

ORDINANCE 2023/ 34

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

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

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

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

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

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

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

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

Exhibit A

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

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

Section 38-201 - Application Process and Deadlines:

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

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

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

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

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

- A. Applications for procurements within Beaufort County will be managed by staff for due diligence and acquisition. In these instances, county staff will act as the procuring manager. Beaufort County qualifies as an applicant. The minimum application requirements for procurements within Beaufort County are as follows:

- I. Applications for conservation easement procurements shall require a minimum 25% match.
 - II. Applications for fee simple county owned procurements shall require public access/use and may require a match.
 - III. Applications for fee simple “other government” owned procurements may require public access/use and may require a match.
 - IV. Applications for farmland preservation procurements may require a minimum 10% match.
 - V. Applications for natural/scenic/wildlife corridor procurements may require a match.
 - VI. Applications for existing planned development/development agreement buydown procurements (public access) shall require a minimum 100% match.
 - VII. Applications for existing planned development/development agreement buydown procurements (no public access) shall require a minimum 200% match.
 - VIII. Other application types not specifically listed in this section may be considered. For these application types, minimum matching and other requirements will be determined by the Green Space Advisory Committee based on the merits of the application.
- B. Regardless of application type, all applications for procurements outside of Beaufort County will be managed by the applicant for due diligence and acquisition. In these instances, county staff will process the application as a grant request. A detailed application process for funds to be used outside of the county shall be established along with the following minimum application requirements:
- I. All applications for procurements outside of Beaufort County shall require a minimum 300% match, or
 - II. If applications for procurements are from a neighboring county that has adopted a Green Space Program or Greenbelt Program, there shall be a minimum 100% match for fee simple government procurements, if the neighboring county acts as the applicant.

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

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

- B. These components shall remain intact unless amended by County Council.

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

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

- B. Applications for conservation easements and fee simple procurements by governmental entities shall consider, at minimum, the following as a part of the application review and consideration:
 - I. Public access and/or public benefit.
 - II. Proximity and/or connectivity to existing preserved properties.
 - III. Proximity and/or connectivity to potential future preserved properties.
 - IV. Preservation and/or expansion of intact natural habitats.
 - V. Existing zoning, partner contributions, etc. to ensure best value.
 - VI. Degree of urgency for the project in terms of protection of resources and/or real estate market.

- VII. Importance of the project in achieving multiple local, state and/or federal environmental goals.
 - VIII. Necessary restrictive covenants and/or easements to be recorded.
- C. Applications for farmland preservation procurements, including silviculture, are encouraged. To ensure these lands are adequately protected consistent with state laws and not used in a manner that violates the purposes of the Green Space Ordinance, the following should be considered as a part of the application review and consideration.
- I. Land use and Stormwater Best Management Practices (BMP's).
 - II. Sustainable farming and silviculture techniques that protect waterways, waterbodies, and watersheds.
 - III. Restrictive covenants and/or easements which are recordable, and which run with the land, shall be required.
- D. Applications for natural/scenic/wildlife corridor procurements shall consider, at minimum, the following as a part of the application review and consideration:
- I. Location along rivers, tidally influenced waterways/wetlands, public road rights-of-way, other roads with public benefits, and/or areas with wildlife habitat.
 - II. Minimum width and other requirements:
 - a. 250 feet wide for natural and/or scenic corridors along public road rights-of way and other roads with public benefits. These shall be measured from the existing or identified future road right-of way and already required buffers (if applicable).
 - b. 300 feet wide for river and/or tidally influenced waterways/wetland corridors. These shall be measured from the established OCRM critical line and already required buffers which are present at the time of application (if applicable).
 - c. 300 feet wide for wildlife corridors and shall require connectivity to other preserved lands.
 - d. GSAC reserves the right to consider procurements in instances when only a small portion of the procurement fails to meet the minimum width requirements through no fault of the applicant, and circumstances are properly documented and justified.

- III. May require the removal of existing structures and/or encumbrances that are deemed contrary to the purpose of the procurement and documented prior to appraisal/closing.
 - IV. Shall require restrictions for allowed uses and/or improvements within the corridor.
 - V. Restrictive covenants and/or easements which are recordable, and which run with the land, shall be required.
- E. Applications for existing planned development/development agreement buydown procurements shall require, at minimum, the following as a part of the application review and consideration.
- I. Clearly establish that money will be saved from off-site infrastructure improvements (taxpayer responsible improvements). Developer required off-site improvements shall remain the responsibility of the developer in all instances. To satisfy this requirement, a Traffic Impact Analysis by a County approved firm shall be performed showing how the removal of trips generated will result in reducing required taxpayer off-site infrastructure improvements.
 - II. Documentation identifying environmental benefits, including but not limited to, reduction of stormwater runoff quantity, improving water quality, maintained tree canopy coverage, preservation of wildlife habitat, watershed protection, and marsh migration.
 - III. Consideration for this type of procurement in government jurisdictions that do not have adopted land use policies to prevent other lands from getting upzoned/developed without regard to the buydown, will be closely scrutinized. To help facilitate meaningful procurements, counties and municipalities will have current Comprehensive Plans with agreed upon/established growth boundaries in place along with adopted zoning and land development regulations. If these fiscally responsible land use policies are not in place, this type of procurement will be subject to a very high level of required matching funds as determined by the Green Space Advisory Committee.
 - IV. Provide documentation that the existing planned development/development agreement was approved prior to the adoption of the Green Space Ordinance (October 3, 2022). This will include development rights secured through annexations, rezonings, and/or other entitlements.

- V. As previously stated, applications located in other governmental jurisdictions (within or outside) Beaufort County, a governmental jurisdictional letter of support or opposition shall be required at the time of application.
- VI. Restrictive covenants and/or easements which are recordable, and which run with the land, shall be required and subject to periodic inspections by Beaufort County staff.

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

Adopted this 25th day of September 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: 
Joseph Passiment, Chairman

ATTEST:


Sarah W. Brock, JD, Clerk to Council

First Reading: August 14, 2023 / Vote 10:0
Second Reading: September 11, 2023 / Vote 10:0
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