



ALAN WILSON
ATTORNEY GENERAL

May 21, 2026

Mr. Christopher R. Antley
County Attorney, Greenville County
301 University Ridge
Suite N-4000
Greenville, SC 29601-3636

Dear Mr. Antley

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You seek an opinion regarding whether Article VIII, Section 14 of the South Carolina Constitution exempts state-owned parklands acquired and funded for the express purpose of expanding hiking and biking trails from the Greenville County Zoning Ordinance. By way of background, you explain that the Department of Parks, Recreation, and Tourism (“Department”) has purchased an approximately 150-acre parcel of land adjacent to Paris Mountain State Park for the purpose of expanding hiking and biking trails, but Greenville County (“County”) staff believes such usage runs afoul of the Greenville County Zoning Ordinance, specifically the permitted uses in the Environmentally Sensitive District-Paris Mountain (“ESD-PM”) where the parcel is located.

Law/Analysis

As you note in your letter, as a general matter state agencies must comply with county zoning ordinances. S.C. Code Ann. § 6-29-770(A) (2004). You explain that the parcel in question is zoned as “Environmentally Sensitive District-Paris Mountain” and that County staff believe the Department’s plan to develop the land for hiking and biking trails is not permitted in the ESD-PM district. However, as you also note in your letter, the South Carolina Constitution provides that county ordinances may not overrule “the structure and the administration of any governmental service or function, responsibility for which rests with the State government or which requires statewide uniformity.” S.C. Const. art. VIII, § 14. The Department asserts that Article VIII, Section 14 applies to its development of this parcel as a part of the Paris Mountain State Park.

The Court of Appeals considered a similar situation in County of Charleston v. Department of Transportation, 420 S.C. 405, 803 S.E.2d 316 (2017). In Charleston, the Department of Transportation removed three trees on Maybank Highway, in violation of Charleston county’s tree removal and protection ordinance. Pursuant to Article VIII Section 14, the Court of Appeals held that the Department of Transportation was exempt from the tree removal and protection ordinance because the ordinance limited the Department of Transportation’s exclusive authority to construct and maintain a uniform state highway system. 420 S.C. at 410, 803 S.E.2d at 319. In support of

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this holding, the Court of Appeals pointed to the Department of Transportation's duty to construct and maintain the state highway system in a safe and serviceable condition and the Department of Transportation's exclusive authority to establish design criteria, construction specifications, and standards required to construct and maintain highways and bridges. *Id.* at 409, 803 S.E.2d at 318. The Court of Appeals held that it was not necessary for the Department of Transportation to have express statutory language giving it statewide authority over tree removal. Instead, it was enough that application of the tree removal and protection ordinance to the Department of Transportation would prevent the Department of Transportation from performing functions over which it had exclusive statewide authority, namely constructing and maintaining the state highway system.

Here, Title 51 of the South Carolina Code of Laws gives the Department the following authority:

- The Department of Parks, Recreation, and Tourism may control, supervise, maintain and, wherever practicable, improve all parks belonging to the State, for general recreational, educational, and forestry purposes. S.C. Code Ann. § 51-3-10 (2024).
- The Department of Parks, Recreation, and Tourism may make such rules and regulations as it deems advisable for the protection, preservation, operation, use and maintenance and for the most beneficial service to the general public of the State parks in this State and as may be necessary to carry out the purposes of this chapter. S.C. Code Ann. § 51-3-70 (2024).
- The Department of Parks, Recreation, and Tourism may in general do any and all things necessary and incident to the furtherance of the use to which such parks are dedicated. S.C. Code Ann. § 51-3-100 (2024).

These sections, taken together, give responsibility for creation and maintenance of the state park system to the Department, thereby creating similar authority as seen in the Department of Transportation's control over the highway system in Charleston. Regarding the parcel in question, according to the documents we have received, the Department is seeking to develop land for hiking and biking trails in order to improve a park belonging to the State for general recreational purposes, as described in Section 51-3-10; it appears the Department has determined that use of this land as hiking and biking trails provides "the most beneficial service to the general public of the State parks in this State," as described in Section 51-3-70; and the Department is developing this land for hiking and biking trails because doing so is in "the furtherance of the use to which [Paris Mountain State Park] [is] dedicated," as described in Section 51-3-100. Thus, the Department's development of the parcel likely falls within its exclusive statewide authority regarding the state park system, and the provisions of Article VIII, Section 14 mean that a county's ordinances may not thwart the Department's performance of its duties.

Not only does the Department have generalized authority regarding the state park system, but the Department has received specific state-level approval for the use of this parcel for hiking and biking trails. According to an email from the Department included with your request, the State Fiscal Accountability Authority and Joint Bond Review Committee both reviewed and approved

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the purchase of this parcel for development as a part of Paris Mountain State Park. While not dispositive, this lends credence to the position that the development for trails of this land has been approved by state government and should not be vetoed by a county zoning ordinance, particularly one which, ostensibly, exists to protect an environmentally sensitive and valuable area. Therefore, we believe a court would likely allow the Department's development of the parcel despite the County's Zoning Ordinance.

The Office cannot make factual determinations. Op. S.C. Att'y Gen., 2003 WL 21040130 at *1 (Feb. 19, 2003) ("Because this Office does not have the authority of a court or other fact-finding body, we are not able to adjudicate or investigate factual questions." (quoting Op. S.C. Att'y Gen., Oct. 10, 1985, at *2 and Sept. 3, 1999, at *2)). Therefore, the Office cannot determine whether the Department's proposed use of the land is in fact permitted under the County's Zoning Ordinance; however, having reviewed the County's Ordinance, we believe that, regardless of Article VIII, Section 14, it is unlikely that the Department's proposed uses of this parcel, namely hiking and biking trails, would be inappropriate in a zoning area which permits group homes, churches, community centers, single family dwellings, and community recreation areas. This is buttressed by the Department's assertion that the proposed trails would only be accessible through pre-existing park infrastructure and would not add any burden to the surrounding community. Thus, even if a court finds that the Department's statutory authority does not override the County's zoning ordinance because of Article VIII, Section 14, a court may find that the Department's proposed use of the land is permissible under the County's existing zoning ordinance.

Conclusion

While state agencies are generally subject to county zoning ordinances, Article VIII, Section 14 of the South Carolina Constitution prevents county ordinances from overriding "the structure and administration of any governmental service or function, responsibility for which rests with the State government or which requires statewide uniformity." The Department of Parks, Recreation, and Tourism's efforts to build and expand hiking and biking trails on this parcel of land in furtherance of the state park system is a governmental service or function, responsibility for which rests with the State, so the Greenville County Zoning Ordinance may not thwart plans of the Department of Parks, Recreation, and Tourism. In addition, based on the information provided, a court may find that the Department's proposed use of the land is permissible even if the County's zoning ordinance applies.

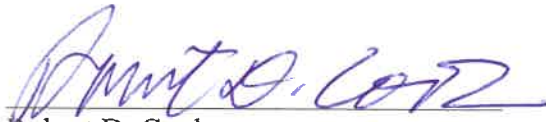
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Sincerely,

A handwritten signature in blue ink that reads "David Leggett". The signature is fluid and cursive, with a large loop at the end.

David Leggett
Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in blue ink that reads "Robert D. Cook". The signature is cursive and somewhat stylized.

Robert D. Cook
Solicitor General Emeritus