The information provided here is for informational and educational purposes and current as of the date of publication. The information is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

Critical Court Cases Affecting Local Governments

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City of Hardeeville v. Jasper County, 443 S.C. 635, 905 S.E.2d 431 (Ct. App. 2024) – Annexation / Multi-County Business Park

City annexed property in an existing MCBP. State law provides: "If the … park encompasses all or a portion of a municipality, the counties must obtain the consent of the municipality **prior to** the creation of the … park." Once the park agreement is executed by participating counties, the MCBP property becomes exempt from all *ad valorem* taxes and the park agreement controls the levying, collection, and distribution of revenue generated by the MCBP, **regardless of any future annexation of park property into municipalities**.

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Brady v. City of Myrtle Beach, 137 F.4th 233 (4th Cir. 2025) – Activity in High-Crime Areas

- Context: Myrtle Beach increased policing and revoked several bar licenses in a high-crime area (the "Superblock") after repeated violence and disorder. Plaintiffs (minority bar owners) sued, alleging constitutional and civil rights violations.
- What the Court Said: It does not violate the Constitution or the civil rights laws to increase police activity in a specified area or to revoke a business license so long as:
  - Laws are applied uniformly;
  - Procedures are fair; and
  - Decisions are supported by credible evidence, not bias.

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Brady v. City of Myrtle Beach, 137 F.4th 233 (4th Cir. 2025) – Activity in High-Crime Areas

- Operating a Business Is Not a Property Right. You may revoke or deny licenses for legitimate reasons like repeated violations or threats to public safety. This is not a "taking" under the Constitution if done properly.
- Strong Police Response Is Lawful, If Race-Neutral. Increased enforcement in troubled areas is allowed if motivated by safety, not race. Be cautious with messaging and ensure your record reflects legitimate, non-discriminatory goals.
- Procedural Fairness Protects You. The court emphasized that bar owners had notice of violations, along with hearings and appeal rights. Ensure that administrative processes are followed consistently.
- City Officials Acting in Good Faith and in their Official Capacity Are Protected. Claims of "conspiracy" among staff or officials will not succeed if everyone acted within official capacity.

Municipal Association of South Carolina

Brady v. City of Myrtle Beach, 137 F.4th 233 (4th Cir. 2025) – Activity in High-Crime Areas

- The case reinforces your authority to regulate businesses, to act decisively to protect public safety, and to maintain quality of life in high-crime areas.
- But it also warns you to keep politics, race, or retaliation out of enforcement, to document decision-making carefully, and to follow the specified procedures faithfully.

Municipal Association of South Carolina

Misjuns v. City of Lynchburg, Virginia, 139 F.4th 378 (4th Cir. 2025) – Social Media Posts by Employee

- Martin Misjuns, a firefighter and paramedic employed by the City of Lynchburg, Virginia, was fired after posting off-duty social media content that the City viewed as inconsistent with the expectations of his role in public safety.
- The posts reflected his strongly held opinions on transgender individuals, Black Lives Matter protests, and the public response to COVID. The City received a large number of citizen complaints about the posts.
- Quote from the case: "After public outcry and an internal investigation, the City of Lynchburg terminated Martin Misjuns from his position as Fire Captain. Misjuns then brought suit against the City, alleging a mix of constitutional, statutory, and common law claims. The district court dismissed all of Misjuns' claims. On review, we affirm the district court's dismissal."

Municipal Association of South Carolina

Misjuns v. City of Lynchburg, Virginia, 139 F.4th 378 (4th Cir. 2025) – Social Media Posts by Employee

- The City won the case on technical grounds under Section 1983, the federal statute that allows a civil damages suit for violation of constitutional rights.
- But the court also suggested that the City would have won even under the applicable First Amendment test.

Municipal Association of South Carolina

Misjuns v. City of Lynchburg, Virginia, 139 F.4th 378 (4th Cir. 2025) – Social Media Posts by Employee

- Balancing Public Employee Speech Rights and Government Interests. *Pickering v. Board of Education*, 391 U.S. 563 (1968), is used by courts to determine whether a public employee's speech is protected under the First Amendment.
- Two-Part Test. First, was the employee speaking as a **private citizen** on a matter of **public concern**? If not, then there is **no** First Amendment protection.
- Second, if the employee **was** speaking as a private citizen on a matter of public concern, then the court uses a balancing test.

Municipal Association of South Carolina

Misjuns v. City of Lynchburg, Virginia, 139 F.4th 378 (4th Cir. 2025) – Social Media Posts by Employee

- Balancing Test. Does the employee's interest in speaking outweigh the government's interest in workplace efficiency?
- The court will compare the **value of the speech** (e.g., does it inform public debate) against the **potential disruption** to discipline and order, working relationships, public confidence in the agency, and operational effectiveness.
- Even off-duty or personal speech by public employees can be disciplined **if** it interferes with job performance or public trust, especially in roles involving public safety or community interaction.
- From opinion: "The plaintiff has every right to express his views… But he has no right to impair the Fire Department's work and efficiency. His … remarks gave rise to a reasonable apprehension on the part of Lynchburg's citizens that the Fire Department's emergency-response tasks would not be carried out in an even-handed and unbiased way."

Municipal Association of South Carolina

McIntosh v. City of Madisonville, Kentucky, 126 F.4th 1141 (6th Cir. 2025) – Demolition Hearing

- Key Issue. Did the City violate property owners' due process rights by demolishing a condemned mobile home without adequate notice or opportunity for a hearing?
- Background. Plaintiffs owned a mobile home park. A tenant reported mold and disrepair in one unit. City inspectors found serious structural and moisture issues; the unit was condemned. City gave 30 days for repairs; the unit was demolished one month later.

Municipal Association of South Carolina

McIntosh v. City of Madisonville, Kentucky, 126 F.4th 1141 (6th Cir. 2025) – Demolition Hearing

- Procedural Due Process Requirements. As to **notice**, due process requires a statement "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." As to the **opportunity to be heard**, due process requires some kind of a hearing **before** the government destroys the property, absent an emergency.
- Adequate Notice Was Provided. Plaintiffs received a written condemnation notice and a posted warning. They were informed of the 30-day repair window. Efforts to repair and engage the City showed that notice was effective.
- No Adequate Opportunity to Be Heard. Madisonville's code guaranteed a right to appeal to a Local Appeals Board; no such board actually existed. Plaintiffs' multiple attempts to seek a hearing were rebuffed or ignored. City failed to offer any clear or functioning process for review.

Municipal Association of South Carolina

Eberhardt v. Walsh, 122 F.4th 681 (7th Cir. 2024) – Frivolous Lawsuit

- Background: Stephen Eberhardt, a former public official and licensed attorney, filed suit against the Village of Tinley Park, Illinois, and its outside counsel, Patrick Walsh. Eberhardt claimed the Village and Walsh conspired to prevent him from participating in public comment periods and suppress his views on social media.
- Eberhardt's Prior History: The lawsuit was part of a "long-running and abusive litigation campaign" by Eberhardt against the Village. His actions included filing over 25 lawsuits related to the same or similar subject matter; submitting more than 150 FOIA requests; and lodging 14 ethics complaints against various public officials and attorneys, all of which were dismissed.
- Focus of Appeal: The district court imposed Rule 11 sanctions after finding that Eberhardt's claims had no factual or legal basis, and were brought to harass rather than to resolve a genuine legal dispute. As a remedy, the court ordered Eberhardt to pay $26,950 in attorney fees.
- Outcome. The Court of Appeals affirmed.

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