



CITY OF SPARTANBURG

SOUTH CAROLINA

CITY COUNCIL AGENDA

**City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC
Monday, March 20, 2017
5:30 p.m.**

- I. Moment of Silence**
- II. Pledge of Allegiance**
- III. Swearing In of District 2 City Councilmember John Alan Jenkins**
- IV. Approval of the Minutes of the February 27, 2017, City Council Meeting**
- V. Approval of Agenda of the March 20, 2017 City Council Meeting**
- VI. Public Comment**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VII. Recognition of Spartanburg City Firefighter Retiree David Free II**
Presentation: Mayor Junie White
- VIII. Resolution**
 - A. Authorizing the City Manager to Execute The Collaborative Partnership Agreement**
Presenter: Martin Livingston, Neighborhood Services Director
 - B. To Determine the Eligibility of 141/143 W. Main Street, 174 E. Main Street and 589 E. Main Street and to Reaffirm 130 Magnolia Street for Special Property Tax Assessment for Rehabilitated Historic Properties as Adopted by Ordinance of the City Council on September 9, 2013**
Presenter: Chris Story, Assistant City Manager
- IX. Ordinance**
 - A. To Amend the Code of the City of Spartanburg 1988, Chapter 23, "Wreckers and Wrecking Services by Adding Sections 23-14 Thru 23-19 to Provide for "Nonconsensual Booting and Towing." (First Reading)**
Presenter: Ed Memmott, City Manager

As required by the Americans with Disabilities Act, the City of Spartanburg will provide interpretive services for the City Council Meetings. Requests must be made to the Communications & Marketing Office (596-2020) 24 hours in advance of the meeting. This is a Public Meeting and notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act.

- X. Boards and Commissions – Accommodations Tax Committee, Design Review Board, and Spartanburg Housing Authority
Presenter: Connie McIntyre, City Clerk**
- XI. City Council Updates**
- XII. Adjournment**

** Non-Agenda Items*

City Code Sec. 2-57. Citizen Appearance. Any citizen of the City of Spartanburg may speak at a regular meeting on any matter pertaining to City Services and operations germane to items within the purview and authority of City Council, except personnel matters, by signing a Citizen's Appearance form prior to the meeting stating the subject and purpose for speaking. No item considered by Council within the past twelve (12) months may be added as an agenda item other than by decision of City Council. The forms may be obtained from the Clerk and maintained by the same. Each person who gives notice may speak at the designated time and will be limited to a two (2) minute presentation.

**Agenda Items*

City Code Sec. 2-56. Addressing Council, Comments or Remarks to Council on Agenda Items Not Requiring Public Hearing. On agenda items not requiring a Public Hearing, please provide to the City Clerk prior to the opening of the meeting, your desire to speak on an agenda item. Remarks shall be limited to five (5) minutes and total remarks on any agenda item shall not exceed twenty (20) minutes.



**City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC
Monday, February 27, 2017
5:30 p.m.**

**These minutes are subject to approval at the
March 20, 2017 City Council meeting.)**

City Council met this date with the following Councilmembers present: Mayor Junie White, Mayor pro tem Laura Stille, Councilmembers Erica Brown, Jerome Rice, Sterling Anderson and Rosalyn Henderson Myers. City Manager Ed Memmott and City Attorney Cathy McCabe were also in attendance. Notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act. All City Council meetings are recorded for a complete transcript.

- I. Moment of Silence - observed**
- II. Pledge of Allegiance – recited**
- III. Approval of the Minutes of the February 13, 2016, City Council Meeting –**
Councilmember Henderson Myers made a motion to approve the minutes as received. Councilmember Brown seconded the motion, which carried unanimously 6 to 0.
- IV. Approval of Agenda of the February 27, 2017 City Council Meeting –**
Mayor pro tem Stille made a motion to approve the agenda as received. Councilmember Henderson Myers seconded the motion, which carried unanimously 6 to 0.
- V. Public Comment - None**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. Resolution**
 - A. Approving Donation of Property on East Arizona Avenue
(Tax Map Parcel #7-16-09-107.00)**
Presenter: Martin Livingston, Neighborhood Services Director
Mr. Livingston presented the item to Council as follows:
“Property located on East Arizona Avenue (Tax Map Parcel: 7-16-09-107.00) is owned by Spartanburg Real Holdings, LLC, a related entity of The Spartanburg County Foundation that wishes to donate the property to the City. The property is located close to the City Airport and the City owns additional

property within the vicinity as shown on the attached Parcel Maps from the Spartanburg County Assessor's Office website.

Staff recommends accepting the donation of the parcel.

ACTION REQUESTED: Approval of Resolution accepting the donation of the property from The Spartanburg County Foundation identified as Tax Map Parcel: 7-16-09-107.00.”

Councilmember Rice made a motion to approve the resolution as presented. Mayor pro tem Stille seconded the motion, which carried unanimously 6 to 0.

VII. Consent Agenda

- A. **Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance and Comprehensive Plan Land Use Element, by Amending Section 206, Changes to District Boundaries, Specifically parcels #7-12-08-059.00 and 060.00 Located at 133 and 135 Avant Street, Which Are Currently Zoned LOD, With a Land Use Designation of Limited Office District to Zone R-6, with a Land Use Designation of General Residential District; and Providing for Severability and an Effective Date (Second Reading)**
Presenter: Natalia Rosario, Planner III

Councilmember Brown made a motion to approve the consent agenda as received. Councilmember Henderson Myers seconded the motion, which carried unanimously 6 to 0.

VIII. Briefing on Pending State Legislation H3650 and H3651

Presenter: Ed Memmott, City Manager

Mr. Memmott briefed Council on state legislation regarding all business licensing functions being transferred from municipalities to the Secretary of State's office. *Council received the report as information.*

IX. City Council Updates –

Councilmember Anderson commented he was sad that Bon Haven was being demolished, but happy that the Montgomery Building was being restored. He mentioned that USC Upstate was celebrating its 50th Anniversary.

Councilmember Brown thanked Mitch Kennedy and Martin Livingston for meeting with neighborhoods and addressing their concerns. She shared that she was happy for Ms. Francina since the opening of her restaurant had received rave reviews. She shared that she attended some of the events at the SC Governors Conference on Tourism & Travel and thanked Chris Jennings and the Chamber for their good work on bringing the conference to Spartanburg.

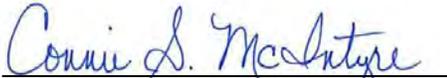
Mayor pro tem Stille reminded everyone about the Walk with Elected Officials on Saturday, March 25 at 10:00 a.m. beginning at the YMCA end of the Rail Trail. She expressed excitement at the opening of Kennedys in the old Renato Building, and at the opening of Spruce on the Rail Trail.

Councilmember Henderson Myers shared she attended the NAACP Black History

Bowl on Saturday. She shared that the students were well informed and that the bowl would be an annual event. She mentioned that she enjoyed the “Sign of the Times”, at the Chapman Cultural Center. She shared the jazz group was phenomenal, incorporating the origin of African American music and history in their performance.

Councilmember Rice invited everyone to view the Black History traveling trunk at Mary H. Wright school during Black History Month. He added that the traveling trunk was provided by Community Relations at Mary Wright. He reminded everyone to make an effort to see the Seeing Spartanburg In a New Light “Legends of Highland” exhibit that would run through the middle of March. He also reminded everyone about the Annual Chamber meeting on Thursday, March 2 at the Marriott.

- X. Adjournment – Councilmember Rice made a motion to adjourn the meeting. Councilmember Henderson Myers seconded the motion, which carried unanimously 6 to 0. The meeting adjourned at 6:20 p.m.**


Connie S. McIntyre, City Clerk



REQUEST FOR CITY COUNCIL ACTION

TO: Ed Memmott, City Manager
FROM: Martin Livingston, Neighborhood Services Director
SUBJECT: Collaborative Partnership Agreement – Affirmatively Furthering Fair Housing
DATE: March 20, 2017

BACKGROUND:

Staff is requesting approval to allow the City Manager to execute a collaborative agreement between the City of Spartanburg, Spartanburg County, and the Housing Authority for the City of Spartanburg for the completion of an Affirmatively Furthering Fair Housing (AFFH) Study. The agreement allows the City, County, and Authority to partner to complete a joint AFFH study. The U.S. Department of Housing and Urban Development (HUD) will review and make a determination on the approval of the agreement prior to implementation.

ACTION REQUESTED:

Staff is requesting approval of the resolution allowing the City Manager to execute the Collaborative Partnership Agreement with Spartanburg County on the implementation of the Affirmatively Furthering Fair Housing Study.

BUDGET AND FINANCIAL DATA: Not applicable.

**A RESOLUTION
AUTHORIZING THE CITY MANAGER
TO EXECUTE THE
COLLABORATIVE PARTNERSHIP AGREEMENT**

WHEREAS, the Collaborative Partners consisting of the City of Spartanburg, Spartanburg County, and the Housing Authority of the City of Spartanburg plan to jointly prepare and jointly or independently implement the Affirmatively Furthering Fair Housing (AFFH) Assessment; and

WHEREAS, Spartanburg County is a political subdivision of the State of South Carolina, organized as a county government; and

WHEREAS, the City is a political subdivision of the State of South Carolina and organized as a municipal corporation; and

WHEREAS, the Housing Authority of the City of Spartanburg is a federally funded public housing authority; and

WHEREAS, the City of Spartanburg, a municipal corporation (“City”), is, under the auspices of the United States Department of Housing and Urban Development (“HUD”), a consolidated plan program participant, having a program year start date of July 1. The City’s next 5-year consolidated plan cycle will commence on July 1, 2019; and

WHEREAS, the County of Spartanburg, a County government (“County”), is, under the auspices of the United States Department of Housing and Urban Development (“HUD”), a consolidated plan program participant, having a program year start date of July 1. The County’s next 5-year consolidated plan cycle will commence on July 1, 2018; and

WHEREAS, the Housing Authority of the City of Spartanburg, a public housing authority (“Authority”), is, under the auspices of the United States Department of Housing and Urban Development (“HUD”), a PHA plan program participant, having a program year start date of October 1. The Authority submits an annual plan each July as part of the requisite 5-year PHA plan process

WHEREAS, pursuant to section 808(e) of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), codified as amended at 42 U.S.C. § 3601 *et seq.*, in order to aid program participants in taking meaningful actions to overcome historic patterns of segregation, to promote fair housing choices, and to foster inclusive communities free from discrimination HUD promulgated certain regulations, set forth at 24 C.F.R. 5.150 *et seq.*, requiring program participants to develop and submit to HUD an Assessment of Fair Housing (AFH); and

WHEREAS, for the purposes of 24 C.F.R. 5.150 *et seq.*, the City, County, and the Authority are Program Participants (collectively herein the parties are sometimes referred to as “Program Participants”); and

WHEREAS, the Program Participants wish, in accordance with the terms and conditions of this Collaboration Agreement, to collaborate and partner to prepare and to submit to HUD the Assessment of Fair Housing.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Members of Council of the City of Spartanburg in Council assembled:

Section 1. Allow the City Manager to execute the Collaborative Partnership Agreement between the City, County, and the Authority to coordinate and jointly or independently implement the Assessment of Fair Housing.

Section 2. This Resolution is adopted this _____ day of _____, 2017.

Mayor

ATTEST:

Connie S. McIntyre, City Clerk

APPROVED AS TO FORM:

Cathy Hoefler McCabe, City Attorney

**COLLABORATION AGREEMENT
BETWEEN
THE CITY OF SPARTANBURG,
AND
SPARTANBURG COUNTY,
AND
THE HOUSING AUTHORITY OF THE CITY OF
SPARTANBURG
FOR**

**THE 2019-2023 ASSESSMENT OF FAIR HOUSING
For the period
July 1, 2019 – June 30, 2024**

THIS COLLABORATION AGREEMENT, is entered into this _____ day of _____, 2017, by and between the City of Spartanburg, Spartanburg County, and the Housing Authority of the City of Spartanburg.

RECITALS

- A.** The City of Spartanburg, a municipal corporation (“City”), is, under the auspices of the United States Department of Housing and Urban Development (“HUD”), a consolidated plan program participant, having a program year start date of July 1. The City’s next 5-year consolidated plan cycle will commence on July 1, 2019.
- B.** The County of Spartanburg, a municipal corporation (“County”), is, under the auspices of the United States Department of Housing and Urban Development (“HUD”), a consolidated plan program participant, having a program year start date of July 1. The County’s next 5-year consolidated plan cycle will commence on July 1, 2018.
- C.** The Housing Authority of the City of Spartanburg, a public housing authority (“Authority”), is, under the auspices of the United States Department of Housing and Urban Development (“HUD”), a PHA plan program participant, having a program year start date of October 1. The Authority submits an annual plan each July as part of the requisite 5-year PHA plan process.
- D.** Pursuant to section 808(e) of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), codified as amended at 42 U.S.C. § 3601 *et seq.*, in order to aid program participants in taking meaningful actions to overcome historic patterns of segregation, to promote fair housing choices, and to foster inclusive communities free from discrimination HUD promulgated certain regulations, set forth at 24 C.F.R. 5.150 *et seq.*, requiring program participants to develop and submit to HUD an Assessment of Fair Housing (AFH).
- E.** For the purposes of 24 C.F.R. 5.150 *et seq.*, the City, County, and the Authority are Program Participants (collectively herein the parties are sometimes referred to as “Program Participants”).

- F.** The Program Participants wish, in accordance with the terms and conditions of this Collaboration Agreement, to collaborate to prepare and to submit to HUD the AFH.

TERMS

NOW, THEREFORE, in light of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

1. LEAD ENTITY.

The County will serve as the lead entity of the collaboration and will be responsible for submitting the joint AFH on behalf of the Program Participants.

2. PROGRAM YEAR/FISCAL YEAR ALIGNMENT.

Program Participants will, to the extent practicable, align their consolidated plan program year start date(s) and/or PHA plan fiscal year beginning date(s) in accordance with the regulations at 24 CFR 91.10, for consolidated plan program participants, or 24 CFR, Part 903, for PHAs. If alignment of program year(s) or fiscal year(s) is not possible, the AFH will be submitted in accordance with the lead entity's consolidated plan program year start date or PHA plan fiscal year beginning date. Here, because it is not practicable to align the program years/fiscal years of the Program Participants, the Program Participants agree to submit the AFH in accordance with the City's consolidated plan program year start date. The PHA will comply with HUD regulations requiring submissions by the PHA of reports due to HUD.

3. CONSOLIDATED PLANNING/PHA PLANNING CYCLE ALIGNMENT.

Program Participants will, to the extent practicable, align their consolidated planning cycle(s) and/or PHA planning cycle(s) in accordance with the regulations at 24 CFR part 91, for consolidated plan program participants, or 24 CFR part 903, for PHAs. If alignment of consolidated planning cycle(s) or PHA planning cycle(s) is not possible, the AFH will be submitted in accordance with the lead entity's consolidated plan cycle or PHA plan cycle. Because it is not possible to align the planning cycles of the Program Participants, the Program Participants agree to submit the AFH in accordance with the City's consolidated plan cycle. The PHA will comply with HUD regulations requiring submissions by the PHA of reports due to HUD.

4. ROLES/RESPONSIBILITIES OF PROGRAM PARTICIPANTS.

Program Participants will divide the tasks necessary for the completion of the AFH. The responsibilities of the Program Participants are as follows:

(a) Program Participant #1 – The Spartanburg County shall:

- (i)** Engage the AFH Consultant, be the primary point of contact for the AFH Consultant, and be responsible for payment under a potential consultant contract.
- (ii)** Provide funding for the selection and payment of AFH consultant not to exceed 45% of the total cost. Total estimated cost of the AFH study not to exceed \$50,000.

- (iii) Assist with the community participation and consultation process by providing a list of stakeholders, promoting the process, and making available the draft document for public review and comment, as requested.
- (iv) Provide local data and local knowledge to the AFH Consultant, as requested and needed.
- (v) Review AFH drafts and provide input in a timely manner, as requested.
- (vi) Be accessible to the AFH Consultant as needed.
- (vii) Be responsible for obtaining any needed approval of the AFH by the County Council.
- (viii) Be responsible for entering the AFH in HUD's online system.
- (ix) Be accountable for any applicable analysis and any applicable joint goals and priorities as well as for its individual analysis, goals and priorities included in the submitted AFH.

(b) Program Participant #2 – The City of Spartanburg shall:

- (i) Assist with the community participation and consultation process by providing a list of stakeholders, promoting the process, and making available the draft document for public review and comment, as requested.
- (ii) Provide local data and local knowledge to the AFH Consultant, as requested and needed.
- (iii) Participate in the procurement process for the AFH Consultant with the County.
- (iv) Provide funding to the County for the selection and payment of AFH consultant not to exceed 45% of the total cost. Total estimated cost of the AFH study not to exceed \$50,000.
- (v) Review AFH drafts and provide input in a timely manner, as requested.
- (vi) Be accessible to the AFH Consultant as needed.
- (vii) Be responsible for obtaining any needed approval of the AFH by City Council.
- (viii) Be accountable for any applicable analysis and any applicable joint goals and priorities as well as for its individual analysis, goals and priorities included in the submitted AFH.

(c) Program Participant #3 – The Housing Authority of the City of Spartanburg shall:

- (i) Participate in the procurement process for the AFH Consultant with the County.
- (ii) Provide funding to the County for the selection and payment of AFH consultant not to exceed 10% of the total cost. Total estimated cost of the AFH study not to exceed \$50,000.
- (iii) Assist with the community participation and consultation process by providing a list of stakeholders, promoting the process, and making available the draft document for public review and comment, as requested.
- (iv) Assign staff member(s) to serve on the AFH working group to work with City to prepare the AFH, to assist with any public meetings, and to assist with required citizen participation requirements of the AFH.

- (v) Complete the Publicly Supported Housing Analysis for the units owned, managed, or assisted through vouchers by the Housing Authority of the City of Spartanburg and its related entities in the AFH Tool and shall provide analysis to the City for inclusion in the AFH. The analysis shall include responses to the questions and directives associated with the AFH Tool on Public Housing:

Publicly Supported Housing Analysis:

- I. Analysis;
 - (a) Publicly Supported Housing Demographics;
 - (b) Publicly Supported Housing Location and occupancy;
 - (c) Disparities in Access to Opportunity;
- II. Additional Information as needed and obtainable;
- III. Contributing Factors – of Publicly Supported Housing Location and Occupancy

- (vi) Arrange and assist with meetings as needed with the Housing Authority of the City of Spartanburg’s Resident Advisory Board, which includes representatives from SHA housing to gather input/consult regarding issues and concerns relevant to AFH Program.
- (vii) Be accountable for any applicable analysis and any applicable joint goals and priorities as well as for its individual analysis, goals and priorities included in the submitted AFH, to the extent feasible with consideration for necessary regulatory, policy or financial obligations. .

(d) Joint Activities of all participants:

- (i) Perform activities required to successfully complete the AFH Tool including, but are not limited to gathering public input from various stakeholders, compiling local plans, data, and other information, and performing analysis of HUD provided and other data. Additionally, as the lead entity, the County will be responsible for coordinating with stakeholder groups, community and civic organizations, representatives of local jurisdictions, and others to meet requirements for the AFH in accordance with the AFH rule.
- (ii) Follow the adopted Citizen Participation Plan, as required, to provide public notice, public hearing, and public comment periods in accordance with HUD regulations (24 CFR Part 91.100 and 91.105).
- (iii) The Program Participants will be accountable for any applicable analyses and any applicable joint goals and priorities to be included in the submitted AFH. Program Participants will also be accountable for their individual analyses, goals and priorities to be included in the submitted AFH.

5. WITHDRAWAL.

The withdrawing Program Participant must promptly notify HUD of its withdrawal from the collaboration.

6. SPECIAL CONDITIONS.

The Program Participants acknowledge that a third party consultant may be required or requested to assist with completion of the AFH. If a consultant is to be hired, the Program Participants hereby acknowledge that this Agreement will be amended in writing. Before any consultant is hired, each party shall obtain the authorization of its respective governing body and the Program Participants shall negotiate and enter into a cost-sharing agreement.

7. SEVERABILITY.

If any provision of this Collaboration Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

8. SECTION HEADINGS AND SUBHEADINGS.

The section headings and subheadings contained in this Collaboration Agreement are included for convenience only and shall not limit or otherwise affect the terms hereof.

9. WAIVER.

A Program Participant's failure to act with respect to a breach by another Program Participant does not waive its right to act with respect to subsequent or similar breaches. The failure of the Program Participant to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

10. ENTIRE AGREEMENT.

This Collaboration Agreement between the Program Participants for the submission of the 2019 AFH, supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Program Participants with respect to this Collaboration Agreement. By way of signing this Collaboration Agreement, the Program Participants are bound to perform the duties and obligations set forth herein. Any amendment to this Collaboration Agreement must be submitted to the U.S. Department of Housing and Urban Development.

IN WITNESS THEREOF, the City of Spartanburg has executed this agreement on the date stated, by and through its City Manager as Attested by the City Clerk, Spartanburg County has executed this agreement on the date stated, by and through its County Administrator as Attested by the County Clerk, and the Housing Authority of the City of Spartanburg has executed this agreement on the date stated, by and through its Executive Director as Attested by the witness this _____ day of _____, 2017.

SIGNATURE PAGES FOLLOWS

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VIII. B



REQUEST FOR CITY COUNCIL ACTION

TO: Mayor and Members of City Council

FROM: Chris Story, Assistant City Manager

SUBJECT: Eligibility of 141/143 W. Main Street, 174 E. Main Street, 589 E. Main Street and confirming 130 Magnolia Street for Special Property Tax Assessment for Rehabilitated Historic Properties

DATE: March 15, 2017

BACKGROUND: In 2013, City Council established by ordinance a mechanism, consistent with state code, which allows City Council to provide an advantaged property tax treatment for eligible historic properties when those properties are significantly rehabilitated according to historic standards. The Council, by and through either resolutions or development agreements, have certified the following properties for the special property tax assessment for rehabilitated historic properties:

141/143 W. Main Street
174 E. Main Street
589 E. Main Street
130 Magnolia Street

By state code, the Board of Architectural Design and Historic Review (HARB) is the reviewing authority and must provide preliminary certification for the proposed rehabilitation work for properties seeking the special assessment. Each of these properties is in the process of renovation and restoration and some of the properties have work being conducted under the supervision of the SC State Office of Historic Preservation ensuring that work is conducted according to appropriate preservation standards.

In order to enjoy the special assessment, these properties must also be certified by resolution of Spartanburg County Council. There was some inconsistency in which these properties have been certified and in order to facilitate the special assessment through Spartanburg County Council, these properties are requiring a consolidated resolution by City Council finding these properties as being eligible for the special property tax assessment for rehabilitated historic properties.

Staff recommends approval of the attached resolution.

We welcome any questions you may have.

RESOLUTION

TO DETERMINE THE ELIGIBILITY OF 141/143 W. MAIN STREET, 174 E. MAIN STREET AND 589 E. MAIN STREET AND TO REAFFIRM 130 MAGNOLIA STREET FOR SPECIAL PROPERTY TAX ASSESSMENT FOR REHABILITATED HISTORIC PROPERTIES AS ADOPTED BY ORDINANCE OF THE CITY COUNCIL ON SEPTEMBER 9, 2013.

WHEREAS, City Council of the City of Spartanburg, South Carolina (the "City") adopted an Ordinance on September 9, 2013, providing for special property tax assessment for rehabilitated historic properties and establishing the processes and standards for eligibility; and

WHEREAS, the Ordinance requires City Council to determine by resolution the eligibility of individual properties for the special assessment upon preliminary approval by the Historic Architectural Review Board (HARB); and

WHEREAS, for eligible properties to enjoy such special assessment, they also require approval by resolution of the Spartanburg County Council; and

WHEREAS, 141/143 W. Main Street, 589 E. Main Street and 130 Magnolia Street are contributing properties in local historic districts; and

WHEREAS, 174 E. Main Street, the former Aug W. Smith Department Store, is at least 50 years old and is an individual landmark in that it individually embodies the distinguishing characteristics of a period type of architecture of multi-story department stores and was a significant element of the downtown economic community for decades; and

WHEREAS, 141/143 W. Main Street, 174 E. Main Street and 589 E. Main Street received preliminary approval by HARB on February 9, 2017; and

WHEREAS, 130 Magnolia Street had previously been approved by City Council Resolution dated October 12, 2015 and received preliminary approval by HARB on February 9, 2017.

NOW, THEREFORE, BE IT RESOLVED By the Mayor and Members of Council of the City of Spartanburg, in Council assembled:

Section 1. City Council has determined that 141/143 W. Main Street, 174 E. Main Street and 589 E. Main Street are eligible to receive the special tax assessment in accordance with Chapter 18, Article III of the Code of the City of Spartanburg.

Section 2. City Council hereby reaffirms that 130 Magnolia Street is eligible to receive special tax assessment in accordance with Chapter 18, Article III of the Code of the City of Spartanburg.

Section 3. The granting of these special assessments is for a term of five (5) years.

Section 4. The Clerk shall provide written notice to the County Assessor of the adoption of this Resolution.

Section 5. This Resolution is effective immediately upon its enactment.

DONE AND RATIFIED this _____ day of _____, 2017.

Junie L. White, Mayor.

ATTEST:

Connie S. McIntyre, City Clerk.

APPROVED AS TO FORM:

Cathy Hofer McCabe, City Attorney.



REQUEST FOR CITY COUNCIL ACTION

TO: Mayor and Members of City Council
FROM: Ed Memmott, City Manager
SUBJECT: Ordinance to Amend Chapter 23 of City Code
DATE: March 15, 2017

BACKGROUND:

For decades the city has regulated the practices and charges associated with the towing of vehicles from public rights-of-way. The city has not, however, regulated towing practices or charges on private property. Over the past few months, staff has become aware of incidents when vehicles were towed from private property and the vehicle owner was charged fees that were substantially higher than what is allowed by city code for services performed in public rights-of-way.

Due to the potential cost and inconvenience on vehicle owners and the potential adverse impact on the commercial activities in the city, staff believes it is appropriate to set a regulatory framework for the nonconsensual towing of vehicles from privately-owned commercial property. The proposed code amendment would set maximum charges for towing and storage of vehicles. It would also require tow truck operators providing services to privately-owned commercial property owners to register with the city and would set requirements for signage on property where towing is enforced.

Tow truck operators who are known to operate in the city have been provided notice of staff's intent to recommend these changes. The ordinance and the new requirements would take effect 30 days after second reading approval by Council. Staff will also provide tow truck operators and property owners where towing is enforced with written notice of the new requirement immediately following second reading.

ACTION REQUESTED: First reading approval of an ordinance to set standards and maximum charges for the nonconsensual towing of vehicles from privately-owned commercial properties.

BUDGET AND FINANCIAL DATA: N/A

AN ORDINANCE

TO AMEND THE CODE OF THE CITY OF SPARTANBURG 1988, CHAPTER 23, "WRECKERS AND WRECKING SERVICES BY ADDING SECTIONS 23-14 THRU 23-19 TO PROVIDE FOR "NONCONSENSUAL BOOTING AND TOWING."

WHEREAS, the Code of the City of Spartanburg 1988 sets a schedule of maximum rates that can be charged for vehicle towing and storage from public rights-of-way; and

WHEREAS, there are at present no maximum rates for the towing and storage of vehicles towed from privately-owned commercial property; and

WHEREAS, the Spartanburg Police Department personnel have become aware of incidents when vehicles were towed from privately-owned commercial property and the vehicle owner was charged towing-related fees that were significantly higher than rates permitted for towing from the public rights-of-way; and

WHEREAS, a modification to the Code is desired to protect the public and reasonably balance the property rights and interests associated with the towing of privately-owned vehicles from privately-owned commercial property.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND MEMBERS OF COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. To amend the Code of the City of Spartanburg 1988, Chapter 23, "WRECKERS AND WRECKING SERVICES," to add Sections 23-14 thru 23-19 to provide for "Nonconsensual Booting and Towing" which shall read as follows:

SEC. 23-14. NONCONSENSUAL BOOTING AND TOWING.

(a) City recognizes the rights of real property owners to restrict or prohibit the parking of motor vehicles on their premises without their consent, or without appropriate payment when consent is given, and recognizes that parking on privately-owned commercial property without the property owner's consent is a misdemeanor under S.C. Code 1976, § 16-11-760 if the owner has posted notice at a conspicuous place.

(b) City nonetheless finds as follows:

- (1) When a lot owner consents to parking by the public but requires payment in all or some instances, state statutes do not fully address the balance between lot owners or managers and vehicle motorists.**
- (2) Increasingly, there are instances of vehicles being towed from privately-owned commercial property, or instances of wheels being booted while the vehicles are on privately-owned commercial property, without the vehicle owners having been given sufficient notice that parking on the premises is not authorized, or without vehicle owners having been warned of the specific consequences.**
- (3) There are no clear and objective standards under state statutes for what constitutes a conspicuously posted notice.**
- (4) Restricting the use of spaces in private lots to paying monthly parkers or requiring other users to make payment on a basis of payment per occasion of use is not a predatory practice. However, the willful inducement to use a private lot with an expectation to levy additional charges beyond normal parking fees as a precondition of exiting the lot is a predatory practice.**
- (5) Predatory towing practices involving vehicles parked on lots associated with residential properties, primarily apartment complexes, is also a problem which can disproportionately impact the working poor who face the choice between paying what in some instances are excessive towing-related fees and the loss of their vehicle.**
- (6) Excessive charges for nonconsensual booting and towing, as well as the refusal of certain towing services to release vehicles prior to their being towed even when the vehicle owner is prepared to provide payment for the vehicle, constitute predatory practices, as do efforts to patrol and wait for offenders to park their vehicles in insufficiently posted parking lots.**
- (7) Predatory booting and towing practices of businesses offering booting and towing services to real property owners can have a detrimental impact on the business climate of restaurants and other commercial establishments whose patrons sometimes park in lots with either no notices or inadequate notices posted.**
- (8) Predatory booting and towing practices can impose excessive**

hardships on drivers who have not intentionally acted in bad faith in parking vehicles on privately-owned commercial property in many circumstances.

- (9) Poorly marked and inadequately staffed parking lots lead to confrontations between motor vehicle drivers and providers of booting services and towing services to substantially the same extent as deliberately predatory entrapments, and the confrontations lead to calls for a police department response.
- (10) Establishing reasonable rules of conduct is a good means of balancing the bona fide interests of property owners, booting providers and towing providers, with the interests of the parking public and businesses whose patrons need parking.
- (11) The city can reconcile the rights of real property owners with the public interest of promoting commercial areas in the city as regional destinations by requiring certain warning signs to be posted at lots where booting and towing are used as enforcement tools by real property owners and by establishing reasonable measures to regulate privately-owned commercial lot owners and towing and booting service providers.
- (12) Booting inevitably results in a high instance of angry confrontations which disturb the peace and threaten public order.

SEC. 23-15. DEFINITIONS.

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

Boot or locking wheel boot means a mechanical clamp or device that is professionally manufactured and designed to lock the wheel on a motor vehicle thus immobilizing the vehicle and preventing anyone but the key holder of the device from removing it.

Deliver means placing a towed motor vehicle in the actual possession of the owner, authorized operation or authorized agent of the owner.

Lot or parking lot means any privately owned place which is used for parking motor vehicles while leaving them unattended. The term “lot” or “parking lot” includes places which customarily make per use charges or require lease payments from users, and it also includes places where no charges or payments are ordinarily assessed, whether the places are associated with a particular

building or stand alone.

Motor vehicle means any car, truck, motorcycle, or similar equipment which has wheels and is propelled by an engine and which is capable of moving on the public ways of the city.

Nonconsensual booting means the booting of a vehicle which is authorized or directed by a person other than the vehicle owner, authorized operator or authorized agent of the owner.

Nonconsensual towing means the towing of a vehicle from property other than the public right-of-way which is authorized or directed by a person other than the vehicle owner, its authorized operator or an authorized agent of the owner. The term “nonconsensual towing” shall not apply to nonconsensual tows that occur as a result of vehicle repossession by a lien holder having title to the vehicle.

Privately-owned commercial property booting means the booting of a motor vehicle from private real property at the request of the property owner or the agent of the privately-owned commercial property owner.

Privately-owned commercial property towing means the towing of a motor vehicle from private real property at the request of the property owner.

Property owner means the person or business entity which owns and occupies real property. For real property which is leased, the term “property owner” shall mean the lawful lessee with occupancy and control of the premises. Control of the premises with the authority to refuse admittance to the property is the factor which determines the status of “owner” under the sections which follow.

Towing operator means any person, company or partnership, engaged in the business of towing or storing towed vehicles, and the term includes the employees of the individual or business entity engaged in such business.

SEC. 23-16. WARNING SIGN FOR NONCONSENSUAL BOOTING AND TOWING.

(a) It shall be unlawful to charge for the nonconsensual towing of any motor vehicle from any parking lot located upon privately-owned commercial property without authorization from the owner of the motor vehicle or of the city, or to request the provider of booting or towing services to engage in such actions, except under the following circumstances:

(1) The property owner has posted the property at each vehicular entrance

to the property with a sign approved by the city manager, or his designee, and having been determined to be conspicuous for the property and entrance concerned so as to be clearly visible by the person of ordinary sensibilities upon entrance to the property. The name and telephone number of the towing service provider must appear on or immediately below the sign.

(2) All signage must be approved by the city manager as complying with the provisions of this section. The city manager may direct the traffic services division to develop a standard sign in compliance with the criteria of this section. The standard sign shall be made reasonably available to lot owners and their representatives in an electronic format which can be utilized by private sign vendors for the manufacture of the standard sign. The traffic services division shall develop standard signs at cost to requesting lot owners or their representatives.

(3) Signs shall be placed at the entrance of each parking lot of privately-owned commercial property or in a position that is clearly and unmistakably visible to a driver upon entering the lot. The exact placement must be approved by the city manager or the city manager's designee in order to ensure that the sign can be seen by drivers of motor vehicles upon entering the parking lot. Additional signs may be placed elsewhere in the lot at the owner's discretion.

(4) The city manager, or the city manager's designee, may require that the required signage be placed on a sandwich board sign frame, or comparable temporary frame, at ground level of all entrances whenever a lot begins operation as a pay per use lot on a temporary basis, or whenever other circumstances such as physical configuration of the lot or its relation to the right-of-way or other properties reasonably require in order to meet the purposes of this section.

(b) The requirements of subsection (a) of this section are in addition to, and not in lieu of, the provisions of S.C. Code 1976, § 16-11-760(A) requiring the posting of privately-owned commercial property before an unauthorized vehicle can be towed without the vehicle owner's consent.

SEC. 23-17. PAYMENT AND PROCEDURES FOR NONCONSENSUAL BOOTING AND TOWING.

(a) Subject to Section 23-19 which sets forth all allowable nonconsensual towing-related charges. The owner of the vehicle which is towed in accordance with this section shall be responsible for paying all applicable towing-related charges provided that the real property owner has complied with all of the requirements contained in Section 23-15.

- (b) No provider of towing services shall tow a motor vehicle from a parking lot located upon privately-owned commercial property without the owner's consent without first having obtained a written authorization for such action from the property owner, and without the authorization showing the name and bearing the signature of the property owner. The authorization may be in the form of a written agreement to cover all nonconsensual towing for a particular lot for a specific term.
- (c) Any towing operator performing a nonconsensual tow, shall within 60 minutes of the removal of the vehicle from the private lot, telephone the police department to make an oral report of the tow by providing the applicable information on the tow record/invoice form described in Section 23-18. Any towing operator which fails to give such notice within one hour of the time the vehicle was towed shall not be entitled to any compensation for the towing and storing operation and shall deliver the vehicle to the owner upon request.
- (d) If a driver of a vehicle to be towed arrives prior to removal of the vehicle from the posted property, then the towing operator must accept payment tendered at the scene and release the vehicle immediately. For payment tendered at the scene, the required payment can be no more than one-half the maximum authorized for nonconsensual towing in section 23-19.

SEC. 23-18. PERMIT REQUIRED.

- (a) No provider of services for towing vehicles from privately-owned commercial property shall operate within the corporate limits of the city without obtaining a permit for that purpose from the city manager or the city manager's designee. The permit shall be in addition to, and not in lieu of, any business license permit otherwise required under this Code.
- (b) The city manager or the city manager's designee shall develop such forms as may be appropriate for the application for the permit, which shall be approved as to form by the city attorney, and may refrain from issuing a permit without the information on the form being complete. The information required shall include, as may be relevant to the service, the principal operating the business, the street and mailing address of the business, the street address of where towed vehicles will be stored, the state of incorporation of the business, persons having an ownership of five percent or greater in the business, telephone numbers where persons operating the business can be reached at any time of the day or evening, a description of all equipment to be used, the name and address of other businesses from whom equipment will be leased or borrowed, a list of properties where the business is authorized by the property owners to boot

vehicles of have them towed, a certification that changes in the information will be updated in writing prior to the changes taking effect, an acknowledgement that a violation of this chapter is a basis for the revocation of the permit or of the business license, or both.

- (c) No permit shall be issued absent copies of certificates of insurance, from an insurance carrier authorized to do business in this state, evidencing general liability insurance, and such additional lines of coverage as the city manager determines to be relevant to the business, in such uniform and standard amounts as the city manager or the city manager’s designee determines to be reasonable, considering the exposure to harm by the general public.
- (d) The books and records of all providers of towing services shall be subject to inspections and audits, and must be kept at the office location identified on the permit application. Failure to keep such books and failure to make all books kept available for inspection and audit by the city when access is requested is a basis for suspension or revocation of permits under this section and a basis for suspension or revocation of the provider’s business license.

SEC. 23-19. MAXIMUM CHARGES FOR TOWING, BOOTING AND FEES RELATED THERETO; METHODS OF PAYMENT AND INVOICE/RECEIPTS.

- (a) Charges made to vehicle owners or operators for nonconsensual towing of motor vehicles on privately-owned commercial property shall be limited to the following:

Booting & Towing Fees
Fees relative to booting and towing of motor vehicles parked without permission on privately-owned commercial property within the city

Booting and towing permit fee	\$ 25.00
Maximum booting charge from private lot	50% of tow cost
Maximum towing charge from private lot	\$100.00
<i>Vehicles less than 26,000 pounds</i>	
City-provided sign (each)	\$25.00
Maximum Storage charges for impoundment	\$20.00
<i>Applicable only after 24 hours of storage)</i>	\$20.00
Maximum disconnect fee	50% of tow cost
DMV Processing Fee	\$35.00
<i>Authorized processing fee for any vehicle retained for five (5) or more days, as a tow company incurs direct costs with DMV after retention of five (5) or more days.</i>	

Dolly Fee Authorization <i>Authorized fee when all four-wheel drive vehicles must be dollied to safely move</i>	\$40.00
Weather Wrap Fee - Per window/sunroof wrapped <i>Authorized fee for open windows and sunroofs that require weatherproof wrapping</i>	\$10.00
Vehicles Exceeding 26,000 pounds – Maximum Fee <i>Authorized fee for vehicles exceeding 26,000 pounds in weight</i>	\$400.00

- (b) The maximum fees set forth above in subsection (a) shall be set by the city manager from time to time. All other fees and charges are prohibited.
- (c) The city manager shall set the fee in an amount that is high enough that property owners can reasonably expect to receive timely service from competent providers when a request for service is placed. However, the fee shall not be so high that it is punitive. The removal or immobilization of the vehicle having been found to be sufficiently punitive that an additional monetary penalty is unwarranted.
- (d) Every provider of nonconsensual towing services must provide to a motor vehicle owner or operator an invoice and receipt, or a combination form serving as an invoice which can become a receipt upon payment from the motor vehicle owner or operator. The invoice/receipt must be capable of being prepared in duplicate, with an original provided to the vehicle owner, and the duplicate to be retained by the service provider for not less than three years. The form shall show the name and telephone number of the service provider. It shall reflect the time, date and place of booting or towing, and the time and date of accepted payment. It must bear the signature or initials of the person accepting payment. The city manager may develop additional information requirements which are reasonably related to the purposes of this chapter.
- (e) Any violation of this Ordinance may subject the offender to fines of up to \$500 per violation and/or 30 days in prison or a revocation of its business license.

Section 2. This Ordinance shall become effective thirty (30) days after enactment.

DONE AND RATIFIED this _____ day of _____, 2017.

MAYOR.

ATTEST:

CITY CLERK.

APPROVED AS TO FORM:

CITY ATTORNEY.

___/___/___ 1st Reading

___/___/___ 2nd Reading



MEMORANDUM TO CITY COUNCIL

TO: Ed Memmott, City Manager

FROM: Connie McIntyre, City Clerk

SUBJECT: Vacancies on Accommodations Tax Advisory Committee, Design Review Board, and Spartanburg Housing Authority

DATE: March 16, 2017

Applications for vacancies on the Accommodations Tax Advisory Committee, the Design Review Board, and the Spartanburg Housing Authority will be presented for Council's consideration at the March 20, 2017 City Council meeting. The applications for the vacancies are included with this memorandum.

Two resignations were submitted to the Accommodations Tax Advisory Committee, Clyde Norris and Steve Wong, which necessitates the appointment of two new members. Two applicants, Kathy M. Campbell and Eric Kocher, meet the requirements to fill the vacancies and are recommended by the current board.

One resignation was submitted by Mac Hogan to the Spartanburg Housing Authority. Mr. Hogan agreed to stay on the board until an applicant for the vacancy was found. Matthew Myers is recommended for the vacancy.

A resignation from Jessica Folk was submitted to the Design Review Board in 2016. No applications were submitted until March 1, 2017. Gabriela Geron has submitted her application. Chris Story has spoken with her if you have any questions.



City of spartanburg
SOUTH CAROLINA

Boards and Commissions Nominee Form

(Please print or type information)

BOARD/COMMITTEE: Accommodations Tax Advisory Committee

CITY RESIDENT: YES NO SEX: M F RACE: _____

NAME: Kathy M. Campbell

ADDRESS: 214 Herbert Street Spartanburg SC 29301
Street City, State, Zip Code

BUSINESS PHONE: 864/278-9688 HOME PHONE: 864/494-9030 EMAIL: _____

OCCUPATION: Office & Event Services Coordinator

EMPLOYER: Chapman Cultural Center

OTHER VOLUNTEER OR CIVIC ACTIVITIES: _____

Advisory Board Pharmacy Tech @ Virginia College
Member of Wolfford Acres Neighborhood Assn.

WHY ARE YOU INTERESTED IN SERVING ON THIS BOARD? Being familiar and work with
so many people in this area I would love to have an opportunity to serve on this
Committee to provide great services for businesses in this area and great Tourism
coming in.

RECOMMENDED BY: Jennifer C. Evans

DO YOU PRESENTLY SERVE ON OTHER GOVERNMENTAL BOARDS OR COMMISSIONS?

YES NO IF YES, PLEASE LIST: _____

3/7/17
DATE

Return via MAIL or Email to:

Connie S. McIntyre, City Clerk
City of Spartanburg
PO Drawer 1749
Spartanburg, SC 29304
Email: cmcintyre@cityofspartanburg.org



City of spartanburg
SOUTH CAROLINA

Boards and Commissions Nominee Form

(Please print or type information)

BOARD/COMMITTEE: Accommodations Tax

CITY RESIDENT: YES NO SEX: M F RACE: White

NAME: Eric Koehler

ADDRESS: 475 Hampton Drive Spartanburg SC 29306
Street City, State, Zip Code

BUSINESS PHONE: 864 5870056 HOME PHONE: 516 5893451 EMAIL: enc@hub-bub.com

OCCUPATION: Managing Director

EMPLOYER: HUB-BUB

OTHER VOLUNTEER OR CIVIC ACTIVITIES: Spring Fling Committee Leadership
Spartanburg

WHY ARE YOU INTERESTED IN SERVING ON THIS BOARD? I would like to see
Spartanburg be more attractive to visitors

RECOMMENDED BY: Mitch Kennedy

DO YOU PRESENTLY SERVE ON OTHER GOVERNMENTAL BOARDS OR COMMISSIONS?
YES NO IF YES, PLEASE LIST: _____

3/13/17
DATE

Return via MAIL or Email to:

Connie S. McIntyre, City Clerk
City of Spartanburg
PO Drawer 1749
Spartanburg, SC 29304
Email: cmcintyre@cityofspartanburg.org



City of spartanburg
SOUTH CAROLINA

Boards and Commissions Nominee Form

(Please print or type information)

BOARD/COMMITTEE: SPARTANBURG HOUSING AUTHORITY

CITY RESIDENT: YES NO SEX: M F RACE: W

NAME: MATTHEW MYERS

ADDRESS: 603 WEYMOUTH DR. SPARTANBURG SC 29302
Street City, State, Zip Code

BUSINESS PHONE: 864.342.4911 HOME PHONE: 864.621.1870 EMAIL: Matthew.myers@SOUTH STATE BANK.COM

OCCUPATION: BANKER

EMPLOYER: SOUTH STATE BANK

OTHER VOLUNTEER OR CIVIC ACTIVITIES: FORMER BOARD MEMBER @ ST. LUKE'S FREE MEDICAL CLINIC; FORMER BOARD MEMBER @ CITY OF SPRTG. DEVELOPMENT CORPORATION; FORMER VESTRY MEMBER - CHURCH OF THE ADVENT; FORMER BOARD MEMBER @ HUB-BUS & HUB-CULTURE.

WHY ARE YOU INTERESTED IN SERVING ON THIS BOARD? HOUSING IS A CRITICAL NEED FOR ALL PEOPLE. GOOD, SAFE HOUSING IS CRITICAL TO SPARTANBURG'S CITIZENS. SHA IS CHANGING & EVOLVING & NEEDS HELP.

RECOMMENDED BY: MOLLY TALBOT METZ

DO YOU PRESENTLY SERVE ON OTHER GOVERNMENTAL BOARDS OR COMMISSIONS?

YES NO IF YES, PLEASE LIST: _____

12/16/16
DATE

Return via MAIL or Email to:

Connie S. McIntyre, City Clerk
City of Spartanburg
PO Drawer 1749
Spartanburg, SC 29304
Email: cmcintyre@cityofspartanburg.org



Boards and Commissions Nominee Form
(Please print or type information)

BOARD/COMMITTEE: City of SPARTANBURG DESIGN REVIEW BOARD

CITY RESIDENT: YES NO SEX: M F RACE: HISPANIC

NAME: GABRIELA GIRON

ADDRESS: 102 Fawn Ridge Way MAULDIN, SC 29662
Street City, State, Zip Code

BUSINESS PHONE: _____ HOME PHONE: _____ EMAIL: GGiron@denny's.com

OCCUPATION: ARCHITECTURAL Designer

EMPLOYER: Denny's corporate

OTHER VOLUNTEER OR CIVIC ACTIVITIES: NONE

WHY ARE YOU INTERESTED IN SERVING ON THIS BOARD? I'm interested in serving the

DRB because it will help me grow my network and also gain more knowledge with my design career. Very excited for this opportunity not only to give back by sharing my expertise but, also to gain new skills.

RECOMMENDED BY: BRIAN HARRISON / William Gray.

DO YOU PRESENTLY SERVE ON OTHER GOVERNMENTAL BOARDS OR COMMISSIONS?

YES NO IF YES, PLEASE LIST: _____

03/1/2017
DATE

Return via FAX to (864) 596-2313. MAIL or Email to:

Connie S. McIntyre, City Clerk
City of Spartanburg
PO Drawer 1749
Spartanburg, SC 29304
Email: cmcintyre@cityofspartanburg.org