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The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

December 23, 1997

The Honorable Edith M. Rodgers  
Member, House of Representatives  
35-A Colony Gardens Road  
Beaufort, South Carolina 29902

Re: Informal Opinion

Dear Representative Rodgers:

Attorney General Condon has forwarded your opinion request to me for reply. You have informed this Office the Beaufort County Council is in the process of enacting important land management planning. The plan is being considered pursuant to the South Carolina Local Government Comprehensive Planning Enabling Act. Apparently, because of the complexity and volume of the plan, concerns have been raised over the proposed time frame for enacting this legislation. Due to the importance of this legislation, you are concerned that each citizen should have a meaningful opportunity to participate in the development of this plan.

**QUESTION 1**

Is there any mandate within the South Carolina Local Government Comprehensive Planning Enabling Act, S.C. Code Ann. § 6-29-310 et seq. or any other state law which would require expedited passage of the Comprehensive Plan?

Neither the South Carolina Local Government Comprehensive Planning Enabling Act (hereinafter the "Act") nor state law requires expedited passage of a Comprehensive Plan. Section 6-29-530 of the Act requires that a Comprehensive Plan be adopted by ordinance, but does not set forth a specific schedule for passage of this ordinance. Therefore, since adoption in this situation would be by county ordinance, attention must

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be paid to Section 4-9-120 of the Code. This Section requires that all ordinances, with the exception of emergency ordinances, shall be read at three public meetings of council on three separate days with an interval of not less than seven days between second and third readings. There is, however, a difference between the public hearing requirements regarding an ordinance to adopt a Comprehensive Plan and a standard county ordinance. Under the Act, prior to the adoption of an element or a plan as a whole, the governing authority shall hold a public hearing on it after not less than thirty days' notice of the time and place of the hearings has been given in a newspaper having general circulation in the jurisdiction. S.C. Code Ann. § 6-29-530 (emphasis added).

### QUESTION 2

The South Carolina Local Government Comprehensive Planning Enabling Act appears to allow the Beaufort County Council to adopt sections of the Plan by successive ordinances. Because of the volume of the Plan, is it appropriate and lawful to adopt elements or sections of the plan by successive ordinances?

The Act authorizes a governing body to adopt a Comprehensive Plan as a whole by a single ordinance or elements of the plan by successive ordinances. S.C. Code Ann. § 6-29-530. The elements shall correspond with the major geographical sections or divisions of the planning area or with functional subdivisions of the subject matter of the comprehensive plan, or both. Id. Therefore, pursuant to the Act, it is lawful to adopt elements of the Comprehensive Plan by successive ordinances.

### QUESTION 3

Once the Comprehensive Plan has been adopted by the Beaufort County Council, will the provisions of the plan be the guiding ordinances governing construction and other activities, whether "publicly or privately owned?"

The Act provides that when the local planning commission has recommended and local governing authority or authorities have adopted the related comprehensive plan element, no new street, structure, utility, square, park, or other public way, grounds, or open space or public buildings for any use, whether publicly or privately owned, may be constructed or authorized in the political jurisdiction of the governing authority or authorities establishing the planning commission until the location, character, and extent of it have been submitted to the planning commission for review and comment as to the compatibility of the proposal with the comprehensive plan of the community. S.C. Code Ann. § 6-29-540. Thus, according to the language of the Act, the provisions of the

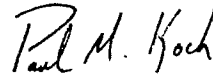
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Comprehensive Plan are the guide governing construction and other specified activities, whether "publicly or privately owned."

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch

Assistant Attorney General