

RICHLAND COUNTY COUNCIL
SOUTH CAROLINA

ORDINANCE REVIEW AD HOC COMMITTEE

April 5, 2016

3:00 PM

Administration Conference Room

1. Call to Order
2. Approval of Minutes: March 15, 2016 [PAGES 3-5]
3. Adoption of Agenda
4. Amending Chapter 17 to prohibit the parking of motor vehicles in front yard within certain residential zoning districts [PAGES 6-12]
5. An Ordinance Amending the Richland County Code of Ordinances, Chapter 26, Land Development; Article VI, Supplemental Use Standards; Section 26-152, Special Exceptions; Subsection (d), Standards; Paragraph (22), Radio, Television and Other Transmitting Towers; Subparagraph c.; Clause 1; so as to amend the setback requirements for towers abutting residentially zoned parcels [RUSH] [PAGES 13-16]
6. Motion that amends Richland County Code of Ordinances to provide that no person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. Allow that unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.



Committee Members

Julie-Ann Dixon, Chair
District Nine

Bill Malinowski
District One

Seth Rose
District Five

RICHLAND COUNTY COUNCIL

SOUTH CAROLINA



To allow a law enforcement officer or an animal control officer to remove an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

A law enforcement officer or animal control officer who removes an animal from a motor vehicle shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment.

A law enforcement officer or animal control officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.

A law enforcement officer or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

This section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities. [MANNING] [PAGES 17-23]

7. Adjournment

RICHLAND COUNTY COUNCIL SOUTH CAROLINA

ORDINANCE REVIEW AD HOC COMMITTEE

March 15, 2016
3:00 PM
Administration Conference Room

In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building

CALL TO ORDER

Ms. Dixon called the meeting to order at approximately 3:02 PM

APPROVAL OF MINUTES

February 23, 2015 – Mr. Malinowski moved, seconded by Ms. Dixon, to approve the minutes as distributed. The vote in favor was unanimous.

ADOPTION OF THE AGENDA

Mr. Malinowski moved, seconded by Ms. Dixon, to adopt the agenda as published. The vote in favor was unanimous.

Amending Chapter 17 to prohibit the parking of motor vehicles in front yard within certain residential zoning districts – Mr. Bronson stated this item originated with a motion by Mr. Jeter and Mr. Rose in September 2015. In the Sheriff's Department's comments it is noted this would put an additional burden on them.

Mr. Malinowski stated he maintains this is a private matter that should be addressed by homeowner's associations and neighborhood groups. The County should not be involved and use taxpayer money to enforce private matters.

In addition, the proposed ordinance is a "one size fits all" and the County should not be operating in a "one size fits all" atmosphere.

Mr. Malinowski inquired if staff had researched the consequences of additional runoff if the "improved surfaces" are completely paved with concrete, asphalt, or some other rigid surface. In addition, will the citizens be required to obtain a permit to put down the hard surface (i.e. pervious concrete).

Mr. Malinowski moved, seconded by Mr. Rose, to defer this item until the next committee meeting. The vote in favor was unanimous.

Mr. Rose stated he does not want to prohibit someone in the Gadsden area from parking in their front yard, but those districts that are also in the City are the ones that need to be addressed.



Committee Members Present

Julie-Ann Dixon, Chair
Bill Malinowski
Seth Rose

Others Present:

Geo Price
Amelia Linder
Elizabeth McLean
Sandra Haynes
Warren Harley
Kevin Bronson
Michelle Onley

Ordinance Review Ad Hoc Committee
Tuesday, March 15, 2016
Page Two

Ms. Dixon stated the special exceptions would be to allow parking on the front lawn for a limited time for birthday parties, family reunions, meetings, etc.

Ms. Dixon directed administration staff to draft an ordinance before the next meeting to address the issues that were presented at this meeting.

An Ordinance Amending the Richland County Code of Ordinances, Chapter 26, Land Development; Article VI, Supplemental Use Standards; Section 26-152, Special Exceptions; Subsection (d), Standards; Paragraph (22), Radio, Television and Other Transmitting Towers; Subparagraph c.; Clause 1; so as to amend the setback requirements for towers abutting residentially zoned parcels [RUSH] – Mr. Malinowski moved to defer this item to all the committee time to review the ROA.

Mr. Rose requested to move the item to Council without a recommendation.

Mr. Harley suggested hearing from the industry representatives, as well as, Mr. Price.

Mr. Price stated staff did not recommend approval of this item. During the six years the current ordinance has been in place, staff did not come across an instance that prevented towers from being erected in the County.

Ms. Rebecca Best stated companies do not build spec cell towers. They build them where they need service. The cell towers now fall directly down instead of sideways. Myrtle Beach, Charleston and other municipalities have changed their ordinances to allow these cell towers to be erected.

The proposed cell tower is safer than the existing towers and a certified engineer will be required to sign off on the cell tower to insure the towers safety.

Ms. Dixon inquired as to what responsibility the County has if Council denies the proposed ordinance? Approves the proposed ordinance? Overall?

Ms. McLean stated in general the County is immune from liability via the Tort Claims Act. The question ultimately is if the County is liable or if the County is going to be sued. The more information the County receives the better off the County will be when they are sued.

Mr. Rose inquired if the proposed ordinance is the same as what was enacted in Charleston County.

Mr. Malinowski moved, seconded by Mr. Rose, to invite industry representatives to present written recommendations to the committee prior to the next committee meeting and to reach out to Charleston County regarding their ordinance. The vote in favor was unanimous.

Motion that amends Richland County Code of Ordinances to provide that no person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. Allow that unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation

of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.

To allow a law enforcement officer or an animal control officer to remove an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

A law enforcement officer, or animal control officer who removes an animal from a motor vehicle shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment.

A law enforcement officer or animal control officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.

A law enforcement officer or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

This section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities. [MANNING] – Mr. Malinowski moved, seconded by Mr. Rose, to defer this item to the next committee meeting.

Ms. Dixon scheduled the next meeting for April 5th at 3:00 p.m.

ADJOURNMENT

The meeting adjourned at approximately 3:42 PM

The Minutes were transcribed by Michelle M. Onley, Deputy Clerk of Council

Richland County Council Request for Action

Subject: Amending Chapter 17 to regulate the parking of motor vehicles in the front yard in certain residential zoning districts

A. Purpose

County Council is requested to consider a motion to amend Chapter 17 that would regulate the parking of motor vehicles in the front yard in certain residential zoning districts.

B. Background / Discussion

On September 15, 2015, a motion was made by the Honorable Damon Jeter and the Honorable Seth Rose, as follows:

“I move to propose an ordinance to impose regulations of motor vehicles parking on front lawns in certain residential zoning districts”

County Council forwarded this motion to the October D&S Committee for consideration and recommendation.

C. Legislative/Chronological History

- The D&S Committee sent the ordinance to the Ordinance Review Ad Hoc Committee on 10-27-15.
- The Ordinance Review Ad Hoc Committee sent the ordinance to County Council on 11-17-15.
- The ordinance received first reading on December 1, 2015.
- County Council deferred second reading on 12-8-15.
- County Council again sent the ordinance to the Ordinance Review Ad Hoc Committee on 12-15-15.
- The Ordinance Review Ad Hoc Committee deferred on 2-23-16.
- The Ordinance Review Ad Hoc Committee deferred on 3-15-16

D. Financial Impact

Dependent upon Council decision.

E. Alternatives

1. Approve the ordinance to regulate the parking of motor vehicles in the front yard within certain residential zoning districts.
2. Do not approve the ordinance to regulate the parking of motor vehicles in the front yard within certain residential zoning districts.
3. Approve an amended ordinance regulating the parking of motor vehicles in the front yard within certain residential zoning districts.

F. Recommendation

This request is at Council’s discretion.

Recommended by: Honorable Damon Jeter and Honorable Seth Rose
Date: September 15, 2015

G. Reviews

Finance

Reviewed by: Daniel Driggers

Date: 2/24/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Based on information provided, the requested amendment has no financial impact.

Sheriff's Department

Reviewed by: Chris Cowan

Date: 3/2/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

If passed, this would pose some issues related to encouraging people to park in the roadway, curbside or that they may find other solutions for parking their cars in front of their houses (this may include people putting up covered carports/metal sheds or fitted covers over the cars). This may cause some safety issues for public safety getting into communities or other related issues with parking on the street.

Clarification is needed on:

- what the grace period would be for those in violation; to have it corrected
- will there be exceptions for covering the car or for acreage

There will be a financial impact:

- New forms will have to be created for posting cars and notification (s) to property owners - \$3000 annual cost
- The number of complaints will far exceed the number of personnel the Sheriff's Department was allocated when the County separated staffing and responsibilities for Code Enforcement 30/70. Currently, the City has 12 personnel conducting the same operations as the 6 personnel RCSD was allocated.

Additional, recommendation/request is that if the County makes changes to any ordinances; before they go into effect, to please put information out to community leaders through the RC Neighborhood Council, News Outlets, Everbridge Notification System and Civic organizations and not rely on advertising public hearings.

Planning and Development Services

Reviewed by: Geonard Price, Zoning Admin.

Date: 3/7/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Although Planning is not charged with enforcing the proposed ordinance, provision 17-10 (h) specifies that the parking of motor vehicles in the front yard will only apply to specific zoning districts, which is regulated by the Planning Department. Since residential development is not limited to the stated zoning districts of RS-LD, RS-MD, and RS-HD,

during enforcement the Sheriff's Department may encounter issues in determining the zoning of the property.

For practical enforcement, it is recommended that the proposed ordinance also include the zoning districts RM-HD, RM-MD, RU, RR, RS-E, and MH to fully account for where residential development is allowed.

Legal

Reviewed by: Brad Farrar

Date: 3/7/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision of Council. However, the "penalties" section of the draft ordinance may raise issues of arbitrariness and capriciousness in how the ordinance is enforced.

Administration

Reviewed by: Kevin Bronson

Date: 4/1/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

At the last Ordinance Review Ad Hoc Committee Councilmembers voted to defer this item until the April 5, 2016 meeting.

Concerns were expressed that the language in the ordinance (specifically the affected property zones) was a "one size fits all" approach. Council also asked for a provision that would accommodate special events.

Challenges seem to exist in two areas regarding this proposed ordinance: 1) which property zoning districts should be included in banning front yard parking; and 2) costs associated with enforcement.

Further, Mr. Malinowski asked for additional information regarding storm water impacts in the event current pervious areas are made impervious.

I have asked staff members of zoning, law enforcement and legal to attend the next meeting to discuss the concerns with the Councilmembers.

**STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-16HR**

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 17, MOTOR VEHICLES AND TRAFFIC; ARTICLE II, GENERAL TRAFFIC AND PARKING REGULATIONS; SECTION 17-10, PARKING IN RESIDENTIAL AND COMMERCIAL ZONES OF THE COUNTY; SO AS TO REGULATE THE PARKING OF MOTOR VEHICLES IN THE FRONT YARD IN CERTAIN RESIDENTIAL ZONING DISTRICTS.

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

SECTION I. The Richland County Code of Ordinances; Chapter 17, Motor Vehicles and Traffic; Article II, General Traffic and Parking Regulations; Section 17-10, Parking in Residential Zones of the County; is hereby amended to read as follows:

Section 17-10. Parking in residential and commercial zones of the county.

(a) For the purpose of this section, the following definitions shall apply:

- (1) ~~Fitted cover, for the purpose of this section,~~ means a cover that conforms to the basic shape of the vehicle and covers all portions of such vehicle.
- (2) ~~Improved surface means that the surface of a parking space is completely paved with concrete, asphalt, or some other like rigid surface, such as pavers or pervious concrete; to be certain, "improved" does not include gravel or crush and run, even when compacted.~~
- (23) ~~Motor vehicle~~ means every vehicle which is self-propelled, except mopeds, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.
- (34) ~~Semi-trailer~~ means every vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and constructed that some part of its weight and that of its load rests upon or is carried by another vehicle; and exceeds a gross weight of 10,000 pounds, or a manufacturer's gross vehicle weight rating (GVWR) of 10,000 pounds.
- (45) ~~Trailer (other than semi-trailer)~~ means every vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle; and which does not exceed a gross weight of 10,000 pounds, or a manufacturer's gross vehicle weight rating (GVWR) of 10,000 pounds. ~~This definition excludes camping trailers, boat trailers, travel trailers, and utility trailers, as such are regulated in the Richland County Land Development Code at Section 26-173 (f).~~

(56) *Truck tractor* means every motor vehicle designed and used primarily for drawing other vehicles; and not so constructed as to carry a load other than a part of the weight of the vehicle and the load drawn.

(b) It shall be unlawful for a truck tractor, a semi-trailer, or a trailer to be parked on any public street, road, right-of-way or as otherwise prohibited by the Richland County Code of Ordinances in the unincorporated portions of the county which are or hereafter shall be designated as Rural Residential, Single-Family Residential, Manufactured Home, or General Residential under the Richland County Zoning Ordinance and the “Zoning Map of Unincorporated Richland County”, as amended.

(c) Except as is provided in subsection (d), below, it shall be unlawful for any truck tractor, semi-trailer or trailer to be parked, stored or located on a lot in any residential zoning district in the unincorporated areas of the county [except for those parcels that are one (1) acre or greater in the (RU) Rural zoning district] unless the entire portion of such truck tractor, semi-trailer or trailer is parked, stored or located in an enclosed garage or in a carport at the residence, or is enclosed under a fitted cover.

(d) Notwithstanding subsections (b) and (c), above, truck tractors, semi-trailers or trailers that are in active use in the provision of a service or delivery or removal of property or material at or from a residence in a residential zoning district may park on the public street, road, right-of-way or lot at which the service is being provided or the delivery or removal is being made, for only the duration of the service provision or delivery or removal as provided for herein. For purposes of this section, “active loading or unloading” shall include, but not be limited to, the delivery or removal of furniture, yard trash or debris, household or building materials, tangible personal property and the like, evidenced by the active involvement (e.g., the loading, unloading, service provision or supervision thereof) of the owner, operator, delivery personnel, service provider, or other person responsible for parking or causing to be parked the truck tractor, semi-trailer or trailer while the truck tractor, semi-trailer or trailer is parked on the public street, road, right-of-way or lot subject to this section. For purposes of this section, “active loading and unloading” does not include parking or “staging” a truck tractor, semi-trailer or trailer, leaving the same unattended and then engaging in loading, unloading, removal or service provision at a subsequent point beyond twenty-four (24) hours.

(e) It shall be unlawful for a motor vehicle, or wheeled conveyance of any kind required by law to be licensed that is unlicensed, or is displaying an expired or invalid license to be parked on any public street or road, right-of-way or as otherwise prohibited by the Richland County Code of Ordinances in the unincorporated portions of the county which are or hereafter shall be designated as Rural Residential, Single-Family Residential, Manufactured Home, or Multi-Family Residential under the Richland County Zoning Ordinance and the “Zoning Map of Unincorporated Richland County”, as amended.

(f) All motor vehicles or trailers without a valid state-issued license plate permitting operation on public roads and highways, which are stored, parked, or located on a lot in any zoning district in the unincorporated areas of the county, except for those parcels that are three (3) acres or greater in the (RU) Rural zoning district, are required to be kept in a garage, carport, or protected from the elements by a fitted cover. Licensed automobile dealerships, persons licensed to conduct businesses involving storage and sale of junk and scrap, trailers utilized as temporary

structures in conjunction with construction activities, and vehicles used in agricultural operations and which are not operated on the public roads and highways are exempt.

(g) Any motor vehicle or trailer that is not capable of operating in accordance with South Carolina law or, in the case of a motor vehicle, not capable of moving under its own power (even if it has a valid state-issued license plate permitting operation on public roads and highways) shall not be stored, parked, or located on a lot in any residential or commercial zoning district in the unincorporated areas of the county (except for those parcels that are three (3) acres or greater in the (RU) Rural zoning district) for more than forty-five (45) consecutive days unless it is kept in an enclosed garage, in a carport, or protected from the elements by a fitted cover.

(h) All motor vehicles parked within the front yard or secondary front yard (corner lots) of any property zoned RS-LD, RS-MD, or RS-HD must be parked on an improved surface. Provided, however, motor vehicles may be parked on the grass of the front yard or secondary front yard on a temporary basis if the homeowner is hosting a special event and there is not enough parking available on the street.

(hi) Penalties: Upon a finding by a deputy sheriff of a violation, any offender shall have an opportunity to cure the violation within a prescribed period of time; provided that the period of time allowed shall not begin to run until notice of the violation is provided to the offender. Notice shall be sufficient if provided by personal contact directly with the offender or by talking on the telephone with the offender, by the offender having accepted written notice by certified mail, or by placement of a notice of violation on the vehicle, motor vehicle, truck tractor, semi-trailer, or trailer. If the offender, resident, owner of the vehicle, motor vehicle, truck tractor, semi-trailer, or trailer or owner of the real property on which the violation occurred fails to take proper corrective action, in the prescribed time, such person shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred (\$500.00) dollars or imprisoned for not more than thirty (30) days, or both. Each day such violation continues after due notice shall be considered a separate offense. Any owner and/or operator of a vehicle, motor vehicle, truck tractor, semi-trailer, or trailer which is in violation of this section (or if the offender is unable to be located, any owner of land on which the violation occurred), and any person who commits, participates in, assists in, or maintains that violation may each be found guilty of a separate offense and suffer the penalties set forth herein. In the event that an offender has been previously cited for or given notice of a violation of this section, enforcement action may be taken immediately without the requirement of an opportunity to cure the violation.

(i) *Administration and enforcement:* The Sheriff of Richland County shall be authorized to enforce the provisions of this section and to engage a towing service to remove any vehicle parked in violation of these regulations, provided the cost of towing services shall be charged to the registered owner of any vehicle so removed.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be effective from and after _____, 2016.

RICHLAND COUNTY COUNCIL

BY: _____
Torrey Rush, Chair

ATTEST THIS THE ____ DAY

OF _____, 2016

S. Monique McDaniels
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading: December 1, 2015
Second Reading:
Public Hearing:
Third Reading:

Richland County Council Request for Action

Subject: Amending Chapter 26 to revise the setback requirements for towers abutting residentially zoned parcels

A. Purpose

County Council is requested to consider a motion to amend Chapter 26 that would take into consideration the fall zone of telecommunication towers, rather than the current setback requirement which is based on the height of the tower, in establishing setbacks for the towers abutting residentially zoned parcels.

B. Background / Discussion

On November 17, 2015, a motion was made by the Honorable Torrey Rush, as follows:

“Amendment of setbacks for telecommunication towers: Section 26-152 (22) (c) (1) of the Richland County Land Development Code requires a minimum setback of one (1) foot for each foot of height of the tower when the tower abuts a residentially zoned parcel. Currently, the standards of this section do not take into consideration the fall zone of the tower. In lieu of 1:1 setbacks, I propose that the tower must be located such that adequate setbacks are provided on all sides to prevent the tower's fall zone from encroaching onto adjoining properties and street right-of-ways. The standards of section 26-152 (c) shall require a letter from a licensed engineer that includes the engineer's original signature and seal certifying the fall zones are designed so as to prevent the encroachments.”

County Council forwarded this motion to the Ordinance Review Committee for consideration and recommendation.

C. Legislative/Chronological History

- The Ordinance Review Ad Hoc Committee deferred this item on 2-23-16.

D. Financial Impact

None.

E. Alternatives

1. Approve the ordinance to amend the setback requirements for towers abutting residentially zoned parcels.
2. Do not approve the ordinance to amend the setback requirements for towers abutting residentially zoned parcels.

F. Recommendation

This request is at Council's discretion.

Recommended by: Honorable Torrey Rush

Date: November 17, 2015

G. Reviews

Finance

Reviewed by: Daniel Driggers

Date: 2/24/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Based on the ROA, the request has no financial implications.

Planning and Development Services

Reviewed by: Geonard Price, Zoning Admin.

Date: 3/10/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

The current criteria (section 26-152 (c) (22) (1) of the Richland County Land Development Code) establishing setbacks for telecommunication towers abutting residentially zoned parcels was adopted by County Council under Ordinance 040-09HR: 7-21-09. This provision requires "...a minimum setback of one (1) foot for each foot of height of the tower..." for towers abutting a residentially zoned parcel. During the 6+ year existence of this provision the Board of Zoning Appeals has granted special exception approval for the establishment of approximately twenty-five (25) towers. The general feedback from the telecommunication industry (those that have erected towers in the County) has been that the ordinance doesn't unreasonably eliminate viable sites in the unincorporated area of Richland County. Generally, when applications for telecommunication tower sites are denied due to setback encroachment, the industry representative has adjusted the location of the proposed tower on the site or they have found another comparable location.

Legal

Reviewed by: Brad Farrar

Date: 3/11/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision of Council.

Administration

Reviewed by: Warren Harley

Date:

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Need to hear more information with regards to the impact on safety of residents as well as other possible negative impacts on the residential parcels. Also would be helpful to hear from the industry as to how this change or failure to change impacts how they do business.

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-16HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 26, LAND DEVELOPMENT; ARTICLE VI, SUPPLEMENTAL USE STANDARDS; SECTION 26-152, SPECIAL EXCEPTIONS; SUBSECTION (d), STANDARDS; PARAGRAPH (22), RADIO, TELEVISION AND OTHER TRANSMITTING TOWERS; SUBPARAGRAPH c.; CLAUSE 1; SO AS TO AMEND THE SETBACK REQUIREMENTS FOR TOWERS ABUTTING RESIDENTIALLY ZONED PARCELS.

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

SECTION I. The Richland County Code of Ordinances, Chapter 26, Land Development; Article VI, Supplemental Use Standards; Section 26-152, Special Exceptions; Subsection (d), Standards; Paragraph (22), Radio, Television And Other Transmitting Towers; Subparagraph c.; Clause 1; is hereby amended to read as follows:

1. Communication towers abutting a residentially zoned parcel ~~shall have a minimum setback of one (1) foot for each foot of height of the tower as measured from the base of the tower. The maximum required setback shall be two hundred and fifty (250) feet~~ must be located in such manner that adequate setbacks are provided on all sides to prevent the tower's fall zone from encroaching onto adjoining properties and street right-of-ways. To verify that this requirement has been met, a licensed engineer shall submit a letter to the Planning Department certifying that the fall zones are designed so as to prevent the aforesaid encroachments, and such letter must include the engineer's original signature and seal.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be effective from and after _____, 2016.

RICHLAND COUNTY COUNCIL

BY: _____
Torrey Rush, Chair

ATTEST THIS THE _____ DAY

OF _____, 2016

S. Monique McDaniels
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

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

Richland County Council Request of Action

Subject: Council motion to amend ordinance to include provisions for animals unattended in vehicles

A. Purpose

County Council is requested to consider a motion by Councilman Jim Manning to amend the Richland County Code of Ordinances to provide provisions for animals being left unattended in vehicles under adverse conditions.

B. Background / Discussion

On September 26, 2014, Councilman Manning received an email from a citizen, who stated that she witnessed two dogs in Arcadia Lakes being left in a vehicle during a 90 degree day. She was told by an officer of Arcadia Lakes that it was okay to leave an animal in a car for up to an hour. This began an inquiry into the current Richland County Ordinance and the laws regulating animal cruelty.

On February 17, 2015, the citizen submitted her request for the wording that she felt should be added to the Richland County Code of Ordinances to Councilman Manning. The wording was based on California state law and had to be reviewed in conjunction with the current Richland County Code to determine its feasibility. Councilman Manning has made a motion to amend the current Richland County Code of Ordinances to include the following provisions.

No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

Allow that unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.

To allow a law enforcement officer or an animal control officer to remove an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

A law enforcement officer or animal control officer who removes an animal from a motor vehicle shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment.

A law enforcement officer or animal control officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.

This section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.

A law enforcement officer or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

C. Legislative / Chronological History

- Motion referred to the Ordinance Review Ad Hoc Committee on January 12, 2016.
- Ordinance Review Ad Hoc Committee deferred on February 23, 2016.

D. Financial Impact

There is no financial impact.

E. Alternatives

1. Approve the request to go forward with the changes to the ordinance.
2. Do not approve the proposed changes.
3. Approve the request to go forward with changes after agreed upon changes to the proposal.

F. Recommendation

This request is at Council's discretion

Recommended by: Honorable Jim Manning

Department: Council District 8

Date: 1/12/2016

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While "Council Discretion" may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers

Date: 3/11/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Based on ROA, request is a policy decision for Council with no financial impact.

Animal Care

Reviewed by: Sandra Haynes

Date: 3/10/16

Recommend Council approval

Recommend Council denial

This is at Council’s discretion. The current wording of Section 5-9 of the Richland County Ordinance already covers what this additional wording is aimed to accomplish: **(It shall be unlawful for an owner to fail to provide his or her animal(s) with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment)**. The current wording of Section 5-9 is inclusive to all environments of animal cruelty and does not provide exclusion for vehicles. The new wording would only give permission for an officer to break into a vehicle. If the goal is to eliminate any risk, a zero tolerance amendment should be considered. A zero tolerance law would make it illegal to leave an animal unattended in a car at all, regardless of the temperature of the animal’s well-being. An animal left unattended (for any length of time) in a car will always have its well-being compromised because the car could stall, the animal could put the car in gear, carbon monoxide poisoning could occur, or animal theft could result. Ultimately, if the law does not create any new immunity, then an officer is still virtually in the same legal predicament as without the new wording.

Sheriff’s Department

Reviewed by: Chris Cowan

Date: 3/11/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

RCSD is in favor of anything that will protect animals and educates citizens on what dangers arise from leaving animals in vehicles unattended. It may be that the zero tolerance law option, making it illegal to leave an animal unattended in a vehicle at all, is in the best interest of the animal, community and County; as it negates subjective issues like weather and human factors.

Legal

Reviewed by: Elizabeth McLean

Date: 3/31/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Legal opinion provided under separate cover.

Administration

Reviewed by: Kevin Bronson

Date: 3/31/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

The request is a policy decision for Council.

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____ -16HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 5, ANIMALS AND FOWL; SECTION 5-9, ANIMAL CARE, GENERALLY; SO AS TO MAKE IT UNLAWFUL TO LEAVE AN ANIMAL IN AN UNATTENDED MOTOR VEHICLE UNDER CERTAIN CIRCUMSTANCES.

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:

SECTION I. The Richland County Code of Ordinances; Chapter 5, Animals and Fowl; Section 5-9, Animal care, generally; is hereby amended to read as follows:

Sec. 5-9. Animal care, generally.

(a) It shall be unlawful for an owner to fail to provide his or her animal(s) with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(b) It shall be unlawful for a person to beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight or other combat between animals or between animals and humans.

(c) It shall be unlawful for a person to dye or color artificially any animal or fowl, including but not limited to rabbits, baby chickens, and ducklings, or to bring any dyed or colored animal or fowl into the County.

(d) It shall be unlawful for any owner to abandon an animal in the unincorporated area of the county.

(e) ~~No person~~ It shall be unlawful to leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

~~Allow that unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.~~

~~To allow a A law enforcement officer or an aAnimal control Care officer to may remove an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. A ~~law enforcement officer or animal control officer who removes an~~ Such animal from a motor vehicle shall be impounded and taken it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment the Animal Care Facility.~~

~~A The law enforcement officer or animal control officer~~ Animal Care Officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, but shall only do so after a all reasonable efforts to locate the owner or other person responsible have failed and in the officer's reasonable opinion, failure to remove the animal will result in the immediate harm or death to the animal. In addition to securing and impounding the animal, the officer shall issue a uniform ordinance summons and, if the owner has not been located, place such in a secure and conspicuous location on or within the motor vehicle.

~~This section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.~~

~~A law enforcement officer or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.~~

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be effective from and after _____.

RICHLAND COUNTY COUNCIL

BY: _____
Torrey Rush, Chair

ATTEST THIS THE _____ DAY

OF _____, 2016.

Michelle Onley
Deputy 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: