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FIRE CHIEF

BRIDGET WELCH
TOWN CLERK

MAX WURTHMANN
BUILDING OFFICIAL

Ms. Myra Jones
Ms. Lee Rowland
Co-Directors
Charleston Beach Foundation

July 26, 2022

Dear Ms. Jones and Ms. Rowland:

Thank you for your letter of July 19, 2022, concerning parking on Sullivan's Island.

Our current parking plan has been approved by SCDOT. This includes the one-side parking on most streets, and the few spaces dedicated to golf carts.

In 2016 the Town limited parking to only one side of the street to ensure that visitors' and residents' vehicles and bicycles, emergency vehicles, and pedestrians can all use our streets (most of which do not have sidewalks) to move about safely.

The golf-cart-only spaces in many cases are providing better use of spaces that are not very useful for full-sized vehicles or are located on the side of the road where motor vehicle parking is not allowed. Also, please be aware that if there were no convenient golf cart spaces, residents with golf carts would be using regular parking spaces for their golf carts or motor vehicles, occupying more spaces that could be used by visitors.

Please be aware that Sullivan's Island has an inventory of 2,848 free parking spaces in the public rights of way available for visitors and residents alike. Also, the Town has made available over 150 free parking spaces on its own property for visitors.

Regarding the fines for illegal parking, please note that those are only paid by people who violate the parking regulations, which are clearly advertised by signs which the Town paid to erect after SCDOT approval.

As an aside, this fiscal year alone, we will also spend more than \$840,000 to replace just four of our numerous boardwalks to the beach, which serve the many thousands of visitors who enjoy the beach throughout the year. Further, we spend more than \$960,000 annually on other services such as additional public safety personnel and overtime for beach safety monitoring, traffic control, additional garbage pickups, in the service of providing a safe and healthy experience for our visiting neighbors.

And to avoid any incorrect assumptions: Since all commercial activity is prohibited on the beach, there is no offsetting revenue stream produced by visitors to the beach. Thus, these expenses are supported by the Island's residents and property owners.

Thank you again for your correspondence.

Yours truly,

A handwritten signature in black ink, appearing to read "Patrick M. O'Neil". The signature is written in a cursive style with a large initial "P" and "M".

Patrick M. O'Neil
Mayor

CC:

Ms. Christy Hall, Secretary, SCDOT

Mr. Tim Henderson, District Construction Engineer, SCDOT

Ms. Elizabeth Von Kolnitz, Chief, SCDHEC Office of Ocean and Coastal Resources

Town Councilmembers, Town of Sullivan's Island

Mr. Andy Benke, Town Administrator, Town of Sullivan's Island

Mr. Larry Dodds, Town Attorney, Town of Sullivan's Island



CHARLESTON BEACH FOUNDATION
FREE CHARLESTON BEACHES

July 19, 2022

Via Mail & Email

Hon. Patrick M. O'Neil and the
Sullivan's Island Town Council
2056 Middle Street
Sullivan's Island, S. C. 29482

Re: Public Rights to Access State Roadways - Golf Cart Only Parking Areas

Dear Mayor and Councilmembers:

The **Charleston Beach Foundation** ("CBF") hereby respectfully requests that this Council allow non-residents and residents the same rights and privileges to all State roads within the jurisdiction of Sullivan's Island pursuant to State and Federal Law. Further, the CBF requests that your Council return use of the majority of space on State roads and right of ways which are presently designated as "Golf Cart Parking Only" to use by the general public for all motor vehicles.

As is stated on your Town's website:

"A permitted golf cart may be operated within four miles of the address on the registration certificate and only on a secondary highway or street for which the posted speed limit is thirty-five miles an hour or less. No golf carts are allowed on Highway 703 (commonly known as Ben Sawyer Blvd) or Jasper Blvd. Golf carts cannot cross over Breach Inlet to Isle of Palms."

It is, therefore, clearly illegal for non-residents to drive their golf carts over either bridge leading to Sullivan's Island. Only residents or renters on Sullivan's Island are able to park in the golf cart only parking spaces. This is discriminatory against non-residents and does not afford non-residents the right of equality and privilege to the State roads.

Please see *South Carolina Attorney General Opinion No. 77-151*, issued May 11, 1997 regarding a proposed amendment to the Folly Beach Ordinances, a copy of which is attached hereto. It states, in part:

"Parking regulations have been held invalid if they are arbitrary and discriminatory. See, *McCoy v. Town of York*, 193 S. C. 390, 8 S. E. 2d 905 (1940); 60 C. J. S. Motor Vehicles Section 28(1) (1969)." (Emphasis added.)

Our investigation shows that there are at least 15 blocks or areas on State roads that have golf cart only designated parking spaces. While we agree that there are a few areas which are too small for other vehicles to park, this is not the case in the majority of the areas. Further, some of the areas have encroachments by property owners which are illegal and are infringing on State property and the rights of others to utilize the space to park a vehicle. If the encroachments are removed, there will be ample space for vehicles to park.

Sullivan's Island City Council
July 19, 2022
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The Town's elimination of parking for non-residents due to golf cart only zones is further exacerbated by the elimination of parking on one side of many of the streets, including, but not limited to: Middle Street, Atlantic Avenue, Harvey Street, Bayonne Street, Ion Avenue, Brownell Avenue, Marshall Blvd., and many of the Stations. Hundreds of parking spaces would be available if not for these "No Parking" zones.

By copy of this letter to the South Carolina Department of Transportation, we are drawing their attention to this important issue and asking that they immediately intervene on the grounds that citizens are being excluded from parking on state roads or receiving \$50 parking tickets for parking vehicles in these spaces.

If you wish to discuss this matter in person, we would welcome the opportunity.

Sincerely,

Myra Jones & Lee Rowland, Co-Directors
Charleston Beach Foundation
Cell: 843-224-5585
cc: Secretary Christy Hall, SCDOT
Tim Henderson, SCDOT
Elizabeth Von Kolnitz, SCDHEC

1977 S.C. Op. Atty. Gen. 127 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-151, 1977 WL 24493

Office of the Attorney General

State of South Carolina

Opinion No. 77-151

May 11, 1977

*1 TO: Honorable Paul Gelegotis
Member
House of Representatives
State of South Carolina

QUESTION

Is the proposed amendment to the City of Folly Beach Ordinance, Section 13–30.1 (Attachment A) legally valid?

STATUTES AND CASES

Section 46–282, South Carolina Code of Laws (1962);

Section 59–566.2, South Carolina Code of Laws (1962);

McCoy v. Town of York, 193 S. C. 390, 85 S. E. 2d 905 (1946);

Owens v. Owens, 193 S. C. 260, S. E. 2d 339 (1940);

McQuillan, Municipal Corporations Sections 26–167–8;

60 C. J. S. Motor Vehicles Section 28(1) (1969);

1970 Opinions of the Attorney General, No. 2953, p. 212

DISCUSSION

The right of a municipality to regulate parking on its streets has been statutorily recognized in this State. Sections 46–282 and 59–566.2, S. C. Code (1962). Generally, the power to regulate parking has also been held to imply the power to exact a fee to cover the expenses incurred in such regulation; thus, ordinances making a charge for parking vehicles have been held a valid exercise of the municipality's police power. McQuillen, Municipal Corporations Section 26.167 (1962). A license fee imposed for regulatory purposes should not materially exceed the expense of issuing the license and inspecting and regulating the vehicles so as to require their compliance with the regulations imposed by the ordinance. In Owens v. Owens, 193 S. C. 260, 8 S. E. 2d 339 (1940), our Supreme Court held that it was clearly the law in this state—

that a regulatory measure of this kind [parking meters] may produce only such revenue as is reasonably necessary to defray the expense connected with its operation, and that an ordinance passed for the real purpose of raising revenue, under the guise of obtaining funds for the enforcement of a police regulation, is invalid.

Enclosed with the City of Folly Beach's proposed ordinance (Attachment A) is a parking permit policy statement (Attachment B), which indicates that the permit fee is imposed for the purpose of producing revenue for providing and maintaining public safety and sanitation facilities on Folly Beach. Clearly, this ordinance under prior decisions of our courts is invalid for that purpose. This conclusion is strengthened by the fact that the proposed ordinance places no time limitation on parking in such public areas. Normally, the regulation of parking may justify a fee system intended to hasten the departure of parked vehicles in congested areas. McQuillen, Municipal Corporations, *supra*. However, in this case since no time limitations are imposed, it can additionally be concluded that the fees are intended solely to produce revenues rather than regulate parking.

It should also be noted that the policy statement for this ordinance (Attachment B) states that the fees will be imposed only on non-city residents. Parking regulations have been held invalid if they are arbitrary and discriminatory. *See, McCoy v. Town of York*, 193 S. C. 390, 8 S. E. 2d 905 (1940); 60 C. J. S. Motor Vehicles Section 28(1) (1969). The imposition of parking fees on non-residents, and not on the citizens of the City of Folly Beach, is discriminatory and does not afford non-residents their constitutional guaranty of equality of privilege and burden. Our office has previously opined that such an ordinance is fatally defective if it does not apply alike to all who properly come within its purview. *See*, 1970 Atty. Gen. Op. No. 2953, p. 212.

CONCLUSION

*2 The proposed ordinance by the City of Folly Beach is not a reasonable exercise of its authority to regulate parking and is, therefore, invalid.

Richard B. Kale, Jr.
Assistant Attorney General

1977 S.C. Op. Atty. Gen. 127 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-151, 1977 WL 24493