

COUNTY COUNCIL OF BEAUFORT COUNTY
 ADMINISTRATION BUILDING
 BEAUFORT COUNTY GOVERNMENT ROBERT SMALLS COMPLEX
 100 RIBAUT ROAD
 POST OFFICE DRAWER 1228
 BEAUFORT, SOUTH CAROLINA 29901-1228
 TELEPHONE: (843) 255-2180
www.beaufortcountysc.gov

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COUNTY ADMINISTRATOR

SARAH W. BROCK
CLERK TO COUNCIL

AGENDA
 FINANCE COMMITTEE
 Monday, June 24, 2019
 4:30 p.m.

(or immediately following the Governmental Committee meeting)
 Executive Conference Room, Administration Building
 Beaufort County Government Robert Smalls Complex
 100 Ribaut Road, Beaufort

Committee Members:
 Joseph Passiment, Chairman
 Chris Hervochon, Vice Chairman
 Gerald Dawson
 Mark Lawson
 Paul Sommerville

Staff Support:
 Suzanne Gregory, Employee Service Director
 Alicia Holland, CPA,
 Assistant County Administrator, Finance

1. **CALL TO ORDER – 4:30 p.m.**
2. **PLEDGE OF ALLEGIANCE**
3. **APPROVAL OF AGENDA**
4. **CITIZEN COMMENTS** *(Comments regarding agenda items only)*
5. **APPROVAL / Budget transfer for Stormwater Infrastructure (50250011) in the amount of \$166,416 – Eric Larson, Manager, Stormwater Utility (backup)**
6. **APPROVAL / Intergovernmental agreement with the City of Hardeeville for collection of Impact Fees - Eric Greenway, Community Development Director and Thomas J. Keaveny, II, County Attorney (backup)**
7. **DISCUSSION / Impact on the School and/or County Budgets if not approved by June 30, 2019 – Thomas J. Keaveny, II, County Attorney**
8. **DISCUSSION / FY 2020 Beaufort County School District Budget (backup)**
9. **DISCUSSION / FY 2020 Beaufort County Budget - Alicia Holland, Assistant Administrator, Finance (backup)**
10. **DISCUSSION / Marshside Mama's Lease on Daufuskie - Thomas J. Keaveny, II, County Attorney (backup)**



11. UPDATE / TCL Culinary Workforce: New River Culinary Training Kitchen Borrowing

12. EXECUTIVE SESSION

- A. Receipt of legal advice regarding possible FILOT Agreement with Burnt Church Distillery - *Thomas J. Keaveny, II, County Attorney; John O'Toole, Executive Director, Beaufort County Economic Development Corporation and William R. Johnson, ESQ. Haynsworth Sinkler Boyd*

13. MATTERS ARISING OUT OF EXECUTIVE SESSION

14. ADJOURNMENT



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Budget Transfer for Stormwater Infrastructure (50250011)

Council Committee:

Finance Committee

Meeting Date:

June 24, 2019

Committee Presenter (Name and Title):

Eric Larson, Director of Environmental Engineering

Issues for Consideration:

The budget transfer for Stormwater Infrastructure (50250011) exceeds \$50,000.

Points to Consider:

A significant portion of the increase is due to the emergency project to repair the pipe under the Administration Building parking lot. Additional funding was needed for the Tabby Road and Wallace Road projects because the complexity of these projects were beyond routine repairs. Also the department contracted an employee to assist with capital projects until the Assistant Stormwater Manager

Funding & Liability Factors:

There are unspent funds available to cover the unexpected and routine expenses.

Council Options:

Recommendation:

To approve the budget transfer for Stormwater Infrastructure (50250011) as proposed.

General Ledger Modification Budget Transfer

Department: Today's Date:

Transfer **From** this Account:

ORG Code	OBJ Code	Account Title	Transfer Amount (whole dollars only)
50250011	51300	Garage Repairs & Maintenance	\$61,614
50250011	51301	Insurance Reimbursement	\$49,802
50250011	52370	Pipe Supplies	\$55,000
Total			\$166,416

Insert item

Transfer **To** this Account:

ORG Code	OBJ Code	Account Title	Transfer Amount (whole dollars only)
50250011	51000	Advertising	\$2,400
50250011	51010	Printing	\$100
50250011	51050	Telephone	\$1,607
50250011	51160	Professional Services	\$92,502
50250011	51170	Non-Professional Services	\$6,840
50250011	51295	Other Vehicle Operating Cost	\$3,500
50250011	51500	Vehicle Insurance	\$6,655
50250011	51540	Insurance - Other	\$5,506
50250011	51545	Insurance - Prepaid	\$25,681
50250011	52240	Small Tools	\$3,500
50250011	52450	Rock Supplies	\$13,000
50250011	52610	Minor Data Processing Equipment	\$5,125
Total			\$166,416

Insert item

Justification:

End of year account maintenance to balance accounts for routine expenses, expenses associated with emergency project and complex projects beyond routine repairs, and to contract an employee until the Assistant Stormwater Manager position could be filled.

Submitted By: Date/Time:

Department Head: Approve: Date/Time:

*** Finance Section ***

Finance Sign Off: Date/Time:

Posted:



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

IGA with City of Hardeeville for Collection of Development Impact Fees

Council Committee:

Finance Committee

Meeting Date:

June 24, 2019

Committee Presenter (Name and Title):

Eric Greenway, Director CDC & Thomas J. Keaveny, II County Attorney

Issues for Consideration:

Approval of Intergovernmental Agreement with City of Hardeeville for Collection of Development Impact Fees (Parks & Recreation, Roads and Library).

Points to Consider:

State law provides that when a municipality annexes property which is subject to impact fees, the property remains subject to the development impact fees unless the municipality agrees to be responsible for the services for which the impacts fees are collected. The purpose of this agreement is to set forth the procedures which Beaufort County and City of Hardeeville are to follow in calculating and collecting those fees on unincorporated Beaufort County property which is annexed into the City of Hardeeville.

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

**INTERGOVERNMENTAL AGREEMENT
BETWEEN BEAUFORT COUNTY, SOUTH CAROLINA AND
THE CITY OF HARDEEVILLE, SOUTH CAROLINA**

THIS INTERGOVERNMENTAL AGREEMENT made and entered this _____ day of _____, 2019 (“Effective Date”), by and between Beaufort County, South Carolina (“County”) and the City of Hardeeville, South Carolina (“City”), collectively hereinafter the “Parties”, provides a cooperative methodology for the collection of parks and recreation, road, and library facilities development impact fees as applicable, from all new development on Beaufort County properties located within the City’s corporate limits pursuant to: (1) Beaufort County Impact Fee Procedures Ordinance No.1999/26 as amended by Ordinance No. 2006/24, (2) Parks & Recreation Facilities Ordinance No. 1999/31 as amended 2006/24, (3) Road Facilities Ordinance No. 1999/32 as amended by Ordinance No. 2006/24, (4) Library Facilities Ordinance No. 1999/33 as amended by Ordinance 2006/24, and (5) Beaufort County Community Development Code (“CDC”) before the City will issue a Certificate of Occupancy for development on property which is located in Beaufort County.

RECITALS

WHEREAS, the South Carolina Legislature has adopted the South Carolina Development Impact Fee Act (hereinafter the “Act”) which enables local governments to enact and impose parks and recreation, road and library facility development impact fees in accordance with its provisions, procedures and requirements; and

WHEREAS, in accordance with the Act, the County prepared and adopted a development impact fee procedures ordinance (Ordinance No. 1999/26 as amended by Ordinance No. 2006/24, “Impact Fee Procedures Ordinance”); and

WHEREAS, in accordance with the Act, the County has prepared and adopted a Parks & Recreation Facilities Ordinance (No. 1999/31 as amended 2006/24), a Road Facilities Ordinance (No. 1999/32 as amended by Ordinance No. 2006/24), and a Library Facilities Ordinance (No. 1999/33 as amended by Ordinance 2006/24); and

WHEREAS, pursuant to the Act, the County developed capital improvement plans for each of the above-mentioned public facilities, identifying the specific system improvements needed to meet the projected demand from anticipated new growth and development; and

WHEREAS, pursuant to the Act, the County has prepared technical support studies (the (1) Library Facilities Impact Fee Support Study and CIP dated August 2006; the (2) Parks and Recreation Facilities Impact Fee Support Study and CIP; (3) Bluffton-Okatie and Hilton Head Island Service Areas dated August 2006; and the (4) Road Facilities Impact Fee Support Study and CIP; South Beaufort County Service Area dated September 2006) for each of the above-referenced public facilities; and

WHEREAS, the County has determined it is essential that the public facilities development impact fees be imposed, calculated and collected uniformly within each service area throughout the County; and

WHEREAS, the Parties acknowledge that subsequent to enacting the ordinances referred to above, and with actual or constructive notice of the same, the City approved annexation applications submitted by property owners of property located in the unincorporated area of the County to which the impact fees apply pursuant to S.C. Code Ann. Sec 6-1-910, et seq. ; and

WHEREAS, S.C. Code Ann. §6-1-20 (Supp. 1994) and § 5-7-30 of the Code authorize the Parties to enter into Intergovernmental Agreements including agreements such as this one for the collection and distribution of impact fees; and

WHEREAS, the Parties agree that all public facilities development impact fees shall be collected by the County for the purpose of funding public facilities and improvements, as set forth in the applicable Public Facilities Capital Improvement Plans, to meet the public facilities demands resulting from projected new population, residential and non-residential development, as applicable; and

WHEREAS, this Agreement is not intended to, and does not, alter or change the responsibilities of each of the Parties hereto, nor does it relieve any party of any function, duty or obligation otherwise imposed by law; and

WHEREAS, this Agreement, upon its execution by the Parties hereto, shall be filed with the Clerk to Council of Beaufort County and the City Clerk of the City of Hardeeville; and

WHEREAS, the foregoing recitals are hereby incorporated into and made a part of this Agreement.

NOW, THEREFORE, the Parties to this Intergovernmental Agreement agree as follows:

SECTION 1. TITLE.

This Intergovernmental Agreement between Beaufort County and the City of Hardeeville provides for the collection and expenditure of Public Facility Development Impact Fees. It shall hereinafter be referred to as the "Agreement."

SECTION 2. PURPOSE.

The purpose of this Agreement is to ensure that public facilities development impact fees which are intended to be imposed on new development County-wide, including on County

properties which have, heretofore been, and which might, subsequently be, annexed into the City, are imposed upon and collected from new growth and paid to the County for placement in a segregated, interest-bearing trust fund account and are appropriated and expended in accordance with the applicable public facility capital improvement plan subject to the conditions, restrictions and limitations of the Act, the Beaufort County Impact Fee Procedures Ordinance, the individual Public Facilities Impact Fee Ordinances and this Agreement.

SECTION 3. REFERENCES TO COUNTY ORDINANCES.

This Agreement incorporates herein by reference the relevant portions of the CDC and the following Beaufort County Ordinances: (1) Beaufort County Impact Fee Procedures Ordinance No.1999/26 as amended by Ordinance No. 2006/24; (2) Beaufort County Parks & Recreation Facilities Ordinance No. 1999/31 as amended 2006/24; (3) Beaufort County Road Facilities Ordinance No. 1999/32 as amended by Ordinance No. 2006/24; (4) Beaufort County Library Facilities Ordinance No 1999/33 as amended by Ordinance 2006/24 and any amendments thereto provided, however, that prior to first reading by County Council for adoption of any such amendments, the County shall first notify the City in writing of the proposed nature of the amendment and the reason thereof. The City shall be provided an opportunity to review the proposed amendment and to submit comments to the County prior to final County action.

SECTION 4. DURATION/EXTENSION/TERMINATION OF AGREEMENT.

- (1) This Agreement shall remain in effect from the date of its execution by the parties hereto until the completion and conclusion of the public facilities capital improvements plans referenced in Section 3 above.
- (2) This Agreement may be amended and or terminated at any time by mutual agreement of the Parties.

SECTION 5. RESPONSIBILITIES OF THE COUNTY.

(1) The County shall prepare and provide the City with an information sheet (form of such is attached Exhibit A) which outlines the applicable impact fees. The City shall provide this information sheet to developers to which the impact fees shall apply at the time of any development application and again with a building permit issuance. The purpose of the information sheet shall be solely to inform developers of the estimated impact fees which must be paid directly to the County. The County is responsible for the information provided on the sheet, and for making any applicable updates to the sheet. The City shall assume no responsibility for errors on the sheet.

(2) *Collection of Fees.* Impact fees are due on all development in Beaufort County. The parties agree the County shall be responsible for the administration (including administration of Individual Assessments of Development Impacts), calculation, and collection of all applicable public facilities development impact fees from all development (past, present and future), in accordance with the Act, the applicable Public Facilities Development Impact Fee Ordinance, the Beaufort County Impact Fee Procedures Ordinance and the CDC. The Parties expressly agree that the City shall have no responsibility or liability for the assessment, calculation, or collection of the impact fees except as expressly provided for herein.

Upon the collection of public facilities development impact fees, the County shall issue a receipt (form receipt is attached Exhibit B) to the developer and the City upon payment. The County shall place the collected funds in a segregated, interest-bearing trust fund account that is subject to appropriate accounting controls.

(3) *Calculation of Fees.* The County shall calculate impact fees based upon the type of building permit(s) issued by the City. The exact amount of the impact fees due and collected from new development shall be based upon the fees which are in effect at the time the building permit or development permit is issued as may be applicable.

(4) *Administrative Payments to City.* In order to compensate the City for its role in the collection and administration of the Public Facilities Development Impact Fees, the County shall, on a quarterly basis transfer to the City one and a half percent (1.5%) of the public facilities development impact fees collected during the previous quarter. The County shall also provide an annual report with respect to the amount and disposition of expenditures of all impact fees collected from properties located within the City.

(5) *Use of Impact Fees.* The County shall be responsible for receipt of public development impact fees and shall place such funds in a segregated development impact fee fund account that is subject to appropriate accounting controls. The collected funds shall not be commingled with other County funds nor shall they be commingled with other development impact fee funds for service areas or benefit districts other than Bluffton-Okatie Service Area for parks and recreation facilities; the Bluffton-Okatie Benefit District for library facilities; and the South Beaufort County Service Area for road facilities. The County shall expend such development impact fee funds in the service area or benefit district (as appropriate) in which the fees have been collected, and only in accordance with the applicable public facility capital improvement plan, support studies, and ordinances only. The County shall be responsible for the implementation and administration of all public facilities development impact fees in accordance with the Act, the Impact Fee Procedures Ordinance No. 1999/26, as amended by Ordinance. No.

2006/24, the applicable impact fee support study, the applicable public facility development impact fee ordinances, and this Agreement.

(6) *Interpretation.* The County shall be responsible for the interpretation of all of the above-referenced laws, ordinances, studies as well as any other documents or information relevant to the public facility development impact fee ordinances.

(7) *Annual Reports.* Within thirty (30) days of execution of this Agreement, the County shall prepare a report with respect to the amount and disposition of expenditures for the public facility development impact fees. Thereafter, the County shall provide annual updates to this report.

(8) *Annual Adjustments:* The County shall be responsible for calculation of any updated fee amounts as required to be adjusted for inflation for the park, library and road fees per the applicable ordinances and support studies. The County is responsible for reflection of any annual adjustments on the Information Sheet provided to the City pursuant to Section 5, Paragraph 1.

SECTION 6. RESPONSIBILITIES OF THE CITY.

(1) *Issuance of Building Permit.* The City shall provide an electronic copy of any Building Permit issued in its jurisdiction on property which is located in the County to the Director of Community Development or his designee within fifteen (15) business days of such issuance.

(2) *Issuing of Certificate of Occupancy.* The City shall not issue a certificate of occupancy for development until it has been presented with a receipt of payment (attached Exhibit B) issued by the County. This receipt shall be the only acceptable proof of payment for the impact fees. The applicable public facilities development impact fees must be paid in full by the developer unless the developer has properly asserted one or more Development Rights pursuant to the applicable Public Facilities Development Impact Fee Ordinance and the County has not asserted

one or more County Remedies pursuant to the applicable Public Facilities Development Impact Fee Ordinance. In the event that at the time this Agreement is entered into, the City has issued Certificates of Occupancy and the County has not collected the applicable impact fees, the City agrees it shall assist the County by providing assistance and all available information on the property to the County so the County may collect any applicable fees.

The City shall assist the County, as needed, in determining if a proposed development qualifies for a waiver or exemption pursuant to the applicable ordinance and Act.

(3) *Proof of Payment.* The Parties agree the applicant is primarily responsible for providing the City with receipt of payment of all applicable fees before the City will issue a Certificate of Occupancy. The County shall also provide an electronic copy of the receipt of payment to the City Manager or his designee. The City shall not issue a Certificate of Occupancy until it has received a fully executed copy of the receipt of payment.

(4) *Annual Reports.* The City shall prepare annual reports of building permits and Certificates of Occupancy on property located within the County issued during the previous year and shall provide said reports to the County so County can verify that all permits are being provided by developers and that appropriate fees are being paid.

SECTION 7. SOUTH CAROLINA DEVELOPMENT IMPACT FEE REQUIREMENTS.

(1) *Improvements.* The Parties agree that the system improvements specified in the support studies and Public Facilities Capital Improvements Plans are not joint improvements, but consist solely of improvements to be provided by the County and to be funded by the County, in whole or in part with development impact fees collected by the County.

(2) *Funding and Responsibilities.* The City shall not participate or share in the funding of the system improvements specified in the Applicable Public Facilities Capital Improvements Plans.

The City's responsibility shall be limited to providing the information to the County as described herein so the County may collect public facilities development impact fee revenues for expenditure on system improvements included in the Applicable Public Facilities Capital Improvements Plan. No other unit of government shall be responsible for, nor may assume, any share of the funding for the system improvements.

SECTION 8. REVIEW and AMENDMENTS.

(1) *Review of Process.* The parties agree to review the processes set forth herein for the collection of impact fees at the end of one (1) year from the Effective Date of this Agreement. The purpose of the review is to ensure that the process set forth herein works to the mutual satisfaction of the Parties and allows for negotiation and implementation of any necessary amendments in future years.

(2) *Amendments.* This Agreement may be amended only by the mutual consent of the Parties and in the same manner as its original adoption.

SECTION 9. GOVERNING LAW.

This Agreement, and its interpretation and performance, shall be governed and construed in accordance with the applicable laws of the State of South Carolina.

SECTION 10. CONFLICT.

To the extent of any conflict between other County or City ordinances and this Agreement, this Agreement will be deemed to be controlling. This Agreement is not intended to amend or repeal any existing County or City ordinances.

SECTION 11. COOPERATION BETWEEN AND AMONG THE PARTIES.

The County and the City agree to cooperate with each other in all respects regarding the matters addressed in this Agreement. In the event the City enters negotiations with any party for a Development Agreement pursuant to the South Carolina Local Development Agreement Act encompassing land located in Beaufort County, the County agrees that within fifteen (15) business days of notice of such negotiations, it shall provide the current status and projected completion of any projects pursuant to the impact fee ordinance. The County shall update the impact fee ordinance if necessary. The Parties agree the City shall be the primary service provider and any public facility fees shall be calculated and distributed in accordance with Section 82-37(c) of the Beaufort County Impact Fee Procedures Ordinance No. 1999/26 as amended by Ordinance No. 2006/24.

SECTION 12. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Agreement is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Agreement.

SECTION 13. EXECUTION IN COUNTERPARTS.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument, and in making proof of this Agreement it shall not be necessary to produce or account for more than one such fully executed counterpart.

SECTION 14. AUTHORITY TO EXECUTE.

By executing this Agreement, the undersigned each affirms and certifies that he or she has authority to bind his or her principal thereto and that all necessary acts have been taken to duly authorize the Agreement under applicable law.

SECTION 15. EFFECTIVE DATE.

This Agreement shall become effective immediately on the date of approval by the Parties.

[SEPARATE SIGNATURE PAGES FOR EACH PARTY FOLLOW]

SIGNATURE PAGE FOR BEAUFORT COUNTY

IN WITNESS WHEREOF, Beaufort County has caused this Agreement to be executed on its behalf and its seal to be affixed hereto.

Beaufort County, South Carolina (L.S.),

By: _____

Printed Name: _____

Title: _____

Attest:

By: _____

Printed Name:

Title: _____

(SEAL)

[Approved by Action of Beaufort County Council at its meeting held on _____]

SIGNATURE PAGE FOR CITY OF HARDEEVILLE

IN WITNESS WHEREOF, City of Hardeeville has caused this Agreement to be executed on its behalf and its seal to be affixed hereto.

Hardeeville, South Carolina (L.S.),

By: _____

Printed Name: _____

Title: _____

Attest:

By: _____

Printed Name:

Title: _____

(SEAL)

[Approved by Action of Hardeeville City Council at its meeting held on _____]

Exhibit A: Information Sheet Form



**COUNTY COUNCIL OF BEAUFORT COUNTY
BEAUFORT COUNTY COMMUNITY DEVELOPMENT**

Beaufort County Robert Smalls Complex
Administration Building, 100 Ribaut Road, Room 115
Post Office Drawer 1228, Beaufort SC 29901-1228
Phone: (843) 255-2140 • FAX: (843) 255-9432

July 1, 2019

To Applicant:

This letter will serve as a notice of Beaufort County Impact Fee which must be paid to Beaufort County prior to receiving a Certificate of Occupancy from the City of Hardeeville. The applicant is required to return the Beaufort County Impact Fee Authorization form (Exhibit B) signed and sealed by a Beaufort County Representative to the City of Hardeeville.

The Impact Fee Amounts are as follows:

PUBLIC FACILITY DEVELOPMENT IMPACT FEE AMOUNTS

CITY OF HARDEEVILLE	
Residential Development Only	
Parks/Recreation Development Impact Fee	\$1,385 per Dwelling Unit
Library Facilities Development Impact Fee	\$553 per Dwelling Unit
All Development	
Road Facilities Development Impact Fee	

Single-Family	Dwelling	4.79	3.66	17.51	\$175.15	\$3,063
Apartment (Multi-Family)	Dwelling	3.36	3.66	12.30	\$175.15	\$2,151
Condominium/Townhouse	Dwelling	2.93	3.66	10.72	\$175.15	\$1,876
Senior Adult Housing	Dwelling	1.74	3.66	6.37	\$175.15	\$1,114
Assisted Living/Continuing Care Retirement Community	Beds	1.41	3.66	5.14	\$175.15	\$899
Retail/Commercial/Services						
Hotel/Motel	Rooms	4.46	3.21	14.32	\$175.15	\$2,504
Golf Course	Holes	16.08	3.21	51.63	\$175.15	\$9,030
Multiplex Movie Theater	Screens	65.84	3.21	211.33	\$175.15	\$36,963
Shopping Center/General Retail	1000 SQ.	12.02	3.00	36.07	\$175.15	\$6,309
New Car Sales	1000 sq. ft.	15.00	3.21	48.16	\$175.15	\$8,423
Convenience Market (no gas pumps)	1000 sq. ft.	95.94	1.50	143.91	\$175.15	\$25,170
Convenience Market w/ Gasoline	VFP	70.54	1.50	105.81	\$175.15	\$18,506
Home Improvement/Paint/Garden	1000 sq. ft.	7.45	3.21	23.91	\$175.15	\$4,183
Pharmacy/Drugstore	1000 sq. ft.	17.63	3.00	52.90	\$175.15	\$9,252
Furniture Store	1000 sq. ft.	2.28	3.21	7.31	\$175.15	\$1,278
Bank	1000 sq. ft.	49.30	1.50	73.95	\$175.15	\$12,934
Quality Restaurant	1000sq. ft.	18.44	2.50	46.10	\$175.15	\$8,063
High-Turnover Restaurant	1000 sq. ft.	26.70	2.00	53.40	\$175.15	\$9,341
Fast-Food Restaurant w/ Drive-Thru	1000 sq. ft.	76.90	1.50	115.35	\$175.15	\$20,175
Quick Lubrication Vehicle Shop	Service Bays	17.00	3.21	54.57	\$175.15	\$9,545
Automobile Care Center	Service Bays	5.30	3.21	17.03	\$175.15	\$2,978
Self-Service Car Wash	Service Bays	37.80	1.50	56.70	\$175.15	\$9,917
Office						
General Office Building	1000 SQ.	4.95	3.97	19.67	\$175.15	\$3,440
Medical-Dental Office Building	1000 sq. ft.	16.26	3.97	64.55	\$175.15	\$11,290
Government Office Complex	1000 sq. ft.	12.56	3.97	49.88	\$175.15	\$8,724
Institutional/Medical						
Elementary School	Students	0.55	2.00	1.10	\$175.15	\$192
Middle/High School	Students	0.69	2.50	1.72	\$175.15	\$301
College	Students	0.60	3.36	2.02	\$175.15	\$353
Church/Synagogue	1000 sq. ft.	4.56	3.36	15.30	\$175.15	\$2,677
Daycare	1000 sq. ft.	5.94	1.50	8.92	\$175.15	\$1,560
Hospital	1000 sq. ft.	8.79	3.36	29.52	\$175.15	\$5,163
Nursing Home	Beds	1.19	3.36	3.98	\$175.15	\$696
Clinic	1000 sq. ft.	15.73	3.36	52.84	\$175.15	\$9,241
Industrial						
General Light Industrial	1000 sq. ft.	3.49	3.97	13.84	\$175.15	\$2,420
General Heavy	1000 sq. ft.	0.75	3.97	2.98	\$175.15	\$521
Warehousing	1000 sq. ft.	2.48	3.97	9.85	\$175.15	\$1,722
Mini-Warehouse	1000sq. ft.	1.25	3.97	4.96	\$175.15	\$868

Should you have any questions please contact Hakim Bayyoud at 843-255-2071 with Beaufort County.

Exhibit B: Beaufort County Payment Receipt

Receipt of Payment of Beaufort County Impact Fees

Applicant Information	
Property Owner Name:	_____
Builder:	_____
Mailing Address:	_____ _____
Telephone Number:	_____
Email:	_____

Property Information	
<input type="checkbox"/> Residential	<input type="checkbox"/> Commercial
Parcel ID Number:	_____
Lot Number:	_____
Development:	_____
Street Address:	_____

I hereby certify that the above referenced property has paid in full all amounts due to Beaufort County pursuant to the (1) Beaufort County Impact Fee Procedures Ordinance No.1999/26 as amended by Ordinance No. 2006/24, (2) Parks & Recreation Facilities Ordinance No. 1999/31 as amended 2006/24, (3) Road Facilities Ordinance No. 1999/32 as amended by Ordinance No. 2006/24, (4) Library Facilities Ordinance No. 1999/33 as amended by Ordinance 2006/24, and (5) Beaufort County Community Development Code ("CDC") .

By: _____
Authorized Beaufort County Representative

Amount: _____

Date: _____

[SEAL]



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

FY 2019-2020 Beaufort County School District Budget

Council Committee:

Finance Committee, Recommended approval June 3, 2019 vote 10:0

Meeting Date:

CC June 17, 2019

Committee Presenter (Name and Title):

Issues for Consideration:

Amount of appropriation = \$254,297,442

Points to Consider:

Funding & Liability Factors:

Council Options:

Approve or Approve with amendments

Recommendation:

Approve as presented.

ORDINANCE NO. 2019/___

FY 2019-2020 BEAUFORT COUNTY SCHOOL DISTRICT BUDGET

An Ordinance to provide for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2019 and ending June 30, 2020, and to make appropriations for said purposes.

BE IT ORDAINED BY COUNTY COUNCIL OF BEAUFORT COUNTY:

SECTION 1. TAX LEVY

The County Council of Beaufort County hereby appropriates the funds as detailed in Sections 3 and 4 of this Ordinance and establishes the millage rates as detailed in Section 2 of this Ordinance.

SECTION 2. MILLAGE

In Fiscal Year 2019-2020 and in accordance with the laws of South Carolina, the County Auditor is hereby authorized and directed to levy a tax on the following mills on the dollar of assessed value of property within the County.

School Operations	114.00
School Bond Debt Service (Principal and Interest)	31.71

The values listed above, in accordance with Section 6-1-320(A)(2) of the *Code of Laws of South Carolina*, 1976, as amended.

	Base Millage	% Average CPI	% Population Growth	Allowable Annual % Increase of Millage Rate	Allowable Increase of Millage Rate	Millage Rate Used	Millage Bank Balance
2017	103.5	0.12%	2.55%	2.67%	2.8	2.8	0.0
2018	111.5	1.26%	1.87%	3.13%	3.5	2.0	1.5
2019	104.6	2.13%	1.82%	3.95%	4.1	0.0	5.6

These taxes shall be collected by the County Treasurer, as provided by law, and distributed in accordance with the provisions of this Ordinance and subsequent appropriations as may be hereafter passed by the County Council of Beaufort County.

SECTION 3. SCHOOL OPERATIONS APPROPRIATION

An amount of \$254,297,442 is hereby appropriated to the Beaufort County Board of Education to fund school operations.

This appropriation is to be spent in accordance with the school budget approved by the County Council of Beaufort County, and will be funded from the following revenue sources:

- A. \$149,733,105 to be derived from tax collections;
- B. \$ 93,347,306 to be derived from State revenues;
- C. \$ 690,000 to be derived from Federal revenues;
- D. \$ 1,918,500 to be derived from other local sources;
- E. \$ 7,535,948 to be derived from inter-fund transfers; and
- F. \$ 1,072,583 to be derived from fund balance.

The Beaufort County Board of Education is responsible for ensuring that the school expenditures do not exceed those amounts herein appropriated without first receiving the approval of a supplemental appropriation from County Council.

SECTION 4. BUDGETARY ACCOUNT BREAKOUT

The line-item budgets submitted by the Beaufort County Board of Education under separate cover for FY 2019-2020 are incorporated herein by reference and shall be part and parcel of this Ordinance.

SECTION 5. OUTSTANDING BALANCE APPROPRIATION

The balance remaining in each fund at the close of the prior fiscal year, where a reserve is not required by State or Federal law, is hereby transferred to the appropriate category of Fund Balance of that fund.

SECTION 6. TRANSFERS VALIDATED

All duly authorized transfers of funds heretofore made from one account to another, or from one fund to another during Fiscal Year 2020 are hereby approved.

SECTION 7. EFFECTIVE DATE

This Ordinance shall be effective July 1, 2019. Approved and adopted on third and final reading this ___ day of June, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah Brock, Clerk to Council

First Reading, by Title Only:
Second Reading:
Public Hearings:
Third and Final Reading:



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

FY 2020 Beaufort County Budget

Council Committee:

Finance Committee

Meeting Date:

June 24, 2019

Committee Presenter (Name and Title):

Alicia Holland, Assistant Administrator, Finance

Issues for Consideration:

Points to Consider:

Funding & Liability Factors:

None.

Council Options:

Approve budget ordinance or reject

Recommendation:

Approve budget ordinance

Beaufort County, South Carolina
Fiscal Year 2020 Summary Budget Increase Requests

	<u>REQUESTED</u>	<u>RECOMMENDED</u>	
Fiscal Year 2019 Beaufort County General Fund Total Appropriation			\$ 126,775,491
County Compensation Plan increase	\$ 3,740,000	\$ 3,070,000	
Cost difference as a result of self-insured initiatives	\$ (1,500,000)	\$ (1,500,000)	
Personnel Increases	\$ 1,093,045	\$ 573,223	
Operations Increases	\$ 1,801,324	\$ 1,240,324	
Beaufort County Sheriff's Office Increase	\$ 1,968,785	\$ 1,968,785	
14th Circuit Solicitor Increase	\$ 642,500	\$ 642,500	
Magistrate Court Increase	\$ 150,919	\$ 150,919	
14th Circuit Public Defender Increase	\$ 50,000	\$ 50,000	
Transfer to Daufuskie Ferry Transportation Fund decrease	\$ (82,075)	\$ (82,075)	
Subsidies Increase	\$ 502,013	\$ 502,013	
Economic Development (separately stated millage rate)	\$ 8,594	\$ 8,594	
Higher Education (separately stated millage rate)	\$ 126,742	\$ 126,742	
Indigent Health Care (separately stated millage rate)	<u>\$ 34,467</u>	<u>\$ 34,467</u>	
Grand Total FY 2020 Budget Increases	<u>\$ 8,536,314</u>	<u>\$ 6,785,492</u>	

Fiscal Year 2020 Beaufort County General Fund Recommended/Proposed Appropriation **\$ 133,560,983**

Capital (one-time) Increase Requests	\$ 1,367,003	\$ 1,288,734
<i>Recommendation to identify separately stated millage rate to fund capital/one-time requests</i>		

Beaufort County, South Carolina
Fiscal Year 2020 Personnel Budget Increase Requests

	<u>REQUESTED</u>	<u>RECOMMENDED</u>	<u>FTEs</u>
County Council/Clerk to Council	\$ 50,000	\$ 55,575	1.00
This new FTE is for a third administrative position to assist with the workload of the clerk to council office.			
Auditor	\$ 31,466	\$ -	-
The Auditor states this increase is due to utilizing vacancy funds to increase current staff compensation.			
Clerk of Court	\$ 49,600	\$ 49,600	1.00
The Clerk of Court is requesting a new FTE for an office manager.			
Coroner	\$ 44,062	\$ 44,062	1.00
The Coroner is requesting one new FTE for a deputy coroner.			
County Attorney/Legal	\$ 78,726	\$ 78,726	1.00
The County Attorney is requesting one new FTE for an entry level attorney.			
Finance	\$ 200,000	\$ 200,000	3.00
Finance Committee discussed in April 2018 that the Finance Department would add two FTEs for Accounts Receivable/ Revenue purposes. This amount also includes a third FTE for a Grants Accountant due to the volume of grants within Beaufort County.			
Information Technology - Systems Management	\$ 93,000	\$ 93,000	1.00
This includes a new FTE for a network technician due to additional growth/demands.			
Emergency Medical Services	\$ 74,400	\$ 74,400	1.00
New FTE for an administrative and support officer.			
Building Codes	\$ 78,120	\$ 78,120	1.00
New FTE for a commercial plans examiner.			
Codes Enforcement	\$ 32,240	\$ 32,240	0.50
This includes a transition from a PTE to a FTE.			
Animal Services	\$ 39,050	\$ 39,050	2.00
This includes a transition from two FTEs to four FTEs - two Animal Care Techs to four Kennel Techs.			
Public Works Administration and General Support	\$ 236,285	\$ (38,169)	-
Roads and Drainage	\$ (132,252)	\$ (176,781)	-
Solid Waste & Recycling	\$ 174,948	\$ -	-
Veterans Affairs	<u>\$ 43,400</u>	<u>\$ 43,400</u>	<u>1.00</u>
New FTE for an administrative support technician.			
Total Fiscal Year 2020 Personnel Budget Increase Requests	<u>\$ 1,093,045</u>	<u>\$ 573,223</u>	<u>13.50</u>

Note: All County departments, **EXCEPT** the Beaufort County Sheriff's Office, Magistrate Court, Solicitor and Public Defender participate in the County's compensation plan.

All adjustments as a result of the County's compensation plan are being calculated in total, not included in the above data and will be allocated during Fiscal Year 2020 as applicable.

Beaufort County, South Carolina
Fiscal Year 2020 Operating Budget Increase Requests

	<u>REQUESTED</u>	<u>RECOMMENDED</u>
County Council		
Internal Audit process	\$ 75,000	\$ 75,000
Increased stormwater fees for county owned property	\$ 22,405	\$ 22,405
Auditor		
Postage, web page development, value guide books and training/conferences	\$ 10,739	\$ 10,739
Treasurer		
Software annual license fee	\$ 9,000	\$ 9,000
Clerk of Court		
Jurors/Witnesses fees, Stage Front maintenance contract, postage and telephone	\$ 49,391	\$ 49,391
Probate Court		
Computer and scanners	\$ 4,542	\$ 4,542
Coroner		
Medical/Dental services related to autopsies	\$ 20,000	\$ 20,000
County Administrator		
Reduction of contingency from \$215,301 to \$100,000	\$ (115,301)	\$ (115,301)
Finance		
Tyler Munis (financial enterprise software) increased annual cloud based cost	\$ 60,000	\$ 60,000
Risk Management		
Safety training and software for workers' compensation and liability claims	\$ 30,000	\$ 30,000
Purchasing		
Annual costs for Vendor Registry and eProcurement Module (Tyler Munis module)	\$ 15,000	\$ 15,000
Register of Deeds		
Scanning and indexing of old images to merge into online search system	\$ 28,500	\$ 28,500
Community Development		
EnerGov, increased annual software costs	\$ 59,883	\$ 59,883
Comprehensive plan update	\$ 27,000	\$ 27,000
Business License		
EnerGov, increased annual software costs	\$ 7,000	\$ 7,000
Emergency Medical Services		
Medical physican and maintenance contracts	\$ 117,794	\$ 117,794

Beaufort County, South Carolina
Fiscal Year 2020 Operating Budget Increase Requests

	<u>REQUESTED</u>	<u>RECOMMENDED</u>
Building Codes		
EnerGov, increased annual software costs	\$ 40,000	\$ 40,000
Codes Enforcement		
EnerGov, increased annual software costs	\$ 20,000	\$ 20,000
Animal Services		
Increased operating costs for new facility	\$ 129,000	\$ 129,000
Public Works Administration and General Support		
Long term recovery group disaster relief funds	\$ 561,000	\$ -
Grant match: (warning sirens, hazmat mitigation plan and Buckwalter generator)	\$ 102,271	\$ 102,271
Disaster Recovery Staff Training	\$ 10,000	\$ 10,000
Sidewalk and parking lot repairs/stripping	\$ 50,000	\$ 50,000
Solid Waste and Recycling		
Increased costs due to growth/demand	\$ 528,100	\$ 528,100
Social Services		
Medicaid workers' contract local match reduction	\$ (60,000)	\$ (60,000)
 Total Fiscal Year 2020 Operating Budget Increase Requests	 <u>\$ 1,801,324</u>	 <u>\$ 1,240,324</u>

Beaufort County, South Carolina
Fiscal Year 2020 Other Budget Increase Requests

	FY 2019 APPROPRIATION	FY 2020 REQUESTED	FY 2020 RECOMMENDED	FY 2020 PROPOSED APPROPRIATION
<u>Beaufort County Elected Officials (not participating in County's compensation plan)</u>				
Beaufort County Sheriff's Office <i>(includes Emergency Management)</i>	\$ 31,410,047	\$ 1,968,785	\$ 1,968,785	\$ 33,378,832
14th Circuit Solicitor	\$ 1,245,000	\$ 642,500	\$ 642,500	\$ 1,887,500
Magistrate Court	\$ 2,063,293	\$ 150,919	\$ 150,919	\$ 2,214,212
14th Circuit Public Defender	\$ 849,809	\$ 50,000	\$ 50,000	\$ 899,809
Total	\$ 35,568,149	\$ 2,812,204	\$ 2,812,204	\$ 38,380,353
<u>Transfers to Other Funds</u>				
Daufuskie Ferry Transportation Fund	\$ 262,075	\$ (82,075)	\$ (82,075)	\$ 180,000
<u>Subsidies</u>				
Economic Development				
Southern Carolina Alliance contract	\$ -	\$ 120,000	\$ 120,000	\$ 120,000
Econ Dev Corp requested increase	\$ 270,000	\$ 105,000	\$ 105,000	\$ 375,000
LRTA/Palmetto Breeze	\$ 228,844	\$ 120,013	\$ 120,013	\$ 348,857
Military Enhancement Committee (MEC)	\$ -	\$ 62,000	\$ 62,000	\$ 62,000
Hilton Head Island Recreation Association	\$ 215,000	\$ 60,000	\$ 60,000	\$ 275,000
Beaufort Soil and Water Conservation District	\$ -	\$ 25,000	\$ 25,000	\$ 25,000
Small Business Development	\$ 25,000	\$ 10,000	\$ 10,000	\$ 35,000
Total Subsidy increases	\$ 738,844	\$ 502,013	\$ 502,013	\$ 1,240,857
<u>Increases funded by separately stated millage rates</u>				
Economic Development	\$ 500,000	\$ 8,594	\$ 8,594	\$ 508,594
Higher Education	\$ 4,509,290	\$ 126,742	\$ 126,742	\$ 4,636,032
Indigent Health Care	\$ 1,550,000	\$ 34,467	\$ 34,467	\$ 1,584,467
Total separately stated millage rate increases	\$ 6,559,290	\$ 169,803	\$ 169,803	\$ 6,729,093

Beaufort County, South Carolina
Fiscal Year 2020 Capital Budget Increase Requests

	<u>REQUESTED</u>	<u>RECOMMENDED</u>
Facilities Maintenance	\$ 350,000	\$ 350,000
Detention Center Generator		
Public Works Administration and General Support	\$ 180,000	\$ 180,000
Dump truck replacement		
Parks and Recreation	\$ 156,600	\$ 156,600
Six new vehicle replacements and aerator for field use		
Coroner	\$ 117,403	\$ 39,134
Three vehicle replacements including equipment for each vehicle		
Building Codes	\$ 98,000	\$ 98,000
Four new truck replacements		
Traffic and Transportation Engineering	\$ 90,000	\$ 90,000
Bucket truck replacement for signal maintenance		
Information Technology - Mapping and Applications	\$ 80,000	\$ 80,000
Software upgrades for GIS webtool, App Extender and MS4 Coastal Hazards		
Engineering	\$ 32,000	\$ 32,000
New vehicle replacement		
Emergency Medical Services	\$ 45,000	\$ 45,000
One Quick Response Vehicle (QRV) replacement		
Treasurer	\$ 43,000	\$ 43,000
Renovation/update of the Hilton Head office; security camera retention/improvements; and software acquisition.		
Voter Registration and Elections	\$ 35,000	\$ 35,000
One new vehicle addition		
Risk Management	\$ 32,000	\$ 32,000
Two vehicle replacements		
Animal Services	\$ 30,000	\$ 30,000
Two vehicle replacements		
Mosquito Control	\$ 28,000	\$ 28,000
New truck and winch replacement		
Broadcast Services	\$ 25,000	\$ 25,000
One vehicle replacement		
Veterans Affairs	<u>\$ 25,000</u>	<u>\$ 25,000</u>
One vehicle addition		
Total Fiscal Year 2020 Capital Budget Increase Requests	<u><u>\$ 1,367,003</u></u>	<u><u>\$ 1,288,734</u></u>

Fiscal Year 2020 Budget Requested Increases to be considered

<u>Budget Item</u>	<u>Dollar Amount</u>	<u>Millage</u>
Beaufort County Sheriff's Office	\$ 1,968,785	1.01
County Compensation Plan (pay for performance)	\$ 1,500,000	0.77
3% Cost of Living Adjustment (COLA)	\$ 1,300,000	0.66
14th Circuit Solicitor	\$ 642,500	0.33
LRTA/Palmetto Breeze	\$ 120,013	0.06
Military Enhancement Committee	\$ 62,000	0.03
Hilton Head Island Recreation Association	\$ 60,000	0.03
Small Business Development	\$ 10,000	0.01
Total Increases to be considered	<u>\$ 5,663,298</u>	<u>2.90</u>

Items not currently included in the FY 2020 Proposed Budget

Public Defender additional request	\$ 123,430	0.06
Housing Trust Fund	\$ 65,000	0.03
Total items not currently included	<u>\$ 188,430</u>	<u>0.10</u>

Beaufort County, South Carolina
FY 2020 MILLAGE IMPACT SUMMARY

	Countywide Rates		Rates below include operations and debt. Rates only apply to each jurisdiction.				
	County Operations	School District Operations	Bluffton Fire District	Burton Fire District	Daufuskie Island Fire District	Lady's Island/St. Helena Fire District	Sheldon Fire District
Proposed Millage Increase	1.74	9.70	0.15	1.51	1.74	0.82	2.26
Millage rate increase impact on \$100,000 value (4%)	\$ 6.96	\$ -	\$ 0.60	\$ 6.04	\$ 6.96	\$ 3.28	\$ 9.04
Millage rate increase impact on \$100,000 value (6%)	\$ 10.44	\$ 58.20	\$ 0.90	\$ 9.06	\$ 10.44	\$ 4.92	\$ 13.56

ORDINANCE 2019 _____

AN ORDINANCE AMENDING ORDINANCE 2019/16 TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS FOR A LEASE SUCH THAT IT SHALL NOW INCLUDE THE ADJACENT GENERAL STORE IN THE LEASE OF A BUILDING ON DAUFUSKIE ISLAND KNOWN AS MARSHSIDE MAMAS.

WHEREAS, Beaufort County Council adopted Ordinance 2019/16 on April 22, 2019 and authorized the execution of the lease for a portion of 15 Haig Point known as the Marshside Mama's building; and

WHEREAS, prior to the adoption of Ordinance 2019/16, County Council adopted Ordinance 2018/52 authorizing the execution of a lease for the portion of 15 Haig Point known as a general store called the Daufuskie Island Store; and

WHEREAS, the tenant of the general store has notified Beaufort County that he has abandoned the lease of the general store; and

WHEREAS, Property Management Company, LLC in conjunction with Pointed Feather Feather Foods LLC provided a proposal offering, among other things, \$900 per month to lease the property and \$100,000 in capital investments for the Marshside Mama's Building; and

WHEREAS, the Department of Health and Environmental Control (DHEC) has notified Property Management Company, LLC of some deficiencies in the building that necessitate the need to utilize the space currently allotted to the general store; and

WHEREAS, the Public Facilities committee considered the Property Management Company, LLC proposal at the March 4, 2019 meeting and recommended approval; and

WHEREAS, Property Management Company, LLC desires to use the general store space to comply with certain DHEC regulations for the restaurant and also to maintain a portion of the space for a general store; and

WHEREAS, County Council finds that it is in the best interests of Beaufort County citizens, residents and visitors to lease the Daufuskie Island Marshside Mama's property, including the general store to Property Management Company, LLC.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council, duly assembled, does hereby authorizes the County Administrator to execute any and all documents necessary to lease 15 Haig Point Road, Parcel Number R800 024 000 0032 0000 the building known as the Marshside Mama's Restaurant, including the adjacent general store space. To the extent necessary, Ordinance 2019/16 is hereby amended to reflect the County Administrator's

additional authority to include in the Marshside Mama's lease with Property Management Company, LLC the additional adjacent space known as the general store with the same terms as originally provided for in the lease for the general store.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____

Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council.

Chronology

- Third and final reading occurred
- Public hearing occurred
- Second reading occurred
- First reading approval occurred
- Public Facilities Committee discussion and recommendation to



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Marshside Mama's Lease amendment

Council Committee:

Finance Committee

Meeting Date:

June 24, 2019

Committee Presenter (Name and Title):

Issues for Consideration:

ORDINANCE AMENDING ORDINANCE 2019/16 TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS FOR A LEASE SUCH THAT IT SHALL NOW INCLUDE THE ADJACENT GENERAL STORE IN THE LEASE OF A BUILDING ON DAUFUSKIE ISLAND KNOWN AS MARSHSIDE MAMAS.

Points to Consider:

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

ORDINANCE 2019 _____

AN ORDINANCE AMENDING ORDINANCE 2019/16 TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS FOR A LEASE SUCH THAT IT SHALL NOW INCLUDE THE ADJACENT GENERAL STORE IN THE LEASE OF A BUILDING ON DAUFUSKIE ISLAND KNOWN AS MARSHSIDE MAMAS.

WHEREAS, Beaufort County Council adopted Ordinance 2019/16 on April 22, 2019 and authorized the execution of the lease for a portion of 15 Haig Point known as the Marshside Mama's building; and

WHEREAS, prior to the adoption of Ordinance 2019/16, County Council adopted Ordinance 2018/52 authorizing the execution of a lease for the portion of 15 Haig Point known as a general store called the Daufuskie Island Store; and

WHEREAS, the tenant of the general store has notified Beaufort County that he has abandoned the lease of the general store; and

WHEREAS, Property Management Company, LLC in conjunction with Pointed Feather Feather Foods LLC provided a proposal offering, among other things, \$900 per month to lease the property and \$100,000 in capital investments for the Marshside Mama's Building; and

WHEREAS, the Department of Health and Environmental Control (DHEC) has notified Property Management Company, LLC of some deficiencies in the building that necessitate the need to utilize the space currently allotted to the general store; and

WHEREAS, the Public Facilities committee considered the Property Management Company, LLC proposal at the March 4, 2019 meeting and recommended approval; and

WHEREAS, Property Management Company, LLC desires to use the general store space to comply with certain DHEC regulations for the restaurant and also to maintain a portion of the space for a general store; and

WHEREAS, County Council finds that it is in the best interests of Beaufort County citizens, residents and visitors to lease the Daufuskie Island Marshside Mama's property, including the general store to Property Management Company, LLC.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council, duly assembled, does hereby authorizes the County Administrator to execute any and all documents necessary to lease 15 Haig Point Road, Parcel Number R800 024 000 0032 0000 the building known as the Marshside Mama's Restaurant, including the adjacent general store space. To the extent necessary, Ordinance 2019/16 is hereby amended to reflect the County Administrator's

additional authority to include in the Marshside Mama's lease with Property Management Company, LLC the additional adjacent space known as the general store with the same terms as originally provided for in the lease for the general store.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____

Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council.

Chronology

- Third and final reading occurred
- Public hearing occurred
- Second reading occurred
- First reading approval occurred
- Public Facilities Committee discussion and recommendation to

ADD-ONS

The document(s) herein were provided to Council for information and/or discussion after release of the official agenda and backup items.

Topic: Input Session on possible Loud Car Noise Ordinance

Date Submitted: June 24, 2019

Submitted by: Mike Thompson (Beaufort County Citizen)

Venue: Finance Committee

PETITION TO BEAUFORT COUNTY TO DEVELOP A LOUD AND EXCESSIVE MUFFLER NOISE ORDINANCE

Submitted By: Michael Thompson

VEHICLE MUFFLER NOISE ORDINANCE FOR BEAUFORT COUNTY, SOUTH CAROLINA

The streets and roads of Beaufort City and Beaufort County have seen an influx of loud aggressive cars, trucks and motorcycles with illegal muffler systems.

These vehicles currently violate SC State Law and the Beaufort City Noise Ordinance. Beaufort County does not have a noise ordinance.

I am requesting your support of this petition in order for Beaufort County to develop a loud and excessive muffler noise ordinance.

This change will stop annoying noise and aggressive operation by cars, trucks and motorcycles in areas such as neighborhoods and gathering places and will provide for greater vehicle safety for citizens and visitors to Beaufort County.

Signed By:

Fred Bley, Jr 1800 Debby Ln Beaufort, SC

Quint S. May 4004 Joanna St. Beaufort SC

Richard J. Parker 4005 Joanna St Beaufort S.C.

Gordon Weaver 1507 Walsh Dr E Beaufort S.C.

Big Red Harris 4007 Joanna St. Beaufort S.C.

Linda Walsh Kern 1513 Walsh Dr E.

Troy A. Muz 4003 Joann St.

Heather M 401 Battery Lane

~~James M~~ 176 Bay Pines Rd.

Lucienne M Bigbee 176 Bay Pines Rd

Imogene 3 HUMBOLT CIR

Paul M 4006 Joann St.

Sandra Thompson 4001 Joann St

Buddy Campbell 167 Jesters Loop

on line petition
Charge.org

Signatures

Name	Location	Date
Mike Thompson	Beaufort, SC	2019-05-08
Ralph Morris	Beaufort, US	2019-05-08
Bill Sammons	Beaufort, SC	2019-05-09
Margaret Rogers	Albemarle, US	2019-05-09
Jessica Bridges	Beaufort, US	2019-05-09
Heather Torkko	Beaufort, US	2019-05-09
Michael Thompson	Beaufort, SC	2019-05-13

Beaufort born bred or blessed. Beaufort SC Residents

Greetings.

Vehicle Muffler Noise Ordinance for Beaufort County South Carolina

Published Letter to Editor

Excessive and unusual noise produced by vehicles across Beaufort County

Mike Thompson <yepekya46@gmail.com>
To: letters@beaufortgazette.com

Fri, Mar 15, 2019 at 1:04 PM

South Carolina law 56-50-5020 makes it illegal to modify vehicle muffler systems to produce excessive and unusual loud noise.

Beaufort City Ordinance states its illegal to drive or propel a motor vehicle that emits loud or unseemly loud noise that disturbs any business neighborhood or citizen in the city. It's unlawful to operate a vehicle by advancing the throttle (revving) to produce a loud vehicle noise.

Beaufort County Council does not have a similar ordinance that address the noise created by vehicles on the highway in Beaufort County.

Boundry Street Beaufort , Parris Island Gateway, Trask Parkway to the Marine Corps Airstation are the chosen paths.

Lexington County SC is experiencing the same problem as Beaufort County and are issuing "Fix it Tickets" to vehicles given tickets violating the Lexington County Ordinance dealing with loud vehicle noise.

Beaufort County Sheriff Department and the Beaufort County Council have been contacted to pursue development of a Noise Ordinance in order to enforce county and SC State Law.

Cobb, Kelly <letters@islandpacket.com>
To: Mike Thompson <yepekya46@gmail.com>

Fri, Mar 15, 2019 at 1:12 PM

Thank you for your submission. Our policy requires that all letters to the editor include the writer's complete home mailing address and phone number. This information will not be printed but will be kept for our records. If you would like your letter to be considered for publication, you may resubmit it with your address and phone number included.

Mike Thompson <yepekya46@gmail.com>
To: letters@beaufortgazette.com

Fri, Mar 15, 2019 at 1:18 PM

My Address is 4001 Joann St. Beaufort SC 29906
My phone number is 843 441 2938

Cobb, Kelly <letters@islandpacket.com>
To: Mike Thompson <yepekya46@gmail.com>

Fri, Mar 15, 2019 at 1:33 PM

thank you

Mike Thompson <yepekya46@gmail.com>
To: cinglese@bcgov.net

Wed, Apr 24, 2019 at 9:52 PM

Beaufort City

Code of Ordinances

which is substantially audible to the distance of fifty (50) feet or more, shall be prima facie evidence of a violation of subsection (a). Notwithstanding any time periods or other provisions of this section, sound (from any of the sources specified herein) which exceeds eighty-five (85) decibels (dB(C)) measured *at any time* at the property line of the establishment from which the music is being generated shall be considered prima facie evidence of a violation of subsection (a).

(f) There shall be no violation under subsections (c) or (e) of this section for special events provided a permit is first obtained from the city.

(g) It shall be unlawful for any person to drive, propel or otherwise operate a motorized vehicle in a manner which emits loud and unseemly noise, which willfully disturbs any residence, neighborhood or business in the city. The prohibition of this subsection shall include operating a motorized vehicle by rapid throttle advancing (revving) of an internal combustion engine resulting in increased noise from the engine.

(1962 Code, § 22-1; Ord. No. O-12-81, 7-28-81; Ord. No. O-15-91, 4-23-91; Ord. No. O-30-91, 10-22-91; Ord. No. O-23-94, 11-22-94; Ord. No. O-01-00, 1-11-00; Ord. No. O-06-00, 2-8-00; Ord. No. O-09-09, § 1, 3-24-09; Ord. No. O-14-12, §§ 1, 2, 7-10-12)

Cross reference— Noise by sidewalk vendors, § 7-9008(13).

Sec. 9-1009. - Unauthorized wearing of police uniform or badge.

- (a) Any person who shall wear, exhibit, display or use for any purpose, the badge or uniform of a badge or uniform substantially identical to that officially prescribed for the Beaufort City Police Department, unless he shall be a member of said department, shall be guilty of a misdemeanor.
- (b) Any person violating the provisions of this section shall, upon conviction, be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days.

(Ord. of 4-13-76)

Sec. 9-1010. - Discharging firearms prohibited; exceptions.

- (a) It shall be unlawful to discharge any firearm, air gun, spring-loaded gun, crossbow, bow and arrow, or other device firing a projectile, arrow or rocket in the city.
- (b) This section shall not apply to the following:
 - (1) Any officer of the law from discharging a firearm in the performance of his duty, nor shall it be construed to prohibit any citizen from discharging a firearm lawfully defending his person when in fear of life, or when in fear of having serious bodily harm inflicted upon him, or when lawfully defending the life of another.

management and/or control thereof, requesting the person to leave, or quit the premises, and each refusal to quit, or leave the premises upon each separate notice or request, shall constitute a separate offense.

Cross reference— Trespassing on municipal grounds, [§ 7-6012](#).

Sec. 9-1006. - Scaffolds or ladders.

Any scaffolds or ladders placed in such a way that they overhang or can fall onto any public street, alley or other public place in the city, shall be firmly constructed and safeguarded and it shall be unlawful to place or leave any tools or article on any such place in such a manner that the same can fall onto any such street, sidewalk, alley or other public place from a height greater than four (4) feet.

(1962 Code, § 24-26)

Cross reference— Obstructions on streets, [§ 3-1001](#) et seq.

Sec. 9-1007. - Window ledges.

It shall be unlawful to place any movable article on any window ledge, or other place abutting on a public street, alley or other place at a height above four (4) feet from the ground, in such a manner that the same can be or is in danger of falling onto any such street, sidewalk, alley or other public place.

(1962 Code, § 24-34)

Cross reference— Overhanging obstructions on streets and sidewalks, [§ 3-1009](#).

Sec. 9-1008. - Loud and unseemly noise.

- (a) It shall be unlawful for any person to willfully disturb any neighborhood or business in the City by making or continuing loud and unseemly noises, or by profanely cursing and swearing, or using obscene language. It shall further be unlawful for any person to willfully disturb any neighborhood or business within the city by the use of words which threaten or tend to threaten or incite physical violence, or which endanger or tend to endanger the health and safety of others within the city.
- (b) On Bay Street and its sidewalks, bounded by Carteret and Charles Streets, noise generated by the unamplified human voice at a decibel level in excess of seventy (70) [decibels], measured by a Realistic® sound level decimeter, or its equivalent, (adjusted to "A" for weighing voice recordings and response selector on "slow") located fifty (50) feet from the source, between the hours of 10:00 a.m. and 6:00 p.m., Monday through Saturday, and between the hours of 12:00 noon and 6:00 p.m. on Sunday, shall be prima facie loud and unseemly noise (momentary peaks shall not exceed seventy-five (75) decibels). Upon determination that the volume of such unamplified human voice exceeds

this decibel level, a police official shall first warn the offending individual(s) of the violation of his/her conduct. Continued measurement of the level of noise by the offending individual(s) exceeding this decibel level after such warning shall constitute prima facie evidence of willful violation of subsection (a).

- (c) Except as within the Nighttime Music District as defined in subsection (d) below and on any lot zoned Industrial Park District, the use of horns, radios, phonographs, loud speakers, whistles, exhausts, pile drivers, blowers, or other devices not numerated here, but which cause loud or irritating noises, between the hours of 9:00 p.m. and 8:00 a.m., which are plainly audible from a distance of fifty (50) feet from its source, shall be considered prima facie evidence of a violation of subsection (a), unless such device was used as a danger warning or in some similar emergency or a permit has been granted by city council for same. As to properties located within the Nighttime Music District, as defined in subsection (d) below, the following shall apply:(1) the use of horns, radios, phonographs, amplifiers, loudspeakers, whistles, exhausts, pile drivers, blowers, or other devices not numerated here, but which cause loud or irritating noises, between the hours of 10:00 p.m. and 1:00 a.m. on Sunday through Thursday nights only, which are plainly audible from a distance of fifty (50) feet from its source, shall be considered prima facie evidence of violation of subsection (a); and (2) the use of horns, radios, phonographs, amplifiers, loudspeakers, whistles, exhausts, pile drivers, blowers, or other devices not numerated here, but which cause loud or irritating noises, between the hours of 1:00 a.m. and 7:00 a.m., which are plainly audible outside the exterior walls of the building containing its source, shall be considered prima facie evidence of a violation of subsection (a). Notwithstanding any time periods or other provisions of this section, sound (from any of the sources specified herein) which exceeds eighty-five (85) decibels (dB(C)) measured *at any time* at the property line of the establishment from which the music is being generated shall be considered prima facie evidence of a violation of subsection (a).
- (d) *Nighttime Music District.* A Nighttime Music District is hereby established and shall include those parcels and properties and portions of those parcels and properties contained within the following boundaries: all those parcels of land encompassed by the tract bounded on the north by the southern right of way of Bay Street, on the west and the south by the highwater mark of the Beaufort River, and on the east by the western right-of-way of Carteret Street.

The Nighttime Music District is also delineated on the map which is incorporated in this chapter and shown on the next page.

- (e) The loud playing of radios, phonographs, tape decks, amplifiers, and loudspeakers, and other sound devices in any public park, outdoor public place, or privately owned or controlled courtyards or outdoor areas, including from vehicles, the sound and/or noise

he may offer on his behalf concerning such matter, if the Town Manager should find such premises or lot in a condition tending to injure the public health, he shall issue a written order or notice directed to the owner, directing and requiring him within a reasonable and specified time to clear such premises or lot in order to abate such nuisance.

- (c) *How summons given.* The notice described in subsection (b) of this section shall be served on the owner to whom it is directed or by certified mail, return receipt requested, addressed to such owner at his last known post office address. In the event personal service cannot be made and the owner's address is unknown, such notice shall be given by publication at least two times within 15 consecutive days in a local newspaper of general circulation.
- (d) *Town to clean; costs to be paid by owner.*
 - (1) Should any property owner fail to keep such property cleared as described in this article after due notice thereof to do so, the Town may cause said property to be kept cleared and in a sanitary condition for health purposes or cleared for fire prevention purposes.
 - (2) A judgment shall be taken against the property with the County Clerk of Court, as provided by S.C. Code 1976, § 5-7-80(2).
 - (3) [If the structure must be demolished, the cost of demolition shall be borne by the Town if the owner or party in interest of the structure qualifies within 80 percent of the median household income as defined by the United States Department of Housing and Urban Development for the county.]

(Code 1999, §§ 10.401—10.404)

Bluffton

Secs. 12-29—12-80. - Reserved.

ARTICLE III. - NOISE CONTROL [2]

Sec. 12-81. - Scope.

This article shall apply to all sound, vibration, and noise originating within the Town of Bluffton. Nothing in this article shall be construed to limit or prevent the Town of Bluffton or any person from pursuing any other legal remedies for damages or the abatement of noises in the city.

(Ord. No. 2014-08, § 1(Exh. A), 4-8-2014)

Sec. 12-82. - Definitions.

The words and phrases defined in this section shall have the meaning indicated when used in this article unless otherwise specifically provided, or unless otherwise clearly required by the context:

A-weighted sound level: A uniform noise measurement that simulates people's perception of loudness and annoyance. It is weighted to account for frequencies most audible to the human ear. The sound pressure level in decibels as measured on a sound level meter using the A-weighted network; sound levels are represented herein by the designation, "dB(A)."

Amplified sound: Any sound or noise, including the human voice, that is increased in volume or intensity by means of electrical power.

Construction: Erection, repair, assembly, alternation, landscaping, or demolition of any building or building site.

Daytime: Unless otherwise described within this article, daytime shall be 7:00 a.m. through 7:00 p.m., Monday through Saturday and 12:00 p.m. (noon) through 7:00 p.m. on Sunday during standard time; and, 7:00 a.m. through 9:00 p.m., Monday through Saturday and 12:00 p.m. (noon) through 9:00 p.m. on Sunday during day light savings time.

Decibel also dB: Unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure (20 micronewtons per square meter).

Impulsive sound: Sound of short duration with an abrupt onset and rapid decay, characterized by sound meter reading changes at a rate greater than ten dBA within a five second interval.

Mobile sound vehicle: Any motorized vehicle fitted with external loudspeakers or so designed or modified as to project electronically amplified sound outside of the passenger area of the vehicle.

Motorized vehicles:

- (1) *Generally* . Any vehicle as defined by the South Carolina Code of Laws, including, but not limited to:
 - a. Excursion passenger vehicles;
 - b. Common carriers of passengers;
 - c. Motorcycles and mopeds;
 - d. Truck tractors; and,
 - e. Farm tractors.
- (2) *Motorboat* . Any vessel which operates on water and which is propelled by a motor including but not limited to boats, barges. amphibious craft, water ski towing devices, and hovercraft.

Noise: Any sound or combination of sounds which, because of its volume or quality, tends to disturb persons of normal sensitivity or to interfere with normal human activity.

Noise disturbance: Any unreasonably loud or raucous sound or noise which is not outdoor entertainment or outdoor live entertainment and which:

- (1) Endangers or injures the health or safety of humans or animals;
- (2) Endangers or injures the personal or real property; or
- (3) Disturbs a person of normal sensitivity.

Outdoor entertainment: Any outdoor commercial or fundraising activity offered to, provided for, or attended by one or more persons including the playing of recorded music, radio, stereo, and/or television.

Outdoor live entertainment: Any activity for the benefit of one or more persons to be performed in outdoor areas by a person or persons using amplified sound to broadcast their voice, or the sound or noise resulting from the playing of musical instruments.

Permits:

- (1) A permit issued to a person that provides or intends to provide outdoor entertainment and/or outdoor live entertainment on a regular or routine basis or that is otherwise required by Town Ordinance to obtain a business license.
- (2) Special event permit: A permit issued by the Town Manager or his designee for any activity that takes place on a non recurring or infrequent basis and/or that may temporarily exceed the sound levels provided for in Table A.

Person: Any individual, association, firm, partnership or corporation.

Person responsible: An owner, occupant, employee, agent, or any other person who is or who appears to be responsible for a premises, dwelling, or business, or a noise-producing machine or device.

Sound: Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by persons of normal sensitivity.

Sound level: The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, as specified by the American National Standards Institute (ANSI) standards for sound level meters. If the frequency weighting employed is not specified, the A-weighting shall apply.

Sound level meter also decibel meter: An instrument that includes a microphone, amplifier, RMS detector, integrator or time average, output meter and averaging network used to measure sound level. Such instrument shall be certified to meet or exceed the current standards of the American National Standards Institute.

Sec. 12-83. - General prohibitions—Decibel and/or time limitations.

- (a) Except as allowed in this article, no person shall willfully engage in any activity on any premises or public area in the Town, which activity produces or constitutes a noise disturbance on occupied neighboring premises or public area. Any sound or noise associated with outdoor entertainment or outdoor live entertainment shall be deemed a noise disturbance when it exceeds the levels set forth on Table A attached hereto and incorporated herein. As provided for herein, all persons providing outdoor entertainment or outdoor live entertainment must secure a permit from the Town. All Persons required to obtain a permit shall be subject solely to the measurement of noise levels provided in Table A.
- (b) All persons required to secure a permit to provide outdoor entertainment and/or outdoor live entertainment shall be required to end the outdoor entertainment and/or outdoor live entertainment by the time prescribed in Table A.

(Ord. No. 2014-08, § 1(Exh. A), 4-8-2014)

Sec. 12-84. - Further prohibitions—Noise disturbance.

Certain activities are recognized as tending to produce loud and raucous noises and may constitute a noise disturbance. Accordingly, it shall be unlawful for any person to, for any purpose so as to unreasonably disturb the peace, quiet, comfort, or repose of any person in his home or dwelling, or, in any public area or place of public accessibility, including, but not limited to, commercial establishments:

- (a) Use, operate or play any transistor or electronic device which produces, reproduces or amplifies sound; or,
- (b) Attempt to attract the attention of the public to any political or commercial activity by the use of a loudspeaker or other sound amplification device; or,
- (c) Engage in personal conduct of an excessively loud nature; or,
- (d) Sound any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended: the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for any unnecessary and unreasonable period of time; or,
- (e) Shout as a peddler, hawker and vendor; or,
- (f) Start a motor vehicle engine of any kind using excessive acceleration or creating loud noises, or at any time to commence or continue the movement of any such

- (g) Keep any animal or bird which causes frequent or long continued noise, provided, however, that upon application to and approval by the Town Manager, or his designee, a written permit may be granted as provided for herein.

It is further recognized that certain uses, including churches, synagogues and other places of worship, hospitals, convalescent and nursing facilities, schools and courthouses are particularly sensitive to sound and noise. Noise-producing activities, including those specified above, may become noise disturbances when conducted in the immediate vicinity of those uses during their hours of operation.

(Ord. No. 2014-08, § 1(Exh. A), 4-8-2014)

Sec. 12-85. - Exceptions.

The following are excepted from the application of this article:

- (a) Construction activity performed by or for an agency of government provided that all equipment is operated in accordance with manufacturer's specifications and is muffled as designed and manufactured;
- (b) Sound produced by church bells or chimes, whether produced by the striking of a church bell or chime, or a recording thereof;
- (c) Sound or noise emanating from duly permitted street fairs, festivals, or celebrations conducted by or with approval of the Town of Bluffton;
- (d) Sound or noise emanating from film and video production activities for which permits have been issued by the Town; provided all equipment, such as generators, are properly muffled as designed and manufactured;
- (e) Sound or noise emanating from properly equipped aircraft operated in accordance with applicable federal rules and regulations;
- (f) Sound or noise from lawful fireworks;
- (g) Sound produced by persons and machinery engaged in landscape maintenance, cleanup or tree shaping or removal, during the daytime, said machinery shall be properly muffled as designed and manufactured;
- (h) Musical accompaniment to parades or military ceremonies;
- (i) Sound emanating from regularly scheduled events at Town and County parks and school athletic facilities;
- (j) Emergency vehicles in the course of performing their official duties;
- (k) Boats, ships, barges and other vessels engaged in licensed commercial activity;
- (l) Construction, construction preparation, and building activity between the hours of

7:00 a.m. and 7:00 p.m., Monday through Saturday and 12:00 p.m. and 7:00 p.m., on Sunday and any such work certified by the Town Manager or his designee to be necessary to address an emergency situation;

- (m) Sounds produced by maintenance or repair activity within boat yards, during the daytime;
- (n) Sounds produced by the commercial sawing or grinding of tree trunks, branches, or other organic matter into mulch during the daytime on Monday through Friday; and sounds produced by the noncommercial sawing or grinding of tree trunks, branches or other organic matter into mulch during the daytime on Monday through Sunday; and
- (o) Sounds produced by golf course or tennis maintenance or watering equipment.
- (p) Sounds produced on the premises of a person that has secured a permit in accordance with the terms of this article; notwithstanding the exception granted herein, a sound or noise generated by activity resulting from the use of a permit or special event permit, shall be deemed a noise disturbance if, when measured as prescribed herein, it exceeds the levels set forth in Table A attached hereto and incorporated herein.
- (q) Bands playing at any scheduled football or other sporting activity or events or other activity held on lands belonging to the Beaufort County Board of Education provided that the activity or event in question is associated with the Beaufort County School System.
- (r) Regular or special indoor or outdoor events, including, but not limited to, weddings, corporate functions, member functions, charitable events, outdoor sporting events, club and/or hotel functions as part of an established property owners association and/or private club that is located on property that is subject to a development agreement.

(Ord. No. 2014-08, § 1(Exh. A), 4-8-2014)

Sec. 12-86. - Determination of noise disturbance.

In determining whether a noise or sound constitutes a noise disturbance violation under this section, the enforcement officer may consider, in addition to all other logically relevant factors, the following:

- (a) The volume of the noise;
- (b) Whether the nature of the noise is usual or unusual;
- (c) The intensity of the noise;
- (d) The general characteristics of the area where the noise is occurring;

- (e) The time of day or night at which the noise is occurring;
- (f) The reasonable expectation of quiet that could be expected by individuals on public or private property in the vicinity of where such noise is occurring;
- (g) In the case of motor vehicles, whether or not such vehicles are equipped with mufflers and/or such suppression devices which keep exhaust noises down to a level equal to or below that which the manufacturers of such vehicles provided as original equipment designed for acceptable street use;
- (h) The proximity of the noise to residential sleeping facilities, churches, synagogues and other places of worship, hospitals, convalescent and nursing facilities, schools and courthouses;
- (i) The duration of the noise; or
- (j) Whether the noise is recurrent, intermittent or constant.

(Ord. No. 2014-08, § 1(Exh. A), 4-8-2014)

Sec. 12-87. - Measurement of sound level.

In determining outdoor entertainment and outdoor live entertainment sound levels pursuant to this article, the standards, instrumentation, personnel, measurement procedures, and reporting procedures shall be as specified herein; and all terminology not defined herein or in Section 2 shall be in conformance with the current American National Standards Institute (ANSI).

- (a) Sound level measurement shall be made with a sound level meter using the A-weighting scale.
- (b) Sound level meters shall be serviced, calibrated and operated as recommended by the manufacturer, and in accordance with regulations prescribed by the police department. Persons using the sound level meter shall be trained in sound level measurement and the operations of sound level measuring equipment.
- (c) Except as specified in (g) below, the sound measurement shall be averaged over a period of at least one minute for purposes of determining the sound level. Sound levels may not exceed the prescribed level by more than three decibels at any time during the measurement period.
- (d) During measurement, the microphone shall not be positioned so as to create any unnatural enhancement of the measured sound. A windscreen should be used whenever practical.
- (e) Traffic noise and noise from other sources not connected with the sound being measured shall not be considered in taking measurements.
- (f) In the case of noise or sound that is impulsive, the measurement shall be taken over a period of time of at least one minute. Any such sound or noise that exceeds the

Code of Ordinances prescribed level by 10dBA more than two times within a five second interval shall be deemed to exceed the prescribed sound levels.

- (g) In the case of outdoor entertainment or outdoor live entertainment, including live or recorded speech, music or other sound, whether or not a permit is required for the activity, sound level measurements shall be made as prescribed in this section. Notwithstanding the exception granted herein for a special event permit, the decibel level of such activity shall not exceed the levels allowed pursuant to this article when measured the distance prescribed in Table A from which the noise emanates.

(Ord. No. 2014-08, § 1(Exh. A), 4-8-2014)

Sec. 12-88. - Permits required.

- (a) All persons providing or intending to provide outdoor entertainment and/or outdoor live entertainment on a regular or routine basis and who are otherwise required by Town Ordinance to obtain a business license, are required to state such on their business license application at the time that the business license is secured or renewed and are required to secure a permit at that time allowing them to have outdoor entertainment and/or outdoor live entertainment. Should a person provide or intend to provide outdoor entertainment and/or outdoor live entertainment prior to the expiration of their current business license, the person must secure a permit from the Town which shall remain in effect until such time as their business licenses is renewed and a new permit obtained. A reasonable fee, to be determined by Town Council, may be assessed for this permit and may be collected in conjunction with the issuance of a business license. At the time of the application for the business license, the Town shall, notwithstanding the zoning for the premises for which the permit is sought, provide a copy of Table A to which the applicant shall be subject.
- (b) Special event permits are required for any activity that takes place on a non-recurring or infrequent basis and/or that may temporarily exceed the requirements set out in Table A. Application for a permit shall be made to the Town Manager or designee not less than five days nor more than 90 days prior to the commencement of the activity. In no case shall more than six permits be issued for any person, entity, or establishment in a calendar year and each calendar day on which the activity is to occur shall constitute a separate permit. No permit may be issued if the effect of the special permit would be to allow for the creation of a noise disturbance as part of the regular or usual activity on any premises. A reasonable fee, to be determined by the Town Council, may be assessed for all special permits.
- (c) Without limiting the generality of the foregoing, special event permits are required for the following activities, in addition to any other permits required by law:

Code of Ordinances (1) *Outdoor entertainment, outdoor live entertainment, outdoor parties, special events:* For exempted by this article where equipment for amplifying live or prerecorded speech, music sound is to be used. This section is intended to apply to temporary events of an infrequent recurring nature; it is not intended to apply to regular activities conducted at a fixed location.

(2) *Mobile sound vehicles:* Special event permits may not be obtained for vehicles using equipment designed or intended for personal entertainment.

- (d) Permits may not be denied or revoked except where the activity constitutes a bona fide threat to the health, safety or welfare of any person, or a bona fide threat of physical damage to real or personal property; and, in the case of a permit, for repeated convictions for violating the levels set forth in Table A.
- (e) Each applicant for a permit shall be a "person responsible" for the purposes of this article, and shall provide the name of at least one other person who may be contacted in the event or problems arising from the noise associated with the activity for which the permit is requested. Each applicant shall affirmatively indicate that he is familiar with the requirements of this article. Failure to complete the application properly or a record of previous violations by the applicant within the preceding 12 months may be a basis for denial of the permit.
- (f) Applicants for special event permits for activities in residential areas shall affirmatively indicate that the owners or occupants of all adjacent premises (including premises directly across the streets or other public ways) have received a copy of the completed application. Applicants for permits for activities on multifamily premises shall also affirmatively indicate that the owner or manager of the premises has received a copy of the application.
- (g) If a special event permit is denied, the reasons for denial shall be set forth in writing and furnished to the applicant. If an applicant who has been denied a special event permit under this section believes that the denial is in violation of applicable State or Federal law, he may submit a statement of the reasons he believes he is entitled to the special event permit to the Town Manager. If the Town Manager determines that the applicant has made a substantial showing of legal entitlement, an exceptional permit may be granted waiving requirements as to time, location and sound levels.
- (h) A violation of any of the provisions of this article may be cause for the immediate revocation of any previously issued permit.

(Ord. No. 2014-08, § 1(Exh. A), 4-8-2014)

Sec. 12-89. - Penalties/owner and occupant responsibility.

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Penalties for violations of this article may be assessed against persons responsible for the premises or device producing or causing decibel and/or time violation or the noise disturbance.

(a) Penalties for violation of this article shall be as follows:



- (1) Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine not exceeding \$500.00 or imprisonment not exceeding 30 days, or both. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Any person who continues to violate the provisions of this article, after having been previously cited, may be subject to further citations, including the day upon which the original citation was issued.
 - (2) Upon conviction of being in violation of this article three times for the same offense within a 12-month period, which shall be deemed repeated convictions, when such sound is created by the same sound emitter, or person, the noise-creating equipment may be confiscated by the Court following such latest conviction until such time as the offender can satisfy the Court that he is prepared to and, in fact, will operate said equipment within the limits of this article. Further violation may result in the permanent confiscation by the Court upon such conviction.
 - (3) In addition to the penalties provided for in this article, the Town Manager or his designee may issue an administrative stop order to any person emitting sound, requiring the person to halt immediately any sound which exposes any other person to a noise disturbance or, if applicable, sound levels in excess of those set forth in Table A.
 - (4) Nothing herein shall be construed to limit any private right of action.
- (b) An owner of any premises subject to this article who is not also an occupant of the premises shall be responsible for any actions by tenants, guests, or other licensees that constitute second or subsequent violations of this article; provided, that no absentee owner shall be liable unless notified of first or previous violations of the article, and further provided that such first or previous violations shall have occurred within the previous 12-month period. Notice of any first or previous violations pursuant to this paragraph shall be effected by registered or certified mail. No absentee owner may be subjected to criminal liability under this section; but, may be subject to the penalties and relief as provided for herein. This section shall in no way relieve any other person from responsibility for violations of this article.
- (c) The person responsible for any premises shall be jointly and severally responsible and liable for any violations of this article by tenants, guests, or licensees on the premises if the person responsible is actively or constructively present at the time of the violation.
- (d) Notwithstanding the foregoing, any person found attempting to alter or manipulate

a sound level in an effort to void a violation of this article shall be deemed in violation of this article and subject to the penalties set forth herein above; and, the permit or special permit, as the case may be, shall be revoked until such time as the person can, in good faith, show that they can comply with the article.

(Ord. No. 2014-08, § 1(Exh. A), 4-8-2014)

Sec. 12-90. - Severability.

Should any section, paragraph, sentence, clause, or phrase of this article be declared unconstitutional by an Order of a Court of competent jurisdiction, such unconstitutionality shall not affect the remaining portions of this article since the same would not have been enacted without the incorporation in this article of any such unconstitutional phrase, clause, sentence, paragraph, or section.

(Ord. No. 2014-08, § 1(Exh. A), 4-8-2014)

Table A. - Outdoor Entertainment and Outdoor Live Entertainment Noise and Time Limitations.

Day of Week	Outdoor Entertainment Allowed	Outdoor Live Entertainment Allowed	Time Permitted (if allowed)	Maximum Decibel Level - dB(A)	Distance to Sound Source
Sunday	Yes	Yes	12:00p.m. — 10:00p.m.	50	250 feet
Monday	Yes	Yes	12:00p.m. — 10:00p.m.	50	250 feet
Tuesday	Yes	Yes	12:00p.m. — 10:00p.m.	50	250 feet
Wednesday	Yes	Yes	12:00p.m. — 10:00p.m.	50	250 feet