

**SECOND REPORT
OF THE CODE ENFORCEMENT TASK FORCE
TO CITY COUNCIL
AUGUST 6, 2008**

Rev. Wiley Cooper, Chair

INTRODUCTION – MESSAGE FROM THE CHAIR

Greetings Honorable Mayor, City Councilmembers, and City Manager,

I am pleased to present the second volume of work of the Code Enforcement Task Force – a group appointed in late September 2006 to create new, or amend existing, City code and/or State statute to ensure that adverse impacts to the quality of life for all persons in the City are addressed in a timely and thorough manner while, at the same time, ensuring appropriate due process is afforded all parties. Our first report was delivered on June 20, 2007, and this second report presents, in large part, the culmination of our efforts.

Given the various sources of authority for the vast number of tools used by City staff, the necessary process to implement the recommendations of the Code Enforcement Task Force will similarly vary. In some instances, the City Council can simply and quickly change City Code; in others, City Council may need to direct resources, such as staff and lobbyists, to seek changes to State statute. As such, each recommendation, which is consolidated within the Executive Summary, requests that City Council direct the City Manager and/or the City Attorney to initiate the appropriate process.

Please recall that, during our first meetings, Task Force members outlined almost 40 issues that require review and consideration of some kind. At this point, the Task Force has largely completed its work, but we request that City Council extend our constitution such that the Task Force may meet quarterly to review the progress of our recommendations as well as address any other issues as they may arise.

Your diverse appointees have served you well, working long and hard to produce a balanced, actionable report with recommendations that will greatly benefit everyone in Columbia. We ask that you move immediately to initiate the processes necessary to implement the recommendations outlined within the Executive Summary. Thank you for your interest and your commitment.

With best regards,



Rev. Wiley Cooper, Chair
Code Enforcement Task Force

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MISSION STATEMENT

On September 27, 2006, the City Council adopted the following motion, which established the Code Enforcement Task Force and its mission:

RECOGNIZING THAT (1) the City Manager has added 5 new code enforcement inspectors to the Development Services Department since its formation in December 2004, (2) code enforcement inspectors are working hard to improve the quality of life for all persons in the City, (3) administration has nearly maximized all available opportunities to increase efficiencies through personnel moves like intra and inter-departmental cross-training, and (4) administration has begun implementation of code enforcement software the intention of which is facilitate performance-based budgeting and allow citizens to access information online, CITY COUNCIL HEREIN CREATES THE CODE ENFORCEMENT TASK FORCE, THE MISSION OF WHICH IS TO create new, or amend existing, City code and/or State statute to ensure that adverse impacts to the quality of life for all persons in the City are addressed in a timely and thorough manner while, at the same time, ensuring appropriate due process is afforded all parties. MINIMALLY, CITY COUNCIL ASKS THE TASK FORCE TO consider the problems created by (1) inaccessible and unresponsive landlords, especially absentee landlords, and (2) properties which fall into foreclosure or are within the 1-year redemption period with the Richland County Assessor Office because of unpaid property taxes.

TASK FORCE MEMBERS

Appointed by City Council – Rev. Wiley Cooper, Chair
Appointed by Mayor Bob Coble – Bob Amundson, Vice Chair
Appointed by Councilmember Cromartie – Durham Carter
Appointed by Councilmember Davis – Darrell Black
Appointed by Councilmember Devine – Virginia Bedford
Appointed by Councilmember Finlay – Coley Brown
Appointed by Councilmember Rickenmann – Mel Jenkins
Appointed by Councilmember Sinclair – Kathryn Fenner
Appointed from Farrow Road Commercial Corridor – Annie Williams
Appointed from Garners Ferry Commercial Corridor – Gene Dinkins, Jr.
Appointed from Rosewood Drive Commercial Corridor – Matt Carroll
Appointed from Two Notch Road Commercial Corridor – Roberta Davis

Staff Appointed by City Council as Members:

- Robert Anderson, Deputy Director of Public Works
- Tandy Carter, Chief of Police
- Marli Drum, Animal Services
- Carmen Floyd, Fire Marshal, Fire Department
- Jerry Thompson, Housing Official, Planning & Development Service Department
- Brenda Kyzer, Business License Administrator, Business License Division
- Marc Mylott, Director of Planning & Development Services/Zoning Administrator
- Harold Reaves, Deputy Director of Homeland Security
- Porchia Smith, Housing Inspector, Development Services Department

Regrettably, we have had two appointments not attend any meetings. Ms. Sylvia Davis has not responded to several requests for contact information from the City Clerk's Office since her appointment on February 20, 2008, and Mr. Mel Jenkins has not attended any meetings since he was appointed October 3, 2007. **If City Council is willing to extend the constitution of the Task Force such that it may meet quarterly, the citizen members of the Task Force respectfully request that City Council either ask these persons to commit to the Task Force or appoint different persons.**

COMMON ACRONYMS

For the sake of brevity, the following acronyms within this report shall have the following meaning:

BOZA – Board of Zoning Appeals
CETF – Code Enforcement Task Force
CSO – Community Safety Officer
FYP – Front-Yard Parking
IMPC – International Property Maintenance Code
NPDES – National Pollution Discharge Elimination System
PODS – Portable On Demand Storage
ROW – Right Of Way
UOS – Uniform Ordinance Summons
WNOV – Written Notice of Violation

EXECUTIVE SUMMARY – ITEMS READY FOR ACTION BY CITY COUNCIL

To the extent that such actions are legal and/or may be legally enacted, the CETF recommends that:

Constitution & Membership

- City Council extends the constitution of the CETF so it may meet quarterly to ensure progress on the recommendations as well as address any other issues as they may arise (recommendation unanimous).
- If City Council is willing to extend the constitution of the CETF, City Council either asks persons who have not attended to commit to the CETF or appoints different persons (recommendation unanimous, from citizen members of CETF only).

Roll Carts

- City Council request the City Manager and/or the City Attorney prepare an amendment to City Code that would:
 1. Ensure that roll carts could not be placed out too early;
 2. Reduce the number of warnings before a roll cart is removed from two to one, and establish that a warning is valid for a period of 12 months; and
 3. Hold property owners responsible for chronic violations by tenants (recommendation unanimous).

Curbside Household Trash/Debris

- City Council request the City Manager and/or the City Attorney prepare an ordinance that would:
 1. Charge \$200 for Solid Waste to pick up scheduled eviction trash;
 2. Limit the pick up of eviction trash to only typical trash pick up days; and
 3. Charge \$500 for Solid Waste to pick up eviction trash if the owner fails to schedule the pick up (recommendation unanimous).

Shopping Center Signs

- City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that would codify a process whereby the Planning Commission could approve common shopping center and industrial/medical park signs during Site Plan Review, provided the signage within the development did not exceed the current allowance for number and sq.ft. (recommendation unanimous).

Pay Day Lenders

- ❑ City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance stating that pay day and other like lenders will no longer require a special exception but instead be classified as a conditional use, those conditions being similar to those imposed by the cities of Rock Hill and Greenville, which limit such lenders to buildings containing 30,000 sq.ft. or more and require that such lenders be no closer together than 3,000 feet. The CETF finds that the proliferation of pay day and other like lenders suggests a commercial corridor is in economic and social decline, negatively impacting economic development efforts, and that these changes would discourage the illegal practice of rolling over loans and minimize the often garish appearance of such establishments (recommendation unanimous).

The specific language approved by the CETF is within Appendix A of this report.

Residential Specialty Contractors

- ❑ City Council request the City Manager and/or the City Attorney prepare an ordinance that would allow a residential specialty contractor to work on decks, siding, and roofs, where the value of the job was less than \$5,000, as well as eliminate any doubt from the City Code about the requirement that a person who wishes to do more than this work must have at least a residential builders license (one member disagreed with recommendation).

The specific language approved by the CETF is within Appendix B of this report.

Recreational Vehicles in Residential Districts

- ❑ City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that would:
 1. Expand the scope of the current language from travel and camping trailers to the list of non-traditional vehicles used within the FYP ordinance, including buses, recreational vehicles, motor homes, campers and camping trailers, trailers, boats, etc.;
 2. Prohibit the parking or storage of such vehicles within the area between any street lot line and the associated façade of the house. This regulatory approach is the same as that employed within the FYP ordinance; and
 3. Require compliance with the above language within 12 months of the effective date of the new language (recommendation unanimous).

The specific language approved by the CETF is within Appendix C of this report.

PODS Devices

- ❑ City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that would:

1. Permit PODS devices for 7 or 14 days, subject to the issuance and clear posting of a permit, and establish a fee proportionate to the amount of time of the permit;
2. Require that PODS devices be placed only in a location in which a vehicle could be lawfully parked; and
3. PODS devices would be allowed upon each residential property for two 2-week periods per ownership instance per year (recommendation unanimous).

The specific language approved by the CETF is within Appendix D of this report.

Absentee Landlords, Notification, and Registration

- ❑ City Council request the City Manager and/or the City Attorney prepare an ordinance that amends the business license regulations providing that:
 1. All property owners that rent, or offer to rent, real property are required to have a business license and provide a local contact that is generally available immediately, including address and telephone number;
 2. The business license application shall ask whether or not the applicant or an immediate family member has any interest in a business entity, such as an LLC, trust, or partnership, without limitation, that owns rental property within the City. If yes, the applicant must list those properties;
 3. All present inspection practices will continue;
 4. Where this effort requires a local contact with local street address and telephone number, that person must be a registered agent for service of process, and the property owner must provide a local contact for each property. The local contact can be the property owner, and the local contact does not have to be a licensed property manager;
 5. The local contact shall receive notice of all offenses that occur upon his or her property, including alcohol- and drug-related offenses;
 6. Registration information must be updated no less frequently than annually, in conjunction with the business license renewal; and
 7. The City shall amend its codes such that any entity which holds an interest in real property in which it does not occupy as its primary residence – such as foreclosures, probates, inheritances, VA Vendee – must provide a local contact as described above. Also, to the extent that a property owner may be exempt from the business license requirement, that entity must still register a local contact as described above (recommendation unanimous).

Unsecured Outdoor Refrigerators

- ❑ City Council request the City Manager and/or the City Attorney prepare an ordinance that allows the City to either modify or remove a dangerous refrigerator where no other remedy will eliminate the risk of loss of life (recommendation unanimous).

The specific language approved by the CETF is within Appendix E of this report.

Nuisance Ordinance

- ❑ City Council request the City Manager and/or the City Attorney prepare an ordinance to amend the nuisance ordinance [§ 8-40] in the following ways:
 1. Noise and alcohol- and drug-related convictions should be added to the list of items that constitute a public nuisance;
 2. The provision regarding three convictions within 18 months should be increased to 24 months [(b)(2)]; and
 3. Section (b)(4), which provides an additional 12 months to remain “conviction free”, should be struck (recommendation unanimous).
- ❑ City Council clarifies its end intent of the nuisance ordinance (recommendation unanimous).

Peddlers

- ❑ City Council request the City Manager and/or the City Attorney prepare an ordinance that amends the business license regulations and/or Zoning Ordinance in the following ways:
 1. Distinguish peddlers from seasonal activities, such as fireworks stands, pumpkin lots, and Christmas tree lots;
 2. Prior to operating, a peddler and seasonal activity must provide written authorization from the owner of the property where the peddler proposes to operate;
 3. Prior to operating, a peddler and seasonal activity must provide a site plan showing the extent and exact location of the operation to ensure the operation is not located within required setbacks or does not consume required parking spaces;
 4. Peddlers shall not operate from a vacant lot, rather the lot must be improved with a structure and the public must have access to a handicap accessible restroom;
 5. Peddlers are limited to no more than three sales per location per year, and each sale shall not exceed three days; and
 6. Time frames for seasonal activities will be limited depending upon the activity, and they may occur upon a vacant lot, provided the public has access to a handicap accessible restroom (recommendation unanimous).

The specific language approved by the CETF is within Appendix F of this report.

Commercial Vehicles within Residential Districts

- ❑ City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that prevents persons from parking any part of a commercial vehicle, generally as defined by State statute, upon residentially zoned property, except in certain expected circumstances (recommendation unanimous).

On June 2, 2008, the Planning Commission unanimously recommended approval of this amendment, and City Council gave the resulting ordinance first reading on July 16, 2008. The CETF is aware that members of City Council had several questions, and staff and the Legal Department have suggested technical changes to the ordinance. Staff has advised the CETF of those changes, and the CETF does not believe that these changes modify their original intent. The specific language approved by the CETF is within Appendix G of this report.

Collecting Costs Associated with Abating Violations as Municipal Taxes

- ❑ In accordance with § 5-7-80 of State statute, City Council compel Richland County to implement billing and collection protocol as quickly and efficiently as possible such that the City can collect the costs of cleaning lots and property in the same manner as municipal taxes (recommendation unanimous).

Permitted Fence Material

- ❑ City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that prohibits the use of vinyl or plastic tarps as a fence material and requires the removal of all existing such material within 3 months of the effective date of that amendment (recommendation unanimous).

The specific language approved by the CETF is within Appendix H of this report.

Living within Vehicles

- ❑ City Council request the City Manager and/or the City Attorney prepare an ordinance and/or amendment to the Zoning Ordinance that prevents persons from living or sleeping within a vehicle, except in certain expected circumstances (recommendation unanimous).

The specific language recommended by the CETF is within Appendix C of this report.

Indoor Furniture Outdoors

- ❑ City Council request the City Manager and/or the City Attorney prepare an ordinance that adopts limits on the amount of time that certain items can remain outdoors, including on porches, balconies, decks, etc. Those “certain items” include appliances, bedding, bottles, glass, cans, cardboard, upholstered furniture manufactured for indoor use only, household appliances, jars, lumber and building supply materials not related to an active permit and not neatly stacked, machine parts, motor vehicles parts, pallets, paper, plumbing fixtures, rags, scrap metal (recommendation unanimous).

The specific language approved by the CETF is within Appendix I of this report.

Festoons and Inflatable Signs

- ❑ City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that prohibits festoons and inflatable signs and requires the removal of all existing such devices within 12 months of the effective date of that amendment (recommendation unanimous).

The specific language approved by the CETF is within Appendix J of this report.

UPDATES TO ISSUES PREVIOUSLY COMPLETED

Abandoned/Derelict Vehicles

On June 20, 2007, City Council unanimously approved the recommendation of the CETF that City Council direct staff and/or its lobbyists to pursue changes to the South Carolina Code of Laws, Title 56, Chapter 5, Articles 39 and 41, Disposition of Abandoned Motor Vehicles on Highway and Disposition of Abandoned or Derelict Motor Vehicles on Public or Private Property, respectively, to generally:

1. Allow code enforcement inspectors to initiate tows, rather than police officers;
2. Expand the definition of derelict vehicle to all unregistered vehicles, rather than only those unregistered vehicles more than eight years old;
3. Extend the notice provisions to the particular vehicle for at least 12 months to ensure persons cannot jockey vehicles from location to location; and
4. Ensure that car covers cannot be used to exempt a vehicle from compliance.

In March of this year, several legislators agreed to sponsor legislation at both the State House and Senate that would have accomplished the above recommendations. However, after much last-minute political gamesmanship, the bill was sent to the Governor containing only a portion of the language that allowed code enforcement inspectors to initiate tows. The Governor allowed the bill to become law without signature. Currently, the Planning & Development Services Department and the Police Department are working on amending our internal processes to implement this change, and City staff and lobbyists intend to resubmit the bill again next session.

Act No. 308 and the language originally recommended by the CETF are within Appendix K of this report. The language recommended by the CETF was previously reviewed and approved by the Legal Department.

Front-Yard Parking

On June 20, 2007, City Council unanimously approved the recommendation of the CETF that City Council direct staff to initiate an amendment to the Zoning Ordinance, Section 17-319, Vehicular Parking, to generally:

1. Hold property owners accountable for unlawful parking by tenants after two notices on any vehicle within a 12-month period; and
2. Ensure that parking spaces are completely covered with the improved surface.

At the same time, City Council unanimously approved the recommendation of the CETF that City Council direct staff to cross train police officers, and take any other necessary steps, such that police officers may also enforce § 17-319 of the Zoning Ordinance, Vehicular Parking.

At this time, the necessary text amendment to the Zoning Ordinance has not yet been submitted to the Planning Commission because the Task Force found several other important changes that were best included within this section of the Zoning Ordinance. Staff anticipates

that the complete amendment to § 17-319 will be ready for City Council consideration at either the September or November Zoning Public Hearing.

Also, following the initial report of the Task Force, the City Manager directed the Development Services Department and the Department of Homeland Security to coordinate training of CSOs regarding FYP. Effective July 1, 2008, CSOs have been trained regarding both FYP and roll cart violations, and they are actively monitoring their areas for such violations.

The specific language originally recommended by the CETF is within Appendix C of this report.

Overgrown Lots/Premises

In June 2007, the CETF reported that the current regulations, policies, and procedures regarding overgrown lots and premises worked well and the CETF unanimously recommended no changes. However, in April of this year, staff discovered a provision within State Statute (§ 5-7-80) that allows municipalities to collect costs of cleaning lots and property in the same manner as municipal taxes. **The CETF unanimously recommends that City Council compel Richland County to implement such billing and collection as quickly and efficiently as possible.** Staff is reviewing the provisions of City Code and the IPMC to ensure that the necessary implementing language is codified.

Fee Waiver for Not-For-Profits

In June 2007, the CETF unanimously recommended that the City make no changes regarding the building and zoning permit fees charged for not-for-profits that perform volunteer work on owner-occupied, single-family residences, where that owner was a low-income person. The Legal Department had advised staff and the CETF that municipalities may only charge fees for services to recoup the costs directly related to the work associated with the service; one could argue that, if certain classes of persons were not charged fees but the City was still performing inspections (a direct cost), then a portion of the fees paid by the remaining classes of persons were actually subsidizing the waiver.

Despite this recommendation, the CETF and staff still felt that the concept described above was a good one. As such, in September 2007, the Community Development Department established the Not-For-Profit Building Permit Reimbursement Program. After meeting eligibility requirements generally described above, not-for-profits can request that the Community Development Department reimburse payments made to the Planning & Development Services Department for building and zoning permit fees.

ISSUES COMPLETED

Roll Carts

In January 2007, the CETF began discussing how the City regulates the placement of roll carts curbside. The CETF reviewed the existing regulations, which primarily come from § 19-35 of City Code. Generally, roll carts must be placed at the curb no later than 8:00 a.m. on the day of collection and taken back from the curb no later than 7:30 p.m. on the day of collection.

Staff outlined that the process generally follows the course of action below:

1. An inspector inspects the property. If the roll cart has been left out too long, the inspector places a green sticker upon the roll cart.
2. The owner of the vehicle has 7 days to abate the violation.
3. If the inspector returns after 7 days and the roll cart is again in violation, the inspector again places a green sticker on the roll cart, noticing the responsible party of a second violation.
4. If the inspector returns again after 7 days of the second notice and the roll cart is again in violation, the inspector causes the roll cart to be returned to the Solid Waste Department. The responsible party can retrieve the roll cart after paying an approximately \$90 fine.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an amendment to City Code that would:

- 1. Ensure that roll carts could not be placed out too early;**
- 2. Reduce the number of warnings before a roll cart is removed from two to one, and establish that a warning is valid for a period of 12 months; and**
- 3. Hold property owners responsible for chronic violations by tenants.**

The CETF is aware that staff is considering a comprehensive amendment to Chapter 19 of the City Code, Solid Waste Management, and that amendment could include this recommendation of the CETF.

Curbside Household Trash/Debris

In February 2007, the CETF began discussing how the City addresses the curbside placement of household items, especially considering “move outs” and evictions. Kathryn Fenner advised the CETF that State statute requires 48-hour notice to the tenant that is being evicted from a home to pick up belongings before Solid Waste can pick them up, unless the eviction occurs on the same day as typical trash pick up.

The CETF unanimously recommends that that City Council request the City Manager and/or the City Attorney prepare an ordinance that would:

- 1. Charge \$200 for Solid Waste to pick up scheduled eviction trash;**
- 2. Limit the pick up of eviction trash to only typical trash pick up days; and**
- 3. Charge \$500 for Solid Waste to pick up eviction trash if the owner fails to schedule the pick up.**

In addition, the CETF opined that, while the placement of any material curbside creates issues regarding stormwater quality, it also promotes private property maintenance. The CETF evaluated several different ways in which material could be placed curbside to mitigate concerns. Staff suggested to the CETF that this allowance may end, or be drastically curtailed, depending upon conditions that DHEC may or may not impose when it issues the NPDES (National Pollution Discharge Elimination System) permit in the near future. The CETF suggested that they might need to reconsider this matter after the issuance of the NPDES permit.

The CETF is aware that staff is considering a comprehensive amendment to Chapter 19 of the City Code, Solid Waste Management, and that amendment could include this recommendation of the CETF.

Signs within Right-Of-Way (ROW)

From February 2007 to July 2007, the CETF discussed the problems caused by signs placed within the City rights-of-way. Generally, such signs are prohibited from being placed within the rights-of-way or upon objects, such as utility poles, located within the rights-of-way.

Staff suggested that clean and orderly streets are an essential component to a high quality of life, having removed over 35,000 such signs since November 2005. Staff advised the CETF that most ROW signs are temporary in nature, leading quickly to a state of disrepair, then becoming nothing more than common litter; also, such signs have a propensity to proliferate, especially when allowed to remain, because persons use this tool to “out advertise” each other. Lastly, staff pointed out that such signs could block the visibility of motorists and pedestrians, placing persons at risk.

The Legal Department reports that § 57-25-10 of the South Carolina Code of Laws provides the necessary basis for enforcement. That statute says, “It is unlawful for a person to display, place or affix a sign . . . within a right-of-way and visible from the main traveled way of the highway.” As such, **the CETF unanimously recommends no changes to the regulations regarding ROW signs.** Also, the CETF asked the Legal Department whether or not a scenario exists under which citizens could be charged with removing illegally posted ROW signs, and the Legal Department reported back, “No”. At the request of the CETF, staff checked other municipalities and reported to the group that they could find no other municipality within South Carolina where citizens actually enforce codes, e.g. write notices or summons. Staff reported to the CETF that they did find several municipalities within Georgia that have “volunteer” or “deputy” programs, but those programs are – at best – day-long training sessions that advise citizens on how to spot and then report violations; citizens do not enforce codes.

Shopping Center Signs

In April 2007, the CETF discussed how the City prohibits common signs for shopping centers and industrial/medical parks. Staff explained that many of these signs fall into the Zoning Ordinance definition of prohibited off-premises advertising signs or billboards when, in actuality, these are the types of common signs the City should be encouraging.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that would codify a process whereby the Planning Commission could approve common shopping center and industrial/medical park signs during Site Plan Review, provided the signage within the development did not exceed the current allowance for number and sq.ft.

Pay Day Lenders

From April 2007 to February 2008, the CETF discussed the proliferation of non-depository personal credit institutions (pay day loan and title loan establishments). Staff explained to the CETF that State statute allows such lenders, but the City requires each operator to request a special exception from the BOZA. Staff informed the CETF that the BOZA can only use specific criteria to evaluate a special exception, and those criteria center on potential land use impacts. Staff suggested that, from concerns expressed during public hearings, it seems the major concern is a social/financial impact. Staff informed the CETF that, when properties are noticed for a public hearing at the BOZA, with the criteria established as they are, residents who may not want these uses are given a false impression that the BOZA can deny them. Staff informed the CETF that its search for quantitative analyses of negative secondary land use impacts of such lenders upon proximate land uses found little results, except a July 2006 study from Chattanooga, Tennessee that attempted to determine whether pay day lenders impacted residential home values or caused an increase in crime. That study found that the value of proximate homes still increased, but not as much as those that were not near such establishments; the study emphasized that the lower rate could not definitively be attributed to pay day lenders alone. Finally, that study found no correlating increase in crime rates.

The CETF heard from Theresa Arnold and Tighe Simmons of the American Association of Retired People (AARP). Ms. Arnold opined that pay day lenders are predatory lenders, and South Carolina has probably more pay day lenders per capita than any other state. When asked what makes pay day lending a zoning/land use problem, rather than a social problem, Ms. Arnold said that the pay day lending business model requires that these businesses cluster together; she said that, while no one store is supposed to make multiple loans to one person, one store simply sends a borrower to another lender next door.

Staff suggested to the CETF that a more appropriate way to regulate pay day lenders may be as a conditional use; a conditional use is approved without a public hearing at BOZA, provided it conform to specific conditions, such as setback or separation requirements. Staff suggested to the CETF that the State has already set the precedent of requiring distancing requirements for land uses that do not have statistically-based negative secondary land use impacts; State statute requires that tattoo parlors and body-piercing establishments can be no

closer than 1,000 feet of a church, school, or playground. Staff informed the CETF of their conversation with the City of Greenville and their ordinance adopted for pay day lenders. Greenville requires new pay day lenders to be located in a shopping center of 30,000 sq.ft. or more, and no pay day lender can be located within 3,000 feet of another such lender. Greenville has between 60 to 80 establishments, and this number could be reduced to 30 to 40 once amortization provisions within the ordinance begin to take effect. The Greenville ordinance requires that, once a current lease expires, the pay day lender loses any grandfather status and must conform to the new locational provisions. Staff advised the CETF that the City of Rock Hill passed a shopping-center provision like Greenville as well as a separation requirement, but that distance was only 1,000 feet. The CETF reviewed a map of the locations of all pay day lenders and title loan establishments and discussed that a separation requirement like that used in Greenville would help break up clusters of pay day lenders and discourage them from rolling over debts.

The CETF stressed that this effort was not intended to include pawnbrokers and other like personal loan establishments, and the Legal Department provided information from State statute that demonstrated that those uses are regulated distinctly from pay day lenders and title loan establishments.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance stating that pay day and other like lenders will no longer require a special exception but instead be classified as a conditional use, those conditions being similar to those imposed by the cities of Rock Hill and Greenville, which limit such lenders to buildings containing 30,000 sq.ft. or more and require that such lenders be no closer together than 3,000 feet. The CETF finds that the proliferation of pay day and other like lenders suggests a commercial corridor is in economic and social decline, negatively impacting economic development efforts, and that these changes would discourage the illegal practice of rolling over loans and minimize the often garish appearance of such establishments,

The specific language recommended by the CETF is within Appendix A of this report. Upon request, staff can provide copies of the map of existing pay day lenders and title loan establishments as well as the Chattanooga, Tennessee study.

Residential Specialty Contractors

From May 2007 to July 2007, the CETF discussed Residential Specialty Contractors. Staff informed the CETF that these persons simply possess a registration card issued by the State upon payment of \$50; these people are not licensed contractors. Staff explained that State statute gives municipalities the option of issuing a permit to persons holding such a registration card; Lexington County is the only area local government that recognizes these cards. Staff advised the CETF that, despite this exclusion, a previous director established a practice where permits were sold to residential specialty contractors for work on decks, siding, and roofs where the value of the job was less than \$5,000.

Staff suggested to the CETF that this practice has not created any real difficulties for building inspectors. As such, **the CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an ordinance that would allow a**

residential specialty contractor to work on decks, siding, and roofs, where the value of the job was less than \$5,000, as well as eliminate any doubt from the City Code about the requirement that a person who wishes to do more than this work must have at least a residential builders license. The specific language recommended by the CETF is within Appendix B of this report.

Recreational Vehicles in Residential Districts

From May 2007 to July 2007, the CETF discussed regulations regarding the parking of recreational vehicles upon residential property. Staff explained that the Zoning Ordinance permits one travel or camping trailer upon each residential property, provided it is not occupied, even temporarily (§ 17-318). Staff explained that the current application is a bit limited in scope (e.g. one could argue that recreational vehicles are excluded from this regulation), and the Zoning Ordinance makes no mention about the appropriateness of parking these vehicles in certain parts of residential property, such as the front yard.

Staff suggested that the CETF may want to consider an amendment that only permitted the parking of such vehicles within the front or street side yard where a location within the side or rear yard was not feasible. The CETF suggested that, because of the potential size of these vehicles, no circumstances would warrant their placement within the area between any street and any side of a house. The CETF opined that, if no side or rear yard location was feasible, a property owner should rent an off-site location at which such a vehicle could be stored, rather than permit its impact upon a residential street.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that would:

- 1. Expand the scope of the current language from travel and camping trailers to the list of non-traditional vehicles used within the FYP ordinance, including buses, recreational vehicles, motor homes, campers and camping trailers, trailers, boats, etc.;**
- 2. Prohibit the parking or storage of such vehicles within the area between any street lot line and the associated façade of the house. This regulatory approach is the same as that employed within the FYP ordinance; and**
- 3. Require compliance with the above language within 12 months of the effective date of the new language.**

The specific language recommended by the CETF is within Appendix C of this report.

PODS Devices

From May 2007 to October 2007, the CETF discussed how the City regulates Portable On Demand Storage (PODS) devices. Staff explained that the Zoning Ordinance prohibits these devices in residential areas, except for acts of God and active construction projects (§ 17-320). Staff explained that PODS devices are allowed for certain commercial establishments with the

approval of the Fire Marshal (to ensure fire lanes remain free of obstructions). Staff explained that the current provisions do not allow the use of PODS devices for moving, and staff has had several requests to amend the Zoning Ordinance to make this allowance. Staff suggested that this amendment must be done thoughtfully to ensure that an amendment does not open the door for former/recycled shipping containers, cargo containers, and tractor trailers to become permanent accessory structures within residential districts – the reason behind the original crafting of § 17-320 in December 2002.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that would:

- 1. Permit PODS devices for 7 or 14 days, subject to the issuance and clear posting of a permit, and establish a fee proportionate to the amount of time of the permit.**
- 2. Require that PODS devices be placed only in a location in which a vehicle could be lawfully parked.** In other words, PODS devices could not be simply placed upon a front lawn, but they may be able to be placed along a street. The CETF asked staff for more information about placing such structures along a street, suggesting that it would analogous to situations where the City authorizes dumpsters to be placed along the street. Staff opined that, minimally, the City would require liability insurance.
- 3. PODS devices would be allowed upon each residential property for two 2-week periods per ownership instance per year.** This allowance would permit “move ins” and “move outs”. In other words, a current owner would be allowed two 2-week periods to move out, while a new owner would be allowed the same two 2-week periods to move in.

The specific language recommended by the CETF is within Appendix D of this report.

Absentee Landlords, Notification and Registration

From May 2007 to February 2008, the CETF discussed the problems posed by persons who owned property within the City, failed to maintain that property, but lived elsewhere, perhaps out of state.

Staff advised the CETF that problems with irresponsible property owners affect all aspects of code enforcement – from problems with overgrown lots to derelict houses. Staff advised the CETF that the IPMC includes provisions that allow the posting of a house with a notice of violation when a notice sent via mail is returned unclaimed; however, where the code violations are not so severe as to warrant the demolition of the house, the next step is the issuance of a UOS, and the service of such summons must be in person.

Staff suggested that their efforts to abate problem houses would be greatly aided if a UOS could be posted upon structure and/or property for a generous period of time prior to the court date, such as 30-60 days; this time period would assume that a responsible property owner would either frequent his/her property once every 30-60 days or have someone locally who would. The Legal Department has provided the CETF with an October 2002 opinion from the Office of the

Attorney General for the State of South Carolina that states that, because UOS initiate criminal proceedings, a UOS must be served personally when State statute directs service but is silent as to the permissible method of service. When staff asked the Legal Department how the City could change that opinion, the Legal Department suggested that it would at least take an amendment to State statute.

Then, in April 2008, staff advised the CETF that they found existing State Statute that allows the City to post structures that have been declared unfit for human habitation. Staff emphasized that “unfit for human habitation” may not always describe properties that are vacant and/or have been boarded for an extended period of time; however, this statute is an important tool that has been missing from the inspectors’ toolbox. The CETF understands that staff immediately began use of this important provision and has already posted a handful of structures. To this end, **the CETF unanimously endorses the posting of dwellings deemed “unfit for human habitation” as a means to expedite their demolition.**

The CETF also evaluated a housing receivership program currently used in Massachusetts. This program, used by over 20 municipalities, removes property from the ownership of chronically negligent landlords. Grounded in state enabling legislation, judges may declare that a property is so unsafe and/or unsanitary, that the residents are in danger. At that point, the property is given to a receiver – often a not-for-profit corporation – who will commit the necessary funds to abate the health and safety violations. The original owner can reclaim the property only by repaying the improvement costs. If the owner abandons the property, the structure is offered for affordable housing. An article about this program appearing in the June 2004 issue of *Planning* magazine notes that it requires significant resources. That same article states that housing receivership statutes exist, or are being prepared for legislative approval, in Colorado, Connecticut, Delaware, Illinois, Indiana, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Rhode Island, and Washington, D.C. After extensive discussion, much centered on the taking of property, **the CETF unanimously approved a motion to focus efforts on this topic around notification and registration, not receivership.**

The CETF is aware that the City of Columbia Affordable Housing Taskforce recommended instituting a program requiring the registration and/or certification of rental properties, and this program would be administered by a separate department charged with overseeing and administering the other recommendations of that task force. Marc Mylott advised the CETF that current staffing levels within his department would not allow him to implement a rental registration program.

The CETF studied the programs currently in place in the South Carolina cities of Clemson, Greenwood, and Newberry; the most important element of such programs is that a property owner is required to have, and provide immediate contact information for, a local manager or responsible party. Staff informed the CETF that, from conversations with those municipalities, they understand that many objected at first, but now most reputable landlords see the registration as a positive because it distinguishes themselves from other, less reputable landlords. The CETF noted that the other important element of such programs is whether or not an inspection is required.

Mr. Mylott advised the CETF that the City has approximately 7,200 single- and two-family structures that are taxed as rental properties, and he estimates that it would take

approximately 1 hour to conduct a life/safety inspection at each structure. Carmen Floyd informed the CETF that her goal is to inspect commercial and multi-family structures annually, but the current staffing only allows City-initiated inspections once every 2-3 years. The CETF discussed the equity of inspecting single- and two-family residences simply because the tenants are renters; single- and two-family owner-occupied homes are not inspected. This concern was asked of the Legal Department, and they too expressed concern.

The CETF discussed whether or not the City could simply modify its business license practices to collect this information; this approach would take advantage of existing operational efficiencies and not add another layer of bureaucracy. Currently, any person renting more than five dwelling units must have a business license.

All in all, this issue was probably the most extensive one debated by the CETF. In the end, **the CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an ordinance that amends the business license regulations providing that:**

- 1. All property owners that rent, or offer to rent, real property are required to have a business license and provide a local contact that is generally available immediately, including address and telephone number.**
- 2. The business license application shall ask whether or not the applicant or an immediate family member has any interest in a business entity, such as an LLC, trust, or partnership, without limitation, that owns rental property within the City. If yes, the applicant must list those properties.**
- 3. All present inspection practices will continue.**
- 4. Where this effort requires a local contact with local street address and telephone number, that person must be a registered agent for service of process, and the property owner must provide a local contact for each property. The local contact can be the property owner, and the local contact does not have to be a licensed property manager.**
- 5. The local contact shall receive notice of all offenses that occur upon his or her property, including alcohol- and drug-related offenses.**
- 6. Registration information must be updated no less frequently than annually, in conjunction with the business license renewal.**
- 7. The City shall amend its codes such that any entity which holds an interest in real property in which it does not occupy as its primary residence – such as foreclosures, probates, inheritances, VA Vendee – must provide a local contact as described above. Also, to the extent that a property owner may be exempt from the business license requirement, that entity must still register a local contact as described above.**

Upon request, staff can provide copies of the information obtained from the cities of Clemson, Greenwood, and Newberry.

Similarly, the CETF discussed the status of properties which fall into foreclosure or are within the 1-year redemption period with the Richland County Assessor Office because of unpaid property taxes. The CETF noted that the recommended registration program would greatly assist abatement of properties that fall into foreclosure as those companies, which become the responsible party, must provide a local contact. Also, the CETF noted that, simply because an owner of property allows his or her property to slip within the 1-year redemption period for unpaid property taxes, that person has not transferred title and is still the responsible party for the condition of that property and structure thereon. The CETF suggested that dissemination to all persons involved with the code enforcement process may be all that is necessary to greatly resolve past problems.

Animal Services

From June 2007 to July 2007, the CETF discussed the Animal Services Division. Marli Drum advised the CETF that their priority is getting pet owners to spade or neuter their animals to reduce the number of animals running at large or being brought to the shelter. Ms. Drum reported that the shelter receives approximately 13,000 animals annually from City of Columbia and Richland County, approximately 10,000 to 11,000 are euthanized annually, and the City gives away free spade and neuter coupons. Ms. Drum explained that animals with no identifiable marks are held for 5 days, animals with identifiable marks are held for 14 days.

Ms. Drum informed the CETF that the City Code limits the number of dogs per household to 2, unless the owner applies for and receives a kennel license; the City does not limit the number of cats, mostly since cats cannot be contained by a fence. Ms. Drum informed the CETF that her staff is initiating a database of larger cat problems, especially colonies. The CETF discussed that feral cats can have an impact on songbird populations.

Ms. Drum advised the CETF that, where a neighbor alleges a dog is nuisance because of barking, the neighbor must sign a warrant through the Police Department. Mr. Drum noted that Animal Services is amending their dangerous dog provisions; the process will again be a criminal matter whereas it was a civil matter. Ms. Drum told the CETF that she does not believe any other changes to animal codes are necessary, but she is reviewing the licensing fee schedule – increasing the un-spade, un-neutered license fee from \$25 to \$50 could encourage owners to spade or neuter their animals.

The CETF unanimously recommends no changes to the regulations, policies, or procedures regarding Animal Services.

Unsecured Outdoor Refrigerators

In November and December 2007, Staff advised the CETF that they discovered that the regulations protecting residents against unsecured and/or outdoor refrigerators needed strengthening. Specifically, neither City Code nor State Statute allows the City to take immediate action to abate a refrigerator that poses an immediate threat to life/safety.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an ordinance that allows the City to either modify or remove a dangerous refrigerator where no other remedy will eliminate the risk of loss of life. The specific language recommended by the CETF is within Appendix E of this report.

Outdoor Storage of Tires

In December 2007, the CETF discussed whether or not the City had sufficient regulations to guard against outdoor stacks/storage of used tires. Staff advised the CETF that the International Fire Code prohibits the accumulation of combustible waste in buildings or structures or upon premises. **The CETF unanimously recommends no changes to the regulations regarding outdoor storage of used tires.**

Nuisance Ordinance

In December 2007 and January 2008, the CETF discussed the City nuisance ordinance (§ 8-40) and the “public nuisance” provisions of business license (§ 11-45). Staff advised the CETF that they could recall no instances where § 8-40 had been invoked; one of the problems is that the property must accrue actual convictions of the listed violations, not simply notices – or allegations – of the listed violations.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an ordinance to amend the nuisance ordinance [§ 8-40] in the following ways:

- 1. Noise and alcohol- and drug-related convictions should be added to the list of items that constitute a public nuisance;**
- 2. The provision regarding three convictions within 18 months should be increased to 24 months [(b)(2)]; and**
- 3. Section (b)(4), which provides an additional 12 months to remain “conviction free”, should be struck.**

However, in a broader sense, the CETF questions, “What is supposed to happen at the end of this process?” Section (b)(5) says that, if after all the time passes, the property owner does not abate the violations, he or she is issued a summons, but that can happen the first time the owner does not abate a specific notice of a specific violation, regardless of a declaration of a public nuisance. The CETF recalled that the City can issue summonses every day an offense remains. CETF members debated whether or not failing to abate a declared public nuisance should allow the City to take the property, and agreed that the nuisance ordinance in no way says that that is the end result. The CETF agreed that nuisance ordinance seems like “a lot to go through” for a result that could be reached much sooner. **The CETF unanimously recommends City Council clarify its end intent of the nuisance ordinance.**

Peddlers

From February 2008 to April 2008, the CETF discussed the Business License Division, primarily the regulations regarding peddlers – those merchants that set up temporarily on private property to sell goods. Brenda Kyzer advised the CETF that peddlers are the biggest issue they face. Staff noted that they receive regular complaints about peddlers; concerns range from health/safety, especially for food vendors, to equity (a food vendor located next to a restaurant has not had to make the capital investment of the restaurateur). Also, staff noted that peddlers often times occupy parking spaces that are required for an existing on-site business.

The CETF reviewed peddler ordinances from Aiken, Anderson, Greer/Greenwood, Laurens, Mount Pleasant, and Springdale. Staff advised the CETF that the Business License Division was moving toward adopting a model ordinance promulgated by the Municipal Association of South Carolina, which is based on the North American Industrial Classification System; among others, a benefit of this classification system is that it will eliminate many current loopholes.

The CETF discussed that the peddler ordinance needs to allow seasonal activities. Carmen Floyd advised the CETF that firework stands are regulated by the S.C. Department of Labor, Licensing, and Regulation, Board of Pyrotechnic Safety. Ms. Kyzer confirmed to the CETF that the City must allow firework stands but can regulate their location.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an ordinance that amends the business license regulations and/or Zoning Ordinance in the following ways:

- 1. Distinguish peddlers from seasonal activities, such as fireworks stands, pumpkin lots, and Christmas tree lots;**
- 2. Prior to operating, a peddler and seasonal activity must provide written authorization from the owner of the property where the peddler proposes to operate;**
- 3. Prior to operating, a peddler and seasonal activity must provide a site plan showing the extent and exact location of the operation to ensure the operation is not located within required setbacks or does not consume required parking spaces;**
- 4. Peddlers shall not operate from a vacant lot, rather the lot must be improved with a structure and the public must have access to a handicap accessible restroom;**
- 5. Peddlers are limited to no more than three sales per location per year, and each sale shall not exceed three days; and**
- 6. Time frames for seasonal activities will be limited depending upon the activity, and they may occur upon a vacant lot, provided the public has access to a handicap accessible restroom.**

The specific proposal recommended by the CETF is within Appendix F of this report.

Commercial Vehicles within Residential Districts

From February 2008 to March 2008, the CETF discussed the regulations regarding the parking of commercial vehicles, especially tractors and tractor trailers, within residential neighborhoods. Staff advised the CETF that § 12-42 of City Code already prohibits parking commercial or recreational vehicles or trailers upon the street for more than two hours, but the regulations regarding parking such vehicles upon public property is not so clear.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that prevents persons from parking any part of a commercial vehicle, generally as defined by State statute, upon residentially zoned property, except in certain expected circumstances.

On June 2, 2008, the Planning Commission unanimously recommended approval of this amendment, and City Council gave the resulting ordinance first reading on July 16, 2008. The CETF is aware that members of City Council had several questions, and staff and the Legal Department have suggested technical changes to the ordinance. Staff has advised the CETF of those changes, and the CETF does not believe that these changes modify their original intent. The specific language recommended by the CETF is within Appendix G of this report.

Collecting Costs Associated with Abating Violations as Municipal Taxes

In April 2008, staff advised the CETF that they found an existing State Statute that allows the City to collect the costs for cutting lots, picking up litter, and boarding or demolishing structures in the same manner as municipal taxes. The CETF understands that staff has initiated conversations with persons at Richland County to determine how such billing and collection can be implemented most quickly and efficiently. To this end, **the CETF unanimously recommends that City Council compel Richland County to implement such billing and collection as quickly and efficiently as possible.**

Permitted Fence Material

In April 2008, the CETF discussed what constituted an appropriate fence or screen material. Staff advised the CETF that they have witnessed several installations of vinyl or plastic tarps as fences or screens, and the adjacent neighbors have complained. On the other hand, the CETF does not intend to prevent the installation of mesh behind a chain link fence such as one might find surrounding a contractor's yard in a commercial district. **The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that prohibits the use of vinyl or plastic tarps as a fence material and requires the removal of all existing such material within 3 months of the effective date of that amendment.** The specific language recommended by the CETF is within Appendix H of this report.

Living within Vehicles

In April 2008, the CETF discussed whether or not persons should be able to reside for any period of time within vehicles. Staff advised the CETF that the only provision that prohibited persons from living within a vehicle was § 17-318 of the Zoning Ordinance, and this prohibition related only to travel or camping vehicles on residential property. Staff suggested that the CETF may want to extend this prohibition. Generally, the CETF believes that persons should not reside within vehicles, but did note several instances where such occupancy was appropriate, such as mobile home parks, truck stops, and campgrounds.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an ordinance and/or amendment to the Zoning Ordinance that prevents persons from living or sleeping within a vehicle, except in certain expected circumstances. The specific language recommended by the CETF is within Appendix C of this report.

Indoor Furniture Outdoors

In May 2008, the CETF discussed the appropriateness of indoor furniture outdoors, including upon covered but open porches. The CETF reviewed ordinances and news accounts of several municipalities that have enacted or are considering such ordinances, including Ann Arbor, Michigan; Manhattan, Kansas; Tuscaloosa, Alabama; the Township of Upper Tulpehocken, Pennsylvania; and Wilson, North Carolina. The CETF discussed the fire hazards of this material, the health/safety problems created when such furniture is repeatedly exposed to the elements, and the aesthetics. The CETF noted that, very recently, companies are marketing indoor-looking furniture designed for outdoor use, and any regulatory efforts should expressly exclude that material.

The CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an ordinance that adopts limits on the amount of time that certain items can remain outdoors, including on porches, balconies, decks, etc. Those “certain items” include appliances, bedding, bottles, glass, cans, cardboard, upholstered furniture manufactured for indoor use only, household appliances, jars, lumber and building supply materials not related to an active permit and not neatly stacked, machine parts, motor vehicles parts, pallets, paper, plumbing fixtures, rags, scrap metal. The specific language recommended by the CETF is within Appendix I of this report.

Limit to Number of Vehicles on Residential Property

From June to July 2008, the CETF discussed whether or not the City should limit the number of vehicles that could be stored outside at a residential property. The CETF noted that, at this time, a person could fill their entire backyard with vehicles, as long as they owned the vehicles and the vehicles were licensed, registered, and operable. The CETF discussed the current limits regarding front-yard parking as well as the State statute regarding abandoned and derelict vehicles. Staff advised the CETF that they communicated with Atlanta, Georgia; the cities of Charleston, Florence, Myrtle Beach, and North Charleston, South Carolina; and the

South Carolina counties of Anderson and Lancaster; none of these communities had any such limit.

The CETF unanimously agreed not to recommend limits upon the number of vehicles that could be stored outside a residential property.

Construction Site Debris Containment

From June to July 2008, the CETF discussed whether or not the City should require that contractors use dumpsters at all construction sites, including remodeling jobs. The CETF noted that some contractors hasten together flimsy wood or wire enclosures to contain debris, while others simply stack debris piles on the property. Staff advised the CETF that they could recall no complaints of unkempt construction sites in years; when they did receive one, at the request of the inspector, the contractor always immediately picked up.

The CETF unanimously agreed not to recommend that contractors must be required to provide dumpsters at all construction sites.

Noise, Loud Music from Moving Vehicles

In July 2008, the CETF discussed the noise ordinance. Staff advised the CETF that the only problem they face with the current regulations is the ambiguous language used within § 8-61. The CETF recognized that it was unreasonable to expect that police officers would carry decibel meters. As such, upon invitation, Chief Administrative Judge Dana Turner addressed the CETF such that staff may have a better understanding of what the municipal judges deem an “unreasonably loud, disturbing or unnecessary noise”. Chief Judge Turner advised staff that it would seem that sufficient evidence for a conviction of a noise violation emanating from a vehicle would be where an officer can hear the noise from within his/her vehicle with his/her windows closed. Chief Judge Turner advised staff that, where the noise violation emanates from a building, it would seem that sufficient evidence would be where an officer can hear the noise from an adjacent property or building. Chief Judge Turner said that neighbors can testify, but the judges cannot accept affidavits.

Festoons and Inflatable Signs

In July 2008, the CETF reviewed the sign ordinance and specifically discussed the use of festoons – strings of ribbons, tinsel, flags, and pennants – and inflatable signs as attention-getting devices. The CETF determined that, especially given the wide variety of other permitted ways to inform or attract attention to a property, the proliferation of these devices suggested a less-than-first-class commercial corridor.

As such, the CETF unanimously recommends that City Council request the City Manager and/or the City Attorney prepare an amendment to the Zoning Ordinance that prohibits festoons and inflatable signs and requires the removal of all existing such devices within 12 months of the effective date of that amendment. The specific language recommended by the CETF is within Appendix J of this report.

Miscellaneous Zoning Matters

In October 2007, the CETF discussed the use of planned unit developments. Staff advised the CETF that PUDs can be abused, often being used to circumvent an otherwise unvariable regulation within the Zoning Ordinance or being approved with conditions that exceed the traditional purview of land use regulations. The CETF determined that these issues, albeit important, were not within their purview. **The CETF unanimously agreed to remove this item from their work program, but suggests that the Planning Commission may wish to consider reviewing this important provision of the Zoning Ordinance.**

In December 2007, the CETF discussed the home occupations provisions of the Zoning Ordinance. Staff suggested to the CETF that they have not had too many problems with these provisions, and Staff asked the CETF whether or not they would like to make any changes, such as making it easier to establish particular types of home occupations. The CETF discussed each of the home occupation provisions. **The CETF unanimously agreed to recommend no changes to the home occupation provisions of the Zoning Ordinance.**

In July 2008, the CETF reviewed the following list of zoning matters and determined that, while they were important, they too were not within their purview. As such, **the CETF unanimously agreed to remove the following items from their work program, but suggest that staff still consider reviewing these matters with either the Planning Commission or the BOZA.**

- **Consider Permitting Alternate Parking Surfaces.** Staff advised the CETF that they have already developed a very rough draft of an ordinance about this matter, and they hope to present it to the Planning Commission this fall.
- **Consider Changing Zoning Relief to Parking Requirements from a Variance to a Special Exception.** Staff advised the CETF that they have already developed a very rough draft of an ordinance about this matter, and they hope to present it to the Planning Commission this fall.
- **Evaluate Variance and Special Exception Criteria.** Staff explained to the CETF that they are already working with the Legal Department on this matter.
- **Consider Changing Certain Auto Repair/Service Facilities to Conditional Use.** Staff explained to the CETF that all auto repair/service facilities must go the BOZA for a special exception, but this amendment could permit auto repair establishments that are accessory to auto dealerships, subject to conditions, without having to go to the BOZA.
- **Establish Use Classification and Parking Requirement for Recreational Facilities.** Staff advised the CETF that, in July of this year, the Planning Commission recommended approval of a change to the Zoning Ordinance that established a use classification for municipal recreation facilities; this recommendation will be forwarded to City Council for zoning public hearing in September.

- **Consider Changing Used Merchandise Store to Conditional Use.** Staff advised the CETF that this change was approved by City Council as part of the creation of the MX-1 zoning district on June 18, 2008.
- **Consider Changing Certain Day Care Centers to Conditional Use.** Staff advised the CETF that this item was originally placed on the work program to consider whether or not a day care center with very few children could open within a residential district without needing a special exception. Staff explained that, within the past year however, several applications for day care centers with very few children have met with much resistance from neighbors. As such, staff suggested to the CETF that this amendment is no longer a priority and will probably not be advanced.

Staffing Levels

The citizen members of the CETF recognized that matters of staffing were expressly omitted from their mission; however, those members suggest that, even if the City has “the best codes in the world”, they will not solve any problems if the City does not have the inspectors to enforce them. The citizen members of the CETF asked staff to provide information about staffing levels and work loads. Staff reminded the CETF that, generally, the Planning & Development Services Department administers code enforcement for single- and two-family residential and the Fire Department (Office of the Fire Marshal) administers code enforcement for residential with three or more units and commercial property; zoning inspectors cover all property.

Marc Mylott reported to the CETF the Planning & Development Services Department includes six housing inspectors, eight code enforcement inspectors, and four zoning inspectors; the Department also includes a six-person work crew to abate certain types of violations. Mr. Mylott provided the CETF with maps showing the territories of the inspectors, demonstrating that a greater emphasis is placed on North Columbia and the Martin Luther King, Lyon Street, and Waverly neighborhoods. Mr. Mylott reported to the CETF that contrary to the public perception, inspectors work is largely proactive; since implementing their code enforcement tracking software in April 2006, almost four out of every five cases was initiated by an inspector, not in response to a complaint. Mr. Mylott reported that his department recently entered its 20,000 code enforcement case.

Mr. Mylott provided the information on Table 1 to the CETF, showing where the City ranks in terms of code enforcement inspectors per person and per square mile. For the purpose of this study, residential and commercial inspectors are consolidated because no other municipalities surveyed divide responsibilities such as Columbia.

Carmen Floyd reported to the CETF that they have almost 7,800 places of occupancy, which are supposed to have one inspection per year; last year, her staff conducted over 4,600 inspections of which approximately 50 percent were reinspections. The CETF noted that, to comply with the inspection requirements, each current inspector would have to conduct more than seven initial inspections/day with no breaks or no travel time.

The citizen members of the CETF expressed deep concerns with the gross understaffing at the Fire Department. The citizen members of the CETF suggested that the staffing levels of the Planning & Development Services Department seemed good, but certainly more people could help to minimize the need for periodic sweeps of neighborhoods or the perception by citizenry that they needed to register a complaint about a particular matter or that matter will not get resolved. The citizen members of the CETF asked other staff involved with code enforcement and quality of life services, such as sanitation, to provide similar assessments of their staffing levels at their first quarterly meeting, if City Council extends the CETF constitution.

Table 1. STAFFING LEVELS FOR CODE ENFORCEMENT					
Municipality	Sq. Miles	Persons*	Inspectors**	Persons Per Inspector	Sq. Miles Per Inspector
City of Cayce	15	12,597	4	3,149	4
City of Myrtle Beach	17	28,597	7	4,085	2
City of Columbia	55***	119,961	23	5,216	2
City of West Columbia	6	16,616	3	5,539	2
City of North Charleston	62	87,482	14	6,249	4
City of Greenville	28	57,428	9	6,381	3
City of Rock Hill	32	61,620	8	7,703	4
City of Spartanburg	20	38,561	5	7,712	4
AVERAGE				5,831	3
NOTES					
* 2006 U.S. Census					
** Staff whose primary responsibility is residential and commercial code enforcement (property maintenance and zoning).					
*** Excludes Fort Jackson, which is approximately 81 sq. miles.					

Quality of Life Court

The citizen members of the CETF also felt compelled to discuss the extent to which the municipal court judges play a role in code enforcement. When asked, Marc Mylott informed the CETF that, over the past several years, he and Harold Reaves have attended two judges meetings to ensure that staff and the judges were aware of each others' perspective about their roles in code enforcement. Mr. Mylott reported that, at each meeting, they discussed with the attending judges that staff generally utilizes a UOS as "a last resort"; in other words, when an inspector issues a UOS, it is because, despite ample and repeated opportunity afforded to an offending party, that person has shown no indication that he or she intends to abate the violation, and the inspector has exhausted all remedies. Mr. Mylott explained to the CETF that, when a person

responds to a notice of violation by contacting the inspector and asking for an extension of time, it is more efficient for that inspector to afford that person more time, typically no more than 1 or 2 weeks, than to initiate criminal proceedings. The citizen members of the CETF acknowledged the general efficiency of that approach, but suggested that the perception in the community was that, once a person was brought to municipal court, the sentences were too light.

As such, upon invitation, Chief Administrative Judge Dana Turner addressed the CETF. Judge Turner advised the CETF that the municipal court judges' general goal is to get compliance; putting a person in jail is not going to abate the problem. Chief Judge Turner noted that the municipal court judges generally followed the sentencing recommendations of the inspectors. Mr. Mylott suggested that perhaps the disconnect is suspended sentences – where the judges find the offending party guilty but suspend the fine and/or jail time upon compliance within a period of time. The citizen members of the CETF agreed that, in many instances, putting a person in jail does not solve the problem, but suggested that sentences need to cost persons money, especially for repeat offenders. The citizen members of the CETF asked staff if they could assess the instances in which individuals were brought to court multiple times, and Chief Judge Turner responded that judges are aware of these persons. The citizen members of the CETF asked Chief Judge Turner if she could provide an assessment of the disposition of quality of life cases at municipal court, and Chief Judge Turner said that she would research the feasibility of responding to that request and report back to the CETF.

When asked, Chief Judge Turner informed the CETF that municipal court judges can only issue fines up to \$500 or 30 days in jail for each UOS; they cannot order abatement, only a circuit court judge can issue such an injunction. When asked, Chief Judge Turner confirmed for the CETF that judges are not bound by the find/bond amounts listed on the UOS and can impose the maximum sentence.

CONCLUSION AND NEXT STEPS

The CETF is very proud of its work to date. We appreciate that City Council appointed a diverse group of persons to represent citizens and businesses, and we respectfully request that City Council act positively and expeditiously on each of the recommendations summarized within the Executive Summary. More so, we ask that City Council extend the constitution of the CETF so that it may meet quarterly to ensure that this work is implemented, further promoting Columbia's high quality of life. The CETF does have several remaining issues it would like to evaluate, including a continued assessment of staffing levels, an assessment of the disposition of the municipal court/quality of life cases, and ways in which the City can further educate the citizenry about quality of life codes.

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**APPENDIX A
RECOMMENDED CHANGES TO CITY CODE (ZONING ORDINANCE),
CHAPTER 17, ARTICLE III,
SECTION 17-258, TABLE OF PERMITTED USES,
NEW SECTION, CONDITIONS FOR NON-DEPOSITORY PERSONAL
CREDIT INSTITUTIONS (PAY DAY LOAN AND/OR TITLE LOAN
ESTABLISHMENTS), AND
SECTION 17-305, PLANNED UNIT DEVELOPMENTS**

Amend Sec. 17-258, Table of Permitted Uses as such:

Change SIC 6141, Non-depository personal credit institution (payday loan and/or title loan establishments), from listed a special exception within the C-1, C-2, C-3, C-3A, C-4, C-5, M-1, M-2, and UTD districts to a conditional use within the C-1, C-2, C-3, C-3A, C-4, C-5, M-1, M-2, and UTD, subject to compliance with Sec. 17-27#.

Sec. 17-27#. Non-depository personal credit institutions (payday loan and/or title loan establishments).

Non-depository personal credit institutions (payday loan and/or title loan establishments) are permitted in C-1, C-2, C-3, C-3A, C-4, C-5, M-1, M-2, and UTD districts subject to the following conditions:

- (a) No non-depository personal credit institution (payday loan and/or title loan establishments) shall be located upon a lot that is within 3,000 feet of a lot upon which a non-depository personal credit institution (payday loan and/or title loan establishments) already exists.
- (b) No non-depository personal credit institution (payday loan and/or title loan establishments) shall be located within a building having less than 30,000 square feet of gross floor area.
- (c) The Board of Zoning Appeals shall not grant a variance from any of the provisions of this section, and the provisions of this section shall not be varied by any provisions of a planned unit development.

Secs. 17-284 - - 17-300. Reserved

Sec. 17-305. Planned unit developments.

(a) *Generally.* Planned unit developments will be designed in accordance with the provisions of this section. No planned unit development shall be used to allow for more than three unrelated adults per dwelling unit or to vary from the conditions required to establish a non-depository personal credit institution. Private dormitories are not permitted within a planned unit development.

APPENDIX B
RECOMMENDED CHANGES TO CITY CODE,
CHAPTER 11, ARTICLE III, SECTION 11-73,
CONTRACTORS' TECHNICAL QUALIFICATIONS

ARTICLE III. CONTRACTORS*

*Cross references: Buildings and building regulations, ch. 5.

Sec. 11-73. Technical qualifications.

Whosoever desires to engage in any facet of the building business within the city, where that business requires a building permit, shall present evidence acceptable to the city Building Official as to his or her qualifications before the city may issue that permit. Minimally, such evidence shall be those current licenses, certifications, and/or qualifications listed on Table 1, unless otherwise exempted by state statute a current contractor's license appropriate for the type of business to be conducted, and in the case of tradesmen a certification card issued by the city or the Municipal Association of South Carolina.

Table 1. Minimum Current Licenses, Certifications, and/or Qualifications to Perform Work within the City of Columbia**

Type of Work, Generally	Issuing Agency				
	SC Department of Labor, Licensing, and Regulation			Municipal Association of South Carolina	City of Columbia
	General Contractors License	Mechanical Contractors License	Residential Home Builders License	Masters Certification Card	Qualification Card
Residential Construction, No Trades*			✓		
Residential Trades*				✓	✓
Commercial Construction, No Trades*, <\$5000					
Commercial Construction, No Trades*, >\$5000	✓				
Commercial Trades*, <\$5000				✓	✓
Commercial Trades*, >\$5000		✓			✓

NOTES

✓ Means that, at a minimum, the respective license, certification, and/or qualification is required.

* "Trades" includes, but is not limited to, gas, electrical, mechanical, HVAC, pipefitting, and sheet metal work.

** In accordance with State Statute, a person registered as a Residential Specialty Contractor with the State is not a licensed contractor.

The individual ~~or business entity~~ may be required to provide such other evidence as deemed necessary by the city Building Official to establish their competency to that he or she is competent to perform the specified work in their specified field. A person registered as a Residential Specialty Contractor within the siding installer classification may be issued a permit to install or repair exterior siding; a person registered as a Residential Specialty Contractor within the roofer classification may be issued a permit to construct or repair roof coverings, and a person registered as a Residential Specialty Contractor within the carpentry classification may be issued a permit to construct or

repair decks, in each case so long as the cost of the materials and labor for the work does not exceed \$5,000.

(Code 1979, § 6-2007)

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APPENDIX C
RECOMMENDED CHANGES TO CITY CODE,
CHAPTER 12, ARTICLE II, SECTION 12-49
PARKING FOR CERTAIN PURPOSES PROHIBITED, AND
RECOMMENDED CHANGES TO CITY CODE (ZONING ORDINANCE),
CHAPTER 17, ARTICLE III, SECTION 17-318,
PARKING OF TRAVEL TRAILERS ON LOTS IN RESIDENTIAL ZONES,
AND SECTION 17-319,
VEHICULAR PARKING

Sec. 12-49. Parking for certain purposes prohibited.

No person shall stand or park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying it for sale; ~~and/or~~
- (2) Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency; ~~and/or~~
- (3) Using the vehicle as a place to live or sleep, except at a government-owned or -operated rest area where such action is expressly permitted.

(Code 1979, § 2-3059)

DIVISION 9. SUPPLEMENTARY DISTRICT REGULATIONS

~~**Sec. 17-318. Parking of travel trailers on lots in residential zones.**~~

~~Not more than one travel or camping vehicle per dwelling unit shall be permitted to be parked on a lot in any residential zone. The vehicle shall not be occupied temporarily or permanently while it is parked or stored, except in an authorized mobile home park.
(Code 1979, § 6-3116; Ord. No. 2000-024, § 4, 3-29-00)~~

~~**Note:** Formerly numbered as 17-316.~~

Sec. 17-319. Vehicular parking.

(a) *Definitions.* For purposes of this section only, the following words and phrases shall have the following meaning:

Driveway means an area improved in accordance with (f) below, leading from a street or alley to a parking space.

Primary front yard means that area between the street-facing facade of the principal building, the front lot line, and either both side lot lines (for interior lots and through lots) or a side lot line and the secondary front lot line (for corner lots). See Figure 1.

Secondary front yard means that area between the street-facing facade of the principal building, the secondary front lot line, the front lot line, and the rear lot line. See Figure 1.

Street-facing facade of the principal building means any facade of the principal building which approximately parallels a street lot line(s), exceeds ten feet in length, and is located within 15 feet of that portion of, or is, the facade of the principal building closest to the corresponding street lot line. See Figure 2.

Tandem parking means two parking spaces placed end-to-end, rather than side-by-side, where one parking space does not abut a driveway or access aisle.

Temporary parking means that the vehicle leaves from and returns to the property approximately once per business day in conjunction with a trip, visit, errand, or other similar reason.

Used for residential purposes means any property used for detached one-family, attached one-family, townhouses, two-family, multifamily, group development, high-rise, mid-rise, mobile home, dormitory, or fraternity or sorority house, as well as property located within a residential district used for a bed and breakfast hotel, rooming house, boarding house, or residential care facility. Properties containing dwelling units within a mixed-use

structure (e.g. ground-floor commercial with apartments within the upper floors) are excluded from this definition. Vacant property zoned residentially is excluded from this definition, as parking upon such property would be considered a principal use and subject to section 17-258, Table of permitted uses.

(b) *Parking in front of principal structure.* No person shall park a vehicle of any description, including but not limited to automobiles, trucks, vans, buses, motorcycles, all-terrain or similar off-road vehicles, recreational vehicles, motor homes, campers or camping trailers, trailers, boats, ~~and~~ jet skis, aircraft, helicopters, and other water or aircraft either (1) within the primary or secondary front yard of any property used for residential purposes, except that personal motorcycles, automobiles, trucks, and vans may so park provided it is upon a parking space designed in accordance with this section, or (2) upon a vacant lot. This section is not intended to prohibit the temporary parking of a vehicle upon a driveway.

(c) *Permitted amount of area.* Parking spaces and driveway shall not occupy an area greater than 40 percent of the primary front yard or 500 square feet within the primary front yard, whichever area is greater. On corner lots, parking spaces and driveway may consume the above amount of area within either the primary front yard or the secondary front yard, but not both. On through lots, parking spaces and driveway may consume the above amount of area within only one primary front yard.

(d) *Required size of parking spaces.* Parking spaces located within either the primary or secondary front yard shall be nine feet wide by 20 feet deep, except upon property used for detached one-family and two-family where the size of a parking space may be reduced to eight feet wide by 16 feet deep.

(e) *Arrangement of parking spaces.* Parking space and driveway configurations, except where the property is used for detached one-family, attached one-family, townhouses, and two-family, shall be so designed that vehicles are not required to back onto or maneuver in the public right-of-way. Tandem parking spaces are permitted only upon property used for detached one-family and two-family.

(f) *Permitted materials.* Parking spaces and driveways shall be paved with asphalt, brick, concrete, or covered with pervious material such as crushed stone, gravel, or mulch. Tire ribbons of asphalt, brick, concrete, or some other hard impervious surface are permitted where the overall parking space meets the size requirements above.

(g) *Confinement and maintenance of pervious material.* Where the parking space and driveway is covered with a pervious material, such material shall be confined to the parking space and driveway with a device expressly designed for such purposes including but not limited to bricks, railroad ties, and plastic/PVC landscaping borders. The pervious material shall be renewed or replaced as reasonably necessary to maintain a neat and orderly appearance and to ensure the parking space and driveway are completely covered.

(h) *Review in DP-districts.* In addition to the conditions contained herein, parking spaces and driveways located upon any property used for residential purposes and located within a zoning district appended with the -DP designation (design and preservation area) shall conform to the regulations found within article V of this chapter.

(i) *Limited amortization.* Any parking space or driveway that is improved with a permitted material (see (f) above) existing upon the effective date of this section [April 2, 2003] may be used in accordance within this section regardless of its size. However, all parking spaces and driveways must be improved with a permitted material (see (f) and (g) above) within 180 days of the effective date of this section. All all-terrain or similar off-road vehicles, recreational vehicles, motor homes, campers or camping trailers, trailers, boats, jet skis, aircraft, and helicopters must be either moved to a permitted location (see (b) above) or removed from the lot within 12 months of the effective date of the amendment to this section.

(j) *Enforcement.* The operator of a vehicle is responsible for complying with this section. Where the zoning administrator finds a violation of this section, he shall place a written notice

of violation upon the vehicle. Where two (2) or more written notices of violation of this section have been placed upon any vehicles located upon a lot of record within any 12-month period, the owner of the lot shall also be responsible for ensuring compliance with this section. The zoning administrator shall send a written notice of violation to the owner of the lot by regular first class mail, and this notice shall include the dates of the violations, the nature of the violations, and descriptions of the vehicles in question. Such notice shall provide the lot owner ten (10) days to make accommodations to ensure compliance.

(k) *Occupancy within vehicles.* No person shall use a vehicle of any description as a place to live or sleep while that vehicle is parked upon private property, except within an authorized mobile home park, campground, trailering park, truck stop, or government-owned or – operated rest area.

(Ord. No. 2002-067, 10-2-02; Ord. No. 2003-021, 4-2-03)

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APPENDIX D
RECOMMENDED CHANGES TO CITY CODE (ZONING ORDINANCE),
CHAPTER 17, ARTICLE III, SECTION 17-320,
SHIPPING CONTAINERS, CARGO CONTAINERS, TRACTOR
TRAILERS, OR PORTABLE ON DEMAND (PODS) DEVICES

Sec. 17-320. Shipping containers, cargo containers, ~~or~~ tractor trailers, or portable on demand storage (PODS) devices.

(a) For the purpose of this section, the following words have the following meanings:

- (1) "Container" shall mean shipping containers, cargo containers, tractor trailers, portable on demand storage (PODS) device, or other like items;
- (2) "Owner" shall mean the owner of, or other responsible person for, the container; and
- (3) "Permit" shall mean a zoning permit.

(b) Prior to placing a container upon a lot, the owner shall obtain and display a permit upon the container within a plastic-sleeve insert or other such device which protects it from the elements and such that the permit is visible from the street.

(c) A shipping container, cargo container, tractor trailer, or other like item is prohibited upon a lot within a residential district and upon a vacant commercial or industrial lot, except where the container, trailer, or other like item provides necessary storage:

- (1) For an active construction project; ~~or~~
- (2) To compensate for an act of God; ~~or~~
- (3) To help a person move in or move out; however, no more than two permits shall be issued for moving-related containers upon any one lot within a 12-month period. Each permit shall be valid for no more than 14 days. Where a moving-related container is found without a permit, the owner shall submit an application for permit within 24 hours of receipt of written notification of the violation, the permit shall cost \$150, and the permit shall be valid for 3 days; if the owner declines to apply for a permit or if circumstances prevent the issuance of a permit, the owner shall remove the container within 24 hours of receipt of written notification of the violation.

(3)(4) Where permitted within (1) or (2) above, the container, trailer, or other like item shall be removed within six months. The zoning administrator may approve extensions to this time limit, provided the total time (including the original 6 months) does not exceed 18 months. The board of zoning appeals may approve extensions beyond 18 months as they would a request for a special exception.

(b)(d) A shipping container, cargo container, tractor trailer, or other like item is prohibited upon commercial or industrial lots, except where the container, trailer, or other like item provides necessary storage:

- (1) For an active construction project;

(2) To compensate for an act of God; or

(3) Accessory to the following uses, and the use is a listed permitted use within the underlying zoning district (see section 17-255, Table 1):

- a. Construction (SIC 15, 16, 17, excluding office only);
- b. Manufacturing (SIC 20 through and including 39);
- c. Railroad transportation (SIC 40);
- d. Motor freight transportation and warehousing (SIC 42, excluding private commercial storage where the use is a listed accessory use);
- e. US Postal Service (SIC 43);
- f. Water transportation (SIC 44);
- g. Transportation by air (SIC 45);
- h. Pipelines (SIC 46);
- i. Transportation services (SIC 47);
- k. Communication (SIC 48);
- l. Electric, gas, and sanitary services (SIC 49);
- m. Wholesale trade (SIC 50 and 51);
- n. Building materials, hardware, garden supply (SIC 52);
- o. General merchandise store (SIC 53); and
- p. Food stores (SIC 54).
- q. Where the principal use is a listed special exception within the underlying zoning district, ~~shipping containers, cargo containers, tractor trailers, or other like items~~ may be permitted accessory structures only by review and approval of the board of zoning appeals in accordance with the procedures for review and approval of a special exception (subsection 17-112(2)b.).

~~(e)(e)~~ Where permitted ~~within (a) and (b) above~~, a container, ~~trailer, or other like item~~ shall be located in accordance with the locational requirements of accessory structures (section 17-~~278~~281), except that moving-related containers may be located at any location within a yard provided the container is not located within a sight area or in any other manner that obstructs vehicle or pedestrian lines of sight or access. Further, containers shall be subject to the following restrictions:

- (1) No temporary or permanent utility shall be connected to the container;
- (2) The container must be placed on an improved surface which complies with the provisions of Section 17-319, Vehicular parking;
- (3) Where the container cannot physically fit upon private property, it may be located within a public street right-of-way only when it is located within a designated parking space and upon the issuance of a dumpster permit;
- (4) No container shall be used for human or animal occupancy; and
- (5) No container, ~~trailer, or other like item~~ shall be located upon any lot without review and approval of the exact location by the city fire marshal.

~~(d)(f)~~ Where permitted ~~within (a) and (b) above~~, a container, ~~trailer, or other like item~~ shall be located upon the same lot as the building or use to which it provides storage. The zoning administrator may approve containers, ~~trailers, or other like items~~ to be located upon a different lot subject to the following conditions:

- (1) The lot upon which the container, ~~trailer, or other like item~~ would be located is zoned the same or less restrictive as the lot containing the building or use to which the container, ~~trailer, or other like item~~ would provide storage.
- (2) The lot upon which the container, ~~trailer, or other like item~~ would be located is within 500 feet of the lot containing the building or use to which the container, ~~trailer, or other like item~~ would provide storage.
- (3) The applicant demonstrates that special circumstances are present, including but not limited to the potential for significant impact upon neighbors and vegetation.
- (4) Where the container, ~~trailer, or other like item~~ would be located upon a lot within a residential district or upon a vacant commercial or industrial lot, despite the zoning of the building or use to which it would provide storage, the container, ~~trailer, or other like item~~ shall be subject to the time restrictions outlined within ~~(a)(c)(3) and (c)(4)~~ above.

~~(e) All shipping containers, cargo containers, tractor trailers, or other like items shall conform to the provisions of this section not later than 180 days from the date of second reading of this ordinance [Ord. No. 2002-101, Dec. 18, 2002].~~

~~(Ord. No. 2002-101, 12-18-02)~~

**APPENDIX E
RECOMMENDED CHANGES TO CITY CODE,
CHAPTER 14, ARTICLE VIII, SECTION 14-241 ET SEQ.,
ABANDONED REFRIGERATORS AND OTHER HAZARDOUS
CONTAINERS**

ARTICLE VIII. ABANDONED REFRIGERATORS AND OTHER HAZARDOUS CONTAINERS*

***Cross references:** Nuisances, § 8-31 et seq.

State law references: Abandoning iceboxes and refrigerators, S.C. Code 1976, § 16-3-1010.

Sec. 14-241. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means the throwing away on vacant property, junk heaps, trash piles, or debris accumulations of ~~an icebox, a refrigerator or other closed cabinet, box or device,~~ or any other like act which would constitute an abandonment thereof.

Dangerous exposure or access means the placing of ~~an icebox, a refrigerator, closed cabinet or device~~ not in use in a garage, barn, outbuilding, porch, yard, lot or other portion of premises where children or other persons may come upon it and may be attracted to it.

Refrigerator means an icebox, ice chest, freezer, refrigerator, cooler, or other like closed cabinet, box, or device that seals off or impedes the free circulation of air in and through the interior of the cabinet, box, or device.

(Code 1979, § 2-2095)

Cross references: Definitions generally, § 1-2.

Sec. 14-242. Interpretation of article.

The provisions of this article shall be liberally construed to effect the remedy intended and prevent loss of lives of children and other persons.

(Code 1979, § 2-2096)

Sec. 14-243. Latches and locks to be removed.

It shall be unlawful for any person to abandon, dangerously expose or afford access to, or to cause or permit to be abandoned or dangerously exposed or access afforded to, any ~~icebox, refrigerator or other closed cabinet, box or device~~ unless the door thereto has been removed from such ~~icebox, refrigerator or other closed cabinet, box or device~~ or unless the latch or lock holding each door thereof shut is dismantled or removed so that the door may be opened by any child or person from within by simply pushing on it. Jamming or obstructing the lock or latch shall not be sufficient compliance with this section. The lock or latch must be removed or dismantled so that accidental latching or locking is impossible. ~~This prohibition shall apply to and include any such~~

~~box, cabinet or device, including the above, which seals off or impedes the free circulation of air in and through the interior of the box, cabinet or device.~~

(Code 1979, § 2-2097)

Sec. 14-244. Responsibility for compliance.

The duty of complying with the provisions of this article is imposed alike on the owner of the ~~icebox, refrigerator, closed cabinet or device~~ and the owner or any occupant of the premises where an abandonment or dangerous exposure or access occurs.

(Code 1979, § 2-2098)

Sec. 14-245. Inspection of premises.

The city building official, the chief of the police department, ~~and~~ the chief of the fire department, or other proper city official or employee shall have full power and authority to inspect any and all premises located within the city limits for the purpose of enforcing the terms of this article.

(Code 1979, § 2-2099)

Sec. 14-246. City authorization to immediately modify or remove.

Where the city building official, the chief of the police department, the chief of the fire department, or other proper city official or employee finds a refrigerator in violation of Sec. 14-243, that person shall have full power and authority to immediately take any and all actions necessary to ensure that the refrigerator is either modified or removed from the premises so that the risk of loss of life of children and other persons is eliminated. Removing a refrigerator found in violation of Sec. 14-243 should only be employed where no other practical and effective remedy will eliminate the risk of loss of life of children and other persons. Where circumstances warrant the removal of a refrigerator, the city is under no obligation to save, return, or compensate the owner of the refrigerator.

Secs. 14-~~246~~247--14-260. Reserved.

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**APPENDIX F
PROPOSAL TO AMEND
BUSINESS LICENSE REGULATIONS FOR
PEDDLERS AND SEASONAL ACTIVITIES**

As requested by the Code Enforcement Task Force, here is my recommendation to handle the issue of Peddlers, Door-To-Door Sales and seasonal activities. This information will be discussed at the April 24, 2008 meeting. If you should have any questions regarding the content below, please contact me. Thanks.

This proposed ordinance below would outline the requirements of direct sales of: street corner vendors, firewood sales, pine straw sales, peanut vendors, ~~mobile vegetable~~ non-permanent produce sales, mobile food vendors (prepared and unprepared food) and any other direct selling of wares, goods, merchandise or food where the seller does not have a permanent place of business. This change would prohibit ice cream sales on public streets (this would be a change). If this change is done prior to adopting the new model ordinance, there are several areas that will need to be eliminated in order to not cause conflict. If the change occurs when the new model ordinance is adopted, it will be much easier and placed in Class 8 (special exceptions).

NAICS 45439 - Peddlers, Canvassers, Door-To-Door Sales & Solicitation

Definition

For the purpose of this article, the term "Peddler" and "Canvassers" means a person who has no permanent established place of business and intends to engage in direct retail sales on private property with written permission from the owner. This activity is limited to not more than three sale periods of not more than three days each per calendar year.

For the purpose of this article, the term "Door-To-Door Sales & Solicitation" means a person who goes from door to door visiting multifamily or single-family dwellings for the following purposes:

- (1) To sell any goods, wares or merchandise or accept subscriptions or orders therefore
- (2) To accept or request donations for any charitable purpose

Peddling and soliciting without registration and other unlawful activities

(a) It shall be unlawful for any person, not having an established place of business in the city, to go upon private property in the city for the purpose of peddling or selling goods, wares, merchandise, or services or soliciting donations for any purpose, who has not been requested or invited to do so by the owners or occupants of such property, without first having registered with the Chief of

Police pursuant to the provisions of this chapter. Applicant for a license to sell on private property must provide written authorization from the property owner to use the intended location prior to licensing.

(b) It shall be unlawful for any person to peddle or sell goods, wares, merchandise or services or solicit donations for any purpose upon the public streets, rights-of-way, or sidewalks located in the city (except as authorized by Section 11-251 through 262, Sidewalk Vending).

(d) It shall be unlawful for any person to stand on or adjacent to a street or enter a street for the purpose of soliciting employment, business, or donations from the occupants of vehicles.

(e) It shall be unlawful for any person, whether or not he has an established place of business in the city, to engage in soliciting or peddling as described in this section any time other than between the hours of 8:00 a.m. and 9:00 p.m. when eastern standard time is in effect in this state and 9:00 p.m. when daylight savings time is in effect in this state.

(f) It shall be unlawful for any person, whether or not he has an established place of business in the city, to engage in peddling or soliciting as described in this section by entering on any property on which a sign is displayed stating "no soliciting" or words of similar effect or by refusing to leave any property after having been requested to do so by the owner or any occupant.

Registration

Applicant must make an application for a Business License. Applicant must obtain all necessary approvals prior to operation for each sale period (Requirements of Zoning: cannot be on a vacant lot, must have a building with accessibility and accessible restroom available to public, site plan submitted to ensure conformance with setback requirements and no obstruction to required parking spaces. No size restrictions of the building.).

An informational registration will be required for the activities described in Section above (a) of this Code shall be made with the Chief of Police by the persons engaging in such activities and shall contain the following:

- (1) The name, address, telephone number, date of birth, social security number, and driver's license number of each person involved in activities regulated by this chapter.
- (2) A complete description of all vehicles used by persons involved in any such activities, including the owner, registration information, license tag number, model, year, and color of all such vehicles.
- (3) The complete name of the company, firm, or organization on behalf of which such activities are conducted, including the complete mailing address, location address, and telephone number of the company, firm or organization, and the name of the person or persons therewith who may be contacted by the city about any such activities.

- (4) The name and location of the person in the city or immediate vicinity in charge of all persons conducting such activities for the company, firm, or organization.
- (5) The date or dates for which such activities are to be conducted in the city and the location and schedule of such activities.
- (6) If a nonprofit organization, some documentation of that status from the South Carolina Secretary of State or similar regulatory agency.
- (7) For such activities to be conducted at a location privately owned, a letter from the owner granting permission for such activities.

Designation of other officers by Police Chief

The Chief of Police may designate another officer or officers in the Police Department to discharge the duties delegated to the Chief of Police in this chapter.

Other ordinances

Nothing contained in this chapter relieves any person of complying with or being subject to the business license ordinance or any other city ordinances, codes or regulations.

This ordinance above does not cover Christmas Trees, Pumpkin lots and Fireworks. These are specifically outlined below and would be outside of the peddler's ordinance, but similar in nature.

NAICS 45439 – Seasonal Activities [Fireworks Stands, Christmas Tree Lots, Pumpkin Lots]

General

The activity of direct retail sales of Christmas trees and pumpkins on private property shall be limited to not more than 45 days in total. Applicant must make an application for a Business License for each separate location. Applicant must obtain all necessary approvals prior to operation (requirements of Zoning: may be on a vacant lot, but must have an accessible restroom available to public, site plan submitted that meets shows conformance with set back requirements and no obstruction to required parking spaces). Applicant for a license to sell on private property must provide written authorization from the property owner to use the intended location prior to licensing. In the event the organization is nonprofit, documentation of that status from the South Carolina Secretary of State or similar regulatory agency is required. Nonprofit status does not preempt the approvals necessary to operate.

The activity of direct retail sales of Fireworks from a temporary stand shall be limited to not more than 30 days in total, 2 times per year. Applicant must make an application for a Business License for each separate location. Applicant must obtain all necessary approvals prior to operation (requirements of Zoning: may be on a vacant lot, but must have an accessible restroom available to public, site plan submitted that meets shows conformance with set back requirements and no obstruction to required parking spaces). Applicant for a license to sell on private property must provide written authorization from the property owner to use the intended location prior to licensing. In the event the organization is nonprofit, documentation of that status from the South Carolina Secretary of State or similar regulatory agency is required. Nonprofit status does not preempt the approvals necessary to operate.

****Roadside Vegetable Markets – This activity will be considered stationary and therefore must comply with all Zoning, Building and Fire requirements. Retail rate will apply.**

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APPENDIX G
ORDINANCE 2008-049, RECOMMENDED CHANGES TO CITY CODE
(ZONING ORDINANCE),
CHAPTER 17, ARTICLE III, SECTION 17-55,
DEFINITIONS, AND
SECTION 17-317,
HOME OCCUPATIONS, AND
ORDINANCE 2008-051, RECOMMENDED CHANGES TO CITY CODE
(ZONING ORDINANCE),
CHAPTER 17, ARTICLE III, SECTION 17-258,
TABLE OF PERMITTED USES

ORDINANCE NO.: 2008-049

Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 17, Planning, Land Development and Zoning, Article III, Zoning, Division 1, Sec. 17-55, Definitions to add Commercial vehicle, and Division 9, Supplementary District Regulations, Sec. 17-317, Home occupations (3)

BE IT ORDAINED by the Mayor and Council this ____ day of _____, 2008, that the 1998 Code of Ordinances of The City of Columbia, South Carolina, Chapter 17, Planning, Land Development and Zoning, Article III, Zoning, Division 1, Sec. 17-55, Definitions to add Commercial vehicle, and Division 9, Supplementary District Regulations, Sec. 17-317, Home occupations (3) to read as follows:

Sec. 17-55. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Commercial vehicle means a vehicle or portion thereof for which the State of South Carolina requires a Commercial Drivers License to operate as defined as a commercial vehicle by S.C. Code Ann. § 56-1-2030 (4), any attachment capable of being pulled or designed to be pulled by a commercial vehicle, any and construction equipment and any farm equipment of any kind., except this definition does~~ Commercial vehicle shall not include any vehicle commonly designated as a pick-up truck, an authorized emergency vehicle as defined by S.C. Code Ann. § 56-5-170, or any vehicle while actively engaged in temporary loading, unloading, or service.

Sec. 17-317. Home occupations.

(3) There shall be no sign or change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation, ~~to include the parking of more than one cCommercial vehicles on the premises. are prohibited.~~

Requested by:

Development Services _____

MAYOR

Approved by:

City Manager

Approved as to form:

ATTEST:

LEGAL DEPARTMENT DRAFT

City Attorney
Introduced: 7/16/2008
Final Reading:

City Clerk

ORDINANCE NO.: 2008-051

Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 17, Planning, Land Development and Zoning, Article III, Zoning, Division 8, District Descriptions; Use and Dimensional Regulations, Sec. 17-258, Table of permitted uses (3)

BE IT ORDAINED by the Mayor and Council this ____ day of _____, 2008, that the 1998 Code of Ordinances of The City of Columbia, South Carolina, Chapter 17, Planning, Land Development and Zoning, Article III, Zoning, Division 8, Sec. 17-258, Table of permitted uses (3) to read as follows:

Sec. 17-258. Table of permitted uses.

(3) In residential districts, the following uses are prohibited:

- a. Storage in connection with a trade;
- b. ~~Storage or long term p~~Parking, stopping, or standing of commercial vehicles or industrial storage ~~in excess of one day;~~ and
- c. Storage of building materials except in connection with active construction.

Any commercial vehicle parked, stopped, or standing upon a lot within a residential district on the effective date of this amendment shall be removed within 90 days of said effective date.

This ordinance is effective as of final reading.

Requested by:

Development Services

MAYOR

Approved by:

City Manager

Approved as to form:

ATTEST:

City Attorney
Introduced:
Final Reading:

City Clerk

LEGAL DEPARTMENT DRAFT

APPENDIX H
RECOMMENDED CHANGES TO CITY CODE (ZONING ORDINANCE),
CHAPTER 17, ARTICLE III, SECTION 17-274,
PROJECTIONS INTO REQUIRED YARDS

Sec. 17-274. Projections into required yards.

The general definition of yards as set forth in section 17-55 states that yards are unoccupied and unobstructed by a structure or portion of a structure from 48 inches above the finished grade level of the ground. However, the general definition shall be construed subject to the following exceptions and interpretations:

- (8) Screening required by this Code may encroach into required yards.
- (9) Privacy fences not to exceed six feet in height may be erected in the secondary front yard setback.
- (10) Fence posts, wall columns, and decorative elements located thereupon may extend 12 inches above the height restrictions for fences and walls contained within this Chapter. Where fence posts or wall columns are used to frame a gate, said posts or columns may extend 36 inches above the height restrictions for fences and walls contained within this Chapter. This allowance for additional height may extend to the gate itself and/or a header across the gate provided that the width measured at the outer edge of each associated post or column does not exceed 8 feet. No allowance for additional height within this Section shall permit any feature of any fence or wall to extend above 7 feet high.
- (11) Vinyl or plastic tarps are not permitted fence materials. Notwithstanding the provisions within Division 7 of this Article, all fences composed of such material shall be removed or replaced with a permitted material within 180 days of the effective date of the ordinance that established this section [insert actual date here]. This section is not intended to prohibit the use of mesh attached to a chain link fence such as one might find surrounding a contractor's storage yard.

**APPENDIX I
RECOMMENDED CHANGES TO CITY CODE,
CHAPTER 8, NEW SECTION,
OUTDOOR PLACEMENT OF CERTAIN ITEMS PROHIBITED**

Sec.XX. Outdoor placement of certain items prohibited.

(a) It shall be unlawful for the occupant or owner of any property within the city to allow any of the following items to remain on the property outside a dwelling or other enclosed structure for longer than 48 hours, in any location visible from streets or sidewalks adjacent to the property:
Appliances, bedding, bottles, glass, cans, cardboard, upholstered furniture manufactured for indoor use only, household appliances, jars, lumber and building supply materials not related to an active permit and not neatly stacked, machine parts, motor vehicles parts, pallets, paper, plumbing fixtures, rags, scrap metal.

(b) For purposes of this section, the phrase "outside a dwelling or other enclosed structure" shall mean any location that is not within the interior of a dwelling or other enclosed structure. Porches, balconies, decks, carports or other similar structures, unless completely enclosed, shall be deemed to be outside a dwelling or other enclosed structure.

APPENDIX J
RECOMMENDED CHANGES TO CITY CODE (ZONING ORDINANCE),
CHAPTER 17, ARTICLE III, SECTION 17-401,
DEFINITIONS, AND
SECTION 17-404,
PROHIBITED SIGNS

Sec. 17-401. Definitions.

In addition to the definitions set forth in section 17-55, the following definitions relate to signs:

Festoon means a string of ribbons, tinsel, flags, pennants, or pinwheels.

Sign means any device designed to inform or attract the attention of persons not on the premises on which the device is located, including mobile signs and portable signs; provided, however, that the following shall not be included in the application of the regulations in this division:

- (1) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- (2) Flags and insignia of any government except when displayed in connection with commercial promotion.
- (3) Legal notices, identification, information or directional signs erected or required by governmental bodies.
- (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- (5) Signs directing and guiding traffic on private property, but bearing no advertising matter.

Sign, inflatable means a sign that holds its shape by receiving a one-time or continuous supply of air or other gas, including balloons.

Sec. 17-404. Prohibited signs.

- (f) *Festoons and inflatable signs. Festoons and inflatable signs are prohibited. Notwithstanding the provisions within Division 7 of this Article, all festoons and inflatable signs existing upon the effective date of this amendment to the Zoning Ordinance shall be removed within 12 months of the date of adoption of this amendment to the Zoning Ordinance.*


APPENDIX K
SOUTH CAROLINA LEGISLATURE ACT NO. 308 AND
RECOMMENDED CHANGES TO STATE STATUTE,
TITLE 56, CHAPTER 5, ARTICLES 39 AND 41,
DISPOSITION OF ABANDONED VEHICLES
ON HIGHWAYS AND
DISPOSITION OF ABANDONED OR DERELICT VEHICLES
ON PUBLIC OR PRIVATE PROPERTY

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4847 found 2 times. 

H*4847

H*4847  (Rat #0394, Act #0308 of 2008) General Bill, By Cotty, Brady and J.E. Smith

Similar(S 1200)

AN ACT TO AMEND SECTION 56-5-5810, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS OF CERTAIN TERMS THAT RELATE TO THE DISPOSITION OF CERTAIN ABANDONED OR DERELICT VEHICLES ON PUBLIC OR PRIVATE PROPERTY, SO AS TO PROVIDE THAT THESE DEFINITIONS ALSO APPLY TO THESE TERMS AS THEY APPEAR IN ARTICLE 39, CHAPTER 5, TITLE 56, AND TO PROVIDE THAT THE DEFINITION OF THE TERM "OFFICER" INCLUDES CODE ENFORCEMENT OFFICERS. - ratified title

03/12/08	House	Introduced and read first time HJ-9
03/12/08	House	Referred to Committee on Judiciary HJ-10
04/24/08	House	Committee report: Favorable with amendment Judiciary HJ-5
04/29/08	House	Amended HJ-32
04/29/08	House	Read second time HJ-34
04/30/08	House	Read third time and sent to Senate HJ-18
04/30/08	Senate	Introduced and read first time SJ-12
04/30/08	Senate	Referred to Committee on Transportation SJ-12 Scrivener's error corrected
05/28/08	Senate	Recalled from Committee on Transportation SJ-2
05/29/08	Senate	Scrivener's error corrected
05/29/08	Senate	Amended SJ-43
05/29/08	Senate	Read second time SJ-43
06/03/08	Senate	Read third time and returned to House with amendments SJ-24
06/05/08	House	Concurred in Senate amendment and enrolled HJ-67
06/05/08		Ratified R 394
06/12/08		Became law without Governor's signature
06/19/08		Copies available
06/19/08		Effective date 06/12/08
06/19/08		Act No. 308

VERSIONS OF THIS BILL

3/12/2008
4/24/2008
4/29/2008
4/30/2008
5/28/2008
5/29/2008
5/29/2008-A

H. 4847

NOTE: THIS COPY IS A TEMPORARY VERSION. THIS DOCUMENT WILL REMAIN IN THIS VERSION UNTIL PUBLISHED IN THE ADVANCE SHEETS TO THE ACTS AND JOINT RESOLUTIONS. WHEN THIS DOCUMENT IS PUBLISHED IN THE ADVANCE SHEET, THIS NOTE WILL BE REMOVED.

(A308, R394, H4847)

AN ACT TO AMEND SECTION 56-5-5810, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS OF CERTAIN TERMS THAT RELATE TO THE DISPOSITION OF CERTAIN ABANDONED OR DERELICT VEHICLES ON PUBLIC OR PRIVATE PROPERTY, SO AS TO PROVIDE THAT THESE DEFINITIONS ALSO APPLY TO THESE TERMS AS THEY APPEAR IN ARTICLE 39, CHAPTER 5, TITLE 56, AND TO PROVIDE THAT THE DEFINITION OF THE TERM "OFFICER" INCLUDES CODE ENFORCEMENT OFFICERS.

Be it enacted by the General Assembly of the State of South Carolina:

Definition

SECTION 1. The introductory language of Section 56-5-5810 and Section 56-5-5810(a) of the 1976 Code are amended to read:

"Section 56-5-5810. For the purposes of this article and Article 39:

(a) 'Officer' means any state, county, or municipal law enforcement officer, including county and municipal code enforcement and sanitation officers."

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2008.

Became law without the signature of the Governor -- 6/12/08.

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CHAPTER 5.

UNIFORM ACT REGULATING TRAFFIC ON HIGHWAYS

ARTICLE 39.

DISPOSITION OF ABANDONED MOTOR VEHICLES ON HIGHWAYS

SECTION 56-5-5620. Duty of sheriffs and police officers to remove vehicles; storage; personnel, equipment and facilities for removing and storing.

(a) It shall be the duty of every police officer having knowledge of an abandoned motor vehicle to seize it and have it removed for safekeeping to such place as may be designated by the sheriff of the county, or the chief of police of the municipality, in which it was found, who shall be charged with its custody and disposition as provided in this article.

(b) A sheriff or chief of police may employ his own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving and storing abandoned motor vehicles.

SECTION 56-5-5630. Notice to owners and lienholders; payment for release of vehicle; liability of lienholders; stolen vehicles.

(A)(1) For purposes of this article, “vehicle” means a motor vehicle, trailer, mobile home, watercraft, or any other item or object that is subject to towing and storage, and applies to any vehicle in custody at the time of the enactment of this section. “Vehicle” includes:

- (a) items that are towed and left in the possession of a towing, storage, garage, or repair facility;
- (b) contents contained in the vehicle; and
- (c) personal property affixed to the vehicle.

Storage costs for those vehicles in custody at the time of the enactment of this section must not exceed sixty days.

(2) When an abandoned vehicle has been taken into custody, the towing company and storage facility having towed and received the vehicle shall notify by registered or certified mail, return receipt requested, the last known registered owner of the vehicle and all lienholders of record that the vehicle has been taken into custody. Notification of the owner and all lienholders by certified or registered mail, return receipt requested, constitutes notification for purposes of this section. This notification must satisfy the notification requirements contained in Section 29-15-10. The notice must:

- (a) give a description of the year, make, model, and identification number of the vehicle;
- (b) set forth the location where the vehicle is being held;
- (c) inform the owner and all lienholders of the right to reclaim the vehicle within thirty days beginning the day after the notice is mailed, return receipt requested, upon payment of all towing, preservation, storage charges, notification, publication, and court costs resulting from placing the vehicle in custody; and
- (d) state that the failure of the owner and all lienholders to exercise their right to reclaim the vehicle within the time provided is considered a waiver by the owner and lienholders of all rights, title, and interest in the vehicle and is considered as their consent to the sale of the vehicle at a public auction.

If a vehicle has been towed pursuant to the provisions of this section, the towing company and storage facility must accept as payment for the release of the vehicle the same manner of payment that they would accept if the owner of the vehicle had requested his vehicle towed.

(B) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned is sufficient to meet all requirements of notice pursuant to this article. The notice by publication may contain multiple listings of abandoned vehicles. This notice must be within

the time requirements prescribed for notice by registered or certified mail and must have the same contents required for a notice by registered or certified mail.

(C) A lienholder is not subject to a criminal penalty imposed by law in this State for abandonment unless the vehicle is abandoned by the lienholder or his agent or if a false statement or report to a law enforcement officer is made as provided by Section 16-17-722. The owner of a vehicle which has been stolen, whether or not the vehicle was subsequently abandoned, is liable for:

- (1) actual recovery and towing charges; and
- (2) storage costs that accrue beginning seven days after the vehicle was towed.

The law enforcement agency must, within two days after the vehicle's towing, notify the owner that the vehicle has been recovered, provide the owner with the location of the vehicle, and explain that daily storage charges will begin to accrue if the vehicle is not reclaimed within seven days of the towing date.

A vehicle is considered to be stolen when the registered owner notifies a police officer and files a report which is accepted and placed on the records of the sheriff or chief of police as a stolen vehicle. The law enforcement agency that requested the tow must provide the towing company and storage facility, at no cost to the towing company and storage facility, the owner's name and address. A law enforcement agency is not liable for any costs or fees associated with the towing and storage of a vehicle as provided by this section.

(D) The court may order restitution from a person convicted of stealing a vehicle to cover the costs associated with the recovery, towing, and storage of the vehicle.

SECTION 56-5-5635. ~~Law enforcement~~ Towing and storage procedures; notification of registered owner; disposition of vehicle and personal property.

(A) Notwithstanding another provision of law, an ~~law enforcement~~ officer who directs that a vehicle be towed for any reason, whether on public or private property, must use the established towing procedure for his jurisdiction. A request by a law enforcement officer resulting from a law enforcement action including, but not limited to, a vehicle collision, vehicle breakdown, or vehicle recovery incident to an arrest, is considered a law enforcement towing for purposes of recovering costs associated with the towing and storage of the vehicle unless the request for towing is made by a law enforcement officer at the direct request of the owner or operator of the vehicle.

(B) Within ten days following an ~~law enforcement officer's~~ towing request, the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop must provide to the sheriff or chief of police a list describing the vehicles remaining in the possession of the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop. A person who fails to provide the law enforcement agency with this list forfeits recovery of any storage fees that have accrued from the date of towing until the day after the mailing of the notification to the owner and all lienholders by certified or registered mail, return receipt requested, pursuant to Section 29-15-10. Within ten days of receipt of this list, the sheriff or chief of police must provide to the towing company or storage facility, the current owner's name, address, and a record of all lienholders along with the make, model, and identification number or a description of the vehicle at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop having towed or received the vehicle must notify by registered or certified mail, return receipt requested, the last known registered owner and all lienholders of record that the vehicle has been taken into custody.

(C) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must provide notice by one publication in one newspaper of general circulation in the area from which the vehicle was abandoned which is sufficient to meet all requirements of notice pursuant to this article. The notice by publication may contain multiple listings of abandoned vehicles.

(D) Before a vehicle is sold, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must apply to the appropriate titling facility including, but not limited to, the Department of Motor Vehicles or the Department of Natural Resources for the name and address of any owner or lienholder. For nontitled vehicles, where the owner's name is known, a search must be conducted through the Secretary of State's Office to determine any lienholders. The application must be on prescribed forms as required by the appropriate titling facility or the Secretary of State. If the vehicle has an out-of-state registration, an application must be made to that state's appropriate titling facility. When the vehicle is not titled in this State and does not have a registration from another state, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may apply to the sheriff or chief of police in the jurisdiction where the vehicle is stored to determine the state where the vehicle is registered. The sheriff or chief of police shall conduct a records search. This search must include, but is not limited to, a search on the National Crime Information Center and any other appropriate search that may be conducted with the vehicle's identification number. The sheriff or chief of police must supply, at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the name of the state in which the vehicle is titled.

(E) The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop that has towed and stored a vehicle has a lien against the vehicle and may have the vehicle sold at public auction pursuant to Section 29-15-10. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may hold the license tag of any vehicle until all towing and storage costs have been paid, or if the vehicle is not reclaimed, until it is declared abandoned and sold. Storage costs may be charged that have accrued before the notification of the owner and lienholder, by certified or registered mail, of the location of the vehicle. Notification to the owner and lienholder by the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must occur within five days, after receiving the owner's and lienholders' identities from the appropriate law enforcement agency. If the notice is not mailed within this period, storage costs after the five-day period must not be charged until the notice is mailed. If the vehicle is not reclaimed within thirty days after the day the notice is mailed, return receipt requested, the vehicle is considered abandoned and may be sold by the magistrate pursuant to the procedures set forth in Section 29-15-10.

(F) After the vehicle is in the possession of the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the owner of the vehicle as demonstrated by providing a certificate of registration has one opportunity to remove from the vehicle any personal property not attached to the vehicle. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must release any personal property that does not belong to the owner of the vehicle to the owner of the personal property.

(G) When a law enforcement agency stores a vehicle at a law enforcement facility, the agency must follow the notification procedures contained in this section and submit vehicle information to a magistrate in the county where the vehicle is stored to provide for the sale of the vehicle at public auction. A law enforcement agency is exempt from paying filing fees in any matter related to the towing and storing of a vehicle.

SECTION 56-5-5640. Sale of unclaimed vehicles; disposition of proceeds.

If an abandoned vehicle has not been reclaimed as provided for in Section 56-5-5630, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may have the abandoned vehicle sold at a public auction pursuant to the provisions set forth in Section 29-15-10. The purchaser of the vehicle shall take title to it free and clear of all liens and claims of ownership, shall receive a magistrate's order of sale, and is entitled to register the purchased vehicle and receive a certificate of title. The order of sale given at the sale must be sufficient title for purposes of transferring the vehicle to a demolisher for demolition, wrecking, or dismantling, and in this case no further titling of the vehicle is necessary. The expenses of the auction, the costs of towing, preserving, and storing the vehicle which resulted from placing the vehicle in custody, and all notice and publication costs incurred

pursuant to the provisions of Section 29-15-10 must be reimbursed up to the amount of the auction sale price from the sale proceeds of the vehicle. Any remainder of the sale proceeds must be held for the owner of the vehicle or entitled lienholder for ninety days. The magistrate must notify the owner and all lienholders by certified or registered mail, return receipt requested, that the vehicle owner or lienholder has ninety days to claim the proceeds from the sale of the vehicle. If the vehicle proceeds are not collected within ninety days from the day after the notice to the owner and all lienholders is mailed, then the vehicle proceeds must be deposited in the general fund of the county or municipality.

SECTION 56-5-5650. Claims of and awards to persons damaged by sale of vehicle.

For a period not in excess of two years after the payment of any sum into the general fund of any county or municipality on account of the sale of any abandoned motor vehicle, governing bodies of the respective counties or municipalities shall hear and determine claims of any persons claiming to be damaged by the sale of any such vehicle and shall make awards to owners or lienholders as their interests may appear, but in no event shall the awards be in excess of the net amount received by the county or municipality from the sale of the vehicle. The decision of the county or municipal governing body in connection with any such claim shall be final.

SECTION 56-5-5660. Application for and issuance of disposal authority certificates.

(A) Any person or unit of government upon whose property or in whose possession is found an abandoned vehicle, or any person who is the owner of a vehicle whose title certificate is faulty, lost, or destroyed, may apply to the sheriff or chief of police of the jurisdiction in which the vehicle is located for authority to sell or give the vehicle to a demolisher.

(B) The application must give the name and address of the applicant, the year, make, model, and identification number of the vehicle, if ascertainable, along with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment, or that the title of the vehicle is lost or destroyed, or the reasons for the defect of title in the owner. The applicant must execute an affidavit stating that the facts alleged are true and that no material fact has been withheld.

(C) If the sheriff or chief of police determines that the application is executed in proper form, and demonstrates that the vehicle has been abandoned upon the property of the applicant, the notification procedures set forth in Section 56-5-5630 must be followed. If the vehicle is not reclaimed in accordance with Section 56-5-5630, the sheriff or chief of police must follow the procedure set forth in Section 56-5-5660(D) for issuance of disposal authority certificates.

(D) If the application demonstrates that the vehicle is not abandoned but that the applicant appears to be the rightful owner, the sheriff or chief of police must give the applicant a certificate of authority to sell or give the vehicle to any demolisher for demolition, wrecking, or dismantling. A disposal authority certificate may contain multiple listings. The demolisher must accept such certificate in lieu of the certificate of title to the vehicle.

(E) Notwithstanding any other provisions of law, any person or unit of government upon whose property or in whose possession is found an abandoned vehicle, or any person who is the owner of a vehicle whose title certificate is faulty, lost, or destroyed, may dispose of such vehicle to a demolisher without the title and without the notification procedures of Section 56-5-5630 if:

- (1) the vehicle is over eight years old,
- (2) the vehicle does not have a valid registration plate affixed to it, and
- (3) the vehicle has no engine or is otherwise totally inoperable.

SECTION 56-5-5670. Duties of demolishers; surrender of receipts and certificates; records.

(A) A demolisher who purchases or otherwise acquires a vehicle for purposes of wrecking, dismantling, or demolishing is not required to obtain a certificate of title for the vehicle in his own name. After the

vehicle has been demolished, processed, or changed so that it physically is no longer a vehicle, the demolisher must surrender for cancellation the certificate of title, auction sales receipt, or disposal authority certificate. The Department of Motor Vehicles must issue forms, rules, and regulations governing the surrender of auction sales receipts, disposal authority certificates, and certificates of title as appropriate.

(B) A demolisher must keep an accurate and complete record of all abandoned vehicles purchased or received by him in the course of his business. These records must contain the name and address of the person from whom each vehicle was purchased or received, the date when the purchases or receipts occurred, and the year, make, model, and identification number of the vehicle, if ascertainable, along with any other identifying features. The records are open for inspection by any police officer at any time during normal business hours. Any record required by this section must be kept by the demolisher for at least one year after the transaction to which it applies.

ARTICLE 41.

DISPOSITION OF ABANDONED OR DERELICT MOTOR VEHICLES ON PUBLIC OR PRIVATE PROPERTY

SECTION 56-5-5810. Definitions.

For the purposes of this article and Article 39:

(a) "Officer" means any state, county, or municipal law enforcement officer, including county and municipal code enforcement and sanitation officers.

(b) "Abandoned vehicle" means a vehicle required to be registered in this State if operated on a public highway in this State that is left unattended on a highway for more than forty-eight hours, or a vehicle that has remained on private or other public property for a period of more than seven days without the consent of the owner or person in control of the property.

(c) "Derelict vehicle" means a vehicle required to be registered in this State if operated on a public highway in this State:

~~(1) whose certificate of registration has expired and the registered owner no longer resides at the address listed on the last certificate of registration on record with the Department of Motor Vehicles; or~~

(2) whose motor or other major parts have been removed, are damaged, or are poorly maintained so as either to render the vehicle inoperable or the operation of which would violate Section 56-5-4410; or

(3) whose manufacturer's serial plates, motor vehicle identification numbers, license number plates, and any other means of identification have been removed so as to nullify efforts to locate or identify the registered owner; or

(4) whose registered owner of record disclaims ownership or releases his rights thereto; or

(5) which ~~is more than eight years old and~~ does not bear a current registration.

(d) "Demolisher" means any person, firm, or corporation whose business is to convert a vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle such a vehicle.

(e) "Colored tag" means any type of notice affixed to an abandoned or derelict vehicle advising the owner or the person in possession that it has been declared an abandoned or derelict vehicle and will be treated as such. The tag shall be of sufficient size to be easily discernable and shall contain such information as the Department of Public Safety deems necessary to carry out the provisions of this article.

~~(f) "Demolisher" means any person whose business is to convert a vehicle into processed scrap or scrap metal for recycling purposes or otherwise to wreck or dismantle vehicles.~~

(g) "Salvage yard" means a business or a person who holds a license issued by the State required of all retailers, possesses ten or more derelict vehicles, and regularly engages in buying or selling used vehicle parts.

SECTION 56-5-5820. Abandoned and derelict vehicles as hazard to health and welfare.

Abandoned and derelict vehicles constitute a hazard to the health and welfare of the people in the State in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens. It is, therefore, in the public interest that the present accumulation of abandoned and derelict vehicles be eliminated and that the future abandonment of such vehicles be prevented.

SECTION 56-5-5840. Abandoned and derelict vehicles subject to removal and disposal.

All abandoned and derelict vehicles shall be subject to removal from public or private property and disposed of in accordance with the provisions of this article.

SECTION 56-5-5850. Placing colored tag on unattended vehicle as notice that it may be considered abandoned; disposal of vehicles.

(A) When ~~an officer determines that~~ any vehicle is abandoned or derelict, the left unattended on a highway or on other public or private property without the consent of the owner or person in control of the property, an officer may shall place a colored tag on the vehicle which is notice to the owner, the person in possession of the vehicle, or any lienholder that it ~~may be is~~ considered to be derelict or abandoned and is subject to forfeiture to the State.

(B) The colored tag serves as the only legal notice that the vehicle will be moved to a designated place to be sold if the vehicle is not removed by the owner or person in control of the vehicle or if the vehicle is not repaired such that it is no longer defined as derelict. The vehicle must be removed or repaired within the following times from the date the tag is placed on the vehicle:

- (1) forty-eight hours if it is located on a highway, or
- (2) seven days if it is located on other public or private property.

After the appropriate time has expired, the abandoned or derelict vehicles shall must be disposed of pursuant to Sections 29-15-10 and 56-5-5635. The colored tag and notice thereon is valid for a period of 12 months, regardless of the previous or subsequent locations of the vehicle (i.e. additional notice is not required where an owner or person in control of a vehicle has moved the abandoned or derelict vehicle and the vehicle is still abandoned or derelict).

SECTION 56-5-5870. Contract for collection of vehicles and related services; collecting areas.

The Department of Public Safety, or any county or municipality may contract with any federal, other state, county, or municipal authority or private enterprise for tagging, collection, storage, transportation, or any other services necessary to prepare derelict or abandoned vehicles for recycling or other methods of disposal. Publicly-owned properties, when available, shall be provided as temporary collecting areas for the motor vehicles defined herein.

SECTION 56-5-5880. Right of entry on property to enforce article; criminal or civil liability arising out of enforcement.

All officers, employees, and agents of any person under contract with the Department of Public Safety, of a county, or of a municipality, are authorized to go on private property for the purposes of enforcing this article. No officer, employee, or agent ~~or employee~~ of any federal, state, county, or municipal government or other political subdivision, no person or occupant of the premises from which any derelict or abandoned motor vehicle shall be removed, nor any person or firm contracting for the removal of or disposition of any such motor vehicle shall be held criminally or civilly liable in any way arising out of or caused by carrying out or enforcing any provisions of this article unless such person is guilty of willfulness, wantonness, or recklessness.

SECTION 56-5-5890. Property shall not be willfully damaged.

In removing the abandoned and derelict vehicles, the enforcing agency will do so without wilfully harming or damaging the property on which the vehicles are located.

SECTION 56-5-5900. Lienholders and owners of stolen vehicles not subject to penalties and charges.

No lienholder shall be subject to any penalty imposed by law in this State for abandonment unless the vehicle is abandoned by the lienholder or his agent or servant. No owner of a vehicle which has been stolen and thereafter abandoned shall be liable for any charges or penalties imposed herein. A vehicle shall be deemed to be stolen when the owner notifies a law enforcement officer of this or another state, and such report is accepted and carried on the records of the agency receiving the report as a stolen vehicle.

SECTION 56-5-5910. Unlawful to tamper with, remove or destroy colored tags.

It shall be unlawful for any person to tamper with, remove or destroy any colored tag placed on any vehicle in compliance with this article and any person found guilty of this provision shall, upon conviction, be subject to a fine not exceeding five hundred dollars.

SECTION 56-5-5920. Article not applicable to certain vehicles.

The provisions of this article shall not apply to vehicles housed or protected from the elements within a permanent structure that is closed on top and that can be easily and immediately closed on all sides (e.g. a garage), those classified as antiques and registered pursuant to Sections 56-3-2210 and 56-3-2220, those exempted from registration pursuant to Section 56-3-120, or those ~~vehicles~~ reported as stolen in accordance with Section 56-5-5900, unless any such vehicle presents an immediate safety or health hazard or constitutes a nuisance.

SECTION 56-5-5940. Seizure, sale or disposal of vehicle in violation of article constitutes conversion.

(a) Seizure, sale, or disposal of an abandoned or derelict motor vehicle in a manner inconsistent with the provisions of this article shall constitute conversion for which the owner shall have redress in any court of competent jurisdiction.

(b) Any person or unit of government upon whose property or in whose possession is found an abandoned or derelict vehicle may apply to the sheriff or chief of police of the jurisdiction in which the vehicle is located to implement the procedures outlined in this article, and the sheriff or chief of police shall tag the vehicle and dispose of the vehicle pursuant to this chapter.

SECTION 56-5-5945. Duty of demolisher; title requirements; records.

(a) Any demolisher who purchases or otherwise acquires a vehicle for purposes of wrecking, dismantling, or demolition shall not be required to obtain a certificate of title for such vehicle in his own name. After the vehicle has been demolished, processed, or changed so that it physically is no longer a vehicle, the demolisher shall surrender for cancellation the certificate of title or sales receipt issued under Section 56-5-5850.

(b) A demolisher shall keep an accurate and complete record of all vehicles purchased or received by him in the course of his business. These records shall contain the name and address of the person from whom each vehicle was purchased or received and the date when such purchases or receipts occurred. The records shall be open for inspection by any law enforcement officer at any time during normal business

hours. Any record required by this section shall be kept by the demolisher for at least one year after the transaction to which it applies.

SECTION 56-5-5950. Penalties for abandoning vehicle.

A person who abandons a vehicle either on public or private property, or a person who fails to abate a derelict vehicle within the time frame allowed by Section 56-5-5850 and upon which an officer has placed a colored tag, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars, and shall pay all costs of having such abandoned vehicle removed, stored, and sold as provided for in Section 56-5-5850. All such vehicles shall be removed and disposed of in accordance with Section 56-5-5850.

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