of Columbia residents only can be recycled at the Public Works facility at 2910 Colonial Drive. Items can be dropped off between 9:30 AM and 3:30 PM on Monday through Friday.
- City of Columbia residents can recycle their telephone books year-round by simply placing them in their curbside recycling containers.
- City of Columbia residents can compost their yard trimmings at Humane Lane from Monday through Friday from 8:30 AM to 5:00 PM for $25 per cubic yard. Residents can purchase compost by contacting (803) 545-3800.
- Waste collection for Fort Jackson, located in the City of Columbia, is treated as a separate entity from the City. It has an unstaffed recycling center located at Building 5671 on Lee Road collects the following items from Monday to Friday from 7:00 AM to 3:00 PM and Saturday from 8:30 AM to 3:30 PM: cans (aluminum, steel); cardboard; glass bottles and jars (green, brown, clear); pallets (standard size 40" X 48" only); paper (colored paper, magazines, newspaper and inserts, mixed office paper); plastic bottles, jars and jugs (#1-#7); scrap metal; and telephone books.

TOWN OF EASTOVER

- The Town of Eastover currently provides residents with weekly curbside collection service.
- The Town of Eastover does not offer curbside recycling at this time. Residents can take their recyclables to the Lower Richland Drop-Off Center.

CITY OF FOREST ACRES

- The City of Forest Acres collects garbage, recycling and yard debris once a week at each residence. Garbage must be placed in roll carts. Recyclable materials must be placed in recycling bins for pickup but should not be bagged. Roll carts cannot be used for yard waste, recycling, hot ashes, flammable liquids, chemicals, motor oil, hazardous waste or construction debris.
- Each resident is provided with one recycling bin by the City for curbside collection of the following items: plastic containers (i.e. milk jugs, soda bottles, plastic bottles, jugs, and jars with recycling codes #1-#7) (containers contaminated with food may result in rejection of the entire bin of recyclables); glass: clear, green and brown beverage and

food containers (must be clean to be accepted); newspapers and magazines; paperboard - flattened (cereal and shoe boxes); cardboard - flattened (shipping and pizza boxes); aluminum and tin (i.e. soda, vegetable and aerosol cans); and telephone books.

- Unacceptable items for curbside recycling include egg cartons, plastic bags, Styrofoam of any kind, light bulbs, dishes or windowpane glass.
- The Forest Acres Public Works facility at the corner of Covenant Road and Robert Springs Road only accepts the following items: plastic containers (i.e. milk jugs, soda bottles, plastic bottles, jugs, and jars with recycling codes #1-#7); newspapers and magazines; paperboard - flattened (cereal and shoe boxes); cardboard - flattened (shipping and pizza boxes); aluminum and tin (i.e. soda, vegetable and aerosol cans); and telephone books.
- The following items are not collected by the City of Forest Acres, but may be disposed of at other Richland County facilities: gear oil; fuel oil; heating oil; kerosene; hydraulic oil; diesel fuel; automatic transmission oil; motor oil; cooking oil; oil and gas mixture; antifreeze; tires; lead acid batteries; fluorescent light bulbs; paint; propane tanks; and helium tanks.

TOWN OF IRMO

- The Town of Irmo contracts with a third-party hauler to provide sanitation and recycling collection services to its residents. The third-party is responsible of providing residents with roll-carts for household trash and recyclables.
- Residential household waste and yard trash are collected weekly, while recyclables are collected bi-weekly. Special/bulk items can be collected by an arranged pick-up.
- Curbside collection of the following items: cans (aluminum, steel); cardboard; paper (magazines, newspaper and inserts); plastic bottles, jars and jugs. No glass is collected.

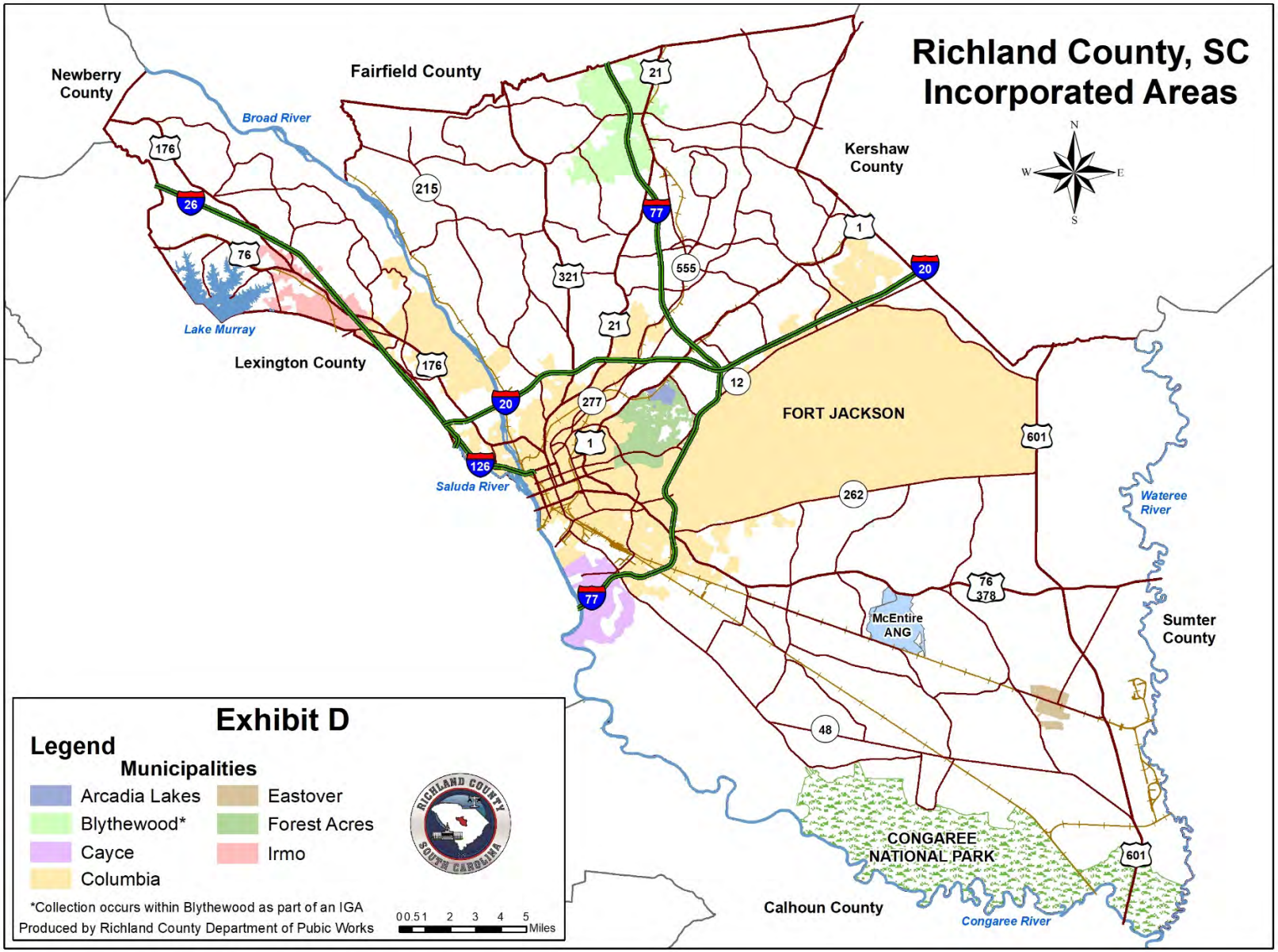

Exhibit D - Incorporated areas

Table 4.3 summarizes the collection practices used by the municipalities in the county.

Table 4.3 Collection practices in Richland County

Material	Town of Arcadia Lakes	City of Cayce	City of Columbia	City of Forest Acres	Town of Eastover	Town of Irmo	Unincorporated Areas
MSW	Curbside or Driveway Weekly	Curbside Weekly	Curbside Weekly	Curbside Weekly	Curbside Weekly	Curbside Weekly	Staffed Drop-off Centers
Recyclables	Curbside or Driveway Weekly	Curbside Weekly	Curbside Bi-weekly	Curbside Weekly	Staffed Drop-off Center	Curbside Bi-weekly	Staffed Drop-off Centers
C&D	None	Fee if removal is feasible	None	None	None	None	Staffed Drop-off Centers
Yard Waste	Curbside Weekly	Curbside Weekly	Curbside Weekly	Curbside Weekly	None	Curbside Weekly	Staffed Drop-off Centers
White Goods/Brown Goods	None	Once per Month	None	None	None	On-Call Basis	Staffed Drop-off Centers

4.3.3 Richland County Public School District

Richland County is made up of three school districts: Richland School District 1 with 52 schools, Richland School District 2 with 40 schools, and Lexington-Richland School District 5 with 23 schools. In 2016, Sonoco Recycling ended its free school pickup service in the County for recyclables. This was due to the school collection services becoming too costly for Sonoco as well as the unavailability of enough operable collection trucks. To ensure schools still receive collection services, Richland County's Solid Waste & Recycling Division worked with the Richland 2 school district to find a way to continue recycling collection at the district's 42 campuses. Richland County has an agreement with Richland 2 where the school purchases recycling roll carts from the County and the County collects the carts. The Richland 2 school district reimburses the County for the collection costs, estimated at $1,150 per month. The Lexington-Richland 5 school district and other private schools are considering planning to contract with private haulers for collection services. When Sonoco offered the collection service, Lexington County schools were paying Sonoco a hauling fee. Some districts are able to use grant funding for recycling roll carts while other districts do not implement recycling at all due to the cost and lack of available funds.

For student education, Richland County mans a booth at schools' back-to-school and open house events to teach students and their parents about recycling and its importance. Schools are also encouraged to participate in the County's annual 'Richland Recycles Day'. Typically hosted at the SC State Fairgrounds on a Saturday in May, 'Richland Recycles Day' is a materials collection day for County residents. Residents are encouraged to bring their unwanted items to the recycling event so that they can be disposed of properly. Items accepted include electronics and appliances, paint, batteries, scrap metal, household chemicals, fluorescent light bulbs, fertilizer, tires, and others. Wood, mattresses and cooking oil are items not accepted at this event. The County also offers solid waste facility tours to schools as another way to educate

students on recycling and solid waste management. The County would like to form a strong partnership with SC DHEC to host joint recycling talks at schools.

Some schools in Richland County, including those in the Richland County 1 and Lexington-Richland 5 school districts, are South Carolina Green Step Schools. South Carolina Green Steps Schools is an environmental education initiative that encourages individual schools to take annual sustainable steps toward becoming more environmentally responsible. For example, H. E. Corley Leadership Magnet & Montessori Magnet School (HEC) in the Lexington-Richland 5 school district is a South Carolina Green Step School and operates a school-wide program to conserve and reduce the amount of trash landfilled by implementing the strategies of Reducing, Reusing and Recycling. Its "Go Green" Recycle Leadership Team is made up of approximately 56 students, some of which are Recycle Leader Captains whose responsibility is to oversee recycling by their classmates. Grade levels are recognized for their recycling efforts. HEC, along with other schools across the D5 district, put all recycled materials in large recycle containers located on school property to reduce the weekly collection frequency by a local recycling company in partnership with the district. SC DHEC grant money helped support this program. The D5 school district also uses a combination of Tap and Stack and washable trays to reduce the amount of trash generated during breakfast and lunch meals. This district is also part of the Farm to Five Program. The Farm to Five Program expands local food offerings in schools, provides school gardening and experiential learning opportunities, and promotes health and wellness. Some of the schools have edible gardens. To help these gardens thrive, some schools in both the Richland 1 and Lexington-Richland 5 districts have initiated composting projects partially sourced from food scraps collected from the schools' cafeterias.

4.4 Treatment

The Act defines treatment as "any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport, amenable to storage, recovery, or recycling, safe for disposal, or reduced in volume or concentration." Treatment methods practiced in South Carolina include activities such as, shredding, compacting, incineration and baling. A description of each process, and its use in Richland County is described below.

4.4.1 Shredding

Shredding is generally used to change the physical character of solid waste. For instance, shredders help reduce the volume of bulky waste, including paper materials, bumpers, tires, refrigerators, scrap iron, aluminum, copper, plastic, etc. Shredded waste is easier and cheaper to transport and extends landfill life because it allows for more available volume in a landfill.

4.4.2 Compacting

Compacting is generally used to change the physical character of solid waste. For instance, compaction is used to more efficiently transfer waste and dispose waste. Compaction is utilized for, but not necessarily limited to, the collection and disposal programs in Richland County.

4.4.3 Waste Conversion Technologies

Waste conversion technologies, including Waste-to-Energy Facilities, and Pyrolysis Facilities, etc. are governed by SC DHEC Regulation 61-107.12. Solid Waste Incinerator facilities and Waste-to-Energy facilities are only effective with large volumes of waste, and landfilling is still a necessity for disposal of the ash. The cost of these facilities and low public opinion continue to inhibit the use of this treatment process. Pyrolysis facilities heat municipal solid waste without oxygen and generate a synthesis gas, char, and inorganic residue. To date, most of these facilities are small scale and unproven. While there is solid waste disposal capacity available in Richland County, the County may consider utilizing a commercially proven or emerging alternative technology that derives energy from waste during the 20-year planning period in order to increase diversion and extend the life of the landfill.

Air curtain incinerators operate by forcefully projecting a curtain of air across an open chamber or pit in which burning occurs. These facilities are only allowed to burn land-clearing debris, yard waste, and clean wood. A permit from SC DHEC is required.

4.4.4 Baling

No baling activities occur in Richland County.

4.4.5 Solid Waste Processing Facility

Solid waste processing facility means a combination of structures, machinery, or devices utilized to reduce or alter the volume, chemical, or physical characteristics of solid waste through processes, such as baling, shredding, or solidifying prior to delivery of such waste to a recycling or resource recovery facility or to a solid waste treatment, storage, or disposal facility and excludes collection vehicles. Solid waste processing facilities are governed by SC DHEC Regulation 61-107.6. Section A.1. of the Regulation states that the Regulation establishes the procedures, documentation, and other requirements which must be met for the proper operation and management of all solid waste processing facilities, including the processing activities involving unrecoverable solid waste at a Materials Recovery Facility (MRF). MRFs are defined by the Act as solid waste management facilities that provide for the extraction of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

A C&D processing facility is permitted as a solid waste processing facility by the state and is limited to processing only C&D debris. Richland County encourages the siting of other facilities to recover the useful materials from the C&D waste stream as long as it is accomplished within the guidelines of the SC DHEC regulations. At the time of drafting updates to this plan, SC DHEC intended to move forward with a new regulation addressing requirements for facilities that manage C&D debris.

<u>The following solid waste and C&D processing facilities are located and/or permitted in Richland County:</u>

An active permit exists for the Waste 2 Energy LLC Class 2 Solid Waste (Organics) Processing Facility (Facility ID No. 402901-2001); however, the facility has not been built yet and has

therefore never received waste. The facility is expected to be located in Columbia, South Carolina.

Carolina Wrecking, located at 141 Cort Road in Columbia, South Carolina, owns and operates Elmwood Staging & Recycling, a C&D recycling facility (Facility ID No. CDR-00023) located at 631 Elmwood Avenue in Columbia, South Carolina.

Corley Construction owns and operates the Fairfield C&D Recycling Facility (Facility ID No. PROC-00043) located at 1080 Wessinger Road in Columbia.

Facilities that process solid waste generated in the course of normal operations on property under the same ownership or control as the solid waste processing facility, such as industrial or manufacturing facilities that process their own waste, are exempt from the requirements in SC DHEC Regulation 61-107.6. Because these facilities are not required to obtain a solid waste permit and cannot accept waste from other solid waste generators, they are not included in Richland County's solid waste planning. In addition, Section 44-96-80(G) of the Act limits the authority of South Carolina counties to regulate industrial waste. Richland County does not accept certain types of industrial waste at its facilities; however, there are numerous commercial solid waste processors located within the 75-mile planning area that process waste destined for disposal in a Class 3 landfill. These facilities operate on a regional basis, accepting waste from across South Carolina and the Southeast. These facilities are available to accept any non-hazardous industrial waste generated in Richland County that may need processing prior to disposal in a Class 3 landfill. Therefore, no solid waste processing facilities that process waste requiring disposal at a Class 3 landfill will be required to meet Richland County's solid waste processing facilities needs during the 20-year planning period.

4.5 Other

Solid waste management practices that are not considered to be treatment or disposal are discussed in this section. Mulching, land application of solid waste, and research, development, and demonstration projects are included in this category. Each is described below.

4.5.1 Mulching, Composting and Wood Grinding

Section 44-96-190 of the Solid Waste Act banned the disposal of yard trash and land-clearing debris in landfills by May 27, 1993. The Act defines a composting facility as any facility used to provide aerobic, thermophilic decomposition of the solid organic constituents of solid waste to produce a stable, humus-like material. Regulation 61-107.4 Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals establishes minimum standards for the proper management of yard trimmings, land-clearing debris and other organic material; encourages composting and establishes standards for the production of compost; and ensures that operations are performed in a manner that is protective of public health and the environment. Regulation 61-107.4 became effective on June 27, 2014.

Residential yard debris such as leaves, pine straw, grass clippings, trimmings from shrubs and trees may be bagged or placed at the roadside in loose piles for collection. Tree limbs must not exceed four feet in length or four inches in diameter. The County does not remove debris generated by commercial tree cutters, tree surgeons, or landscapers nor construction debris

generated by remodeling or repairs. The contractor or resident is responsible for disposal at an approved County landfill. Also, open burning of any yard debris is prohibited in the County's residential districts.

Yard waste mulching is currently a successful component of Richland County's program and will continue to be well into the future. Mulching is conducted at one public facility in Richland County at the present time (i.e. the Richland County Mulching and Wood Chipping Facility located at the Richland County Landfill facility). Material is ground up or shredded and is then placed into windrows for mulching. Mulch is sold to the general public, golf courses, and landscaping business.

Several private companies are registered with SC DHEC to perform mulching, composting and wood grinding in Richland County. A list of all registered facilities are as follows (*Exhibit E*):

CITY OF COLUMBIA COMPOSTING

The City of Columbia Composting Facility is a government-run facility (Facility ID No. 401002-3001) located near Columbia, South Carolina. Approximately 6,600 tons of material were received at the facility in FY 2019. For more information regarding this facility, contact:

City of Columbia Composting Facility (Type 1)

Mailing Address: Robert Anderson
P.O. Box 147
Columbia, South Carolina 29203
Phone: (803) 733-8456

Facility Location: 110 Humane Ln
Columbia, South Carolina 29209

CORLEY CONSTRUCTION WOOD CHIPPING

The Corley Construction Wood Chipping Facility is a commercial facility (Facility ID No. COMM-00214) located near Columbia, South Carolina. Approximately 968 tons of material were received at the facility in FY 2019. For more information regarding this facility, contact:

Corley Construction Wood Chipping Facility (Type 1)

Mailing Address: Todd Corley
7462 Fairfield Road
Columbia, South Carolina 29203
Phone: (803) 513-1269 or (803) 781-3127

Facility Location: 1010 Wessinger Road
Columbia, South Carolina 29203

WASTE INDUSTRIES WOOD CHIPPING

The Waste Industries (formerly L&L Disposal) Wood Chipping Facility is a commercial facility (Facility ID No. COMM-00212) located near Elgin, South Carolina. Approximately 4,465 tons of

material were received at the facility in FY 2019. For more information regarding this facility, contact:

Waste Industries Wood Chipping (Type 1)

Mailing Address: John Barnard
1047 Highway Church Road
Elgin, South Carolina 29045
Phone: (800) 207-6618 ext. 4521

Facility Location: Same as mailing address.

MITCH HOOK COMPOSTING

The Mitch Hook Composting Facility is a commercial facility (Facility ID No. 402696-3001) located near Blythewood, South Carolina. Approximately 250 tons of material were received at the facility in FY 2019. For more information regarding this facility, contact:

Mitch Hook Composting (Type 1)

Mailing Address: Mitch Hook
72 Ridgecreek Drive
Lexington, South Carolina 29072
Phone: (803) 791-7805

Facility Location: 1309 Cedar Creek Road
Blythewood, South Carolina 29016

RICHLAND COUNTY COMPOSTING AND WOOD CHIPPING

The Richland County Composting and Wood Chipping Facility is a government-run facility (Facility ID No. 401007-3001) located near Columbia, South Carolina. Approximately 2,910 tons of material were received at the facility in FY 2019. For more information regarding this facility, contact:

Richland County Mulching and Wood Chipping (Type 1)

Mailing Address: Alan Huffstetler
1070 Caughman Road North
Columbia, South Carolina 29203
Phone: (803) 576-2391

Facility Location: Same as mailing address.

A list of the registered solid waste management facilities in Richland County can be found in *Appendix B.*

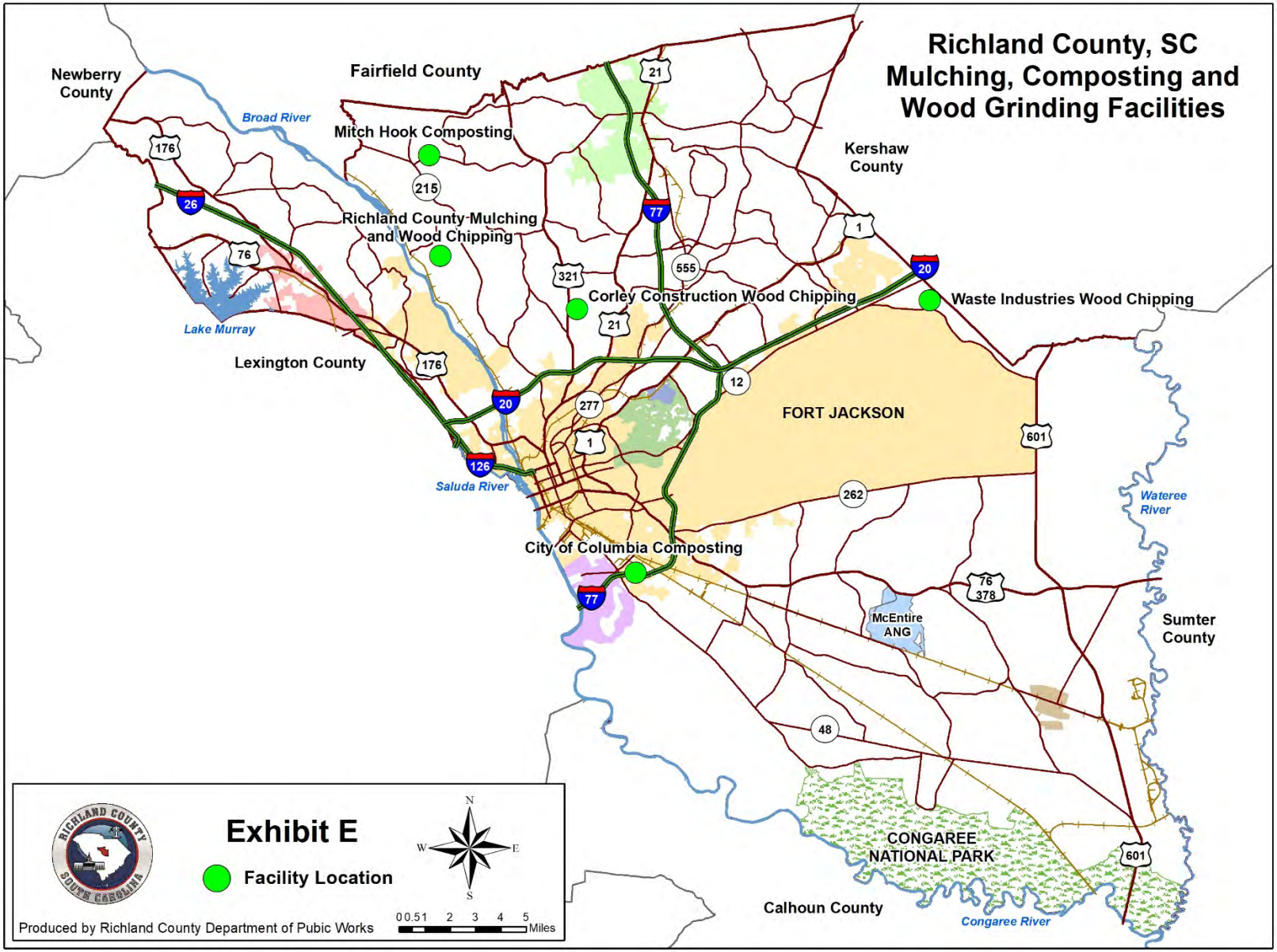

Exhibit E - Mulching, composting and wood grinding facilities

4.5.2 Organics

As a way of encouraging backyard composting, Richland County Solid Waste & Recycling has offered compost bins to residents in the past. Large black compost bins were able to be purchased by County residents for a fixed price. Each bin came with a small plastic receptacle that could be placed on a kitchen countertop to hold food scraps and transport them to the outdoor bin. A box of compostable bags was included in the purchase to help keep the countertop receptacle clean. This composting initiative was made possible through an awarded grant through SC DHEC. The program is currently halted as grant funding from SC DHEC and is no longer available. At this time, it is uncertain whether the program will occur again in the future.

WASTE 2 ENERGY LLC

Richland County has a permitted Class 2 Solid Waste (Organics) Processing Facility by Waste 2 Energy LLC (Facility ID 402901-2001); however, the facility has not been built yet. The facility is expected to be located in Columbia, South Carolina. This facility is permitted to be able to receive and process 48,000 tons of organics (yard trimmings and food waste) per year. It did not receive any tonnage in FY 2019, nor before that.

Waste 2 Energy LLC

Mailing Address:	Daniel Rickenmann 719 Holly Street, Suite 1000 Columbia, South Carolina 29205 Phone: (803) 920-9541
Facility Location:	Anticipated to be located at intersection of Shop Road and S Beltline Boulevard in Columbia, South Carolina.

4.5.3 Land Application of Solid Waste

On July 26, 1996, Regulation 61-107.15: Land Application of Solid Waste became effective. This regulation establishes appropriate application rates, frequency of application, and monitoring requirements for the uniform surface spreading or mechanical incorporation of non-hazardous solid waste on or into soil that is being used for agricultural, silvicultural and horticultural production. This regulation also applies to the application of solid waste on land that is being reclaimed to enhance its aesthetic value or to reduce environmental degradation. The land application of non-hazardous solid waste shall be for beneficial agricultural, silvicultural and horticultural purposes and not used as a means of disposal. Benefits of land application include offsetting farming costs of soil amendments and lime, returning nutrients to the soil depleted by erosion and harvesting crops, and freeing additional landfill space. Land application is a way to recycle Richland County's resources and is not a means of disposal.

International Paper, located in Eastover, South Carolina, is the only facility permitted for land application projects within the County. Per the FY 19 South Carolina Solid Waste Management Annual Report, the facility has no permitted limit (tons per acre).

4.5.4 Research, Development & Demonstration Projects

Innovative and experimental solid waste management technologies and processes are regulated by Regulation 61-107.10. This regulation, effective June 25, 1993, establishes the minimum standards for the proper operation and management of solid waste management facilities, or parts of these facilities, proposing to utilize an innovative and experimental solid waste management technology or process. Examples of emerging technologies include gasification, plasma arc, anaerobic digestion, and chemical decomposition.

Gasification is the heating of municipal solid waste to generate a synthesis gas (syngas) that can be used as a fuel or feedstock for the production of other chemicals. Most gasification facilities are small scale projects.

Plasma arc facilities use a plasma torch to create a high energy field that breaks down waste and generates a syngas. Impurities such as metals are captured in a glass bath. Most plasma facilities are small scale operations that treat industrial or medical waste.

Anaerobic digestion is a treatment process organic wastes are fed into water tanks and processed without air. The wastes breakdown and generate a gas that is high in methane. The gas can be burned as a fuel or to generate electricity.

Chemical decomposition uses chemicals to break down wastes into oils or gases such as ethanol. This technology is still under development.

Currently there are no Research, Development and Demonstration projects within Richland County.

4.6 Disposal

In an effort to minimize the landfilling of waste and increase recycling, Richland County strives to divert as much waste as practical to a contracted materials recovery facility (Sonoco). Because it is not feasible to recover 100 percent of the waste stream at this time, landfills continue to be a necessity. As stated earlier in this Plan, the landfill regulation 61-107.19 became effective on May 23, 2008. The regulation changed the classification of landfills based on the source of the waste, e.g., yard waste, construction and demolition debris, industrial waste, and municipal solid waste, to Class 1, 2 and 3 Landfills.

The regulation establishes the minimum standards for all types of landfills and is divided into the following five parts:

- Part I – outlines the general criteria that applies to one or more Parts of the regulation, e.g., the applicability for the regulation, waste characterization requirements for determining the type of landfill needed, and definitions for the purposes of the regulation;
- Part II – outlines the Permit-by-Rule requirements for structural fill activity using a limited waste stream;
- Part III – outlines the General Permitting requirements for Class 1 Landfills. Class 1 Landfills can accept only land-clearing debris and yard trash to fill low areas, including mining sites, for an aesthetic benefit or property enhancement;

- Part IV – outlines the requirements for Class 2 Landfills. These are all landfills used for the disposal of waste outlined in Appendix I of the regulation, primarily construction and demolition debris type wastes, and wastes that leach contaminants at very low levels when tested.
- Part V – outlines the requirements for Class 3 Landfills that accept municipal solid waste, industrial solid waste, sewage sludge, nonhazardous municipal solid waste incinerator ash, and other nonhazardous wastes.

In fulfilling the disposal needs of the County, Richland County owns and operates one Class 2 (C&D) landfill. Richland County intends to expand the Class 2 landfill in order to provide Class 2 waste disposal capacity for at least the 20-year planning period window. Refer to Section 4.6.2 for more detailed information about Richland County's Class 2 Landfill. Additional Class 3, Class 2, and Class 1 Landfills not owned and operated by Richland County but permitted and located within the County are also outlined in the sections below.

4.6.1 Class 3 Landfills

There are three permitted Class 3 Landfills within Richland County (*Exhibit F*). Each Class 3 Landfill is described below:

RICHLAND LANDFILL (WASTE MANAGEMENT)

The Waste Management of Richland Landfill is a privately-owned, commercially operated landfill (Facility ID No. 402401-1101) located near Elgin, South Carolina. It has a maximum annual permitted rate of disposal of 1.14 million tons per year. Approximately 951,000 tons of material were disposed at the landfill in FY 2019. The estimated remaining airspace is 28.5 million cubic yards. The estimated remaining life of the facility based on the permitted disposal rate is 25.1 years. The estimated remaining life of the facility based on the current disposal rate is 30 years. For more information regarding this landfill, contact:

Richland Landfill (Waste Management)

Mailing Address: Tom Powles
1047 Highway Church Road
Elgin, South Carolina 29045
Phone: (803) 542-8488

Facility Location: Same as mailing address.

REPUBLIC SERVICES NORTHEAST SANITARY LANDFILL LLC

The Republic Services Northeast Sanitary Landfill is a privately-owned, commercially operated landfill (Facility ID No. 402434-1101) located near Eastover, South Carolina. It has a maximum annual permitted rate of disposal of 530,000 tons per year. Approximately 164,000 tons of material were disposed at the landfill in FY 2019. The estimated remaining airspace is 5.7 million cubic yards. The estimated remaining life of the facility based on the permitted disposal rate is 10.8 years. The estimated remaining life of the facility based on the current disposal rate is 34.7 years. For more information regarding this landfill, contact:

Republic Services Northeast Sanitary Landfill

Mailing Address: Jeffrey Yaroch
1581 Westvaco Road
Eastover, South Carolina 29044
Phone: (803) 692-3303

Facility Location: Same as mailing address.

DOMINION ENERGY WATEREE STATION LANDFILL

The Dominion Energy Wateree Station Landfill is a privately-owned, non-commercially operated landfill (Facility ID No. 403320-1601) located near Eastover, South Carolina. It has a maximum annual permitted rate of disposal of three million tons per year. Approximately 630,000 tons of material were disposed at the landfill in FY 2019. The estimated remaining airspace is 15.1 million cubic yards. The estimated remaining life of the facility is unknown. For more information regarding this landfill, contact:

Dominion Energy Wateree Station Landfill

Mailing Address: Richard Salley
142 Wateree Station Road
Eastover, South Carolina 29044
Phone: (803) 217-4021

Facility Location: Same as mailing address.

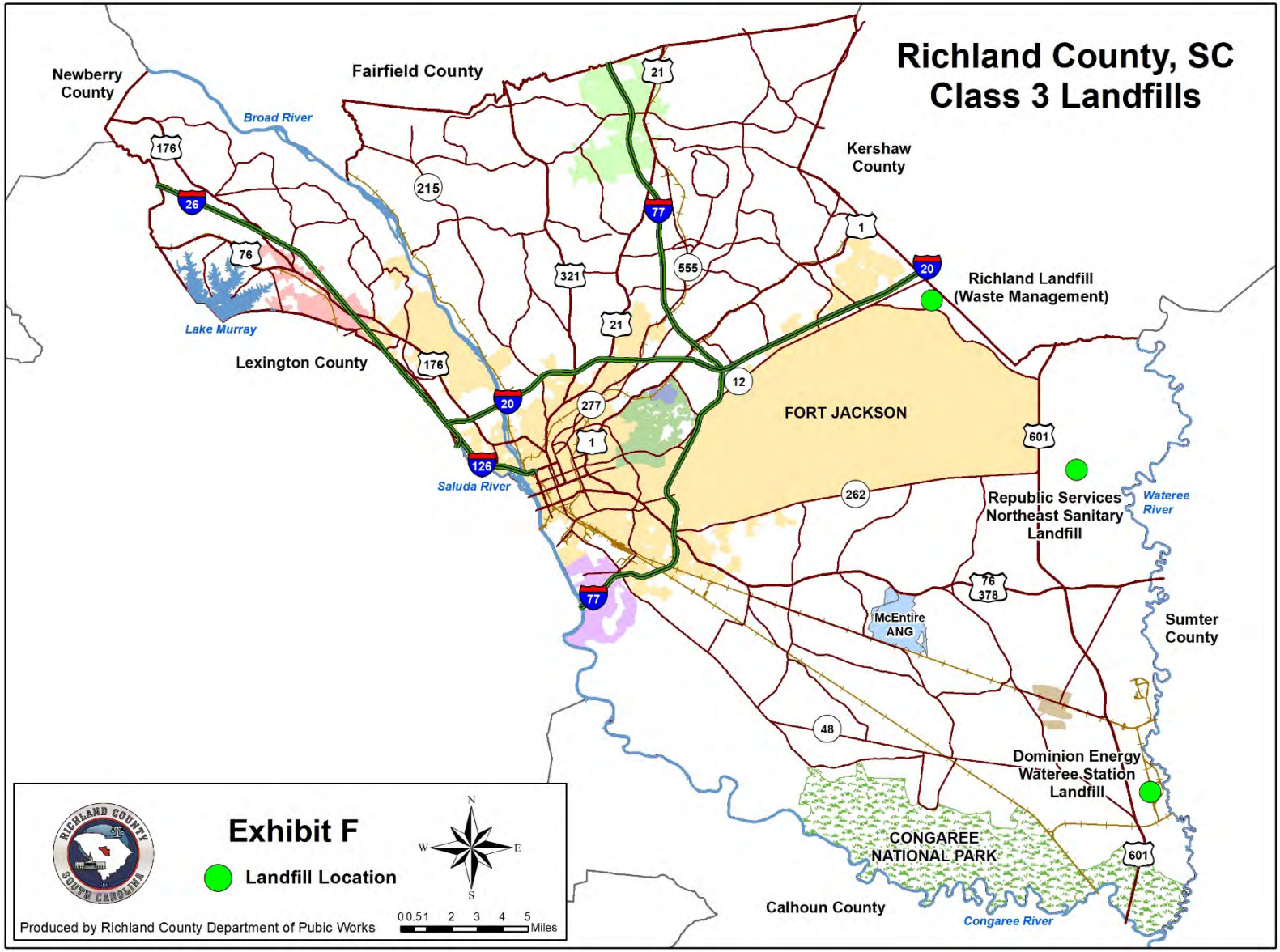

Exhibit F – Class 3 landfill location

4.6.2 Class 2 Landfills

There are three permitted Class 2 Landfills within Richland County (*Exhibit G*). Each Class 2 Landfill is described below:

RICHLAND COUNTY LANDFILL

The Richland County Landfill is a public, commercially operated landfill (Facility ID No. 401001-1202) located near Columbia, South Carolina. It has a maximum annual permitted rate of disposal of 200,000 tons per year. Approximately 40,400 tons of material were disposed at the landfill in FY 2019. The estimated remaining life of the facility is 11 years. For more information regarding this landfill, contact:

Richland County Landfill

Mailing Address: Alan Huffstetler
1070 Caughman Road North
Columbia, South Carolina 29203
Phone: (803) 576-2390

Facility Location: Same as mailing address.

Figure 4.1 shows the remaining capacity of the Class 2 Landfill, and the estimated consumption at the landfill over the next 20 years. An annual waste increase of 2.0 percent was assumed. The Richland County Class 2 Landfill is expected to reach its permitted capacity at the end of FY 2029. It is important to note; however, that the estimated remaining life of the Richland County Landfill is subject to change based on compaction rates, materials collected, and waste characteristics. Richland County also expects to expand the Class 2 Landfill for additional airspace before FY 2029.

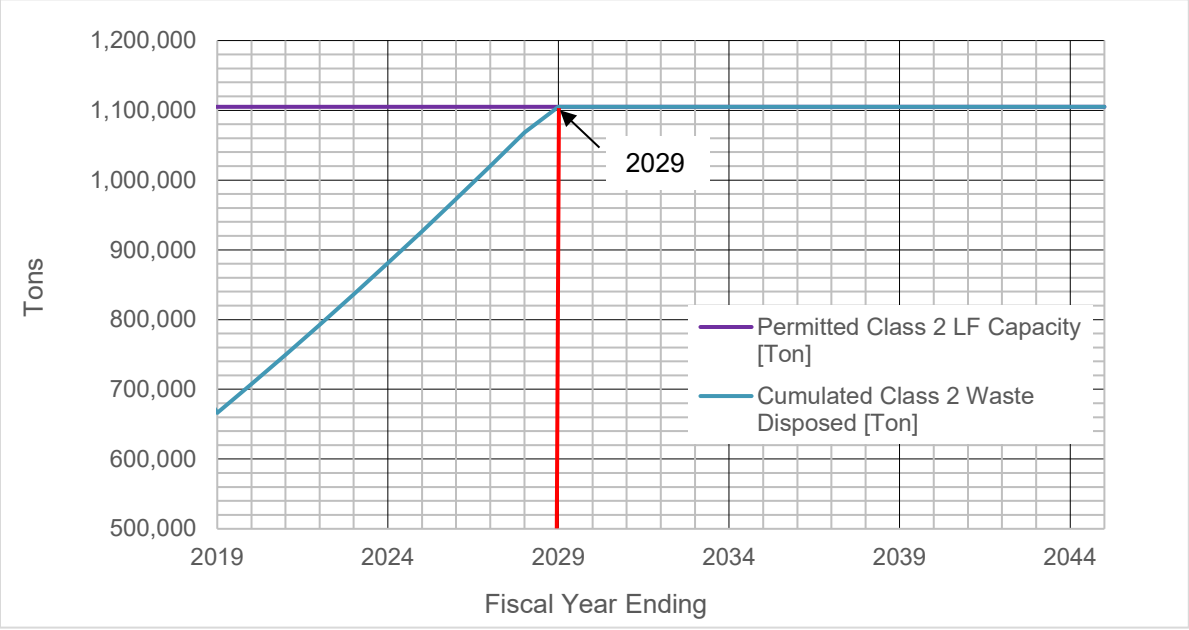

Figure 4-1 - Richland County Class 2 landfill estimated capacity timeline.

CAROLINA GRADING INC. LANDFILL

The Carolina Grading Inc. Landfill is a private, commercially operated landfill (Facility ID No. 402446-1601) located near Eastover, South Carolina. It has a maximum annual permitted rate of disposal of 122,400 tons per year. Approximately four tons of material were disposed at the landfill in FY 2019. The estimated remaining life of the facility is 150 years. For more information regarding this landfill, contact:

Carolina Grading Inc. Landfill

Mailing Address: Tom Powles
1047 Highway Church Road
Elgin, South Carolina 29045
Phone: (803) 542-8488

Facility Location: 125 McDowell Lane
Eastover, South Carolina 29044
Phone: (803) 788-3054

INTERNATIONAL PAPER – EASTOVER LANDFILL

The International Paper – Eastover Landfill is a private, non-commercially operated landfill (Facility ID No. 403313-1601) located near Eastover, South Carolina. It does not have an annual permitted rate of disposal. Approximately 143,000 tons of material were disposed at the landfill in FY 2019. The estimated remaining life of the facility is 9 years. For more information regarding this landfill, contact:

International Paper – Eastover Landfill

Mailing Address: John Baker
P.O. Box B
Eastover, South Carolina 29044
Phone: (803) 353-7440

Facility Location: 4001 McCords Ferry Road
Eastover, South Carolina 29044
Phone: (803) 353-7370

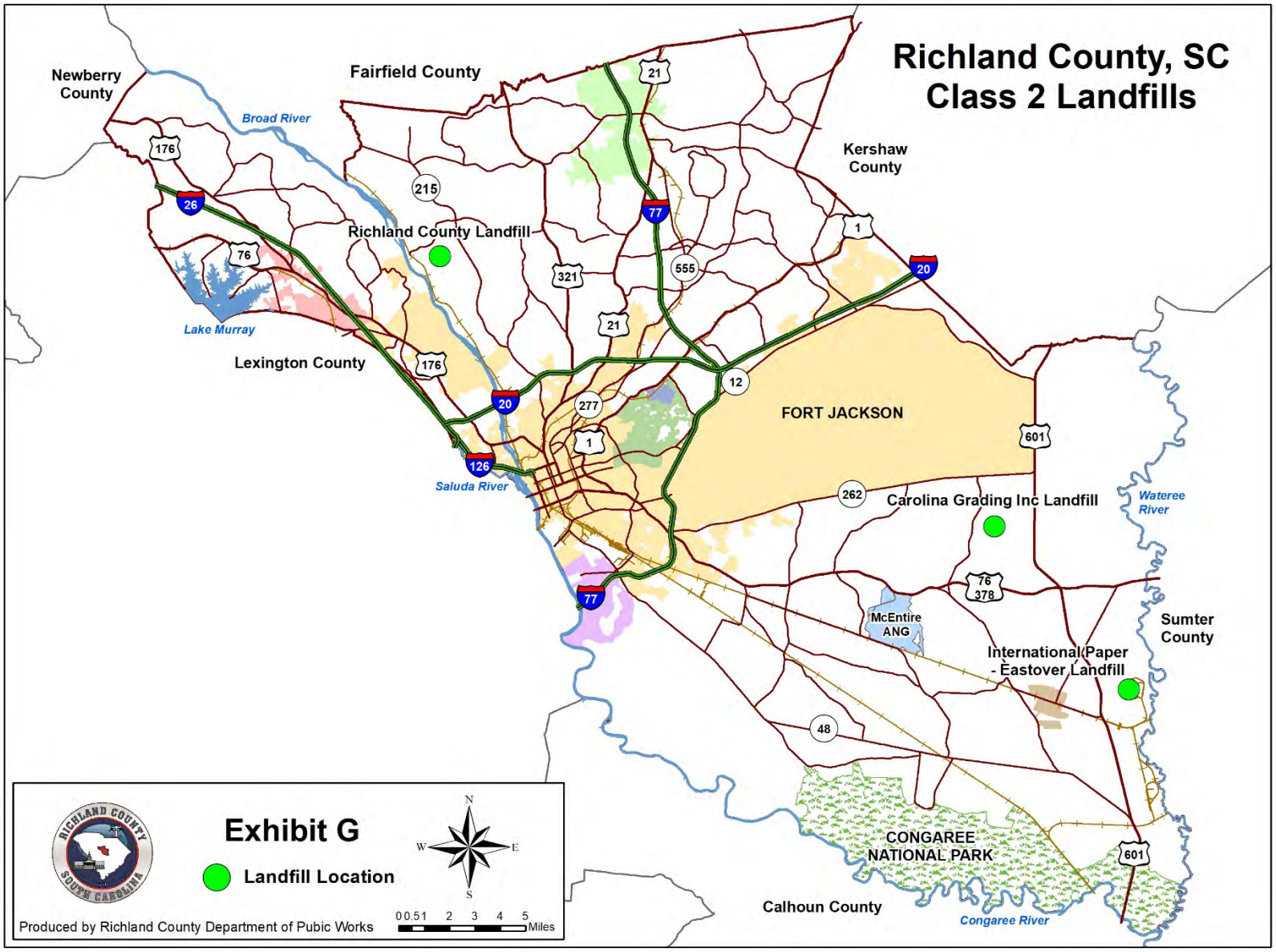

Exhibit G - Class 2 landfill location

4.6.3 Class 1 Landfills

There are two permitted Class 1 Landfills within Richland County (*Exhibit H*). Each Class 1 Landfill is described below:

WASTE INDUSTRIES LCD LANDFILL

The Waste Industries (formerly L&L Disposal) LCD Landfill is a commercial landfill (Facility ID No. 402428-1701) located near Elgin, South Carolina. It has a maximum annual permitted rate of disposal of 30,000 tons per year. The landfill did not dispose of any waste in FY 2019. For more information regarding this landfill, contact:

Waste Industries LCD Landfill

Mailing Address:	John Barnard 1047 Highway Church Road Elgin, South Carolina 29045 Phone: (800) 207-6618 Extension 4521
Facility Location:	Same as mailing address.

SHARPE'S CONTRACTING SERVICES LLC LANDFILL

The Sharpe's Contracting Services LLC Landfill is a commercial landfill (Facility ID No. 402479-1701) located near Blythewood, South Carolina. It has a maximum annual permitted rate of disposal of 75 tons per year. For FY 2019, the landfill received 74 tons of disposed waste, approximately meeting its yearly permitted disposal rate. For more information regarding this landfill, contact:

Sharpe's Contracting Services LLC Landfill

Mailing Address:	Bill Sharpe 1837 Muller Road P.O. Box 27 Blythewood, SC 29016 Phone: (803) 960-4247
Facility Location:	1700 Loner Road Blythewood, SC 29016

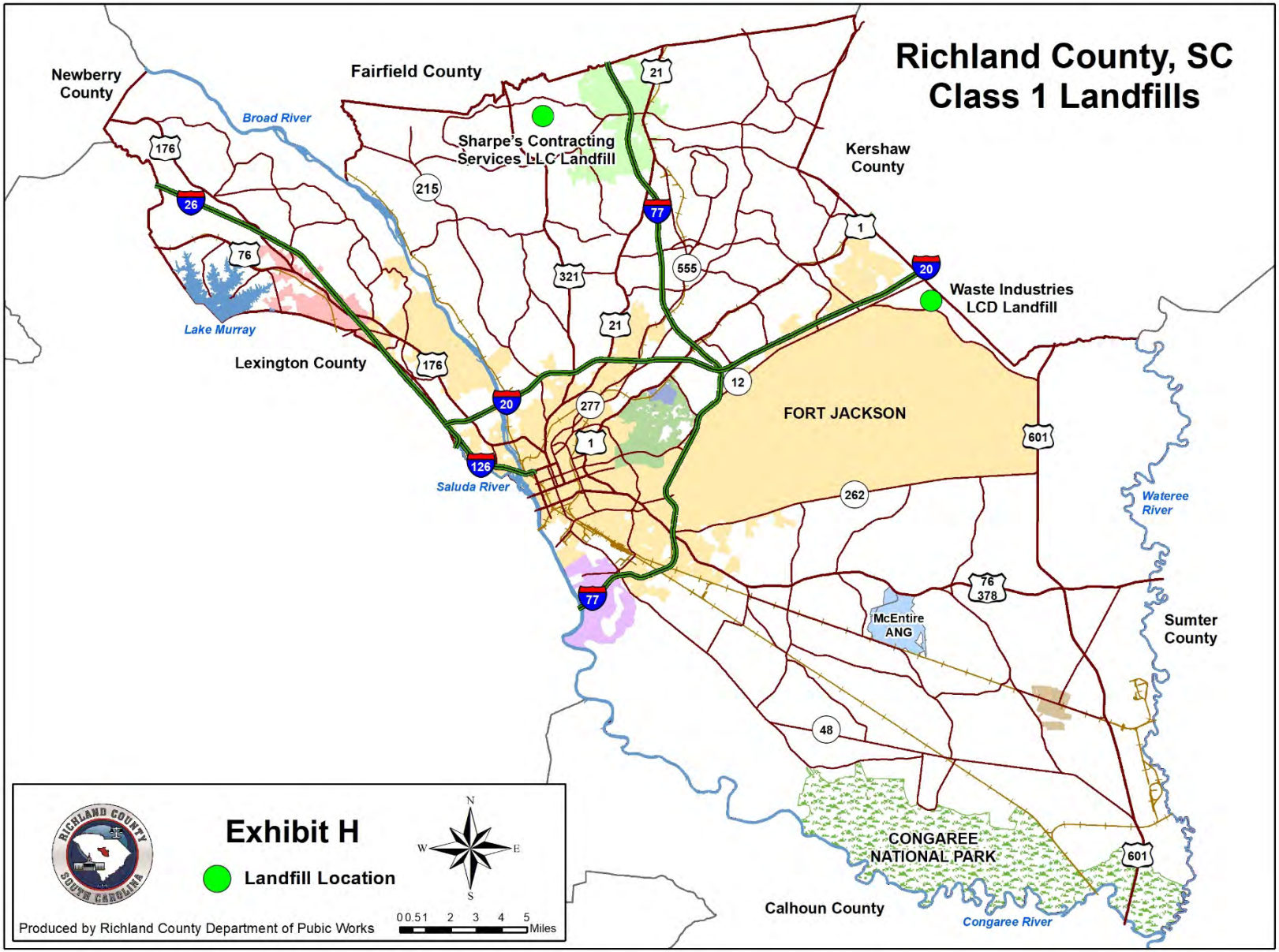

Exhibit H - Class 1 landfill location

4.7 Reduce, Reuse, & Recycle

Section 44-96-80 of the Solid Waste Policy and Management Act requires local governments to provide a description of recycling programs and to designate a recycling coordinator.

4.7.1 Recycling Coordinator

Richland County has a Recycling Coordinator position. The Recycling Coordinator is currently Syndi Castelluccio and she can be contacted at 1070 Caughman Road North, Columbia, South Carolina 29203 at (803) 576-2467.

4.7.2 Categories of Solid Waste to be Recycled

To gain a better appreciation for recycling efforts, Table 4.4 shows the recycling tonnage broken down by commodity.

Table 4.4 Recycling by commodity*

Category	FY 2013 tons	FY 2014 tons	FY 2015 tons	FY 2016 tons	FY 2017 tons	FY 2018 tons	FY 2019 tons
Glass	468.65	289.50	341.03	187.71	92.67	38.12	32.19
Metal	25,954.74	50,073.35	28,787.88	8,618.75	28,150.98	2,156.09	12,800.67
Paper	17,964.39	30,107.20	28,318.76	30,682.41	23,505.06	11,009.19	7,685.53
Plastics	1,175.18	2,959.02	960.50	429.90	2,620.97	239.25	186.59
Organics	N/A	3,014.42	3,695.44	2,757.81	4,344.21	15,851.59	1,384.74
Banned Items	15,439.50	5,085.66	4,873.46	12,489.44	4,935.81	2,643.34	2,318.40
Miscellaneous	3,401.37	10,743.36	1,010.48	1,474.66	1,246.59	1,989.78	2,211.41
Commingled Recyclables	12,062.78	12,467.13	14,935.87	20,220.44	19,206.98	17,423.87	18,024.93
Total	76,466.61	114,739.64	82,923.43	76,861.13	84,103.28	51,351.24	44,644.46

* Numbers compiled from the FY 13-FY 19 South Carolina Solid Waste Management Annual Reports.

4.7.3 Annual Recycling Rate

The average annual recycling rate for Richland County over the last seven years is approximately 22.27 percent. The County's annual recycling rates since 2013 are shown in *Table 4.5* below, as reported in each respective South Carolina Solid Waste Management Annual Report.

Table 4.5 Annual recycling rate

Fiscal Year (FY)	Annual Recycling Rate (%)
FY 2013	22.50%
FY 2014	30.74%
FY 2015	25.00%
FY 2016	24.45%
FY 2017	23.96%
FY 2018	15.48%
FY 2019	13.74%
Average	**22.27%**

4.7.4 Materials Processing

Sonoco Recycling, located at 1132 Idlewilde Boulevard, Columbia, SC 29201, processes all of Richland County's recyclable products. Currently, recyclable materials are collected curbside from Richland County citizens either weekly or bi-weekly. The County provides a specific, single

container for all different products (i.e. single-stream). Those materials are collected through contract hauling companies and delivered to Sonoco's plant in Columbia. The hauler then deposits the materials on the tipping floor. From the tipping floor, the product is loaded into a hopper which then sends the waste into the plant. The different commodities are sorted by a variety of conveyors, hand pickers, optical scanners, and lastly, robots. The end result includes different types of like materials separated and packaged for shipment to the end user.

4.8 Banned Items

The 1991 Solid Waste Management Act placed disposal bans on certain types of solid wastes increasing the importance of counties to manage this waste. A list of the items that are banned from disposal in MSW landfills is identified in *Table 4.6*.

Table 4.6 Items banned from MSW landfills (State)

Banned Item	Effective Date
Lead-Acid Batteries	May 27,1992
Used Oil	May 27,1992
Yard Trash & Land-clearing Debris	May 27,1993
Whole Waste Tires	October 23,1993
White Goods	May 27,1994
Small-Sealed Lead-Acid Batteries	June 23,1995
Electronic Waste	July 1, 2011

The management of banned items are discussed in the following sections: yard trash & land-clearing debris in section 4.5.1, batteries in section 4.8.1, used oil in section 4.8.2, tires in section 4.8.3, white goods in section 4.8.4, and electronic waste in section 4.8.5.

4.8.1 Batteries

Section 44-96-180 of the Solid Waste Act banned the disposal of lead-acid batteries in landfills by May 27, 1992. Since that time, the Richland County has provided for the collection of batteries at each of the recycling drop-off centers located throughout the County. Richland County contracts with an approved recycling company for the collection of these batteries. The tons of batteries recycled since 2013 are shown in *Table 4.7* below, as reported in each respective South Carolina Solid Waste Management Annual Report.

Table 4.7 Tons of batteries recycled by Richland County

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Number of Batteries Recycled	2,332	2,043	1,858	1,320	409	189	129

4.8.2 Used Oil

In accordance with Section 44-96-160 of the Solid Waste Policy and Management Act, the disposal of used oil in the landfill was banned on May 27, 1992. Used Oil tanks are available at County recycling drop-off centers for the proper disposal of used motor oil. County residents are allowed to dispose of a maximum 5 gallons per visit. The following type of fluids are accepted:

gear oil, fuel oil, heating oil, kerosene, hydraulic fluid, diesel fuel, automatic transmission fluid, and household cooking oil (small quantities). Gas/oil fluid mixtures are only accepted at the Richland C&D Landfill and Lower Richland Collection site. County residents can also dispose or used oil filters at any of the public (*Exhibit I*) or private (*Exhibit J)* drop-off centers shown in *Table 4.8*.

Table 4.8 Used oil recycling locations in Richland County

Area	Location Name	Address
	Public Facilities	
Ballentine/Irmo	Ballentine Fire Station	10717 Broad River Road*
Blythewood	Blythewood Fire Station	435 Main Street*
Columbia	Columbia Atlas Road Fire Station	933 Atlas Road*
Eastover	Eastover Fire Station	504 Henry Street*
Gadsden	Gadsden Fire Station	122 Community Center Drive*
Hopkins	Hopkins Fire Station	1631 Clarkson Street*
Columbia	Jim Hamilton-LB Owens Airport	1400 Jim Hamilton Boulevard
Eastover	Lower Richland Drop-off Center	10531 Garners Ferry Road*
Columbia	Richland County C&D Landfill	1070 Caughman Road North*
Columbia	Richland County Public Works	400 Powell Road*
Columbia	Sandhill Fire Station	130 Sparkleberry Lane*
Columbia	Upper Richland Fire Station	300 Camp Ground Road*
	Private Facilities	
Columbia	Advance Auto Parts	7613 Garners Ferry Road
Columbia	Advance Auto Parts	7030 Two Notch Road
Columbia	Advance Auto Parts	3010 Two Notch Road
Columbia	Advance Auto Parts	4731 Devine Street
Columbia	Advance Auto Parts	249 Bush River Road
Columbia	Advance Auto Parts	4709 Broad River Road
Elgin	Advance Auto Parts	10505 Two Notch Road
Columbia	Auto Zone	3108 Two Notch Road
Columbia	Auto Zone	9860 Two Notch Road
Columbia	Auto Zone	255 O'Neil Court
Columbia	Auto Zone	3601 Main Street
Columbia	Auto Zone	7710 Garners Ferry Road
Columbia	Auto Zone	211 Ricky Lane
Irmo	Auto Zone	7236 Broad River Road
Columbia	Pep Boys	1804 Broad River Road
Columbia	Pep Boys	2455 Decker Boulevard
Columbia	Walmart Tire and Lube Express	5420 Forest Drive
Columbia	Walmart Tire and Lube Express	7520 Garners Ferry Road
Columbia	Walmart Tire and Lube Express	321 Killian Road
Columbia	Walmart Tire and Lube Express	10060 Two Notch Road

Note: Sites marked with an asterisk (*) also accept used oil filters. Source: SC DHEC "Richland County Recycling Locations." https://scdhec.gov/environment/recycling-waste-reduction/where-recycle-locally/richland-county-recycling-locations.

Richland County has one private permitted Used Oil Processor, which is Dilmar Oil Company, Inc. (*Exhibit J*). The Dilmar Fluid Services Used Oil Processing facility (Facility ID No. 402407-7101) is located at 1955 Bluff Road in Columbia, South Carolina. The facility is permitted to receive up to 160,000 gallons per year (gpy).

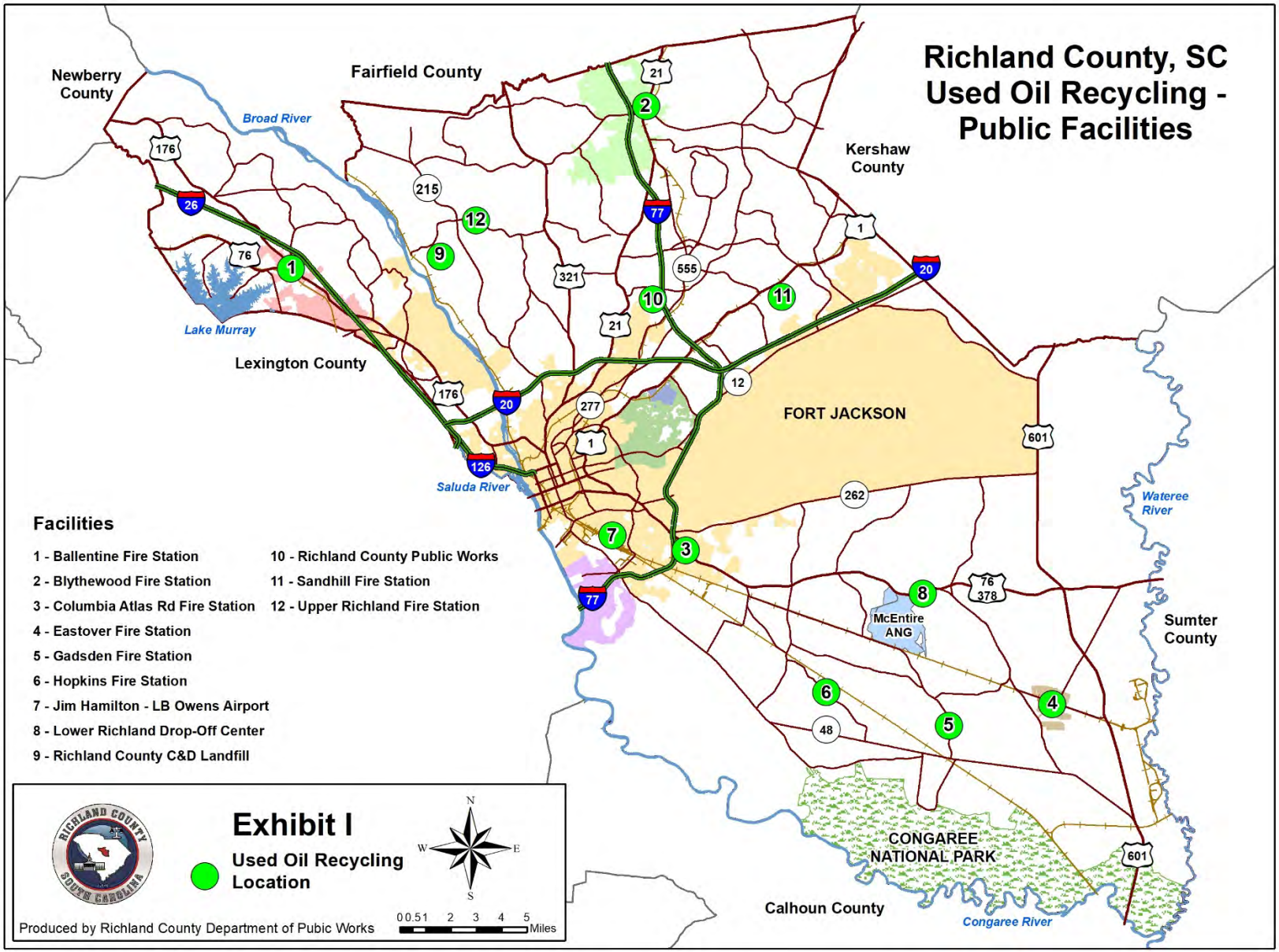

Exhibit I - Used oil recycling - public facilities

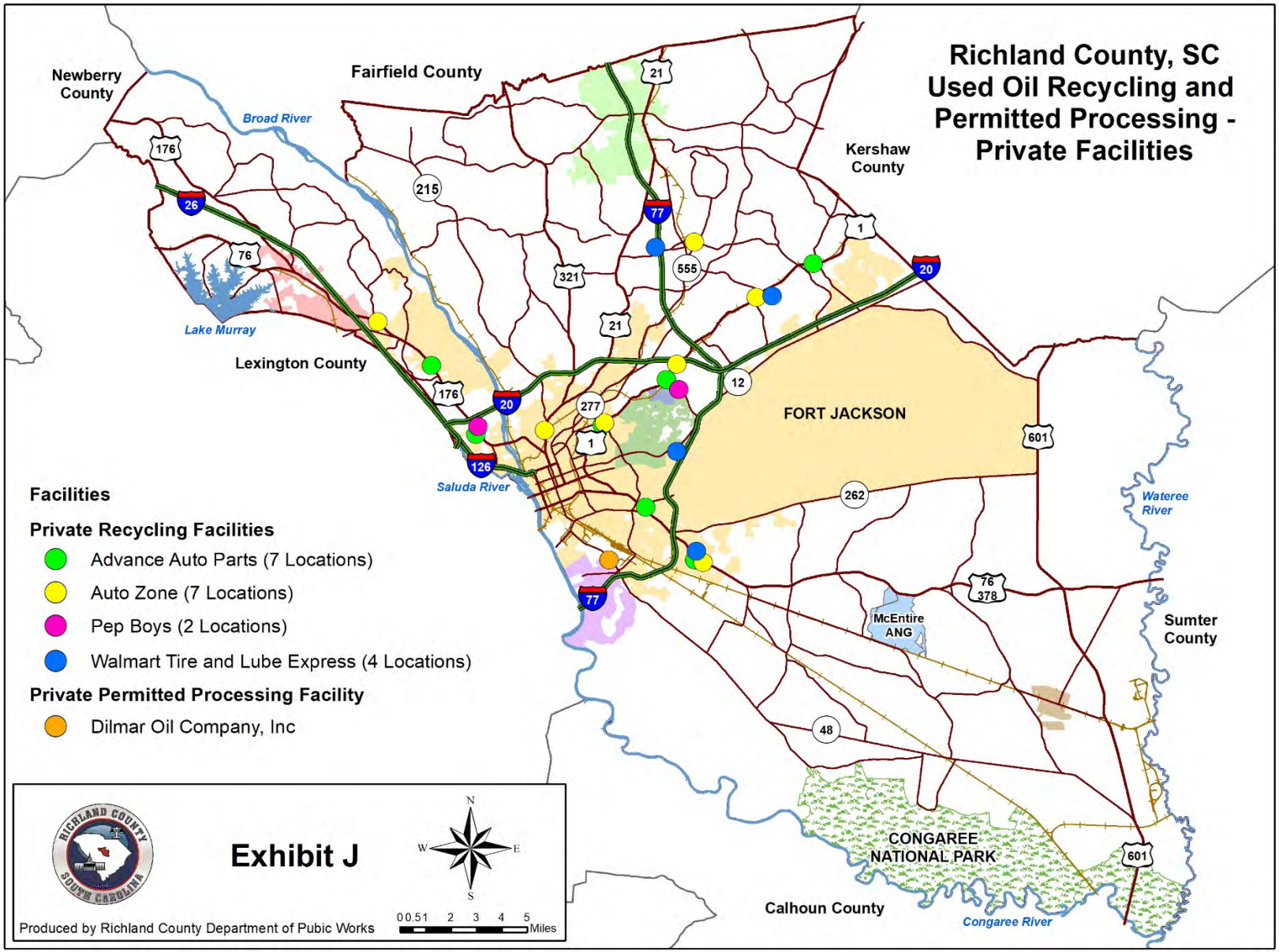

Exhibit J - Used oil recycling and permitted processing - private facilities

4.8.3 Tires

Whole waste tires have been banned from the MSW and C&D waste stream since October 23, 1993. The waste tire rebate by the state funds this collection program, along with Waste Tire Grant funds provided by SC DHEC. To encourage the proper disposal of waste tires, Richland County residents are allowed to dispose of five standard car/truck tires per year at no charge at any of the Richland County recycling drop-off centers. Any additional tires are charged the commercial cost, which is $150.00 per ton.

4.8.4 White Goods

Section 44-96-200 of the Solid Waste Act placed a ban on the landfilling of white goods as of May 27, 1994. Large Household Appliances, including stoves, refrigerators, HVAC units, trash compactors, water coolers, freezers, washer and dryer, and hot water heaters, that are generated from Richland County residents' primary homes are not charged for their disposal at any County recycling drop-off center. Commercial entities are charged a fee per ton for the disposal of large household appliances.

4.8.5 Electronic Wastes

Beginning July 1, 2011, disposal of most electronic waste was prohibited in landfills. Residents of Richland County may recycle electronic waste by taking these items to either the County's Lower Richland Drop-Off Center (10531 Garners Ferry Road) or to the Richland County Landfill's Drop-Off Center (1070 Caughman Road North). The tons of electronics recycled since 2013 by Richland County is shown in *Table 4.9* below, as reported in each respective South Carolina Solid Waste Management Annual Report.

Table 4.9 Tons of electronics recycled by Richland County

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Tons of Electronics Recycled	2,315	1,089	549	1,120	738	512	324

4.9 Miscellaneous Items

Miscellaneous items include materials such as household hazard waste, antifreeze, cooking oil, fluorescent bulbs, mattresses, paint, rechargeable batteries, textiles, used motor oil filters and carpet padding.

4.9.1 Household Hazardous Materials

Household Hazardous Waste (HHW) includes: acids, aerosols, antifreeze, batteries, brake fluids, corrosives, drain openers, flammables, fuel, furniture strippers, gasoline, household cleaners and polishes, kerosene, lighter fluid, oxidizers, paints, pesticides, photo chemicals, poisons, pool chemicals, solvents, thinners, weed killers, and wood preservatives.

Richland County will only collect dried latex paint as part of household garbage, however wet latex paint will not be picked up. The Lower Richland Drop-off Center and the Richland County C&D Landfill Drop-off Center accept latex paint for recycling if it is in good condition. Oil based paints and stains will not be accepted at curbside or drop-off centers. Residents are encouraged to dispose of their wastes at County-hosted HHW collection events that occur twice throughout

the year. The Richland County C&D Landfill Drop-Off Center and the Lower Richland Drop-Off Center also collect residential used motor oil and used oil filters, antifreeze, and lead acid batteries. No HHW material tonnage was collected by Richland County in FY 2019.

4.9.2 Textiles

Through the Mid-Atlantic Clothing Recycling Program (MAC), textiles such as clothing and shoes are collected at a drop box at the Richland County Sheriff's Department. MAC then collects the materials. The tons of textiles recycled since 2013 by Richland County is shown in *Table 4.10* below, as reported in each respective South Carolina Solid Waste Management Annual Report.

Table 4.10 Tons of textiles recycled by Richland County

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Tons of Textiles Recycled	60	13	53	135	131	17	1.3

4.9.3 Construction and Demolition Debris

Construction debris (to include carpet, padding, shingles, lumber, cement, sand, and dirt) is not collected curbside by Richland County. County residents should take these items to the Lower Richland Drop-off Center or the Richland County C&D Landfill Drop-off Center.

4.10 Public Education

Richland County strives to educate the public as much as possible on best solid waste and recycling disposal practices. The Richland County Solid Waste & Recycling Division has enacted several public education programs to inform the public of the need for and benefits of source separation, recovery, and recycling. It does this by hosting numerous events and educational opportunities County-wide. For example, in addition to the annual 'Richland Recycles Day', the County mans a booth at the State Fair every year to teach people how to properly recycle. The County also hauls all the recycled materials from the State Fair to the appropriate processing facility. The County's goal is to host at least four recycling collection events every year. It is looking to do this through partnerships with the local Riverbanks Zoo and Garden, Lexington County and the City of Columbia. Richland County hosts a Recycling and Shred Event to collect unwanted materials (mainly electronics) from residents that are hard to recycle or often not recycled properly, as well as paper shredding. Richland County also hosts outreach events at the Richland County Library.

For single-family households, the County promotes the neighborhood captains program sponsored by SC DHEC. This program appoints a designated resident to be their neighborhood's champion for recycling. The captain will post reminder flyers to recycle throughout the neighborhood three days before collection and will overall educate and encourage neighbors on the importance of recycling. The County would like to encourage participation by offering Richland Recycles clothing to residents that do volunteer to be captains.

4.11 Awards

In partnership with Keep the Midlands Beautiful, as well as the City of Columbia and Lexington County, Richland County helps run the Midlands Green Business program. This program recognizes businesses that adopt sustainable and eco-friendly business practices, thus keeping the local community cleaner, greener and making it a more beautiful place to live. The County will recognize businesses that do this and award them with accreditation as an official Midlands Green Business.

4.12 Special Wastes

Special waste is defined as commercial or nonresidential solid waste, other than regulated hazardous wastes, that are either difficult of dangerous to handle and require unusual management at MSW landfills, including but not limited to pesticide wastes, liquid wastes, sludge, industrial process wastes, wastes from pollution control processes, residue or debris from chemical cleanups, contaminated soil from a chemical cleanup, containers and drums, and animal carcasses. Richland County does not currently accept any type of special waste at its Lower Richland Drop-Off Center or the C&D Landfill. Any special wastes generated for disposal within Richland County are the responsibility of the entity generating the waste.

4.13 Import and Export

The Richland County Solid Waste & Recycling Division serves the solid waste needs of its citizens. The Waste Management of Richland Class 3 Landfill accepts waste from several other surrounding counties. Richland County does not export its MSW out of the County. Some private businesses and industries send their waste to the privately-owned landfills outside of Richland County.

5 Local Government Oversight

5.1 Introduction

Section 44-96-80 of the Act requires the County's Solid Waste Management Plan to include:

- an estimate of the cost of implementing the solid waste management plan within that county or region;
- an estimate of the revenue which each local government or region needs and intends to make available to fund implementation of the solid waste management plan;
- an estimate of the cost of siting, constructing, and bringing into operation any new facilities needed to manage solid waste within that county or region during the projected 20-year period;

Richland County's approved FY 2021 budget has $34,236,249.58 allotted to its Solid Waste Enterprise Fund and is the estimated of cost to implement the solid waste management plan within Richland County. The approved FY 2021 budget total comprises of a solid waste management budget of $1,022,789.00, a collections budget of $30,264,828.29, a C&D budget of $1,635,699.29, a Lower Richland Drop-Off Center budget of $583,623.00, and a closure/post-closure budget of $749,310.00. The estimate of costs for implementing the Plan is directly related to inflation and incoming waste amounts, which are projected to increase two percent annually from the previous year thereafter. Therefore, applying the directly correlated two percent annual increase, it is estimated that the cost to implement the Plan within Richland County over the entire 20-year planning period will be approximately $831,850,816.57.

Richland County's budgeting is not influenced nor correlated with the revenue stream generated within each of its incorporated areas. All of the incorporated areas of Richland County as well as the unincorporated collection system generate funds in support of their systems through user fees and/or property taxes.

New facilities needed to manage solid waste within Richland County during the projected 20-year period include the construction of a new waste and recycling drop-off center for the Clemson Road area which is not expected to take place for another two to three years. No funds have been allocated yet for the siting of a new drop-off center to service the northwest area of Richland County nor for the new siting of the Lower Richland Drop-Off Center. Another aspect of the 20-year plan is to expand the Richland County Class 2 Landfill. The design, permitting, and construction process of the expansion is not expected to start until FY 2024 and no funds have yet been allocated towards this effort.

A discussion of how each of the solid waste management services is funded is in the following sections.

5.2 Collection

Many of the incorporated areas of Richland County provide curbside collection services. Residential curbside collection of MSW, yard waste, and recyclables is available to the residents of Richland County per the Richland County Ordinance. A roll cart is provided to residents for

storing solid waste and a recycling bin to store recyclables for pickup. Curbside pickup occurs weekly for MSW and yard waste, and weekly/bi-weekly for recyclables. Residents must place their cart at the street on their designated collection day. Each of the incorporated areas generates funds in support of their systems through user fees and/or property taxes.

Richland County provides collection for the unincorporated areas of the County by utilizing manned drop-off centers. These centers accept items that can't be placed in roll carts, such as C&D debris, electronics, waste tires, used oil, and metal. The Richland County Solid Waste & Recycling Division manages and provides staffing for the drop-off centers.

5.3 Education

For incorporated areas of Richland County that provide education, funds are generated through user fees and/or property taxes.

Richland County provides solid waste and recycling public education services for the entire County. Funding for these public education services are funded from the collection of tipping fees and residential solid waste fees, which are paid by all users of the Richland County waste disposal facilities, as well as revenues from sales of recyclables.

5.4 Recycling and Mulching/Composting

For incorporated areas of Richland County that have recycling and composting programs, funds are generated through user fees and/or property taxes.

Richland County provides hauling services for numerous recycling collection areas located in both the incorporated and unincorporated areas of Richland County, including the Town of Blythewood.

The County also operates a mulching facility as described in Section *4.5.1* of this Plan. The mulching facility is funded from sales of mulch as well as the collection of residential solid waste and tipping fees, which are paid by all users of the Richland County waste disposal facilities.

5.5 Disposal

The Richland County Solid Waste & Recycling Division is responsible for the siting, construction and operation of solid waste management disposal facilities in Richland County. Residential solid waste fees will be the primary source of revenue to cover costs for siting, construction, and operation of Richland County's solid waste disposal facilities for the 20-year planning period. Currently, residential solid waste fees are used to cover the costs related to solid waste programming, waste collection, landfill operation and drop-off center operation costs. Landfill tipping fees also help cover landfill operational costs. A County-wide millage pays for the disposal costs at the Class 3 MSW landfill, currently at the Waste Management Richland Landfill. The County pays for disposal of residential Class 2 waste generated in the eastern part of Richland County at the Waste Management Pine Hill Landfill. Residential Class 2 waste from the western half of the County is taken to the Richland County C&D Landfill for disposal.

6 Goals, Policies, Strategies & Barriers

6.1 Introduction

The Solid Waste Policy and Management Act (Act) designates a waste reduction goal and a waste recycling goal for the state. The Act also establishes policies to be incorporated into South Carolina's solid waste management programs. This chapter details the solid waste reduction and recycling goals and policies outlined in the Act along with suggested strategies for achieving the goals, and possible barriers.

Specifically, Section *6.2* summarizes the State Solid Waste Management Plan Goals and Policies; Section *6.3* presents Richland County's plan for meeting these Goals and Policies; Section *6.4* presents additional potential strategies and actions to assist in meeting the Goals and Policies; Section *6.5* describes ongoing actions taken to meet Goals and Policies; and Section *6.6* describes possible barriers to meeting the Goals and Policies.

6.2 State Solid Waste Management Plan Goals and Policies

6.2.1 Goals

The following goals are included in Section 44-96-50 of the Act.

1. It is the goal of this State to reduce, on a statewide per capita basis, the amount of municipal solid waste being *generated* to 3.5 pounds per day not later than June 30, 2005. The FY 2011 South Carolina Solid Waste Management Annual Report updated this goal to be a *disposal* rate of 3.25 pounds or less per day by 2020. The current goal, per the FY 2019 South Carolina Solid Waste Management Annual Report, is to reduce municipal solid waste *disposal* to 3.25 pounds or less per person per day.
   For the purposes of this goal, "municipal solid waste" includes, but is not limited to, wastes that are durable goods, nondurable goods, containers and packaging, food scraps, yard trimmings, and miscellaneous inorganic wastes from residential, commercial, institutional, and industrial sources including, but not limited to, appliances, automobile tires, old newspapers, clothing, disposable tableware, office and classroom paper, wood pallets, and cafeteria wastes. "Municipal solid waste" does not include solid wastes from other sources including, but not limited to, construction and demolition debris, auto bodies, municipal sludges, combustion ash, and industrial process wastes that also might be disposed of in municipal waste landfills or incinerators.
2. It was a prior goal of the State to recycle, on a statewide basis, at least 35 percent, calculated by weight, of the municipal solid waste stream generated in this State no later than June 30, 2005. In determining whether the solid waste recycling goal has been achieved, no more than 40 percent of this goal may be met by removing yard trash, land-clearing debris, and C&D debris from the solid waste stream. The FY 2011 South Carolina Solid Waste Management Annual Report updated this goal to recycle 40 percent of its MSW by 2020. The current goal, per the FY 2019 South Carolina Solid Waste Management Annual Report, is to recycle 40 percent of the state’s MSW.

3. It is the goal of this State to continue setting new and revised solid waste recycling and waste reduction goals after June 30, 2005. These goals must be established in a manner so as to attempt to further reduce the flow of solid waste being disposed of in municipal solid waste landfills and solid waste incinerators.

6.2.2 Policies

The following policies are included in Section 44-96-50 of the Act.

1. It is the policy of this State to promote appropriate methods of solid waste management prior to utilizing the options of disposal in landfills, treatment or disposal by incineration or other treatment, storage, or disposal methods, and to assist local government with solid waste management functions. In furtherance of this state policy, it shall be preferable to reduce the production and generation of waste at the source and to promote the reuse and recycling of materials rather than the treatment, storage, or disposal of wastes by landfill disposal, incineration, or other management methods designed to handle waste after it enters the waste stream.
2. It is the policy of this State that the methods of management of solid waste shall protect public health, safety, and the environment by employing the best available technology, which is economically feasible for the control of pollution and the release of hazardous constituents into the environment. Such methods shall be implemented in a manner to maximize the reduction of solid waste through source reduction, reuse, and recycling.
3. It is the policy of this State to encourage research by private entities, by state agencies, and by state-supported educational institutions into the reduction of solid waste production and generation.
4. It is the policy of this State to encourage a regional approach to solid waste management.
5. It is the policy of this State that each county or region make every effort to meet, on an individual basis, the state solid waste recycling and reduction goals and that each county or region, and municipalities located therein, which meet this goal be financially rewarded by the State.

6.3 Strategies to Meet Goals and Policies of the Act

With this Plan, Richland County intends to incorporate all the goals and policies set by the State into its solid waste program. Strategies to meet goals and policies of the Act include:

- To develop and maintain an administrative staff which fully supports the missions, goals, and objectives of the Richland County Solid Waste & Recycling Division.
- To provide educational programs to the public on responsible waste management with an emphasis on source reduction, re-use, recycling, and environmental awareness.
- To provide comprehensive solid waste management programs which incorporate state-of-the-art technologies in order to maximize protection of the environment and efficiently utilize the disposal system.
- To provide attractive and well-maintained facilities and equipment in order to provide waste disposal services promptly to users, to enhance the image of waste management in the service area, and to instill pride in Richland County.

- To maintain active liaison and communications with industry, federal, state, and local officials concerned with solid waste management.
- To continue to employ, train, and retain a highly competent work force consistent with sound personnel practices and laws.
- To pursue a regional approach to managing the County's waste.

6.4 Additional Potential Strategies and Action Items to Consider

The following additional strategies are considered for inclusion in the 2021 Solid Waste Management Plan.

6.4.1 Consumption/Generation Potential Strategies

1. A phased approach for increasing diversion over time beyond the state goals should be considered. However, due to the difficulty in accurately tracking the actual, overall diversion and recycling rates due to inconsistent reporting across the County and State, a more clear and comprehensive understanding of accounting for recycling and diversion in the County is needed. A clear method of accounting for recycling and diversion rates could be established as a baseline before setting more aggressive recycling and diversion goals and developing strategies to achieve those goals.

   The County could look for ways to incentivize commercial reporting. An evaluation of what is currently occurring should first be determined. Consider encouraging the State to require reporting, and perhaps consider putting the reporting requirement on the recyclable materials haulers rather than individual businesses.

   Discussions with the Richland County Solid Waste & Recycling Division could be considered in order to demonstrate the current difficulties in measuring accurate recycling rates, and potential efforts to require or otherwise incentives reporting in order to accurately track recycling efforts in the County, which may include:

   - updating the current County ordinance to make reporting required
   - an incentive program to promote businesses that report
   - an adjustment to regulations in order to make recycling easier for businesses (i.e. dumpster enclosure regulations, style of service regulations, future building design criteria).
   - **Action Item**: Work with SC DHEC to improve/streamline, require and enforce reporting, which may include changes to who reports and how (e.g., instead of individual businesses reporting, focus on recyclable material haulers reporting and tie to licensing to enforce.)
2. The County could perform a recycling commodity characterization study every five years (before each Plan update) or as determined by market conditions in order to better understand what is in the waste stream and how the current recycling market is affecting it. The study should break down information from different generator sectors (e.g., residential single family, residential multifamily, and commercial areas). A recycling commodity characterization study could help analyze if changing the recycling collections stream could be cost beneficial (e.g., removing glass from collection).

3. The County, and municipalities within the County, could continue to promote backyard composting and take-back programs, such as for electronics, through its education and outreach efforts.
    - **Action Item**: Baseline food scraps, electronics, and other items that should be recycled in "take back" programs in the next recycling commodity characterization study, then measure progress with each waste characterization study performed prior to each Plan update.
    - **Action Item**: Research whether an additional fee could be added for Richland County to provide certain additional services.
4. The County and municipalities within the County could support state-level Extended Producer Responsibility (EPR) initiatives, rather than implement its own EPR initiatives, which may include EPR initiatives for tires, e-waste, plastic bags, carpet, paint, mattresses, batteries, and various product packaging materials.
    - **Action Item**: Encourage SC DHEC to take more action on EPR initiatives.
5. The County and municipalities within the County could each review its own current Municipal Purchasing Practice and determine if there are opportunities to lead by example through sustainable purchasing practices at the local government level. The County could also encourage the State to look for opportunities for sustainability initiatives through the State purchasing practices.

6.4.2 Collection and Transfer Potential Strategies

1. The County should expand its drop-off center locations to allow more residents within the County access to a means of disposal and recycling (i.e. construct a new drop-off center to service the northwest area).
    - **Action Item**: Analyze the logistical and financial potential to build a new drop-off center to service the northwest area of Richland County; expand or re-locate the partially servicing drop-off center in the northeast area to act as a full servicing center; and re-evaluate the Lower Richland Drop-Off Center site due to unsafe traffic patterns and volume, and determine whether it should be relocated to a safer location.
2. The County could remove glass from the curbside recycling program and collect it only at the drop-off sites to reduce contamination, equipment damage and costs. It could generate a partnership with the University of South Carolina and other Richland County municipalities to collect glass and consolidate it at the County landfill for transportation to a glass recycler.
3. The County could partner with SC DHEC to establish a public relations campaign to encourage residential recycling and reduce contamination in collected roll carts. The Division should continue to tag recycling roll carts to educate residents on proper recycling, as well as reduce the contamination rate.
4. The County and municipalities within the County could continue to monitor and implement opportunities to address recycling in public places and at special events. The added cost of these events should be compared to the diversion anticipated to determine the cost and benefits of expanding recycling in public places and at special

events. Logistics, including impacts on planning and zoning should also be factored into the analysis.

5. The County could continue to expand its programming to assist businesses and multifamily housing in setting up recycling programs. Programming could include education and outreach for tenants of building, logistics assistance for property managers to determine placement of recycling containers, and recommendations for recycling programs that make the most sense for the specific user (i.e. office buildings recycle office paper, restaurants recycle bottles and containers and/or food scraps, retailers recycle cardboard, etc.). Currently, multifamily residents do have access to the County-wide drop-off centers.

6.4.3 Processing and Conversion Potential Strategies

1. The County could investigate and develop markets for its mulch/woodchips. The Division should consider renting a trommel screen to screen the mulch and woodchips. Fines from the screened material could be sold as topsoil or compost.
2. The County recently conducted a capacity study for the Richland County C&D Landfill to determine the potential for future landfill expansions. Within the next five years, the County should move forward with the permitting of the next expansion phase of the landfill.

6.4.4 Marketing/End Use

1. The County could evaluate the markets for recyclables in the region in order to determine what markets are readily available in the area and what kinds of markets make sense to attract to the area. The Solid Waste and Recycling Division should be responsible for determining which commodities to include or remove from the curbside recycling collection program based on market conditions.

6.4.5 Additional Material Streams and Strategies to Consider

1. The County could further promote organics recycling through commercial food scraps diversion, as the processing capabilities within the County allow.
    - **Action Item**: Look for ways to attract more private haulers for organics collection, to help lower cost.
2. The County and municipalities within the County could look for opportunities to recycle construction and demolition debris (C&D).
    - **Action Item**: Add C&D recycling statistics from each municipality to the Plan, so it can be tracked every five years, with each update. To the extent possible, aggregate data from private operators, too.
3. The County should routinely review tipping and residential solid waste fees, or identify other funding sources, that cover the cost of recycling and diversion programs.
4. The County could encourage municipalities to accept the 2021 strategies as part of their own goals and strategies, as many of these strategies would need to be implemented in each jurisdiction.

6.5 Ongoing Actions Taken to Meet Goals and Policies of the Act

Richland County has made significant efforts toward the recycling and reduction of solid waste through its aforementioned recycling events and public education programs. The County will continue to operate these events and programs and plans to add more in the future.

The County intends to capitalize on opportunities to achieve the per capita waste disposal goal and recycling goal set by the State Plan. As a strategy to reach the State goals, Richland County is analyzing incoming recycling commodity materials and removing categories that are not cost effective. For example, the County is currently planning on slowly removing glass from its curbside collection program due to negative current market conditions, its contamination of other materials, its abundant presence in residue, as well as its abrasiveness to recycling machinery.

6.6 Possible Barriers to Achieving Goals

Over the past several decades, it has been demonstrated that waste generation is directly correlated to economic activity. During prosperous times, society tends to be more wasteful. For businesses, these good economic times reduce the incentive to recycle or reduce waste since waste disposal fees become a much smaller portion of their overall costs. During good economic times, citizens tend to increase purchases and discard rather than reuse, thereby creating more waste.

During the past couple of years, the country has experienced extreme volatility in markets for commodities that are collected for recycling, which fell drastically due to recent actions on the part of China. In July 2017, China notified the World Trade Organization (WTO) of its intention to prohibit the import of certain solid wastes and scrap into their country, including mixed paper and mixed plastics, beginning on January 1, 2018. China also announced an exceedingly stringent contamination standard applicable to recyclable imports (0.5 percent). According to Chemical & Engineering News (C&EN), prior to these new restrictions China was importing approximately 13 million tons of paper and 776,000 tons of plastic from the United States annually. Recycling processing facilities around the United States are now struggling to find viable markets to accept these materials, especially since it is often cheaper for manufacturers to use virgin materials that are typically abundantly available rather than recycled materials.

Fluctuating and unstable markets for recyclables have made it difficult to significantly expand recycling opportunities. The markets can significantly impact the cost effectiveness of a recycling program. Markets must abound and be stable for communities and private businesses to invest and expand recycling and waste reduction efforts.

Since recycling programs are generally a net cost (i.e. the revenues from the sale of recyclables do not cover the cost of the programs), their prevalence is subject to the funding constraints of the local government. Richland County's recycling programs are funded from sales of recyclables and solid waste fees charged to residents. New recycling programs or expansion of existing recycling programs will necessitate significant increases in residential solid waste fees. Increased funding could result from more waste being disposed or from higher residential solid waste fees. The biggest concern is that maintaining the existing system is dependent upon

maintaining the residential solid waste fees at their current levels or the substitution of an alternative funding system. The County has already started implementing some strategies to help alleviate some of the cost burdens. While some municipalities across the country are eliminating curbside recycling altogether to help reduce costs, Richland County has chosen a different course. It has been trying to educate its citizens on the contamination issues with recycling and are even refusing to pick up carts with contaminated materials. The County will return on the next pick up day providing the contamination has been removed. The County's efforts have resulted in an approximately $20.00 per ton difference in its favor compared to other similar municipalities. While the County's educational efforts have proven to be helpful in cost reduction so far, the County is still planning on slowly removing glass from its curbside collection program to cause further savings.

As discussed earlier, waste reduction plays an important role in reaching the goals of the State. Richland County can encourage its citizens to reduce the amount of waste they generate by smart shopping and reuse of packaging materials; however, the results will be limited without the support of the businesses and industries that produce and sell the products the citizens buy. The effort to reduce packaging must start at the State and Federal levels in order to be successful. Richland County could encourage SC DHEC and the General Assembly to expand Section 44-96-150 of the Act dealing with packaging and plastics. The section requires packaging, especially beverage containers, to be made of recyclable materials. The section needs to also focus on reducing packaging for all products, where practical.

7 Public Participation, Plan Revision, and Consistency with State and Local Solid Waste Management Plan

7.1 Introduction

This section of the Plan describes public participation utilized to make this Plan revision as well as procedures for determining consistency with the State and local Solid Waste Management Plans.

7.2 State and Local Plan Revision

7.2.1 Local Government Participation

Section 44-96-80 of the Solid Waste Act states "Local governments... shall participate in the development of the…plan and are required to be a part of the plan". As previously mentioned in Section 1.7 of this Plan, the 2021 Plan was prepared utilizing input from the Richland County Solid Waste & Recycling Division and the local governments/incorporated areas.

After their input is incorporated, the Plan is to be submitted directly to the Richland County Council by the Richland County Solid Waste & Recycling Division. The Richland County Council will be asked to approve a resolution in support of the Plan.

Following approval by the Richland County Council, the Plan will be submitted to SC DHEC.

7.2.2 Plan Revision

The Richland County Solid Waste Management Plan will be, at a minimum, updated every five years. Revisions of the Richland County Solid Waste Management Plan will require approval of the Richland County Council. Meeting minutes documenting Richland County Council review and/or approval of the updated Richland County Solid Waste Management Plan will be provided to SC DHEC and will be located in *Appendix C*.

7.3 Consistency with State and Local Solid Waste Management Plans

Section 44-96-290(F) of the Act states no permit to construct a new solid waste management facility or to expand an existing solid waste management facility within a county or municipality may be issued by the SC DHEC unless:

1. the applicant provides documentation from the applicable local government of compliance with local land use and zoning ordinances along with the permit application;
2. the proposed facility or expansion is consistent with the local or regional solid waste management plan and the state solid waste management plan; and

3. the host jurisdiction and the jurisdiction generating solid waste destined for the proposed facility or expansion can demonstrate that they are actively involved in and have a strategy for meeting the statewide goal of waste reduction established in this chapter

All permit applications for solid waste management facilities must be submitted to SC DHEC and reviewed for consistency with the State Solid Waste Management Plan and the 2021 Richland County Solid Waste Management Plan.

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Appendix A – Richland County Solid Waste Ordinance (Chapter 12)

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CHAPTER 12: GARBAGE, TRASH AND REFUSE*

***Editor's note--**At the discretion of the editor, Ord. No. 954-82, effective Jan. 1, 1984, has been included as having superseded §§ 12-2, 12-4, and all of Art. II, formerly comprising §§ 12-11--12-21. Ord. No. 954-82 had been saved from repeal by § 1-10(7); it was not specifically amendatory. The provisions codified as old §§ 12-2, 12-4 and 12-11--12-21 derived from Code 1976, §§ 8-2001--8-2013 and Ord. No. 649-80, effective June 6, 1979.

Cross reference(s)---Dumping on private property, § 2-199; hazardous chemicals, Ch. 13; health, Ch. 14; sewers and sewage disposal; weeds and rank vegetation, § 18-4; § 24-61 et seq.

State law reference(s)--Garbage collection and disposal in counties, S.C. Code 1976, § 44-55-1010 et seq; solid waste collection and disposal by counties, S.C. Code 1976, § 44-55-1210 et seq.

ARTICLE I. IN GENERAL

Sec. 12-1. Dumping within rights-of-way prohibited.

It shall be unlawful for any person to dump, throw, drop, leave, or in any way deposit any garbage, ashes, rubbish, paper, trash, litter, refuse, building materials, glass bottles, glass or cans on any property belonging to another on or along any street, road, highway, curb, sidewalk, or public right-of-way, except as required by the authorized and franchised garbage collector for that district; nor shall any person throw or deposit any refuse in any stream or other body of water within the boundaries of the county.

(Code 1976, § 11-4001; Ord. No. 389-77, § 1, 4-20-77)

Cross reference(s)--See also § 12-21.

State law reference(s)--Similar provisions, S.C. Code 1976, § 16-11-700.

Sec. 12-2. Litter control.

(a) *Responsibility of driver.* When litter is thrown from a vehicle, the driver shall be held responsible regardless of who throws the litter out of the vehicle.

(b) *Procedures.* The following procedures shall be followed by refuse control officers when citing violators of this provision of this section:

(1) In accordance with South Carolina Code 1976, section 16-11-710, the county refuse control officers shall hereby be authorized to accept a cash bond in lieu of requiring an immediate court appearance by a person who has been charged in a violation of ordinances and laws relating to litter control. Checks shall be accepted instead of cash.

(2) Refuse control officers shall use Form S-438 when issuing citations.

(3) In cases where bail is accepted by arresting officers, the violator's copy of the summons (blue) shall serve as the receipt for the offender. Bail monies shall be properly secured during nonworking hours by the refuse control officer. Prior to the trial, the arresting officer shall turn the bail bond over to the magistrate who signs the receipt portion of the summons for the arresting officer. Strict accountability shall be required in accordance with established procedures of the county's finance department (Ordinance No. 233-1015-75, Sections 1 and 2).

(Ord. No. 954-82, § 11, 1-1-84)

Sec. 12-3. Scavenging through greenboxes.

It shall be unlawful for any person to rummage through, remove, or salvage items from or otherwise scavenge from or tamper with any county-owned greenbox, solid waste container or the area located around green boxes and containers located within the unincorporated area of the county.

(Code 1976, § 11-1003; Ord. No. 794-81, §§ I, II, 4-2-81; Ord. No. 999-82, § I, 12-1-82; Ord. No. 1907-89, § IV, 9-5-89; Ord. No. 006-02HR, § I, 3-19-02)

Sec. 12-4. Debris on lots.

(a) *Definition*. For purpose of this section, the term "debris" means refuse, rubbish, trash, garbage, offal, junk, spilth, waste, litter, and/or building materials that are determined to be deleterious to good health and public sanitation.

(b) *Declaration of nuisance*. Debris allowed to accumulate and remain on any lot or parcel of land in a developed residential area within the county may be deemed and declared a nuisance in the judgement of the county public works director. For the purpose of this action, "residential area" is defined as property zoned for a residential use, platted for residential use with a plat having been begun, installation of utilities having been begun and construction of residential units being commenced.

(c) *Duty of owner, etc., to remove*. It shall be the duty of any owner, lessee, occupant, agent, or representative of the owner of any lot or parcel of land in a developed residential area within the county to remove such debris as often as may be necessary to prevent the accumulation of such debris.

(d) *Notice to owner, etc., to remove*. Whenever the county public works director shall find that debris has been allowed to accumulate and remain upon any lot or parcel of land in a developed residential area within the county in such a manner as to constitute a nuisance, s/he may serve written notice upon the owner, or the occupant of the premises, or upon the agent or representative of the owner of such land having control thereof to comply with the provisions of this section. It shall be sufficient notification to deliver the notice to the person to whom it is addressed or to deposit a copy of such in the United States mail, properly stamped, certified, and directed to the person to whom the notice is addressed, or to post a copy of the notice upon such premises.

(e) *Failure to comply with notice*. If the person to whom the notice is directed, under the provisions of the preceding subsection fails, or neglects to cause such debris to be removed from any such premises within ten (10) days after such notice has been served or deposited in the United States mail, or posted upon premises, such person shall be deemed guilty of a misdemeanor and subject to the penalty provisions of this chapter.

(f) *Removal by county*. In the event any property is determined to be a nuisance, and twenty (20) days has elapsed after such notice has been served, deposited in the United States mail, or posted upon the premises, then the department of public works or its duly authorized agent or representative may enter upon any such lands and abate such nuisance by removing the debris, and the cost of doing so may become a lien upon the property affected, or may be recovered by the county through judgment proceedings initiated in a court of competent jurisdiction.

(g) Work may be done by county upon request. Upon the written request by the owner or the person in control of any lot or parcel of land covered by this section, and the payment to the county for the services, the department of public services may enter upon any such lands and remove the debris therefrom, the charge and cost of such service to be paid into the county treasury.

(Ord. No. 1130-84, §§ 1-7, 3-6-84; Ord. No. 1611-87, §§ 1-5, 5-5-87; Ord. No. 1843-89, §§ I-III, 3-7-89; Ord. No. 2086-91, §§ I, II, 4-16-91; Ord. No. 051-02HR, § II, 9-17-02)

Sec. 12-5. Penalties.

(a) If any of the matter or material dumped in violation of this chapter can be identified as having last belonged to, been in the possession of, sent to, or received by, or to have been the property of any person, firm,

or corporation prior to its being dumped as prohibited herein, such identification shall be presumed to be prima facie evidence that such owner dumped or caused to be dumped such matter or material in violation of this chapter.

(b) Appointed refuse control officers shall have the authority to enforce all the provisions of this chapter and shall issue summons to violators of any provision to appear in the magistrate's court of the county to answer to the charge of violation of the appropriate section of this chapter.

(c) Any person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than thirty (30) days or fined not more than five hundred ($500.00) dollars, or both. Each day's continuing violation shall constitute a separate and distinct offense, unless otherwise specified.

(Ord. No. 954-82, §§ 12-1, 13-1, 13-2, 1-1-84; Ord. No. 023-01HR, § I, 4-17-01; Ord. No. 051-02HR, § II, 9-17-02)

Sec. 12-6. County landfills not to accept garbage, refuse and other waste material generated outside county.

(a) The Richland County Landfill shall not accept garbage, refuse or other waste material which is generated outside of the county.

(b) Before being allowed to dump garbage, refuse, or other waste material in the county landfill, the person dumping said material shall sign a statement authenticating that said material was generated within the county.

(c) Any and each false statement signed by a person dumping material referred to in subsection (b) of this section shall constitute a violation of this chapter.

(d) The term "generated," as used in this section, shall mean the point of origin of garbage, refuse, or other waste material. Sludge from waste treatment plants located outside of the county which treat waste generated in the county may be accepted to the extent that the sludge is generated in the county.

(e) Any dispute as to the point of origin of garbage, refuse, or other waste material shall be decided by the director of public works and utilities.

(Ord. No. 1703-88, § 2, 1-5-88; Ord. No. 1736-99, §§ I--III, 4-19-88; Ord. No. 051-02HR, § II, 9-17-02)

Secs. 12-7--12-10. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL

Sec. 12-11. Applicability.

This article shall apply to the preparation, storage, collection, transportation and disposal of all refuse in the area under jurisdiction of the county council as presently or hereafter established. It shall prescribe rules and regulations relating to collection and disposal of solid waste; prescribing rules and regulations for hauling garbage, refuse and other waste material within and through the county; providing for the proper disposal of solid waste; prohibiting littering and illegal dumping within the unincorporated area of the county, and providing penalties for violation thereof. This article provides for the assessment of service charges to finance the cost of solid waste collection.

(Ord. No. 954-82, § 2, 1-1-84; Ord. No. 093- 05HR, § 1, 12-6-05)

Sec. 12-12. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section. When not inconsistent with the context, words used in the present tense include the

future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely discretionary.

Apartment: Any building containing more than four (4) contiguous dwelling units or any group of buildings or mobile homes located on a single lot which contains a total of six (6) or more dwelling units.

Bulk container: A manufacturing container suitable for emptying by mechanical equipment and approved by the director of public works.

Code: The Code of Richland County, South Carolina.

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

Commercial refuse: Trash and garbage generated by apartments, operation of stores, offices, restaurants and other places of business and industrial establishments (excluding industrial waste as defined herein).

Contractor: The person or persons, partnership, or corporation which has entered into a contract with the county to perform solid waste collection.

County: Richland County, South Carolina.

County administrator: The county administrator or his designated agent.

Disposal facility: Any facility or location where any treatment, utilization, processing or disposition of solid waste occurs.

Dwelling unit: One or more habitable rooms which are intended to be occupied by one (1) family with facilities for living, sleeping, cooking and eating and from which the county would collect refuse; excludes commercial, industrial and manufacturing establishments.

Franchise collector: The person or persons, partnership or corporation which has entered into a franchise agreement with the county to perform solid waste collection.

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

Garden and yard trash: Any and all accumulations of grass, leaves, small trees and branches (not exceeding four (4) inches in diameter), shrubs, vines and other similar items generated by the maintenance of lawns, shrubs, gardens and trees from residential properties.

Hazardous materials: Wastes that are defined as hazardous by state law and the state department of health and environmental control regulations.

Health officer: The county health officer or his authorized deputy, agent or representative or other person as the county council may designate in lieu of such health officer.

Household trash: Any and all accumulations of materials from the operation of a home which are not included within the definition of garbage. Household trash shall include all bulky appliances, furniture, boxes and yard toys.

Industrial waste: Any and all debris and waste products generated by canning, manufacturing, food processing (excluding restaurants), land clearing, building construction or alteration and public works type construction projects whether performed by a governmental agency or by contract.

Refuse: Includes both garbage and trash as defined in this section.

Residential property: Property which contains residential dwelling units other than those defined in this section as apartments.

Residential refuse: Refuse generated by residential property as defined in this section.

Roll cart: Garbage containers, mounted on wheels, which are issued to citizens by the county. Containers are used to store garbage between collections by franchise collectors.

Sanitary landfill: The method of disposing of refuse by placing an earth cover thereon which meets the regulations of the state department of health and environmental control.

Small business: Any business entity registered with the Secretary of State that produces no more solid waste during any County defined solid waste collection cycle than will fill two (2) County-issued roll carts.

Special material: These are bulky materials or other special wastes that are not stored in roll carts and cannot be picked up by a normally used collection vehicle.

Trash: Unless specifically provided to the contrary, shall include and mean household trash and garden and yard trash as defined herein.

(Ord. No. 954-82, § 3, 1-1-84; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-13. Administration and enforcement.

(a) The director of public works shall be responsible for the administration and enforcement of the provisions of this article. He or she may request assistance from the various departments and other officials of the county as may be necessary for the orderly implementation of this article. Regulations promulgated to carry out this article shall be subject to prior review and approval of county council.

(b) Proof of means used for disposal of solid wastes by businesses and commercial enterprises shall be presented to the refuse control officers when requested by them.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-14. General conditions for granting contracts for residential and small business solid waste collection.

(a) The entire unincorporated area of the county shall be designated as a roll cart service area and shall be divided into eight (8) service areas with these areas to be plainly outlined on a map of the county. Such maps shall be made a part of the contract with the collectors and shall be available for public inspection..

(b) Contracts shall be obtained as follows:

(1) After the initial awarding of the service areas, the option to bid on any or all of the service areas shall be open to all contractors, or subcontractors, who are garbage collectors for the county, or said areas may be awarded through open, competitive bidding.

(2) If all service areas are not successfully awarded through the above method, areas shall be awarded pursuant to the Richland County Code of Ordinances, Chapter 2, Article X, Division 2, Competitive purchasing policy. Anyone submitting a bid or proposal must meet all qualifications and criteria set forth for collectors.

(3) A lone bid or proposal for a specific service area shall not warrant automatic award of the franchise to the lone bidder or proposer.

(4) Should any contractor, or subcontractor, be found to be involved in collusion, in any way, through his or her own acts or those of any agent, said contractor or subcontractor, shall be disqualified from bidding or proposing.

(5) Successful contractors shall offer to purchase existing solid waste collection vehicles from current contractors within the respective service areas who were unsuccessful in renewing or renegotiating a contract.

The value of the equipment will be determined by an independent appraiser.

(6) Successful contractors will be encouraged to hire employees of current contractors, within the respective service area, who were unsuccessful in renewing or renegotiating a contract.

(7) a. In the event that a contractor shall lose his contract through the expiration of his or her contract through the expiration of the contract or otherwise, or in the event that he or she subcontracts his or her area, then county council may, at its option, do any of the following:

1. Contract with the subcontractor without competitive bidding, pursuant to section 2-612(c)(3) and (10);

2. Open the area to competitive bidding by the contractors authorized to operate in Richland County; or

3. Open the area to competitive public bidding.

b. In the event that a contractor is a partnership, corporation, or entity other than an individual, and such contractor anticipates a sale or transfer of the ownership and/or management of the business to a third party, then the county administrator shall, at his discretion, give written approval or denial of the assignment of the contractor's contract rights under the contractor's franchise to the third party. Written approval of the county administrator shall be obtained prior to the third party's assumption of the contractor's duties in the service area.

c. In the event that a contractor who is a partnership, corporation, or entity other than an individual fails to obtain the prior written approval of the county administrator as required by section 12-14(b)(7)b. above, the county may competitively bid such contractor's service area.

(c) Monthly payments shall be made by the director of finance to the contractors. The contractors shall be allowed to petition county council for payment increase, based upon significant change of circumstances in the cost of delivering collection services.

(d) Collectors shall not be permitted to change boundaries of collection areas or to enter into agreements with subcontractors without prior written approval of the county administrator.

(e) All collectors under contract with the county shall continue service to customers as outlined in the contract.

(f) All bonds, insurance and other contractual obligations shall be adhered to by all contractors. Such contract requirements shall be reviewed and/or evaluated on a routine basis, and if, at any time, a collector is found to be in violation of any contract requirement, the collector shall be given fifteen (15) days to correct the violation. Should the collector fail to show compliance with the contract after the fifteen-day grace period, he or she shall automatically forfeit his or her franchise.

(g) The county administrator shall make available to the contractors any information gathered by the county which might assist the collector in submitting his or her cost and/or bid.

(h) Contractors shall not be required to pay the standard landfill dumping fees for residential solid waste or for small business solid waste delivered to the Richland County Landfill.

(i) Contracts with the franchise shall be for a period not to exceed five (5) years.

(j) Any contract may be extended at the option of county council and the contractor for a period not to exceed five (5) years, notwithstanding any contract language to the contrary. Any subcontractor who has assumed the duties and responsibilities of another contractor may, at the option of county council, be substituted as the original contractor of the service area.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 1859-89, § I, 4-18-89; Ord. No. 1917-89, § I, 10-3-89; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-15. Conditions for residential and small business solid waste collection--Garbage.

(a) Garbage shall be collected only by collectors who are franchised by the county.

(b) Garbage shall be collected in the entire unincorporated portion of the county by roll cart service under the following conditions:

(1) One (1) roll cart shall be issued to each household in the unincorporated area of the county. The roll carts remain the property of the county for use by the household to which they are issued. Residents who damage roll carts issued to them shall pay for repairing the carts or purchase replacement carts from the county. Carts that are damaged through normal use as a result of being emptied by contractors will be repaired at county's expense. Collection will be suspended at any location at which a roll cart is missing or at which a roll cart is damaged to such an extent as to interfere with normal collection methods.

(2) A small business may request up to two (2) county-issued roll-carts for use in scheduled solid waste collection by the franchise collector. The roll carts remain the property of the county for use by the small business to which they are issued. Anyone who damages a roll cart that is issued to them shall pay for repairing the carts or purchase replacement carts from the county. Carts that are damaged through normal use as a result of being emptied by contractors will be repaired at county's expense. Collection will be suspended at any location at which a roll cart is missing or at which a roll cart is damaged to such an extent as to interfere with normal collection methods.

(3) Except as described in section 12-17(b) and (c), infra, roll carts shall be placed at curbside of the nearest public road, no later than 7:00 a.m. on the day of collection. Carts shall be removed from the curbside by the residents no later than 7:30 p.m. on the day of collection.

(4) For residential collection, garbage in excess of the capacity of the roll cart will be collected if placed in plastic bags and placed at curbside along with the roll cart.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-16. Conditions for residential and small business solid waste collection--Yard trash and other household articles.

(a) Refuse shall be collected only by collectors who are franchised by the county.

(b) Yard trash and other household articles shall be collected in the entire unincorporated portion of the county under the following conditions:

(1) Yard trash, including all bagged or boxed trash and the equivalent of two (2) roll carts of loose trash, placed at curbside of the nearest public road, shall be collected once each week. This article does not intend to require that yard trash be bagged, boxed or bundled; however, such practice will be encouraged.

(2) Yard trash and other household/business articles not suitable for placement in a roll cart, plastic bag or trash container sack may be placed for collection as follows:

a. Tree branches and heavy brush which do not exceed four (4) inches in diameter shall be cut in lengths not exceeding four (4) feet in length and stacked in a compact pile in front of the residence adjacent to the curb, but such piles shall not extend into the streets;

b. Sticks, hedge clippings, small brush and leaves shall be placed in neat piles at curbside.

(3) Within one (1) week of each month, contractors shall remove all household/ business furnishings, appliances, large yard toys and other large household/business articles, when placed in front of the residence or business at the nearest public road. All large appliances shall have doors removed prior to placement at the curb.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-17. Additional levels of residential solid waste collection.

(a) Citizens living more than three hundred (300) feet from a public road may use either roll carts or other suitable containers to place solid waste awaiting collection. If a roll cart is not used by the property owner, payment for the cart will not be assessed.

(b) Handicapped citizens may receive backyard service for garbage collection. This special exception may be granted when the appropriate county official determines that there is no person living in the house who is physically capable of rolling the cart to and from the curb. In such instances, the cart will be dumped only once per week, on the second day of collection (Thursday or Friday). Provided, however, that yard trash will be collected only from the nearest public road, as set forth hereinabove.

(c) Subdivisions desiring a higher level of service may request backyard pick-up pursuant to the following conditions:

(1) The subdivision must have a duly organized homeowners' association and such request shall be made by said association.

(2) At the time that the homeowners' association requests the higher level of service, said association shall provide either a certified true copy of the results of a certified ballot mailed to each homeowner and tallied by a certified public accountant, or a certified true copy of the minutes of the meeting where the decision was made by majority vote to request said higher level of service. Said minutes shall be signed and attested by the president and secretary of the homeowners' association; the association must also certify that all homeowners were notified of the meeting at least ten (10) days in advance and must furnish a copy of the notice.

(3) At the time that the homeowners' association makes the request, said association shall clearly define the geographic boundaries of the area encompassed in the request, including tax map sheet references.

(4) The cost of the higher level of roll cart service (backyard pick-up) shall be placed on the tax bills of all residents in the subdivision, however, said cost shall not exceed 1.8 times the basic curb service charge. In addition to the garbage collection charge, the county shall be entitled to collect the total cost of administering this program, which shall be divided among the individual homeowners on an equitable basis by the finance department annually.

(5) All requests for the higher level of service (backyard pick-up) shall be made to and approved by the county administrator.

(6) Under no circumstances shall the county provide the higher level of roll cart service (backyard pick-up) to any subdivision which does not have deed restrictions which prohibit curbside pick-up.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 1567-86, § 1, 12-30-86; Ord. No. 093-05HR, § 1, 12-6-05)

Sec. 12-18. Preparation and storage of residential and/or small business solid waste for collection.

(a) It shall be the duty of the occupant or owner of any residential premises, or the owner or operator of any small business, to store all refuse properly, including garbage and trash, pending collection and disposal. Residential excess garbage beyond that which can be placed in the roll cart shall be placed in plastic bags alongside carts on collection days.

(b) All garbage receptacles except single-use paper or plastic bags and cardboard boxes shall be kept clean and free of accumulated waste and shall be treated with an effective insecticide, if necessary, to prevent nuisance.

(c) Each owner shall prevent the continued, excessive and unsightly accumulation of refuse upon the property occupied by him (or her) or a public thoroughfare adjoining his or her property. Unlicensed automobiles and other vehicles shall not be permitted to be kept except at appropriate commercial establishments. Removal and disposal of unlicensed vehicles shall be the responsibility of property owners where such vehicles are located.

(d) It shall be a violation of this article to place or cause to be placed in any refuse can or bulk container for collection any acid, explosive material, inflammable liquids or dangerous or corrosive material of any kind, or

any other hazardous waste.

(e) No person other than the owner thereof, his or her agents or employees, or employees of contractors of the county for the collection of refuse shall tamper or meddle with any garbage container or the contents thereof, or remove the contents of the container from the location where the same shall have been placed by the owner thereof or his agents.

(f) Property owners shall be prohibited from receiving for deposit in their refuse containers any type refuse that originates outside their designated collection area.

(g) Property owners shall be responsible for policing any strewn refuse resulting from broken bags, garbage not properly prepared for collection or from any other cause other than contractor mishandling.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-18.1. Exemption from roll cart service and fees for handicapped homeowners.

There is hereby provided an exemption from roll cart service and fees for handicapped homeowners in the unincorporated areas of the county. Such handicapped homeowners shall apply for said exemption at the solid waste division of the public works department. Such applicant must be handicapped and housebound and must live next to a relative or caretaker who shall agree to assume responsibility for the handicapped homeowner's garbage disposal.

The director of public works shall recommend approval or denial of the handicapped homeowners application for exemption from roll cart service and fees. Final approval or denial of exemption from roll cart service and fees shall be made by the county administrator.

(Ord. No. 1926-89, § I, 11-7-89; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-19. Transportation of refuse.

(a) It shall be unlawful for any person to haul, convey or cause to be conveyed any refuse upon or along the public streets and roadways except when the material transported is adequately secured in such a manner as to prevent it from falling, leaking or being blown from transporting vehicles. The owner or driver of the offending vehicle shall be personally responsible for any violation of this section.

(b) It shall be a violation of this article for any person not authorized by the county to collect and haul any refuse other than that arising from his or her own accumulation within any area of the county in which refuse collection service is maintained by the county.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-20. Items not covered in residential or small business solid waste collection service.

(a) *Dead animals.* Dead animals, other than household pets, shall not be collected. Dead household pets shall be collected by the county animal care department if placed in plastic bags at curbside and if that department is notified. All other dead animals shall be the responsibility of property owners.

(b) *Building materials.* The county shall not be responsible for collecting or hauling discarded building material, dirt, rock or industrial and hazardous waste.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-21. Unlawful disposal generally.

(a) It shall be unlawful for any person, firm, or corporation to dump or cause to be dumped any garbage, trash, litter, junk, appliances, equipment, cans, bottles, paper, trees, tree limbs, tree stumps, brush or parts thereof, anywhere in the unincorporated area of the county except at approved sanitary landfills.

(b) The above provisions shall not apply to the dumping on private property, with the owner's written permission, of sand, dirt, broken brick, blocks, or broken pavement or other suitable material for use as a fill to raise the elevation of land; provided, the same is not maintained in an unsightly condition and, further provided, the owner of the property on which such material is dumped agrees to level such dumped material with appropriate grading equipment.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 006- 02HR, § II, 3-19-02; Ord. No. 093-05HR, § I, 12- 6-05)

Sec. 12-22. Collected refuse is county property.

All refuse collected by county forces or collectors under contract with the county shall be disposed of and/or delivered to such places and used for such purposes as may be ordered by the county.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 093- 05HR, § I, 12-6-05)

Sec. 12-23. Assessment for residential solid waste collection and small business solid waste collection.

(a) *Residential.* Owners of residential property in the unincorporated area of the county, as currently or may hereinafter exist, shall be assessed a service charge for the purpose of financing the collection of solid waste. The assessment for solid waste collection shall reflect a level of service and benefit provided to the owner and shall be determined by the county council. The procedures for collecting the assessment for solid waste collection for new houses shall be as follows:

(1) Before issuing a certificate of occupancy pursuant to section 6-57 of this Code, the director, solid waste management department shall collect from the applicant an amount of money equivalent to the pro rata portion of solid waste assessment for the year in which the applicant is seeking the certificate.

(2) Beginning with the first calendar year after which the certificate of occupancy pursuant to section 6-57 of this Code applied for, the assessment for such services shall be collected through a uniform service charge added to the annual real property tax bill. Furthermore, all penalties applicable to delinquent payment of property taxes shall apply to the uniform service charge for solid waste collection.

(b) *Businesses and commercial enterprises.* Businesses and commercial enterprises (other than small businesses) shall not be provided garbage collection service by the county; therefore, they shall not be assessed a charge. These activities shall be responsible for the disposal of their garbage, refuse and industrial waste.

(c) *Small businesses.* Owners of small business in the unincorporated area of the county, as currently or may hereinafter exist, shall be assessed a service charge two (2) times the residential rate per roll-cart for the purpose of financing the collection of solid waste.

(Ord. No. 1517-86, § 1, 8-5-86; Ord. No. 1849-89, § I, 3-21-89; Ord. No. 1918-89, § I, 10-3-89; Ord. No. 020-95HR, § I, 3-21-95; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-24. Determination of assessments; inclusion in tax notice.

The county council shall annually determine the assessments to be levied for garbage services, based upon, among other things, the level of services provided the property, the amount of funds required to finance solid waste collection, and the benefit received by the property and advise the auditor of the assessment to be collected. It shall be the duty of the auditor to include the assessment with the annual property tax notices. The county director of finance shall establish a solid waste collection fund and all receipts collected by the treasurer from the assessments for the purpose of solid waste collection shall be credited to the fund.

(Ord. No. 954-82, § 4-3, 1-1-84; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-25. Lien; hearing required to raise lien amount of charge.

(a) If the notice or notices prescribed by subsection (b) shall have been given and the hearing required pursuant thereto shall have been held, all solid waste collection service charges imposed by the county pursuant

to this article and not paid when due and payable shall constitute a lien upon the real estate to which the solid waste collection service concerned relates so long as the charges remain unpaid. It is the intention of the county that in addition to such other rights and remedies as may be available to the governing body in law or in equity for the collection of such charges, the lien may be enforced by the governing body in the same manner and fashion as the lien of property taxes on real estate.

(b) Prior to the furnishing of any solid waste collection service for which the prescribed service charge shall, pursuant to subsection (a), become a lien on the property affected and prior to any subsequent increase in any solid waste collection service charge, county council shall hold a hearing on the proposed charges providing property owners an opportunity, if desired, to appear and be heard in person or by counsel before the county council. Not less than ten (10) days' published notice of this public hearing shall be given in a newspaper of general circulation in the county. Such notice shall state the time and place of the public hearing and shall notify property owners of the nature and quantum of the proposed service charges. Following such hearing, action shall be taken by the county council and published notice of its decision shall be given in a newspaper of general circulation in the county, not less than ten (10) days prior to the effective date of the charges. This notice shall set forth the charges being imposed in such a manner as to notify property owners thereof. Any property owner aggrieved by the action of the county council may proceed by appeal in the court of common pleas for the county, to have such court review the action taken by the county council at which time the court will determine the validity and reasonableness of the solid waste service charge. Solid waste collection service charges not intended to become liens in the case of nonpayment may be imposed and subsequently increased upon any user without such notice and hearing. The appeal provided for herein shall be pursuant to the provisions of chapter 7 of Title 18, of the South Carolina Code of Laws, 1976, providing for appeals to the court of common pleas.

(Ord. No. 954-82, §§ 4-4, 4-5, 1-1-84; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-26. County landfill fees.

The following fees shall be charged for all materials dumped in a county landfill:

(a) Normal garbage and trash: Twenty four dollars ($24.00) per ton.

(b) Tires: Thirty dollars ($30.00) per ton.

(c) DHEC-controlled waste: Thirty dollars ($30.00) per ton.

(d) Baled nylon filament: Twenty dollars ($20.00) per ton.

(e) Waste containing nylon filament: One hundred dollars ($100.00) per ton.

(Ord. No. 1703-88, § 1, 1-5-88; Ord. No. 1906-89, § 1, 9-5-89; Ord. No. 2023-90, § I, 9-4-90; Ord. No. 2144-91, § I, 10-15-91; Ord. No. 018-95HR, § I, 3-21-95; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-27. Corrugated cardboard banned from all landfills.

(a) Corrugated cardboard shall be banned from all county operated landfills located in the unincorporated areas of Richland County. This ban does not apply to any construction and demolition landfill.

(b) The manager of the solid waste division of the public works department and/or his or her designees, are hereby authorized to implement such programs and procedures as deemed necessary to further implement this program; to inspect all loads designated for any county operated landfill located in the unincorporated areas of the county to insure compliance with this section; to inspect such loads for corrugated cardboard content; and to impose such surcharges as set forth herein for violations of this section.

(c) The manager of the solid waste division of the public works department and/or his or her designees, shall issue a warning for any first occurrence where a load is found to consist of more than ten percent (10%) corrugated cardboard. Upon a second occurrence, the Director and/or his or her designees, shall impose a charge of forty eight dollars ($48.00) per ton for loads that consist of more than ten percent (10%) corrugated

cardboard. This amount will be the entire tipping fee charged for such loads. For any third or subsequent occurrence, a charge of seventy two dollars ($72.00) per ton shall be collected.

(d) The manager of the solid waste division of the public works department and/or his or her designees, shall be authorized to establish recycling centers throughout the county to accept corrugated cardboard and other recyclable materials.

(Ord. No. 024-95HR, § I, 5-2-95; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-28. Out-of-county waste banned from all county landfills.

(a) All solid and other wastes generated from outside the boundaries of the county are banned from being dumped in any county operated landfill.

(b) The manager of the solid waste division of the public works department and/or his or her designees, are hereby authorized to implement such programs and procedures as deemed necessary to further implement this ban; to inspect all loads designated for the county landfill(s) for any violations thereof; and to issue warrants according to law for any violations of this section.

(c) Any residential and/or small business solid waste collector found in violation of this section by the county council shall forfeit their contract with the county.

(d) The manager of the solid waste division of the public works department may seek an injunction to enforce the provisions of this section.

(e) Violations of this section shall be deemed to be a misdemeanor, and any shall subject the violator to a fine not exceeding one thousand dollars ($1,000.00), imprisonment not exceeding thirty (30) days, or both.

(Ord. No. 045-95HR, § I, 6-6-95; Ord. No. 093-05HR, § I, 12-6-05)

Sec. 12-29--12-40. Reserved.

ARTICLE III. CONSTRUCTION, MODIFICATION, EXPANSION, AND/OR OPERATION OF SOLID WASTE MANAGEMENT FACILITIES, BENEFICIAL LANDFILLS, AND COMPOSTING FACILITIES

Editor's note--Nonamendatory Ord. No. 065-94, §§ III--VIII, adopted Sept. 6, 1994, has been included herein as a new Art. III, §§ 12-41--12-46, at the discretion of the editor.

Cross reference(s)--Hazardous materials, § 13-1 et seq.; zoning, Chapter 26.

Sec. 12-41. Federal, state and local law.

All solid waste management facilities, beneficial landfills, and composting facilities shall adhere to all federal and state rules and regulations, and all local zoning land use and other applicable local ordinances.

(Ord. No. 008-09HR, § I, 3-4-08)

Sections 12-42 – 12-47. Reserved.

B

Appendix B – List of SC DHEC Permitted or Registered Solid Waste Facilities Located in Richland County

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SC DHEC Solid Waste Facilities List for Richland County (as of November 2019):

FACILITY_NAME	PERMIT_STA	MISCELLANEOUS	ONLINE_DATA	FACILITY_ID	GW_MON_REQD	FA_REQD	COUNTY
CORLEY CONSTRUCTION CDR	Active	Permit Required	C&D Debris Recyclers	CDR-00015	N	N	Richland
CAROLINA WRECKING CDR	Active	Registered	C&D Debris Recyclers	CDR-00023	N	N	Richland
CAROLINA CONCRETE & ASPHALT CDR	Active	Registered	C&D Debris Recyclers	CDR-00057	N	N	Richland
L&L Disposal LCD Landfill	Active	Commercial	Class 1 Landfill	402428-1701	N	Y	Richland
Sharpe's Contracting Services LLC	Active	Commercial	Class 1 Landfill	402479-1701	N	Y	Richland
RICHLAND CO	Active	Government	Class 2 Landfill	401001-1202	Y	N	Richland
CAROLINA GRADING	Active	Commercial	Class 2 Landfill	402446-1601	Y	Y	Richland
IP - EASTOVER	Active	Non-Commercial	Class 2 Landfill	403313-1601	Y	Y	Richland
RICHLAND	Active	Commercial	Class 3 Landfill	402401-1101	Y	Y	Richland
NORTHEAST	Active	Commercial	Class 3 Landfill	402434-1101	Y	Y	Richland
DOMINION - WATEREE STA	Active	Non-Commercial	Class 3 Landfill	403320-1601	Y	Y	Richland
City of Columbia Composting Facility	Active	Government	Composting - Type 1	401002-3001	N	N	Richland
Richland Co Composting and Wood Chipping	Active	Government	Composting - Type 1	401007-3001	N	N	Richland
Mitch Hook Wood Composting Site	Active	Commercial	Composting - Type 1	402696-3001	N	Y	Richland
L&L Disposal Wood Chipping	Active	Commercial	Composting - Type 1	COM-00212	N	Y	Richland
Corely Construction Wood Chipping Site	Active	Commercial	Composting - Type 1	COM-00214	N	Y	Richland
International Paper - Union Camp	Active		Land Application	163313-8001	N		Richland
Waste 2 Energy LLC	Active	Class 2	Solid Waste Processor	402901-2001	N	Y	Richland
Dilmar Fluid Services Used Oil Processing	Active		Used Oil Processor	402407-7101	N		Richland

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C

Appendix C – Richland County Council Meeting Minutes

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440 S Church Street, Suite 1000
Charlotte, NC 28202-2075
704.338.6700
hdrinc.com
South Carolina Certificate of Authorization No. 0318

RICHLAND COUNTY ADMINISTRATION
2020 Hampton Street, Suite 4069
Columbia, SC 29204
803-576-2050

Item Pending Analysis

Prepared by:	Mike Zaprzalka	**Title**:	Division Manager
Department:	Community Planning & Development	**Division:**	Building Inspections
Date Prepared:	September 15, 2021	**Meeting Date:**	September 28, 2021
Approved for Consideration:	Assistant County Administrator	Aric A Jensen, AICP	
Committee:	Development & Services		
Agenda Item/Council Motion:	Absentee Landlord / Ordinance Amending Chapter 16/ Rental Permit Ordinance		

EXECUTIVE SUMMARY (NARRATIVE STATUS):

At the March 23, 2021, Development and Services Committee meeting, Legal presented the current version of the draft Ordinance Amendment of *Chapter 16 Licenses and Miscellaneous Business Regulations,* which includes changes based on feedback from Councilmember Newton on her motion. More specifically, the amendment will not include any emphasis on Building Code Inspections. Instead, Legal and the staff workgroup understand that the intent of the motion is that the property owner, the responsible local representative, the landlord, and any tenant(s) shall be liable for Richland County Code violations within dwellings, dwelling units, rental units, or premises under their control or which they are leasing.

On August 10, 2021, the workgroup met with Ms. Terracio and Ms. Newton of the Development and Services Committee, along with Mr. Brown and Legal. This meeting was to reassess the motion's intent and discuss options for reducing or eliminating the large operational cost associated with the Chapter 16 Ordinance Amendment. Neither Ms. Terracio nor Ms. Newton feel it is necessary to conduct physical inspections or site visits prior to individuals applying for the rental permits. This would drastically reduce new staffing requirements. The Chapter 16 Ordinance Amendment would focus more on owner registration and self-policing.

It was determined the overall concept of the motion was to be able to identify the property owner and hold them accountable for citations on their property. A main concern articulated by Ms. Newton is the length of time it currently takes to get violations resolved/abated. Also, violations cited to properties frequently go unabated due to the inability to identify the owner of property. The workgroup agrees the Rental Permit would provide a solid point of contact for violation accountability and services cost reconciliation. Having an owner registered by means of a Rental Permit could possibly expedite violation abatement.

The intent of workgroup is to refocus its comprehensive review on the current processes as they relate to serving violations on rental properties and finding means to recuperate cost of county services rendered to correct ordinance violations. These processes already exist among the county stakeholders listed in this document. The workgroup staff is currently reviewing the processes, and are looking to find effective and efficient ways to use them for the implementation and execution of the draft ordinance. The workgroup feels this will help reduce the large costs originally presented to the committee, and identified possible measures to reduce costs for such a Rental Permit Ordinance.

This document is a working document and was composed of a workgroup containing staff members from the Business Service Center, Building Inspections, and Assessor's Office, Public Works Department (Waste Management), Sheriff's Department, and Animal Services.

KEY ACCOMPLISHMENTS/MILESTONES:

- The Business Service Center (BSC) has met with IT about implementing the Central Square Technologies System. The BSC has identify the capabilities of the system, and costs are associated to tailor it to the BSC. This system is used by multiple divisions in the county and can be tailored to track violations and fees associated with each stakeholder effected by the proposed amendment. BSC will continue to work with IT.

PENDING ACTIONS/DELIVERABLES AND ANTICIPATED COMPLETION DATES:

- Stakeholders are adjusting staffing, equipment, and training costs based on the outcome of the August 10th meeting.
- Workgroups redraft amendment/ordinance scrub and execution recommendations to be presented to Legal tentatively by October 15, 2021.
- Legal review for enforcement concerns. Completion TBD based on Legal's staffing and workload
- Second Draft Briefing Document to Administration tentatively October 31, 2021.
- Final Briefing Document to Administration tentatively November 30, 2021. Forwarded to Committee for review and questions to be addressed at the December 16, 2021 meeting.

Note: Completion dates are tentative for the overall General Information Briefing Document. Processes, procedures, and implementation timeline will be projected further out dependent upon Committee's feedback at the December 16, 2021 meeting.