ALAN WILSON
ATTORNEY GENERAL

September 3, 2026

The Honorable Dennis C. Moss
Member, South Carolina House of
Representatives, District 29
503-A Blatt Building
Columbia, SC 29201

The Honorable M. Brian Lawson
Member, South Carolina House of
Representatives, District 30
402-D Blatt Building
Columbia, SC 29201

Dear Representatives Moss and Lawson:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You seek an opinion regarding the trash removal fee charged by Cherokee County. In essence, you ask 1) may Cherokee County (the "County") charge the fee to real property owners who do not utilize the County's trash removal services and 2) may the County bundle the payment of the trash removal fee with the payment of annual property taxes. You explain that the County places the fee on every property owner's tax bill and does not accept partial payments, thereby requiring property owners to pay both their property taxes and trash removal fee simultaneously and in full.

Law/Analysis

We begin by summarizing the law regarding the imposition of taxes and uniform service charges by counties. Article X, Section 6 of the South Carolina Constitution grants the General Assembly the authority to "vest the power of assessing and collecting taxes in all of the political subdivisions of the State, including counties . . . ." S.C. Const. art. X, § 6. The General Assembly has granted counties this authority through South Carolina Code Section 4-9-30(5)(a). S.C. Code Ann. § 4-9-30(5)(a) (2021). Separately, Section 6-1-310 prohibits counties from imposing taxes which are not specifically authorized by the General Assembly. S.C. Code Ann. § 6-1-310 (2004).

Section 4-9-30(5)(a) gives counties the authority to impose property taxes and uniform service charges. It reads:

> [E]ach county government within the authority granted by the Constitution and subject to the general law of this State shall have the following enumerated powers which shall be exercised by the respective governing bodies thereof:
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> (5)(a) to assess property and levy ad valorem property taxes and uniform service charges, including the power to tax different areas at different rates related to the nature and level of governmental services provided and make appropriations for functions and operations of the county, including, but not limited to, appropriations

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> for general public works, including . . . sanitation, including solid waste collection and disposal . . . .

S.C. Code Ann. § 4-9-30(5)(a) (2021) (emphasis added). The South Carolina Supreme Court reviewed the requirements for uniform service charges in Burns v. Greenville County Council, writing:

> In 1992, this Court addressed the question of what is a "uniform service charge authorized under [section] 4-9-30," and in particular, whether a "road maintenance fee" imposed by Horry County was "a service charge or a tax." Brown v. Cty. of Horry, 308 S.C. 180, 181, 182, 417 S.E.2d 565, 566 (1992). We later explained, summarizing our extensive analysis in Brown,
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>> Under Brown, a fee is valid as a uniform service charge if (1) the revenue generated is used to the benefit of the payers, even if the general public also benefits (2) the revenue generated is used only for the specific improvement contemplated (3) the revenue generated by the fee does not exceed the cost of the improvement and (4) the fee is uniformly imposed on all the payers.
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> C.R. Campbell Const. Co., Inc. v. City of Charleston, 325 S.C. 235, 237, 481 S.E.2d 437, 438 (1997) (citing Brown, 308 S.C. at 184-86, 417 S.E.2d at 567-68).

433 S.C. 583, 586-587, 861 S.E.2d 31, 32-33 (2021).

Importantly, Section 6-1-330(A) also grants counties the authority to "charge and collect a service or user fee." S.C. Code Ann. § 6-1-330(A) (Supp. 2025). Originally, Section 6-1-300 defined "service or user fee" as "a charge required to be paid in return for a particular government service or program made available to the payer that benefits the payer in some manner different from the members of the general public not paying the fee. 'Service or user fee' also includes 'uniform service charges.'" Act No. 138 § 7, 1997 S.C. Acts 704. In discussing service or user fees in Burns, the Supreme Court explained:

> In 1997, the General Assembly enacted subsection 6-1-300(6), which defines "service or user fee"—including "uniform service charges"—as "a charge required to be paid in return for a particular government service or program made available to the payer that benefits the payer in some manner different from the members of the general public not paying the fee." After 1997, therefore, when a local government imposes a charge it contends is not a tax, the charge arguably must meet the requirements we set forth in Brown but certainly must meet the requirements the General Assembly set forth in subsection 6-1-300(6).

433 S.C. 583, 587, 861 S.E.2d 31, 33 (2021). In so writing, the Supreme Court combined the analysis under Sections 4-9-30(5)(a) and 6-1-300(6).

After Burns, the General Assembly amended Section 6-1-300(6)(a) to read, "be used to the benefit of the payers, even if the general public also benefits." S.C. Code Ann. § 6-1-300(6)(a) (Supp. 2025); see also Act No. 236 § 2.A, 2022 S.C. Acts 2396. As discussed in Town of Hilton Head v. Beaufort County, "In the wake of Burns, the General Assembly amended section 6-1-300(6) to abrogate this heightened-benefit standard, instead codifying a more permissive rule under which a service or user fee is valid so long as the fee is 'used to the benefit of the payers, even if the general public also benefits.' (Emphasis added). As a result, the County merely needed to show that the Appellants received some benefit from the service fee here—which, as set forth above, we believe it has clearly established." 2026 WL 1813194 (2026) (emphasis in original).

Thus, we believe the law relating to uniform service charges can be fairly summarized as:

1. Counties are authorized to charge uniform service charges, including for sanitation, under Section 4-9-30(5)(a).
2. To be a valid uniform service charge and not a tax,
    a. The revenue must be used to the benefit of the payers, even if the general public also benefits,
    b. The revenue generated must be used only for the specific improvement contemplated,
    c. The revenue generated by the fee must not exceed the cost of the improvement, and
    d. The fee must be uniformly imposed on all the payers.
3. If a fee is not a uniform service charge, then it is a tax and must be specifically authorized by the General Assembly.

Under this framework, we now turn to the trash removal fee imposed by Cherokee County.

Cherokee County adopted Ordinance Number 2026-11 on June 29, 2026. https://cherokeecountysc.gov/wp-content/uploads/2026/07/Minutes-6-29-26.pdf. It enacted Sec. 8-58.1(a), which reads, in part:

> There shall be assessed a solid waste service or user fee of two hundred twenty-two dollars ($222.00) per year, per residential unit located in Cherokee County, South Carolina to help defray the costs of collection and disposing of solid waste. This service or user fee shall be charged and collected against the property owner of each residential unit within the incorporated and unincorporated areas of the county and shall be collected by the treasurer of the county at the same time and in the same manner as real property taxes are paid. This solid waste service or user fee shall be included but set forth separately on real property tax notices for all properties subject to this section in the county.

> For properties subject to this section that are exempt from ad valorem taxes, the solid waste service or user fee authorized hereby shall be billed by the county as a separate invoice to be mailed to applicable property owners on or about the time that real property tax notices are mailed and will be due by January 15 of each succeeding year.
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> The solid waste service or user fee shall be due, payable and to be collected in the same manner as real property taxes and shall be subject the same penalties and interest as overdue real property taxes. The county shall pursue all legal remedies available to it to recover past due amounts and shall hold the property owner responsible for all costs of collection, including reasonable attorney fees, as a part of such collection efforts and as a part of the fees imposed by county council pursuant to state law.

Cherokee County, Sec. 8-58.1(a), https://library.municode.com/sc/cherokee_county/codes/code_of_ordinances?nodeId=CH8COUTSE_ARTIIISOWADI_S8-58.1ADCHCOSEUSFECODISOWA.

Regarding your first question about whether Cherokee County may charge this fee, we believe the County can generally, though the County probably cannot require residents who do not utilize the County's trash removal service to pay the fee. Section 4-9-30(5)(a) gives counties the general authority to impose uniform service charges for "sanitation, including solid waste collection and disposal." The imposition of a separate trash removal fee was upheld in Skyscraper Corp. v. County of Newberry. 323 S.C. 412, 475 S.E.2d 764 (1996). Next, we must consider whether the charge imposed by Cherokee County complies with the requirements laid out above. Sec. 8-58.1(c) specifies that:

> All sums collected under this section shall be deposited in a separate and segregated fund from the county general fund. All sums collected under this section shall be used for the collection, disposal, transfer and recycling of solid waste, including without limitation, the purchase and construction of machinery, equipment, and facilities for such operations, as well as the administrative expenses incurred by the county in the operation of solid waste collection and disposal department and collection of the annual solid waste service or user fee, as well as, solid waste educational programs and activities, litter pickup, and all other things necessary and prudent to provide for the disposal of solid waste in the county.

Cherokee County, Sec. 8-58.1(c). Further, Sec. 8-58.1(e) states:

> The solid waste service or user fee shall be charged to each residential unit to which solid waste collection and disposal is rendered by the county in Cherokee County, South Carolina. No residential unit to which solid waste collection and disposal is

> rendered by the county shall be exempt from the solid waste service or user fee set forth herein.

Cherokee County, Sec. 8-58.1(e). The restrictions in Subsection (C) comply with the requirement that the revenue generated must be used only for the specific improvement contemplated. Additionally, the language of Subsection (E) when coupled with Subsection (A) ("There shall be assessed a solid waste service or user fee of two hundred twenty-two dollars ($222.00) per year, per residential unit located in Cherokee County") likely means the fee is uniformly imposed on all payers. The ordinance does not explicitly limit the revenue generated by the fee to the cost of the improvement, but we believe the language "to help defray the costs" indicates that the costs exceed the revenues derived from this fee, and the fee therefore complies with the requirement that the revenue generated by the fee must not exceed the cost of the improvement.

If a residential unit utilizes the County's trash removal services, then the revenue is clearly used for the benefit of the payer. Which brings us to the question of whether the revenue is used for the benefit of the payers if a household does not utilize the County's trash removal services.

We think it is unlikely that a court would find that the revenue derived from this fee is "used to the benefit of the payers" if a residential unit does not utilize the County's trash removal services. In such a situation, there is no direct benefit to the payer. This is similar to the conclusion we reached when analyzing service charges for sewer services for properties with a septic tank. See e.g., Ops. S.C. Att'y Gen., 2018 WL 3698382 (July 20, 2018) ("This Office affirms its December 3, 2008 opinion to the Honorable B.R. Skelton where we were asked about "the imposition of sewer fees by a county on county residents who do not receive sewer service" and concluded that the residents must receive some benefit for paying a sewer charge regardless of whether the county received its authority for the fee from South Carolina Code § 4-9-30 or § 6-15-60.") and 2008 WL 5476554 (Dec. 3, 2008) ("However, if the County is relying on either its general authority to impose a fee pursuant to section 4-9-30 or its specific authority pursuant to section 6-15-60, we do not believe the County may impose such a fee without providing a benefit, particularly sewer service, to the Town's residents."). Sewer services are subject to an additional statutory scheme, see S.C. Code Ann. §§ 6-15-10, *et seq*. (2004), but we believe the analysis from these opinions is still applicable here. Trash removal, much like sewer services, are provided to a particular property. Property owners who do not use the services do not benefit from them. Admittedly, having a county free of piles of trash is a benefit to the community. However, prohibitions on the accumulation of trash protect against unseemly waste, regardless of whether the county offers trash removal services. A point proven by many counties and municipalities who do not provide a trash removal service but prohibit the accumulation of excess trash.

Some governmental services, such as law enforcement or fire protection, provide a benefit for the entire community, even if the payer of the uniform service charge does not request assistance. See Town of Hilton Head, 2026 WL 1813194 (2026). However, given the house-by-house nature of trash collection, we think it unlikely that a court would hold that trash removal provides a similar countywide benefit. As a result, we do not believe the County's trash removal fee provides a benefit to property owners who do not wish to use the County trash removal service.

Because we do not think this fee complies with the requirements of a uniform service fee, it may only be imposed on properties which do not use the County's trash removal services if it is a tax authorized by the General Assembly. We are not aware of any such authorization.

In summary, we think Cherokee County can impose a uniform service charge for trash removal services under Section 4-9-30(5)(a); however, we do not think the County may impose the charge on property owners who do not utilize the County's trash removal service. Relevant to the constituent email which you attached to your request, this would likely require the property owner to completely opt out of trash removal services and potentially surrender their residential waste container. It is unlikely that having a container and simply not putting it on the curb for collection and removal constitutes not receiving trash services.

Your second question asks whether the County may condition the receipt of property taxes on the simultaneous payment of this uniform service charge. The county may prefer simultaneous payment of taxes and uniform service charges, and the County may structure its system to easily accept simultaneous payment. Nonetheless, we are not aware of any authority which permits the County to require simultaneous payment of taxes and an unrelated fee. We recognize the administrative difficulty this may impose on the County, particularly the County Treasurer. However, administrative difficulty may not be used to create requirements in the absence of statutory authority.

Conclusion

In answer to your questions, first, counties are authorized to impose a uniform service charge for trash removal services under Section 4-9-30(5)(a); however, we do not think they may impose the charge on property owners who do not utilize the County's trash removal service. Second, we are not aware of any authority which permits the County to require simultaneous payment of taxes and an unrelated fee.

Sincerely,

David Leggett
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Solicitor General Emeritus