# **RICHLAND COUNTY**

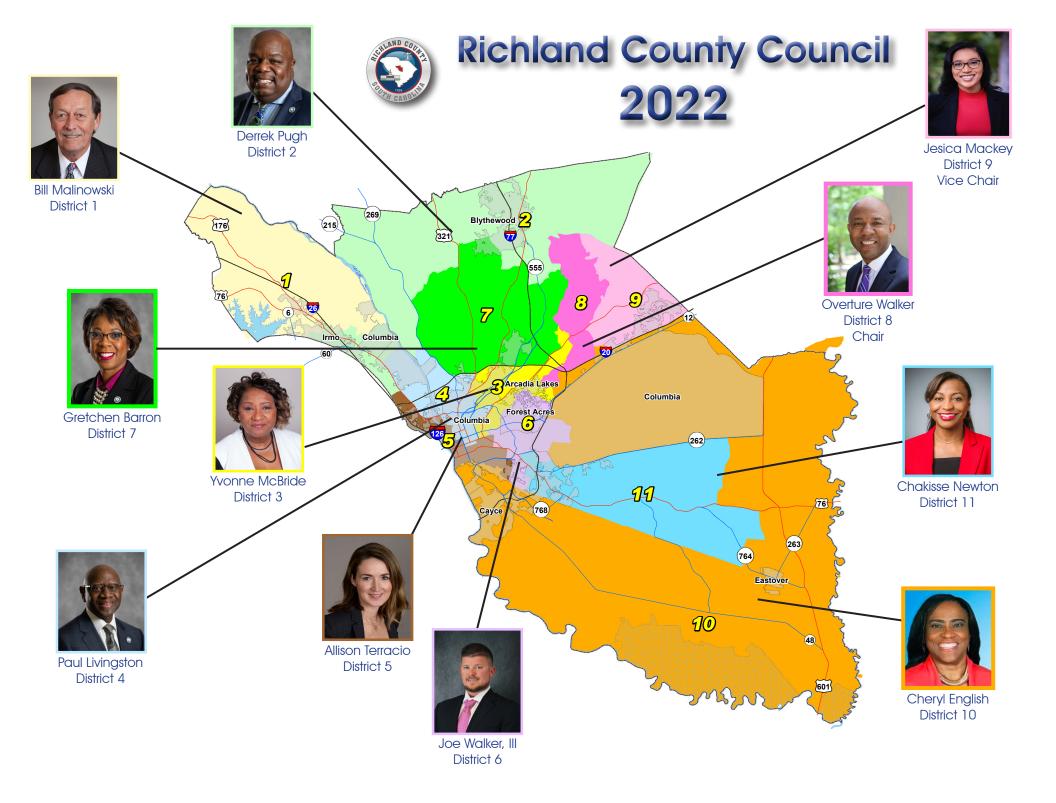
# DEVELOPMENT AND SERVICES COMMITTEE AGENDA



# Tuesday, MAY 24, 2022

# **5:00 PM**

# **COUNCIL CHAMBERS**





# Richland County Development and Services Committee AGENDA May 24, 2022 - 5:00 PM Council Chambers 2020 Hampton Street, Columbia, SC 29204

The Honorable	The Honorable	The Honorable	The Honorable	The Honorable
Derrek Pugh, Chair	Allison Terracio	Gretchen Barron	Cheryl English	Chakisse Newton
County Council	County Council	County Council	County Council	County Council
District 2	District 5	District 7	District 10	District 11

1.	CALL TO ORDER	The Honorable Derrek Pugh
2.	APPROVAL OF MINUTES	The Honorable Derrek Pugh
	a. April 26, 2022 [PAGES 6-9]	
3.	ADOPTION OF AGENDA	The Honorable Derrek Pugh
4.	ITEMS FOR ACTION	The Honorable Derrek Pugh
	<ul> <li>a. Department of Public Works - Engineering Division -Traffic Calming - Approval for Speed Hump Installation [PAGES 10-13]</li> </ul>	
	<ul> <li>b. Amending "Fireworks" Ordinance - [PUGH - December 7, 2021] [PAGES 14-16]</li> </ul>	The Henerelle Devel Devel
5.	ITEMS PENDING ANALYSIS: NO ACTION REQUIRED	The Honorable Derrek Pugh
	<b>a.</b> I move to have staff amend section 26-186 (Development with Open Space Design Standards) of the Land Development Code by amending the formula used in determining the total number of units allowed in the utilization of density-based and density bonus design standards by subtracting the constrained open space area acreage from the total site acreage prior to calculating. In addition, all lots must conform to the DHEC minimum	

required sizes so no bonus allows that lot size to be less than the DHEC requirement. [MALINOWSKI - January 4, 2022]

**\*\***Staff is researching this request. A recommendation will be made to the Planning Commission regarding the request.

- b. Move to direct staff to evaluate current zoning laws that permit zoning designations for large residential developments to remain in perpetuity and present options to re-evaluate and or rezone those properties if they are not developed within 7 years. Recommendations should include processes to ensure that zoning and the comprehensive plan remain consistent with the lived character of the community [NEWTON July 13, 2021] Staff is researching this request. A recommendation will be made to the Planning Commission regarding the request.
- c. I move to direct the County Attorney to work with the County Administrator to research and draft an absentee landlord ordinance. The ordinance should provide potential remedies for individuals who violate county ordinances and provide, via supplemental documentation, a comprehensive review of the legal impacts [potentially] associated with the adoption of such an ordinance. [NEWTON and DICKERSON November 19, 2019]
   [PAGES 17-18]

## 6. <u>ADJOURNMENT</u>



Special Accommodations and Interpreter Services Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or

services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.



# Richland County Council DEVELOPMENT AND SERVICES COMMITTEE **MINUTES** April 26, 2022 – 5:00 PM Council Chambers 2020 Hampton Street, Columbia, SC 29204

COMMITTEE MEMBERS PRESENT: Derrek Pugh, Chair, Allison Terracio, Gretchen Barron, Cheryl English, and Chakisse Newton

OTHERS PRESENT: Bill Malinowski, Paul Livingston, Michelle Onley, Anette Kirylo, Leonardo Brown, Patrick Wright, Lori Thomas, John Thompson, Aric Jensen, Tamar Black, Kyle Holsclaw, Justin Landy, Abhi Despande, Stacey Hamm, Dale Welch, Randy Pruitt, Steven GaitherMs. ight Hanna ,Ashiya Myers, Shirani Fuller, and Geonard Price

1. **CALL TO ORDER** – Chairman Derrek Pugh called the meeting to order at approximately 5:00PM.

#### 2. APPROVAL OF MINUTES

a. <u>Regular Session: March 22, 2022</u> – Ms. Barron moved, seconded by Ms. Newton, to approve the minutes as distributed.

In Favor: Pugh, Terracio, Barron, English, and Newton

The vote in favor was unanimous.

3. ADOPTION OF AGENDA – Ms. Terracio moved, seconded by Ms. Newton, to adopt the agenda as published.

In Favor: Pugh, Terracio, Barron, English, and Newton

The vote in favor was unanimous.

## 4 **ITEMS FOR ACTION**

a. <u>Amending "Fireworks" Ordinance [PUGH – December 7, 2021]</u> – Mr. Pugh noted there are a few questions we need to have answered by staff.

Ms. Newton inquired about what the intent of Item (d) on p. 12 of agenda is.

Mr. Patrick Wright, County Attorney, responded Item (d) has been changed in the revised ordinance language.

Ms. Newton inquired about the following language in Item (f) on p. 28 of the agenda, "After three separate violations in a single location, the location is declared to be a public nuisance..."

Mr. Wright responded it allows the Sheriff's Department or lawful officer to deal with the situation. The problem with the previous version was it was a criminal violation, but this changes it to a civil violation. Once it is declared a nuisance, if there any further violations it can be dealt with by the Sheriff's Department.

Ms. Newton inquired what other categories count as a public nuisance, so she can understand the class of offense this is.

Ms. Barron inquired if there is a more recent ruling than the 2011 Attorney General's opinion.

Mr. Wright responded there are more recent ones, but they refer this. In the legal work, precedent does not change until something else changes it.

Ms. Barron stated she wants this to move forward, with some teeth in it.

Mr. Malinowski inquired, what does it mean, when the Sheriff comes in and declares a public nuisance.

Chief Polis responded, when it comes to a private residence, he does not know if the Sheriff's Department has any authority to declare it a public nuisance. When it comes to a bar or nightclub, the Sheriff and Administrator can chain and padlock a business pending a hearing in front of Council.

Mr. Malinowski noted, in the Attorney General's opinion, you cannot have any type of a criminal violation in the enforcement of the ordinance. If a public nuisance is declared, the end result is a criminal violation.

Mr. Wright responded it would not be a criminal violation, but a civil penalty.

Ms. Terracio noted it would be prudent to think about a timeframe during which the three violations have occurred.

Mr. Pugh stated he would like the ordinance to mirror the noise ordinance. We also need to look at what this looks like at an apartment complex, with people going and coming from different units.

Mr. Pugh moved, seconded by Ms. Newton, to defer this to the May committee meeting.

In Favor: Pugh, Terracio, Barron, English, and Newton.

The vote in favor was unanimous.

### 5. ITEM PENDING ANALYSIS: NO ACTION REQUIRED

a. <u>I move to direct the County Attorney to work with the County Administrator to research and</u> <u>draft an absentee landlord ordinance. The ordinance should provide potential remedies for</u> <u>individuals who violate county ordinances and provide, via supplemental documentation, a</u> <u>comprehensive review of the legal impacts [potentially] associated with the adoption of such</u> <u>an ordinance. [NEWTON, DICKERSON, ENGLISH and TERRACIO - November 19, 2019]</u> – Mr.

Brown, County Administrator, noted staff is preparing to make a presentation at the May committee meeting.

b. Move to direct staff to evaluate current zoning laws that permit zoning designations for large residential developments to remain in perpetuity and present options to re-evaluate and or rezone those properties if they are not developed within 7 years. Recommendations should include processes to ensure that zoning and the comprehensive plan remain consistent with the lived character of the community [NEWTON - July 13, 2021] – Mr. Brown noted this item is to go before the Planning Commission. A recommendation from the Planning Commission will be brought back to committee.

Mr. Malinowski stated he does not under why on Items 5(b) and (d) it says a recommendation will be made to the Planning Commission, and the Planning Commission will forward a recommendation back to Council. He thinks it is premature for it to go to the Planning Commission.

Mr. Brown stated, it is his understanding, because of the flow of information, and how this came to Council, this item would be in the purview of the Planning Commission. There are certain items that are handled by the Planning Commission as a part of their function, and that process then rolls up to Council.

Mr. Malinowski noted he thought motions made by Council members, and forwarded by the Chair to a committee, need to remain in the committee until the committee makes a recommendation.

Mr. Brown stated there are certainly items that Council sends to a committee. There are also some questions we are working through on which items should be sent to committee, and which items should go straight to Council.

Mr. Wright stated the Planning Commission is a little different than other committees and commissions. There is a statute that governs the Planning Commission. Council has the option to deal with zoning issues or establish a Planning Commission. If a Planning Commission is established, those things are in the purview of the Planning Commission.

c. <u>Move to invite the Richland County Conservation Commission to present the Lower Richland</u> <u>Tourism plan to Council [NEWTON and ENGLISH – November 16, 2021]</u> – Ms. Newton noted the Clerk's Office has been working on setting a date for the work session.

Mr. Malinowski recommended May 26<sup>th</sup> at 4:00 PM.

- d. I move to have staff amend section 26-186 (Development with Open Space Design Standards) of the Land Development Code by amending the formula used in determining the total number of units allowed in the utilization of density-based and density bonus design standards by subtracting the constrained open space area acreage from the total site acreage prior to calculating. In addition, all lots must conform to the DHEC minimum required sizes so no bonus allows that lot size to be less than the DHEC requirement. [MALINOWSKI January 4, 2022] Mr. Brown stated this item is similar to Item 6(b). The recommendation from the Planning Commission will come back to the committee.
- 7. **<u>ADJOURNMENT</u>** Ms. Barron moved, seconded by Ms. Newton, to adjourn.

In Favor: Pugh, Terracio, Barron, English and Newton

The vote in favor was unanimous.

The meeting adjourned at approximately 5:23PM.

# RICHLAND COUNTY ADMINISTRATION

2020 Hampton Street, Suite 4069 Columbia, SC 29204 803-576-2050



## Agenda Briefing

Prepared by:	Michael Ma	Aichael Maloney, PE			Directo	r
Department:	Public Wor	ublic Works			Division: Engineering	
Date Prepared:	May 3, 202	1ay 3, 2022			Date:	May 24, 2022
Legal Review	Elizabeth N	Elizabeth McLean via email			te:	May 18, 2022
Budget Review	Abhijit Des	Abhijit Deshpande via email			te:	May 4, 2022
Finance Review	Stacey Ham	acey Hamm via email			te:	May 4, 2022
Approved for consideration:		Assistant County Administrator		John M. Thompson, Ph.D., MBA, CPM, SCC		ompson, Ph.D., MBA, CPM, SCCEM
Meeting/Committee	Develop	Development & Services				
Subject	Traffic C	Traffic Calming - Approval for Speed Hump Installation				

#### **RECOMMENDED/REQUESTED ACTION:**

The Department of Public Works Engineering Staff recommend approval by County Council of the installation of two speed humps as a traffic calming measure on Atlantic Drive (District 4) in the absence of a completed petition.

### Request for Council Reconsideration: Xes

#### FIDUCIARY:

Are funds allocated in the department's current fiscal year budget?	$\boxtimes$	Yes	No
If no, is a budget amendment necessary?		Yes	No

#### **ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:**

The cost for material is estimated at \$1,000 per speed hump. Funding is budgeted and available under in the Roads & Drainage Maintenance Division Budget (1216302000.523500).

#### COUNTY ATTORNEY'S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

None.

#### **REGULATORY COMPLIANCE:**

South Carolina Department of Transportation (SCDOT)-maintained roads must meet criteria as described in their 2019 Traffic Calming Guidelines and have an approved encroachment permit before installation.

#### **MOTION OF ORIGIN:**

There is no associated Council motion of origin.

Council Member	Click or tap here to enter text.
Meeting	Choose an item.
Date	Click or tap to enter a date.

#### **STRATEGIC & GENERATIVE DISCUSSION:**

The South Carolina Department of Transportation (SCDOT)'s guidelines for Traffic Calming state that local governments are responsible for determining eligibility, installation, and maintenance of traffic calming measures on SCDOT-owned residential roads. As a result, the residents of unincorporated Richland County rely on the Department of Public Works (DPW) Staff for assistance with safety issues caused by excessive speeding. County citizens residing on SCDOT maintained roads pay the County's Road Maintenance Fee just as citizens living on County Maintained roads. Therefore, where there are documented issues of regular and excessive speeding, and all other qualifications are met, any community in the unincorporated area of Richland County should be eligible to request assistance through traffic calming measures, regardless of road ownership.

Safety on residential roadways is one of the areas DPW Staff partners with the Richland County Sheriff's Department and SCDOT in an effort to make all communities safer for our citizens. DPW creates a Comprehensive Transportation Improvement Plan (CTIP) annually in which we anticipate the number of speed humps to be installed that fiscal year. From this plan, a yearly budget for material cost is generated. Fifteen speed humps were anticipated to be installed this fiscal year with a budget of \$15,000. Currently, the department has installed three leaving \$12,000 remaining in the budget allotted for speed humps. Material cost to install one speed hump is under \$1,000. We propose the installation of two speed humps along Atlantic Drive (Please see the map contained in the attachment for specific locations).

These requested traffic calming devices are supported by the Neighborhood Association. Due to the high number of rental properties within this community, the Neighborhood Association has been unable to demonstrate the needed 75% concurrence in the form of petition signatures normally required by SCDOT. Renters and Landlords (absent from the area) have not participated in petition. We think the lack of response is due to the shorter term commitment of the renters and that the owners are absentee. The residents who do own property and reside in this community are invested in making their community safer. Speeding on Atlantic Drive has been documented by the Sheriff's Department, DPW, and local media. When speeding is documented and community support cannot be demonstrated with a petition signed by 75% of the occupied households, SCDOT does allow for approval from County Council to supersede this requirement (please see below).

Coordination with Richland County Emergency Service, Richland County Sheriff's Department, and SCDOT was conducted. All groups confirmed that the installation of speed humps along Atlantic Drive would not adversely affect their operations or public service responsibilities.

Please see the following from the South Carolina Department of Transportation Traffic Calming Guidelines 2019:

### "Traffic Calming Project Process-

Requests received by SCDOT for traffic calming measures will be referred to the local government to determine eligibility. The local government should proceed with the necessary information gathering to determine project eligibility, planning, and feasibility.

Once completed, the project should be submitted to SCDOT for final review, along with a petition indicating concurrence and signed by at least 75% of the total occupied households within the

petition area or approval of the city or county council (Please note the word "or" in the preceding sentence which permits County Council approval in the event that the petition requirement cannot be achieved).

#### Maintenance-

SCDOT will maintain approved traffic control devices, such as signs, signals, and pavement markings, as outlined in the 'Manual on Uniform Traffic Control Devices.' The local government, or designated agent, will maintain traffic calming measures and any landscaping, special signing, or pavement markings associated with these measures.

#### Funding-

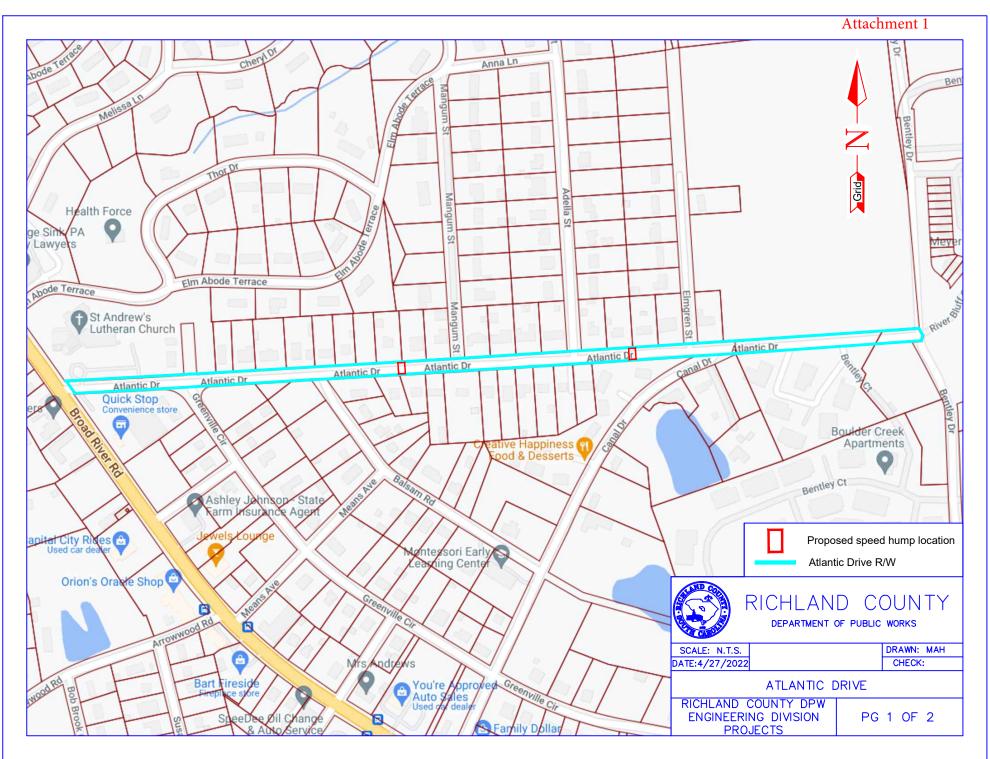
SCDOT does not have a designated funding source for traffic calming programs or projects at this time. The local government will be responsible for obtaining the funding for the traffic calming projects."

#### **ADDITIONAL COMMENTS FOR CONSIDERATION:**

Click or tap here to enter text.

#### **ATTACHMENTS:**

1. Area Map showing proposed location of speed humps



## STATE OF SOUTH CAROLINA COUNTY COUNCIL FOR RICHLAND COUNTY ORDINANCE NO. \_\_\_\_-22HR

AN ORDINANCE ESTABLISHING THE OFFENSE OF USING, DISCHARGING, SHOOTING, OR IGNITING FIREWORKS OR SIMILAR EXPLOSIVES WITHIN RICHLAND COUNTY BETWEEN CERTAIN HOURS, TO PROVIDE EXCEPTIONS, AND TO PROVIDE A PENALTY FOR EACH VIOLATION.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

<u>SECTION I</u>. The Richland County Code of Ordinances, Chapter 18, Offenses, is hereby amended by adding:

### Sec. 18-7. Fireworks and Similar Explosives

- (a) Except as otherwise provided in this section, it is unlawful for a person to use, discharge, shoot, or ignite fireworks or similar explosives within Richland County between the hours of 10:00 PM and 7:00 AM. This section may not be construed to prohibit the discharge or lighting of sparklers or similar pyrotechnic products which generate no appreciable noise at any time.
- (b) Notwithstanding the provisions of subsection (a), the permitted hours for the use of fireworks must be extended on the Fourth of July and New Year's Eve. Therefore, it is only unlawful for a person to use, discharge, shoot, or ignite fireworks or similar explosives within Richland County between the house of 12:30 AM and 9:00 AM on July 5th and January 1st.
- (c) It is unlawful to:
  - (1) Negligently, recklessly, or intentionally direct the discharge of fireworks towards a structure, animal, or person;
  - (2) Intentionally detonate fireworks upon the land of another without express prior consent;
  - (3) Offer for sale or sell permissible fireworks to children under the age of fourteen (14) years unless accompanied by a parent;
  - (4) To ignite or detonate fireworks within six hundred (600) feet of a church, hospital, public school;
  - (5) To ignite or detonate permissible fireworks within a motor vehicle or discharge a permissible fireworks from a motor vehicle; and
  - (6) To place or throw an ignited firework into or at a motor vehicle.
- (d) A County fire or law enforcement official may seize, take, remove, or cause to be removed all stocks of fireworks or explosives held in violation of the provisions of this section.
- (e) A violation of this section is punishable by a civil penalty of up to one hundred dollars (\$100). Each violation of this section may be punished as a separate offense.

- (f) After three separate violations in a single location, the location is declared to be a public nuisance and further unlawful activities may be abated by the county sheriff or a lawful officer serving under him.
- (g) The County fire official may issue a permit authorizing the use of fireworks or a public display of fireworks or similar explosives. The fire official may, in his discretion, grant or refuse to grant the permit or grant the permit subject to restrictions and limitations provided by this ordinance or deemed necessary in the interest of public safety in connection with such public display or exhibition by the fire official.
- (h) Nothing in this article may be construed to prohibit the use of flares or similar devices necessary for the safe operation of railroads, buses, trucks, or other vehicles within the County.

SECTION II. Effective <u>Date</u>. This ordinance shall be enforced from and after

## RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_ Overture Walker, Chair

Attest this \_\_\_\_\_ day of

, 2022.

Anette Kirylo Clerk of Council

## **RICHLAND COUNTY ATTORNEY'S OFFICE**

Approved As To LEGAL Form Only. No Opinion Rendered As To Content.

First Reading: Second Reading: Public Hearing: Third Reading:

To: Patrick Wright From: Chris Ziegler Date: May 16, 2022 Re: Fireworks Ordinance Inquiries

## PUBLIC NUISANCE

The term "public nuisance" is exceptionally broad and was held in <u>State v. Turner</u> to be "an offense against the public order . . . of the State, being either the doing of a thing to the annoyance of the people, or the neglecting to do a thing which the common good requires. Public nuisances are not specifically classified and are generally punished by civil fines or penalties with the level of the fine similar to a state level violation, if applicable. An opinion from the Attorney General's Office noted that Courts were favorable towards ordinances with civil penalties rather than those that establish misdemeanors. Relying on that information and looking at active state law, the fines for knowingly and wilfully discharging fireworks in a Fireworks Prohibited Zone is not more than one hundred dollars for a first offense and two hundred dollars for a second and all subsequent offenses. I believe that this is likely the closest infraction and penalty to the overall purpose of this ordinance. The time frame inquiry is one that is up to the discretion of Council. The use of fireworks in the County likely only takes place around New Years and July 4<sup>th</sup>. I believe that the best practice would be to use a short period of time for stacking violations – within a week or even just a few days.

A public nuisance can be defined and declared in the ordinance. In Section 18-4 of the Code of Ordinances of Richland County, weeds or rank vegetation at a height of two feet or more "may be deemed and declared a nuisance in the judgment of the sheriff." Alternatively, in Section 18-6, relating to the prohibition of smoking in certain places, a violation of this section is automatically declared to be a public nuisance. The choice as to whether grant the sheriff the authority to make the judgment as to whether the use of fireworks outside of the suggested time frame is one that remains with Council. As a best practice, I think that when an issue is less clear cut it is best to introduce human judgment into the equation. Despite that belief, abatement is the goal when dealing with fireworks taking place at late hours so using the Sheriff's department would be the best practice in my opinion. Please let me know if you have any questions that I can assist with please let me know and I will do my best to answer them promptly and completely.

Very respectfully,

Chris Ziegler

803-576-2050



## **Item Pending Analysis**

Prepared by:	Aric Jensen, AICP		Title:		Assistant County Administrator	
Department:	Administration		Division:			
Date Prepared:	May 4, 2022		Meeting Date:		May 24, 2022	
Approved for Consid	Approved for Consideration: County Adm		Leon		ardo Brown, MBA, CPM	
Committee:		Development & Services				
Agenda Item/Council Motion:		"I move to direct the County Attorney to work with the County Administrator to research and draft an absentee landlord ordinance. The ordinance should provide potential remedies for individuals who violate county ordinances and provide, via supplemental documentation, a comprehensive review of the legal impacts [potentially] associated with the adoption of such an ordinance." [NEWTON and DICKERSON]				

#### **BACKGROUND (NARRATIVE STATUS):**

On November 18, 2021, Assistant County Administrator (ACA) Aric Jensen provided an update to the Development & Services Committee which included a proposed work schedule. The schedule was subsequently revised due to the unanticipated reallocation of \$20M in Emergency Rental Assistance funds to Richland County, and the need for Mr. Jensen to oversee the re-establishment of that program. The revised work schedule is as follows:

01-Mar-2022	Workgroup committee meeting #1, 1st Draft workplan completed
01-Apr-2022	Workgroup committee meeting #2, 2nd Draft workplan completed
01-May-2022	First presentation to Development and Services Committee
01-Jun-2022	Second presentation to Development and Services Committee, Council Public Hearing
01-Jul-2022	Council 1st and 2nd Reading
01-Aug-2022	Council 3rd Reading and Reconsideration

This update constitutes the first presentation to the Committee; as such, the workgroup is approximately 4 weeks behind schedule.

#### **ITEMS FOR DISCUSSION AND DIRECTION:**

Based on information provided by the various workgroup team members, the following short term<sup>\*</sup> actions are proposed (\*can be implemented within 6-12 months):

- 1. Within an existing Richland County software application, create an online database and portal for non-owner-occupied housing registration;
- 2. Amend the County Code to:
  - Affirmatively state that a property owner, property manager, and any tenant may be cited and held responsible for the violation of a county ordinance related to zoning, building safety, and property maintenance;
  - Affirmatively state that any County Code Enforcement Officer or Public Safety Officer can issue a citation for any violation of a County code;
  - Require that the owner of any non-owner-occupied residential property or unit do at least one of the following actions:
    - Obtain a business license for every property and unit owned;
    - Provide and keep current within the County's online database a mailing address, phone number, and email address for an authorized agent located within 50 miles of the property;
    - Contract with a Richland County licensed property management firm and provide that firm's contact info in the County's online database.
  - Require a business license for any person or entity that owns 2 or more non-owner-occupied residential units;
  - Do not require a business license for a property owner who contracts with a professional property management firm that has a current Richland County business license (double taxation);

There other long term options that would take substantial resources and more than one (1) year to implement; those opportunities could be discussed at a future meeting if the Committee so directs.