

Harbor View Hotel

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To: Lucy Morrison <morrison@mvcommission.org>; Alex Elvin <elvin@mvcommission.org>;

 6 attachments

drivers.jpg; ATT00001.htm; 45723505_2231686540389487_3072938779758034944_n.jpg; ATT00002.htm; Safety Ordinance Wording 8.5.20 v1.docx; ATT00003.htm;

My husband and I are homeowners in Edgartown, owning a small private horse farm on Meetinghouse Way for the past 18 years. I am a former legislator in Pennsylvania and a City and Regional Planner by profession with a Masters degree in Planning from the University of Pennsylvania. During my term in state office, I helped write the Comprehensive Land Use plan for Pennsylvania. The dangers of appealing to tourists rather than residents is a slippery slope. Martha's Vineyard, Noepe, is historically an agricultural, fishing island. Market forces are pushing this once pastoral, quiet place into a bustling tourist center.

A Tale of Two Cities:

Our winter home is located in Charleston, SC. The City has become a tourist Mecca...One of the most thorny issues is the presence of the carriage wagon industry that the Harbor View appears to be introducing in Edgartown. Charleston began with one operator with one carriage just as Edgartown is currently allowing the Harbor View to promote. The tourist wagon industry is now a major tourist amusement attraction in Charleston with six companies clogging streets and snarling traffic; Since 2016 there have been over 90 incidents; 12 runaways, multiple bodily injuries and property damage.

Check out <https://teamster.org/nyc-horse-carriage-campaign/> Please note that the Teamsters Union logo is a team of horses. That is how they originated. They continue to be proud to be associated with the carriage wagon industry. In New York city, the Teamsters Union has taken up the banner of one of their members, the carriage wagon trade. The Teamsters Union has proven to be a formidable adversary in the battle to rid congested streets of carriages.

A group of local neighbors in Charleston formed a non-profit, www.charlestoncarriagehorseadvocates.com in 2017 to educate and advocate for animals that work in urban environments. You will find on our website information on other cities that have allowed this industry to exist and expand as well as the multiple safety issues that arise from this industry using public rights of way.

I would urge the Commission to consider the ramifications of this industry in Edgartown.

I am attaching a draft ordinance that our non-profit had drafted that addresses safety issues. Certainly, lives are at stake as is Edgartown's immense liability (and horrible optics) when someone or their child/children get injured/killed without adequate safety provisions in place by the Town.

Should Edgartown allow this industry to continue to use public rights of way, it is incumbent upon the Town of Edgartown to ensure the industry operates commensurate with the minimum standards required by other jurisdictions or for commercial operators in industries that also use Edgartown rights-of-way.

Please carefully consider the ramifications of allowing tourist amusement rides on public rights of way and the changes to the historical context that will occur if this kind of tourism over residential value system prevails.





Section 29-204 is amended to read as follows:¹

(a) All licenses for animal drawn vehicles drivers shall be issued by the City of Charleston upon submission of an application and satisfaction of the training and safety requirements of this section.

(b) Applicants for a animal drawn carriage driver's license shall:

(1) possess a valid, current state of South Carolina driver's license.

(2) be at least 18 years of age; and

(3) not be subject to any infirmity of body or mind which may substantially impair the ability to operate a public vehicle and shall submit with their application a certificate and/or letter of such fitness from a medical professional who has examined the applicant and can otherwise attest to the applicants physical and mental fitness.

(b) All applicants for a license to operate an animal-drawn carriage shall be required to pass an animal-drawn vehicle competency examination administered by the city, which shall adhere the currently approved guideline as provide by American Association of Equine Practitioners and, furthermore, will satisfy the city that the driver is knowledgeable and capable of handling horses and animal-drawn vehicles in emergency situations.

(e) No applicant shall be issued an animal-drawn carriage driver's license who has, within ten years immediately preceding their application, been either convicted, in custody, under parole, under probation, or any other non-custodial supervision relating from a conviction in a court of any jurisdiction for the commission of any felony as defined by S.C. Code Ann. § 16-1-10 *et seq.*; possession or sale of any controlled substance whether a felony or misdemeanor; operating a vehicle while under the influence of alcohol or drug; or for any conviction relating to or involving animal cruelty or mistreatment of animals.

(g) Licensees shall submit and be required to successfully pass a pre-employment as well as annual drug and alcohol screenings. The results of screenings shall be confidentially maintained by his employer and shall be made available to the city upon request and, otherwise, as required under this Article.² No applicant having failed a drug and alcohol screen will be eligible to receive a license.

¹ See generally 2011 City of Chicago Horse-Drawn Carriages and Horse Drawn Carriage Drivers Rules and Regulations; also see City of Savannah Code of General Ordinances §6-1561 *et seq.*

² See 49 C.F.R Part 40. The United States Department of Transportation pursuant to federal law requires drug and alcohol testing of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines, and other transportation industries those involving vehicles transporting more than sixteen passengers including the driver. South Carolina also requires such testing pursuant to S.C. Code Ann. §44-107-10 *et seq.* and S.C. Code Ann. §56-1-2210. Although horse carriages do not traditionally qualify as a commercial motor vehicle pursuant to S.C. Code Ann. 56-1-2005 *et seq.*, they do meet much of the criteria including being designed to transport sixteen or more people including the driver. Moreover, animal-drawn carriages interact on the streets and roadways of

(h) No applicant shall be issued an animal-drawn carriage license that has, within the past five years, had a previous animal-drawn carriage drivers license revoked for any reason.

(i) An animal-drawn carriage license will expire on the last day of the month of the licensee's next birthday after issuance of a license. Licenses may be renewed during the month in which the license expires. Renewal of licenses shall be on a form provided by the city and shall be accompanied by any such proof of qualifications as the city may require.

(j) The holder of an animal-drawn carriage license who fails to renew his license prior to its expiration shall take and pass the written exam prior to license renewal. Moreover, any license holder who fails to renew their license within six months of its expiration shall be required to comply anew with requirements for initial licensing.

(k) The holder of an animal-drawn carriage license must carry the license and other required credential under this chapter whenever operating an animal-drawn vehicle within the city.

Section 29-207 shall be retitled "Design and safety standards; annual carriage inspection" and amended to read as follows:

(a) Animal-drawn vehicles shall be authentically styled passenger carriages. Wagons which patently were designed for cargo instead of passengers will not be approved. Carriages must not exceed twelve (12) feet in length or six (6) feet in width. Carriages will be measured from end to end, excluding the steps and shafts; and, from axle tip to axle tip. No part of the carriage may be over six (6) feet in width. provided, however, any certificated carriage which was in use as of January 1, 1982, and no longer than thirteen (13) feet may continue in use.

(b) An independent and licensed mechanical engineer shall be contracted by the city to annually inspect all licensed animal-drawn carriage vehicles and shall provide the city with a certificate of serviceability prior to any such vehicle can be used for service. Moreover, it shall be unlawful under this article for an uncertified carriage to be in service without receiving this annual inspection. Such an engineer shall be licensed and meet all requirements and qualifications as outlined in S.C. Code Ann. §40-22-2.

Section 29-211 is amended by adding new subsection (d) to read as follows:

(d) The department of livability and tourism shall assess driver license application fees in an amount sufficient but not greater than the costs of processing the application and the driver license application program, including the costs of background checks.

Charleston in the same manner and face all of the same safety obstacles with which commercial vehicles operate while also posing similar if not greater safety risks to the citizens and visitors to Charleston. Accordingly, mandating pre-employment drug and alcohol screenings for animal-drawn carriage operators should rightfully be considered as a necessary safety measure.

Subsection (b) of Section 29-212 is amended by adding the following definitions:

(18) *Independent Veterinarian* shall mean an large animal veterinarian with experience in animals working in urban environments and who has no personal or familial ownership, employment, or pecuniary interest in any carriage tour operation (other than the customary and ordinary costs of providing veterinary services) shall inspect all records and every animal in service twice yearly. Records will be kept by the City and made accessible to the public on the City’s website. Infractions and concerns will be noted in the Independent Veterinary report including but not limited to health and animal welfare concerns.

(19) *Equine Manager* shall mean an individual with a hands-on degree in Veterinary Tech Science who has no personal or familial ownership, employment, or pecuniary interest in any carriage tour operation (other than the customary and ordinary costs of providing veterinary services).

(20) *Henneke Equine Body Score* shall mean The Henneke horse body condition scoring system is a numerical scale used to evaluate the amount of fat on a horse's body.

Subsection (c) of Section 29-212 is amended by adding the following:

(6) Carriages shall not have evidence of rotten wood.

(7) All carriages in operation shall be equipped with a brake system to be used in the event of an emergency as of April 1, 2021, and it shall be unlawful for any carriage to operate if not so equipped.

(8) Each animal-drawn carriage shall be inspected by the city annually with continued review to ensure compliance with the provisions of this article and as provided herein.

Subsection (e)(1) of Section 29-212 is amended by adding the following:

j. An independent equine veterinarian as defined herein shall conduct all such exams and issue certificates of serviceability.

Subsection (f) of Section 29-212 is amended by adding the following:

(6) Collars shall be sized appropriately for each equine.

- (7) Harnesses, collars, blinders, bits, and bridles should exhibit no frayed or torn parts or evidence of being taped or other such sub standard repair.
- (8) Harnesses, collars, blinders, and bits shall be inspected twice yearly by an independent equine manager who shall be trained and professionally qualified in equine management and practices.

Subsection (i) of Section 29-212 is amended by adding the following:

(5) All stables by April 1, 2021, shall have installed fire sprinkler systems and fire alarms approved by the City of Charleston Fire Department.

(6) All stables shall be inspected annually by the City of Charleston Building Inspector and must remain in compliance with all applicable building and safety codes. Failure to comply with all mandatory fire and safety codes shall be subject to fines. Furthermore, failure to remediate any applicable code violations within sixty (60) days of notice shall be temporarily prohibited from conducting commercial animal-drawn carriage tours until they can provide the city with adequate notice of compliance. Further, all stables and/or barns shall have surveillance video systems installed which shall be monitored regularly when no employees are present.

(7) All stables shall be inspected annually by the County of Charleston Health Inspector and must remain in compliance with all applicable health codes. Inspections of stables/barns shall include public common areas, and all other areas of the stables/barns including animal stalls.

(8) Failure to comply with all mandatory fire and safety codes shall be subject to fines. Furthermore, failure to remediate any applicable code violations within sixty (60) days of notice shall be temporarily prohibited from conducting commercial animal-drawn carriage tours until they can provide the city with adequate notice of compliance.

Section 29-212 is amended by adding new subsection (l) to read as follows:

(l) Reporting.

(1) Each animal-drawn carriage operator shall notify the department of livability and tourism upon adding, removing, or transferring an animal from its operating stock, including

animals drawing vehicles in the City of Charleston on a training basis. The report shall include:

(a) the animal's name, age, and microchip number;

(b) the name of the animal's legal owner as of the date of the report;

(c) for newly acquired animals, the name of the animal's prior legal owner, or for deaccessioned animals, the name of the animal's new legal owner;

(d) a notation whether the animal has previously drawn vehicles in the City of Charleston; and

(d) a notation whether the animal has previously drawn vehicles carrying passengers in an urban environment.

(2) The department of livability and tourism shall make all notifications submitted under this subsection available to the public on the City of Charleston website no more than 5 business days after receipt.

Division 1 of Article V, Chapter 29, is amended by adding new sections 29-213 through 29-217 to read as follows:

Sec. 29-213 – Emergency Procedures.

(a) The Department of Livability and Tourism has the authority to temporarily stop issuing medallions and to temporarily prohibit new tours including commercial tours if it is determined by the Department of Livability and Tourism that a weather emergency or other condition(s) in the city exist which presents a substantial risk of injury to horses or carriage passengers. This will not be construed as creating different heat restrictions than those set forth in 29-212.

(b) The city and the Department of Livability and Tourism shall temporarily prohibit all animal-drawn commercial tours in the event that a federal, state, or city State of Emergency is declared by the appropriate authorities until such a time that the State of Emergency ends.

(c) Each licensed animal-drawn commercial tour business shall submit, within six (6) months of ratification, of this sub-section an emergency management plan subject to the approval of the Department of Livability and Tourism. Such emergency management plans shall adhere to all federal, state, and local guidelines, regulations and/or laws that pertain to emergency conditions. Moreover, the Department of Livability and Tourism shall annually review each approved emergency management plan and may in its discretion require approved plans to be updated as

necessary. Each approved emergency management plan shall be made available to the public on its website.

(d) Each licensed animal-drawn commercial tour business shall hold annual emergency training sessions for its employees.

Sec. 29-214. - Mandatory drug and alcohol testing for carriage operators.³

(a) Definitions:

(1) Unless otherwise specified, the terms used in this article have the same meaning as those terms defined in 49 C.F.R. 40.

(2) For purposes of this article, "employer" includes all carriage business, tour business, or other employers who employ drivers who operate animal-drawn carriages as defined by this chapter. Such employers shall be required to institute a drug and alcohol testing program as outlined pursuant to the Federal Motor Carrier Safety Regulations, 49 C.F.R. 40.

(3) For purposes of this article, "employee" includes a person holding an animal-drawn carriage license employed by an employer described in subsection two.

(4) For purposes of this article, "applicant" means a person applying for an animal drawn carriage license or seeking employment with an employer described in subsection two.

(b) (1) All employers shall report to the city within three business days a refusal by an employee or applicant made to the employer to provide a specimen for a drug or alcohol test under circumstances that constitute the refusal of a test under §49 C.F.R. 40.

(2) All employers shall report to the city within three business days:

(A) a verified positive drug test or positive alcohol confirmation test of an employee or applicant;

(B) a refusal by an employee or applicant to provide a specimen for a drug or alcohol test under circumstances that constitute the refusal of a test under §49 C.F.R. 40; or

(C) the submission of an adulterated specimen, a diluted positive specimen, or a substituted specimen by an employee or applicant.

(c) The notification required by this section must be made in a manner approved by the city and must be included on the notification submitted to the city.

³ See S.C. Code Sec. Ann §§ 56-1-2210 – 2230.

(d) It shall be unlawful for any employee or licensee to operate an animal-drawn vehicle within the city following a failed drug or alcohol test for thirty days after the failed test, and thereafter may operate an animal-drawn vehicle within the city only upon successful completion of a drug or alcohol test.

(d) An employer must maintain a record of the notification to the department on each employee or applicant for three years.

(e) The records required by this section are subject to inspection by the city upon request.

(f) Failure to report and employing disqualified employee; fines.

(1) An employer who knowingly fails to make a report to the city as required by this chapter is subject to a fine of up to one thousand dollars.

(2) An employer who employs a person in a safety sensitive function when the employer knows the employee is disqualified from driving an animal-drawn carriage pursuant to this chapter is subject to a fine of up to two thousand dollars.

Sec. 29-215. – Training programs.

(a) Each animal-drawn carriage company shall implement a structured annual training program subject to the approval of the city for both its tour guides, carriage operators, and horses to ensure proficiency when operating on the public right of way.

(b) Each animal-drawn carriage company shall implement a structured annual training program subject to the approval of the city for every employee who comes into contact with its animals in any capacity to have a basic equine knowledge and training.

(c) Each animal-drawn carriage company shall implement a structured annual training program subject to the approval of the city and must educate all employees regarding proper procedures and tacking methods to ensure proper fit and care of the animals and equipment.

(b) Any animal pulling a carriage shall be desensitized or otherwise trained to tolerate urban conditions prior to being placed in service.

(e) Each animal-drawn carriage company shall file a report to the department of livability and tourism no less than once per year on the completion of all annual or other mandated training, which shall include the license numbers of all drivers attending the training.

Subsection (a) of section 29-216 is amended to read as follows:⁴

(a) Each animal-drawn carriage company shall implement the following by April 1, 2021:

⁴ See S.C. Code Ann. 41-18-300 *et seq.* (“South Carolina Rider Safety Act”).

- (1) Two licensed and certified carriage operators shall accompany every tour.
- (2) Install emergency brakes on each carriage.
- (3) Install emergency harness release which can quickly decouple carriage from horse(s) in the event of an emergency.
- (4) Install two-point safety belts for all passengers.
- (5) Install emergency steps on all carriages which can be utilized to unload passengers in the event of an emergency or other condition which requires unloading.
- (6) Implement the use of ladders with railings at arm level for typical loading and unloading of passengers.
- (7) Require that minor passengers be accompanied by a parent or guardian who is over eighteen (18) years old, and that no minor passenger may be seated in the rear row of the vehicle or in a seat immediately adjacent to the roadway.

Sec. 29-216. – Passenger safety. ⁵

(a) Each animal-drawn carriage company shall implement the following by January 1, 2021:

- (1) Two licensed and certified carriage operators shall accompany every tour.
- (2) Install emergency brakes on each carriage.
- (3) Install emergency harness release which can quickly decouple carriage from horse(s) in the event of an emergency.
- (4) Install two-point safety belts for all passengers.
- (5) Install emergency steps on all carriages which can be utilized to unload passengers in the event of an emergency or other condition which requires unloading.
- (6) Implement the use of ladders with railings at arm level for typical loading and unloading of passengers.
- (7) Require that minor passengers be accompanied by a parent or guardian who is over eighteen (18) years old, and that no minor passenger may be seated in the rear row of the vehicle or in a seat immediately adjacent to the roadway.

(b) All passengers on animal-drawn carriages shall at a minimum:

⁵ See S.C. Code Ann. 41-18-300 *et seq.* (“South Carolina Rider Safety Act”).

(1) Obey the posted rules, warnings, and instructions posted or otherwise provided by the owner and/or operator or an agent thereof of an animal-drawn carriage.

(2) refrain from acting in any manner that may cause or contribute to injuring the passenger, or others, including:

(A) exceeding the limits of the passenger's ability;

(B) interfering with safe operation of the carriage, the driver, or the animal(s);

(C) not engaging a safety mechanism provided on a carriage;

(D) disconnecting or disabling carriage safety device, except at the express instruction of the carriage operator or the owner's agent or employee;

(E) altering or enhancing the intended speed, course, or direction of a carriage and/or animal(s);

(F) using, touching, or tampering with the controls of a carriage which is designed solely to be operated by a properly licensed operator.

(G) extending arms and legs beyond the carrier or seating area of a carriage or at the express direction of the operator and/or owner of the carriage and/or the owner's agent or employee;

(H) throwing, dropping, or expelling an object from a carriage except as permitted by the operator and or owner of the carriage or the owner's agent or employee.

(I) getting on or off a carriage, except at the designated time and area, if any, at the direction of the operator and/or owner of the carriage or the owner's agent or employee or in an emergency. However, in the event of an emergency passengers, shall listen to and follow all instruction of the operator and/or owner of the carriage or the owner's agent of employee.

(J) not reasonably controlling the speed or direction of a carriage or animal(s) that requires the passenger to control or direct himself or the device; and

(K) knowingly overloading a carriage beyond its designed and/or licensed capacity.

(c) A rider must not get on or attempt to get on a carriage unless the passenger, or the passenger's parent or guardian on the passenger's behalf, reasonably determines that, at a minimum, the passenger:

(1) has sufficient knowledge to use, get on, and get off the carriage safely without instruction or has requested and received before getting on the carriage and has sufficient information to get on, use, and get off the carriage safely;

(2) has located, reviewed, and understood any signs in the vicinity of the carriage and has satisfied any posted height or other restrictions or requirements;

(3) knows the range and the limits of his ability and knows that the requirements of the carriage does not exceed those limits;

(4) is not under the influence of alcohol or any drug that affects his ability to safely ride in the carriage or to obey the posted rules or warnings or instructions; and

(5) is authorized by the owner of the carriage operator or owner or the owner's agent or employee to get on the carriage.

(d) Parents and guardians of minors have a duty to ensure that any minor passenger in their care and/or custody complies with all provisions of this article.

(e) Owners and/or operators of an animal-drawn carriage company shall display signs notifying passengers of the obligations and rules contained herein. Moreover, such signs shall be displayed on the carriages, at any station for reporting an injury or violation of any rule, any first aid station, and either: any entrance or exit to or from the premises designated for riders; or any area or structure at which riders may purchase admission or obtain authority to become a passenger on a animal-drawn carriage.

(f) Any person who willfully violates this article is guilty of misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty (30) days.

Sec. 29-217. – Public availability of records.

Notwithstanding certain limitations or conditions provided herein or any law or other mandate which requires the confidentiality of certain information and/or records, all other records required to be provided to the city shall be posted to the Tourism Commission's website to accommodate public accessibility.

Section 29-219 is amended to read as follows:

(a) No animal drawn vehicle shall operate without a duly issued certificate of appropriateness and without having paid such fee therefor as city council may, from time to time, establish. The certificate of appropriateness must be permanently affixed to the vehicle in a location approved by the commission.

(b) Any animal-drawn commercial tour owner and/or operator who refuses or fails to comply with the requirements of this article shall not be issued a certificate of appropriateness until adequate proof of compliance is presented by the owner and/or operator and certified by the city.

(c) Compliance with all requirements of the certificate of appropriateness shall be continuously maintained and constitutes a strict and mandatory requirement for continuous operation.

Division 2 of Article V, Chapter 29, is amended by adding a new section 29-224 to read as follows:

Sec. 29-224. – Compliance required.

Failure to comply with this article or any of the laws, ordinances, or regulations of this city may result in revocation of licenses and punishment in a court of appropriate jurisdiction. Any ordinance or law of this city, county, state, or federal agency which governs the treatment of animals, must be complied with by the animal-drawn carriage tour guide, passengers, and agents of the animal-drawn carriage company. This includes any person who comes into contact with a horse or other animal subject to this article.

Section 29-235 is amended to add the following:

All vehicles shall follow posted traffic signs, including **within** limitation stop signs and traffic signals.

Section 29-240 amended by adding subsections (b), (c), and (d) to read as follows:

(b) All written reports pursuant to this article shall contain the name(s) and contact information of all involved and/or injured persons, passengers, carriage owner and/or operator, and any other material witness to a reportable incident. Furthermore, each shall be interviewed and their statements or a summary thereof made a part of any police report or other record documenting a reportable incident.

(b) Each animal-drawn carriage company shall designate at least one employee per shift to be trained in basic human and equine triage and/or first aid and to deploy as a first responder to any accident or incident involving possible injuries to a human and/or horse from their respective company.

(c) Each animal-drawn carriage involved in a reportable accident or incident shall be inspected by a licensed mechanic who must provide a certificate of serviceability to the city before it may be returned to service

Article 6 of Chapter 29 is amended by adding new section 29-241 to read as follows:

Secs. 29-241. – Penalties for violation; issuance of citations; suspension and appeal.

(a) Failure to comply with this article or any of the laws, ordinances, and regulations of this city may result in violation of permit and shall be punishable as provided in section 1-16 of this Code.

(b) Any citation issued for violation of this article shall be issued to the tour guide or horse-drawn carriage at the time of the violation when deemed appropriate by the enforcement officer issuing the citation.

(c) In the event that an enforcement officer deems it inappropriate to deliver a citation to the tour guide or horse-drawn carriage at the time of a violation, a citation may be issued at the time of the violation and delivered by hand or fax to the tour guide or horse-drawn carriage company. Any such citation shall be delivered by 10:00 a.m. on the business day following the day of issue. Any citation delivered in this manner shall be fully valid and shall be considered sufficient notice of the charges. A horse-drawn carriage company who believes a citation to be issued based on a misapplication of an ordinance to the facts may contest the citation in writing within seven days to the tourism director.

(d) Any horse-drawn carriage company whose operators receive five or more sustained citations for violating this article in a 30-day period shall be assessed a fine as appropriate. The schedule of fines is as follows: Number of Citations In 30-Day Period Fine 5 or more \$2500.00; 10 or more \$5000.00; and 15 or more \$10000.00.

(e) Any carriage operator who receives a citation and is then found to be in violation of this chapter and the regulations and rules contained herein shall be fined \$500.00 for first infractions and then \$1,500.00 for each recurring infraction.

Section 29-46 is amended to add new subsection (e) as follows:

(e) Maintain a daily log of animal-drawn vehicle tours conducted in the City of Charleston, which shall include the date and time the tour began, route number, a verified identification of the animal or animals drawing the vehicle, the tour operator and license numbers, and the number of passengers. The department of livability and tourism shall record the information at the time of issuing a tour medallion. The department of livability and tourism shall make the logs available to the public on the City of Charleston website no less than once per month.