



CITY OF SPARTANBURG

SOUTH CAROLINA

CITY COUNCIL AGENDA

**City Council Meeting
City Council Chambers
145 West Broad Street
Spartanburg, SC 29306
Monday, March 26, 2018
5:30 p.m.**

- I. Moment of Silence**
 - II. Pledge of Allegiance**
 - III. Approval of the Minutes of the February 26, 2018 City Council Meeting**
 - IV. Approval of the Agenda of the March 26, 2018 City Council Meeting**
 - V. Public Comment**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
 - VI. Citizens Advisory Council Update**
Presenter: Wesley Hammond, Chairman
 - VII. Public Hearing**
 - A. Ordinance to Amend the Code of the City of Spartanburg 1988, Chapter 4, “Animals and Fowl” to Change the Title of Said Chapter and Make Amendments in Sections as Indicated (First Reading)**
 - 1. Committee Report**
 - 2. Staff Report**
 - 3. Public Hearing****Presenters: Representative from Animal Control Ordinance Committee**
Ed Memmott, City Manager
- VIII. Ordinance**
 - A. Approving a Development Agreement Between the City of Spartanburg and 127 W. Main, LLC (First Reading)**
Presenter: Patty Bock, Economic Development Director

IX. Resolution

- A. To Authorize the City to Execute an Agreement to Receive a Portion of Community Development Block Grant (CDBG) Funds Awarded Spartanburg County and to Authorize the City Manager to Execute a Subrecipient Agreement with the County
Presenter: Martin Livingston, Neighborhood Services Director**

X. City Council Updates

XI. Executive Session Pursuant to Section 30-4-70 (a) (1) to Discuss a Personnel Matter Regarding Position of City Attorney

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 29306
Monday, February 26, 2018
5:30 p.m.**

**(These minutes are subject to approval
at the March 26, 2018 City Council meeting.)**

City Council met this date with the following Councilmembers present: Mayor Junie White, Mayor pro tem Jerome Rice, Councilmembers Sterling Anderson, Erica Brown, Max Hyde, Alan Jenkins, and Ruth Littlejohn. City Manager Ed Memmott and Interim City Attorney Larry Flynn 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 12, 2018 City Council Meeting –**
Mayor pro tem Rice made a motion to approve the minutes as received. Councilmember Jenkins seconded the motion, which carried unanimously 7 to 0.
- IV. Approval of the Agenda of the February 26, 2018 City Council Meeting –**
Councilmember Brown made a motion to approve the agenda as received. Councilmember Littlejohn seconded the motion, which carried unanimously 7 to 0.
- V. Public Comment - None**
*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. ONE Spartanburg Update**
Presenter: Allen Smith, IOM, CCE, President and CEO
Spartanburg Area Chamber of Commerce
Mr. Smith updated Council on the ONE Spartanburg initiative and outline the path forward.
- VII. Update on Highland Community**
Presenters: Martin Livingston, Neighborhood Services Director
Mitch Kennedy, Community Services Director
Mr. Kennedy updated Council on recent activities in the Highland Community.
- VIII. Approval of Cammie Clagett Asbestos Abatement and Demolition Bids**

Presenter: Martin Livingston, Neighborhood Services Director

Mayor pro tem Rice made a motion to approve the award of bid for asbestos abatement and demolition of Cammie Clagett to Webb Harrell Construction Services in the amount of \$765,300. Councilmember Anderson seconded the motion, which carried unanimously 7 to 0.

IX. 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 Parcel #7-11-16-030.00 Located at 748 Baltimore Street, Which is 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

Mayor pro tem Rice made a motion to approve the Consent Agenda on second reading. Councilmember Jenkins seconded the motion, which carried unanimously 7 to 0.

X. Boards and Commissions – Storm Water Appeals Board

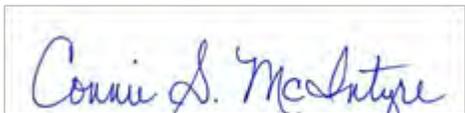
Presenter: Connie McIntyre, City Clerk

Ms. McIntyre presented Melvin Norwood's application for council consideration. Councilmember Anderson made a motion to waive the rules and appoint Mr. Norwood to the Storm Water Appeals Board. Mayor pro tem Rice seconded the motion, which carried unanimously 7 to 0.

XI. City Council Updates

Councilmembers Jenkins and Rice shared updated of their recent activities.

- XII. Adjournment – Councilmember Brown** made a motion to adjourn the meeting. Councilmember Jenkins seconded the motion, which carried unanimously. The meeting adjourned at 6:11 p.m.



Connie S. McIntyre, City Clerk



MEMORANDUM

TO: Mayor and Members of City Council

**FROM: Animal Ordinance Committee
City Councilmember Erica Brown, Chairwoman
City Councilmember Alan Jenkins
City Councilmember Max Hyde**

SUBJECT: Recommendations for Amendments to Chapter 4. Animals and Fowls

DATE: July 19, 2017

In January of this year temperatures in the City of Spartanburg dipped as low as 12 degrees. As they did, many of our residents became alarmed at what they feared were situations that endangered animals, specifically dogs that are kept outdoors. Hundreds of those residents signed a petition and/or came before council to express their concerns and petition our government for a stronger ordinance that empowered law enforcement to protect animals at subfreezing temperatures.

In response to that demand, Mayor, you empaneled an animal ordinance committee on Jan. 22 and instructed its members and Chairwoman Erica Brown to report to you regarding ways to strengthen Chapter 4 of the existing city code, entitled “Animals and Fowl.”

Enclosed are the committee’s recommendations for your consideration, public hearing and council debate.

Our committee had several major goals in mind:

1. Setting a temperature standard for cold weather, indicating council’s will to ensure that animals are protected from the freezing winter;
2. Clarifying our tethering laws to ensure that dogs don’t spend their lives at the end of a leash;
3. Strengthening language regarding the definition of “adequate shelter;”
4. Creating language that sets public expectations regarding the enforcement of the law while recognizing that an animal owner’s property rights must be protected as well.

To those ends, the proposed changes before you modernize our city’s approach to animal care in the following ways:

1. It sets a minimum temperature standard of 25 degrees, at which point animal owners are required to bring their animals indoors. Temperature standards can be seen in ordinances by the City of Greenville, SC, Sec. 4-5 (c)(6), Marion County, Ind., Sec. 531-401 (e)(2), the City of Philadelphia, Sec. 10-114 (3), etc. Our discussions began at a 32-degree minimum (which may still be reflected in the proposed language), which was more stringent than Greenville’s 36-degree limit, but after discussions with veterinarians and input from staff, we are willing to transition to a 25-degree minimum.

2. We establish a two-hour limit for animals to be tethered continuously outdoors, per recommendation of the Humane Society of the United States (see its website). Variations of this recommendation can be seen in Collier County, Fla., where animals can only be tethered outside if a responsible party is outside with the animal. Our proposed ordinance change is less strict than several cities which enforce total bans on tethering (see Maumelle, Ark; New Hanover, NC; Electra, Texas; Little Rock, Ark.; Carthage, Mo.; etc.).
Staff incorporated a cable trolley into the language and agreed with committee regarding stationary chaining and tethering. Staff further recommended that the time limit be removed from our recommendations, since we transitioned to the cable trolley system. We rejected that recommendation; per official Humane Society recommendations, dogs left outside on cable trolleys unsupervised for unlimited periods of time were subject to the same dangers (attacks from other animals, hanging and strangulation from entanglement, and a lack of socialization that dogs require to remain healthy).
3. The definition of “adequate shelter” in this language is strengthened to define “adequate space” and ensure that the shelter protects from adverse weather and “physical suffering.”
4. Committee accepted staff’s recommendation regarding language on how the ordinance may be enforced, so that officers in the field are given adequate reinforcement from council regarding the enforcement of its ordinances while also setting realistic expectations regarding the length of time that due process usually requires.

The remainder of the changes reflect cleaning up of language, renaming the ordinance, and other changes that staff and the committee universally agreed upon.

Staff has expressed some reservations, which you will see from an addendum included by the city manager. Staff considers the tethering time limit to be unnecessary, along with proposed language that calls for animals to be brought inside during heat warnings, tornado warnings, and other inclement weather.

The committee has certainly noted staff’s concerns, yet remain confident that the information we are providing here is consistent with national trends regarding the care of animals kept outdoors. We are appreciative of staff’s work on this.

The bottom line: These recommendations, if approved by council, will demonstrate our city is looking after the welfare of its animal population. Our residents have expressed in no uncertain terms that they want to know our city’s pets are protected and safe, and it is up to us to set the standard for which they are calling.

City Code
Chapter 4
ANIMALS AND FOWL
**Change name of Chapter 4 to:
“Animal Standard of Care and Treatment”**

Sec. 4-1. Definitions.

Abandonment: Deserting or intending to give up absolutely any animal without providing adequate food, water or sanitary shelter for 24 hours or longer.

Altered Animals: Any animal that has been spayed or neutered.

Animal: Any nonhuman vertebrate, whether wild or domesticated.

Animal Services Officer: The person(s) or office designated to enforce this chapter.

Animal Shelter: Any facility or premises designated by the City for the purpose of impoundment, care, or destruction of animals held pursuant to this chapter.

At large: Any animal not lawfully on the owner’s/keeper’s property or not under the immediate control of a competent person by way of leash or other similar restraining device. Voice command or use of audible signals or hand signals is not deemed to be sufficient control.

Breeder: Any person owning unaltered animals with the intent of selling the animals’ offspring.

Cat: All member of the domestic feline family.

Circus: Commercial variety show featuring animal acts for public entertainment.

Commercial Animal Establishment: Any pet shop, grooming shop, kennel, auction, riding school or any other establishment licensed to deal in or with a volume of animals.

Dog: All members of the domestic canine family, not to include wild animals.

Domestic Animal: any normal household pet, such as, but not limited to, dogs, cats, non-native birds, ferrets, hamsters, guinea pigs, gerbils, rabbits, fish, or small, non-venomous reptiles or non-venomous snakes.

Exotic Pet: An animal that is not domesticated and is not native to North America, including but not limited to, pot-bellied pigs, reptiles and arachnids.

Feral: An animal that was domesticated at one time, but now lives in the wild or that has been born in the wild and has not been domesticated.

Habitually: Done regularly or frequently.

Impound: To confine humanely while providing adequate food, water, and shelter.

Injury: Physical damage to the body or part of the body.

Kennel: Any facility wherein a person, business, or organization regularly keeps six or more dogs or other animals and receives compensation for the service or for the sale of the animals.

Neutered Male: Any male that has been surgically sterilized.

Owner or keeper: Any person who (a) has a right of property in an animal; (b) keeps or harbors an animal or has it in the person's care, or acts as its custodian for three (3) or more days.

Performing animal exhibition: Any spectacle, display, act, or event other than circuses, in which performing animals are used, commercially or for profit. Not to include dog shows or obedience training not for profit.

~~***Proper Shelter:*** Protective covering that provides protection from all forms of weather and consists of at least 4 sides, a roof, floor and an opening for ingress and egress. It should be appropriately sized for the animal.~~

Adequate Shelter: Shelter that is safe and protects the animal from injury, rain, sleet, snow, hail, the adverse effect of heat or cold, and physical suffering, and that is of a size sufficient for the animal to stand up and turn around. Portable pet carriers, wire crates, pet taxis or metal barrels are not adequate shelter.

Adequate Space: Sufficient space to allow the animal to easily stand, sit, lie, turn, and make all other normal body movements in a comfortable, normal position for the animal.

Rescuer: Any individual, partnership, organization or company that takes in animals and arranges placement or adoption of said spayed/neutered animals.

Restraint: An animal controlled by means of leash, ~~chain or other like devise,~~ **secured on a cable or cable trolley system**, or secured inside a vehicle while being driven or parked, or within a secure enclosure.
(Voice command, using audible signals or hand signals are not viable means of restraint).

Riding School or Stable: means any premises having available for hire, boarding or riding instruction, any horse, pony, donkey, mule or burro.

Spayed female: Any female which has been surgically sterilized.

Stray Animal: Any animal running at large with no identifiable owner.

Vicious or dangerous animals: Any animal (a) with the propensity or inclination to attach unprovoked, to cause injury to, or otherwise to endanger the safety of humans or domesticated pets; (b) which has attacked a human being or domesticated animal without provocation; or (c) which is trained to fight or attack humans or other animals.

Wild animal: Untamed animal, living in its natural state, including but not limited to alligators, crocodiles, bears, feline family (including mountain lions, pumas, lions, tigers), canine family (including wolves, wolf hybrids, coyotes), non-human primates, and snakes.

Zoological Park: means any facility, other than a pet shop or kennel, displaying or exhibiting one (1) or more species of non-domesticated animals operated by a person, partnership, corporation or government agency.

Sec. 4-2. Animal Services Officer; Authority; Powers and Duties.

The animal services officer, under the direction of the Director of Public Safety or their designee, shall be responsible for:

- (1) Ensuring that all dogs and cats in the city are duly licensed and are inoculated against rabies as required by this chapter.**
- (2) Cooperating with the county health officer in the enforcement of the laws of the state with regard to animals, the vaccinations of dogs and cats against rabies and the disposition of animals found to be kept in violation of this article and the laws of the state.**
- (3) Investigating all complaints with regard to dogs, cats and other animals.**
- (4) Obtaining a search warrant to enter any premises upon which there is probable cause to believe that a violation of this chapter exists-with the search warrant, the animal services officer may enter the premises to examine and take custody of animals whenever the animal services officer determines that the action is appropriate to achieve the purpose of this chapter.**

- (5) **Pursuit of animals. In exigent circumstances, the animal services officer shall be authorized to follow and enter upon any enclosure or lot, public or private, within the city limits when the animal services officer has probable cause to believe that an animal is rabid, abused, neglected, dangerous, vicious, or an imminent threat to the health, welfare of safety of the general public, and to take custody of the animal, when appropriate, to achieve the purpose of this chapter.**

Sec. 4-3. Interference with Animal Services Officer.

- (a) **It shall be unlawful for any person to interfere with, hinder, or molest the animal services officer in the performance of his/her duties or to seek to release any animal in his custody without his/her consent or to attempt to assist the animal services officer without his/her consent, or to not provide the animal services officer with proper identification, false identification or false information or to fail to comply with the animal services officers directions or orders.**
- (b) **It shall be unlawful for any person to interfere, damage, molest, move or remove any traps or restraining devices used by animal services or any contracted agency that may be used from time to time or to release any animals from any such traps or restraining devices.**

Sec. 4-4. Nuisance Animals: Animal Control Procedures.

- (a) **The actions of an animal constitute a public nuisance when the animal threatens the safety of, or injures a member of the general public, damages property (public or private, including other animals), interferes with the ordinary use and enjoyment of the property of others in the vicinity of where the animal is kept, or properties affected by its running at large. An animal is considered a nuisance by way of example, but not limited to, the following acts or actions:**
 - (1) **The animal habitually or repeatedly chases, snaps at or attacks pedestrians, bicycles or vehicles;**
 - (2) **The animal is allowed or permitted to damage the property of anyone other than the owner or keeper or to impede the properties ordinary use even if the property is not damages.**
 - (3) **The animal's unsanitary condition cause offensive odors, filth, vermin, or disease or is dangerous to the health and safety of the animal or the community.**
 - (4) **The animal makes sounds, such as but not limited to, barks, whines, crows, howls, or cackles in a continuous, or unreasonable fashion to**

result in the serious interference with the use and enjoyment of neighboring premises or in an untimely fashion;

(b) Animal Services Officer Involvement and Procedure

- (1) Upon receipt of the complaint, the animal services officer shall investigate the validity of the complaint, if the officer determines that the complaint is valid, the officer will notify the owner or keeper of the animal in writing to correct the violation.**
- (2) If the owner or keeper is found to be in violation of this section fail to correct the violation after five (5) business days of the notice, the animal shall be impounded and the owner or keeper shall be subject to the penalties for this chapter.**

Sec. 4-5. Animal Noise.

No person shall keep or maintain a dog or any other animal that barks, howls or otherwise makes or causes noise in excessive, continuous or untimely fashion. Excessive shall mean noise that is discernable and can be heard inside a neighboring residential dwelling by persons of ordinary sensibilities. The court shall consider untimely fashion in individual cases and in general consider hours that persons are at rest.

Sec. 4-6. Dogs to be Kept Under Restraint.

All dogs shall be kept under restraint at all times by the owner. Each owner shall exercise proper care and control of any animals owned by him.

Sec. 4-7. Running at Large.

No person is permitted to allow any animal to run at large within the city. Any animal shall be deemed to be running at large when off or away from the premises of the owner, possessor or keeper or his agent or a member of his family, and not on a leash, cord or chain not more than sixteen feet (16') in length in the hands of the person immediately in charge of such animal.

Exempt from this chapter are a) those animals involved in an organized performance or training event and b) any animal used for law enforcement purposes by law enforcement officer.

Sec. 4-8. Impoundment of Animals.

- (a) The animal services office or other law enforcement agency shall take unrestrained and nuisance animals to the animal shelter for humane confinement.**

- (b) Impounded animals shall be kept for a minimum of ~~three (3)~~ **five (5)** days before becoming the property of the animal shelter.
- (c) If any animal is identifiable by means of a tag, tattoo, microchip, or other means, the owner or keeper shall be notified by an impound notice conspicuously left upon the premises of the owner or keeper or by telephone by animal services or contracted third party e.g. Shelter personnel, at the earliest practical time.
- (d) Any dog or cat being reclaimed from the animal shelter will be micro chipped. This is an invasive procedure by way of injection and shall be performed prior to the release of the animal.
- (e) Any dog or cat being reclaimed from the animal shelter which has not been spayed or neutered will be subject to an additional reclaim fee of \$200 for 1st offence and \$500 for subsequent offences within a calendar year unless the animal is spayed or neutered prior to reclaim, provided that any registered breeding animal that is impounded will be returned to the owner without being spayed or neutered.
- (f) The owner or keeper of an impounded animal shall pay all fees associated with the impoundment of the animal.
- (g) It shall be the animal services officer's discretion to return any animal in violation of this section to its owner or keeper, provided that the owner or keeper is present and is able to safely and humanely confine or restrain the animal.

Sec. 4-9. Penalties Regarding Impounded Animals

The owner or keeper in violation of this chapter may be subject to criminal prosecution, in addition to such fees paid for the release of the impounded animal.

Sec. 4-10. The City Declared a Bird Sanctuary Except Birds Constituting a Nuisance.

- (a) The territory within the corporate limits of the city is hereby designated a bird sanctuary and shall be unlawful for any person to kill, trap, hunt, shoot or attempt to shoot, willfully injure, or maim any bird or wild fowl or to rob any bird or wild fowl nests of their eggs.

(b) Birds constituting a nuisance:

- (1) Birds congregating in such numbers in a particular locality that they constitute a public nuisance or endanger the health of the public or damage property in the opinion of the proper health authorities of the city, such authorities shall meet with representatives of the Audubon Society, Bird Club, Humane Society or any other such clubs that are found to exist in the city-after giving at least three (3) days notice of the time and place for the meeting to representatives of such clubs.**
- (2) Feral or wild pigeons are deemed a public nuisance. It shall be unlawful for any person to feed wild or feral pigeons on any public property located within the city limits unless as part of an animal control effort to control bird population.**
- (3) If no satisfactory alternative is found to abate such nuisance within thirty (30) calendar days-such birds may be destroyed in such numbers and manner deemed advisable by the health authorities under the supervision of the director of public safety.**

Sec. 4-11. Limiting the Qwnership of Dogs and Cats within the City limits.

- (a) It shall be unlawful to own, keep, harbor, or maintain any more than five (5) dogs and/or cats over the age of four (4) months, in any combination thereof, on any property or lot within the City limits without first purchasing a Multiple Animal Permit.**
- (b) Having been granted a permit does not preclude that individual or entity from having to license all dogs and cats for which the permit was granted.**
- (c) Pet owners who are granted multiple animal permits may be subject to random inspections by the animal services officer. As a condition of receiving the multiple animal permit, the animal owner is granting permission to inspect all animals and the premises where animals are kept, to ensure that the animals are housed, cared for and maintained within the provisions of this chapter. Inspections are to be performed with prior notice to the owner and within the presence of said owner within 24 hours of notification. If the owner refuses permission for such inspection, then the permit or license may be revoked.**
 - (1) *Approved inspection:* The owner/keeper shall provide current rabies vaccinations for all animals, current city**

license for all required animals, ~~proper~~ **adequate** shelter for all animals, accessible food and water, living environment free of accumulated debris and waste, any tethering device shall be at least 10 ft. and have snap swivel or other similar device to prevent choking and tangling. Any other additional animals that may be added after the inspection must be approved in the same manner.

(2) ***Failed inspection:*** A failed inspection may be appealed to the Director of Public Safety within (10) working days. The animals may remain on the property until a decision has been reached.

(d) ***Violation of Ordinance.*** If the animal services officer believes, or finds a violation of this ordinance, the owner or keeper will be notified in writing. The owner or keeper must comply within ten (10) working days of written notice. If the owner or keeper is in non-compliance after ten (10) working days, the animal services office shall seize and impound the animal(s) in violation, and hold the animals until a court decision has been made.

Sec. 4-12. Prohibitions and Restrictions in Regard to Animals Permitted at Special Events.

- (a) No owner or keeper shall permit any animal, restrained or not, to be in an area in which a special event is being held pursuant to a special event permit issued under this code, unless the event specifically authorizes the presence of animals.
- (b) This section does not apply to guide, hearing, or service dogs or other dogs which have been trained to accompany a person with a disability while being accompanied by a disabled person, or to any dog or horse in the custody or control of a law enforcement officer while the officer is in the performance of official duties.

Sec. 4-13. Prohibited Animals.

- (a) No person shall keep or maintain any wild animal or exotic pet within the city limits.
- (b) No person shall keep or maintain any horse, donkey, mule, ass, swine, sheep, goats, cattle or any other livestock or grazing type animal within the city limits.
- (c) No person shall keep or maintain any domesticated fowl to include

but not limited to roosters, ducks, geese, turkeys, guineas, pheasant, emus, ostrich or any other domesticated fowl within the city limits.

- (d) This section does not apply to zoological parks, performing animal acts, stable, or riding school, providing the same has applied for and was granted a license or permit.
- (e) This section does not apply to those persons currently keeping or maintaining any domesticated fowl or other animals that were not previously precluded by the Ordinance. Any person having such animal must register the animal before January 1, 2009.

Sec. 4-14. Raising or Keeping Domesticated Female Chickens Generally.

- (a) **Purpose.** The purpose of this section is to provide standards for the keeping of domesticated female chickens. It is intended to enable residents to keep a small number of domesticated female chickens on a non-commercial basis while limiting the potential adverse impacts on the surrounding neighborhood. The City recognizes that adverse neighborhood impacts may result from the keeping of domesticated female chickens. This section is intended to create licensing standards that ensure that domesticated female chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.
- (b) The keeping of domesticated female chickens shall be in compliance with the following, in addition to any zoning and/or building regulations that may be applicable to the construction of coops and:
 - (1) No more than six (6) domesticated female chickens shall be kept or maintained on a single premise. It shall be unlawful to keep roosters or more than six (6) domesticated female chickens. It shall be unlawful to keep or maintain domesticated female chickens at a duplex or apartment complex.
 - (2) Such domesticated female chickens must be confined in a coop which is fully enclosed with a solid floor and made of suitable, washable material. The coop shall be cleaned regularly with all droppings and excretions placed in a fly-proof container unless otherwise disposed of in accordance with any federal, state or located at least 50 feet from the nearest residence other than that of the owner.

No coop shall be placed in a front or side yard.

Failure to confine the domesticated female chickens, maintain

the coop or manage the droppings and excretions in compliance with this section shall be unlawful.

- (3) It shall be unlawful to slaughter any domesticated female chickens on the premises.**
- (4) It shall be unlawful to raise domesticated female chickens for commercial purposes within the corporate limits of the City.**
- (5) It shall be unlawful to keep domesticated female chickens on premises within the City without first obtaining an approval of the location of the chicken coop and the issuance of an annual permit. Any annual permit would be subject to ordinance revisions adopted by Council. Should Council amend the Ordinance to prevent domesticated female chickens or any other new conditions, such amendment would apply to current permits within thirty (30) days from the date of adoption of Council's revisions.**

- (c) Annual Permit. The annual permit to keep domesticated female chickens is personal to the permittee and may not be assigned. No permit shall be issued without the written consent of abutting property owners. In addition, the permit authorized the keeping of domesticated female chickens only upon the property described in the permit. The permittee must occupy the residence on the property where the domesticated female chickens are kept as the permittee's personal, primary residence. An applicant for a permit must either own the property or have permission from the property owner to be eligible for a permit. Only one permit is allowed per permittee. In the event the permittee is absent from the property for longer than thirty (30) days, the permit automatically shall terminate and become void. The issuance of a permit does not create a vested right to renewal of the permit beyond the stated term thereof.**

A permit that is issued to a person whose property is subject to private restrictions that prohibit the keeping of domesticated female chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

- (d) Fenced Chicken Coop.**
 - (1) Domesticated female chickens must be kept in a fenced enclosure at all times. In addition to the fenced enclosure, domesticated female chickens shall be provided with a covered, predator-resistant chicken coop.**

- (2) A minimum of two (2) square feet per domesticated female chicken shall be provided for the chicken coop.**
 - (3) Fenced enclosures and chicken coops must be properly ventilated, clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lost due to noise, odor or other adverse impact.**
 - (4) The chicken coop and fenced enclosure must provide adequate ventilation and adequate sun, shade and must be constricted in a manner to resist access by rodents, wild birds and predators including dogs and cats.**
 - (5) Chicken coops shall be enclosed on all sides and shall have a roof and doors. Opening windows and vents must be covered with predator- and bird-resistant wire of less than one (1) inch openings.**
 - (6) All stored food for the domesticated female chickens must be kept either indoors or in a weather-resistant container designed to prevent access by animals. Uneaten food shall be removed daily.**
- (e) Application for Permit. Every applicant for a permit to keep domesticated female chickens shall:**
- (1) Complete and file an application on a form prescribed by the City.**
 - (2) The City shall issue a permit if the applicant has demonstrated compliance with the criteria and standards in this section.**
 - (3) A permit to keep domesticated female chickens may be suspended or revoked by the City where there is a risk to public health or safety or for any violation of or failure to comply with any of the provisions of any other applicable ordinance or law. Any denial, revocation or suspension of a permit shall be in writing and shall include notification of the right to and procedure for appeal.**
 - (4) No fee will be imposed for permits having an expiration date of June 30, 2012. For permits issued for the fiscal year 2012-2013 and thereafter, the permit fee will be set by City Council in its adoption of the annual City budget and fee schedule.**

Sec. 4-15. Mistreatment of Animals.

- (a) No person shall starve, beat, neglect, ill-treat, torture, overload, overdrive, overwork, cruelly kill, or inflict unnecessary pain upon any animal.
- (b) No person shall leave an animal unattended in, or tethered to a standing or parked motor vehicle in a manner that endangers the health and safety of the animal or motor vehicle in a manner that endangers the health and safety of the animal or safety of the animal or safety of any person.
- (c) If an animal services officer finds a violation of this section, the officer shall seize and impound the animal and leave written notice of impoundment in a conspicuous location about the premises. The animal will remain as evidence at the animal shelter pending the court's decision. If an owner or keeper is not found the animal will irrevocably become the property of the animal shelter after a ~~three (3)~~ **five (5)** day impound period.

Sec. 4-16. Humane Treatment Required.

- (a) No owner or keeper shall ~~fail~~ **fail** to provide clean fresh water, good wholesome food, ~~proper~~ **adequate** shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane treatment. The owner or keeper must maintain a clean living environment free of accumulated waste and debris so that the animal can walk and lay down without coming into contact with any waste or debris.
- (b) ~~Property shelter includes a structure appropriately sized for the animal consisting of (4) four sides, an impervious roof, floor and an opening for ingress and egress. The structure must adequately protect the animal from harsh weather.~~

Adequate shelter means the provision of and access to shelter that is safe and protects the animal from injury, sleet, rain, snow, hail, and the adverse effects of heat or cold, and physical suffering, and that is of a size sufficient for the animal to stand up and turn around.

For a dog confined outside, the term adequate shelter shall additionally mean that:

- (1) **In winter months, the dog must have access to shelter with a roof, that has an entrance covered by a flexible wind-proofing material or self-closing door, that sits on a platform at least 4 inches off the ground and that contains dry bedding, which shall consist of an**

insulating material that does not retain moisture, such as straw, and is of a sufficient depth for the dog to burrow.

(2) In all other months, the dog must have access to a shelter shaded by trees, a roof, a tarp or tarp-like material.

(c) Animals must be brought into a temperature controlled environment facility when the temperature is at or below 25 degrees Fahrenheit or when a heat advisory, wind chill warning, or tornado warning has been issued by local, state, or national authority, except when the dog is in visual range of a competent adult who is outside with the dog.

(e) (d) No person shall crop a dog's ears or tail except a licensed veterinarian.

(d) (e) No person shall give away any live animal, fish, reptile or bird as a prize for, or an inducement to enter any contest, game or other competition for as an inducement to enter a place of amusement or as an incentive to enter into any business agreement whereby the offer was for a purpose of attracting trade.

Sec. 4-17. Abandoning Animals.

(a) No owner or keeper shall abandon an animal.

(b) If an animal is believed to be abandoned, a written notice must be placed in a conspicuous location about the property giving notice that the animal will be impounded if the owner or keeper does not contact the animal services office by the date and time indicated on the notice. The notice will remain in effect for a full 24-hour period.

(c) If the animal has not been removed after 24 hours or if animal control has not been notified that the animal is being cared for, the animal services officer shall impound the animal at the animal shelter for a period of not less than ~~three (3)~~ **five (5)-days.**

Sec. 4-18. Animal Waste

An owner or keeper walking, exercising or otherwise having their animal outside the confines of their own property, whether public or private, shall carry a means to pick up and dispose of excreta deposited by his/her animal by way of, but not limited to, a scoop and a bag.

Sec. 4-19. Striking Animals with a Motor Vehicle.

Any person operating a motor vehicle, who strikes a domesticated animal shall stop and render any assistance as may be possible and immediately report the injury or death to the animal control officer or other law enforcement agency.

Sec. 4-20. Animal Fighting and Training.

- (a) No person shall instigate, cause to, attend, or permit any dog fight, cockfight, or any other fighting between animals or between animals and humans.**

- (b) No person shall train, have equipment to, or permit the training of, any animal to attack, fight or cause injury to any domestic animal or human on any property, public or private within the city limits. Examples of training include, but are not limited to:**
 - (1) Any activity designed to torment, badger or bait any animal, for purpose of encouraging animals to fight.**
 - (2) The use of any weights on the animal, on the animal's tethering device, or on any kind of pulling structure.**
 - (3) The use of any other animals for blood sport training.**
 - (4) Any other activity that the primary purpose is to train animals to be aggressive or vicious. This does not apply to animals of licensed security companies on patrol in a confined area or animals used for law enforcement purposes.**

Sec. 4-21. Female Dogs and Cats in Heat.

Every female dog and cat in heat shall be confined in a secure enclosure so that the female cannot come into contact with another animal, except for planned breeding purposes.

Sec. 4-22. Rabies Control; Wearing of Rabies Vaccination Tag.

No owner or keeper shall allow any dog, cat or ferret over four (4) months of age on any premises within the City, unless the dog, cat or ferret has been vaccinated against rabies. The vaccination must be administered by a licensed veterinarian and the tag shall be securely attached to a collar or harness and be visible. The tag must match the dog, cat or ferret for which it was issued.

Sec. 4-23. Animal License Requirement.

- (a) All dogs and cats over four (4) months of age which have been within**

the city limits for 30 days or more must have a city license. (See fees listed below as “c”.)

(b) Any dog or cat that has been spayed/neutered is eligible for a “lifetime license”. This license is valid for life of the animal for which it was issued.

- (1) It shall be unlawful for any person to use an animal license for any other animal other than the animal it was issued to.
- (2) Written application for a license shall be filed with the city and must contain a copy of the rabies vaccination certificate with the name and address of the veterinarian who issued the certificate.
- (3) If requesting a license for a spayed/neutered animal, proof of alteration from a licensed veterinarian must be submitted with your application.
- (4) Charges for the license may be set from time to time by the City Council and a schedule of the fees shall be kept on file.
- (5) A duplicate copy of the license may be obtained for a fee.
- (6) Transfer of ownership requires a new license to be issued.
- (7) Failure to license your animal for longer than six (6) months could result in impoundment of the animal and/or prosecution.
- (8) Lifetime licenses still require annual replacement with proof of current rabies vaccinations.
- (9) Failure to replace lifetime license tag may result in revocation of license.

(c) Fees for Animal Licenses/Permits:

(1) Fees for License

Altered Animals:	\$ 6.00	Annually
(Owners over 60 years old)	\$ 5.00	Annually

Fertile Animals:	\$ 25.00	Annually
Altered Animal Lifetime: (Owners over 60 years old)	\$ 40.00 \$ 25.00	
Copy of issued tag: (Proof of ownership required)	\$ 3.00	

Sec. 4.24. Poisoning Animals.

It shall be unlawful to place substance or article which has in any manner been treated with any poisonous substance in any place accessible to human beings, birds, dogs, cats or other animals with the intent to harm or kill animals. This section, however, does not preclude the use of commercially sold rodent poisons when applied in accordance with the manufacturer's directions for such use or Licensed Exterminators using poison as a pest control program.

Sec. 4-25. Disposal of Dead Animals.

The bodies of dead animals shall be disposed of by the owner or keeper. The owner or keeper shall not allow under any circumstances, a dead animal to remain outdoors on his/her property for longer than twenty-four (24) hours unless buried.

Sec. 4-26. ~~Tying or staking animals.~~ Restraining Animals

- ~~(a) No person shall tether, fasten, chain, tie, or restrain an animal, or cause such restraining of an animal, to a tree, fence, post, dog house, or other stationary object unless tethering device used is a least ten (10) feet in length and attached in such manner as to prevent strangulation or other injury to the animal and entanglement with objects other than the stationary objects to which the device is attached.~~
- ~~(b) No person shall tether, faster, chain, tie, or restrain an animal, or cause such restraining of an animal, to a cable trolley system, that allows movement of the animal, unless the length of the cable along which the tethering device can move must be at least ten (10) feet, and the tethering device must be of such length that the animal is able to move ten (10) feet away from the cable perpendicularly.~~
- ~~(c) No person shall tether, tie, stake or chain any animal where the animal can obstruct, block or hamper the normal use of any public property or private property without the landowner's consent.~~

- ~~(d) — No person shall tether, tie, stake or chain any animal to any metering device or attempt to obstruct the device such that it prevents any service to read, disconnect, shut off, or interrupt.~~
- ~~(e) — It is unlawful to attach a chain or wire or other tethering device to, or cause such attachment to, a choke type or pronged collar.~~
- ~~(f) — It is unlawful to attach a chain or wire or other tethering device in such manner that does not allow the animal access to food, water or proper shelter.~~
- ~~(g) — It shall be unlawful for any chain or wire or other restraining device to exceed 1/8 of the animal's weight.~~

(a) Animals may be restrained as follows:

(1) Cable Trolley Systems –

To utilize a cable trolley system, the primary trolley runner line must be at least ten (10) feet in length between the two pulley stop points. The secondary line shall attach to the animal's properly fitting metal buckle-style collar or harness made of nylon or leather, no less than one inch in width and one inch or greater in diameter than the animal's neck or torso. It shall have a rolling trolley, which is freely moveable a distance of at least ten (10) feet on the primary trolley line with a spring/shock absorber attachment and swivels at both ends.

The trolley system shall allow the animal unrestricted body movement and utilization of the entire area designated by the trolley system. The trolley system must also allow the animal free access to food, water and adequate shelter.

The trolley system must be of appropriate configuration to prevent escape of the animal, entanglement with other objects, and confine the animal to the owner's property. The primary trolley line shall be used to restrain only one animal at a time.

No person shall restrain an animal outside of the range of a competent adult, also outside with the animal nor, in any case, by use of the Cable Trolley System for more than two hours in any continuous 12-hour period. The tether is connected to the animal with a buckle type collar or a body harness made of nylon or leather; is not less than one inch in width and is one inch greater in diameter than the animal's neck or torso. The animal must be in visual range of the responsible party and the responsible party must be outside with the animal.

(2) Pens or Secure Enclosures

To utilize a pen or secure enclosure, the enclosure must be at least 100 square feet. A dog over eighty (80) pounds must be provided with an additional fifty (50) square feet. For each additional dog inside the enclosure, fifty (50) square feet of space for exercise must be added per dog.

- (b) All collars used to restrain an animal must be made of nylon, leather, or other durable material, and must be fitted so as to not cause injury to the animal or embed itself in the animal's neck. The use of chain, choke, pronged or pinch type collars as a primary collar is prohibited.**

Sec. 4-27. Performing Animal Exhibits.

- (a) It shall be unlawful for any animal exhibit or circus to induce or encourage animals to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that will cause or likely to cause harm to the animal.**
- (b) All equipment used on performing animals shall fit properly and be in good working order.**
- (c) Animal Services Officers may inspect any animal exhibit or circus to ensure compliance to this ordinance.**
- (d) Failure to comply with this ordinance may result in the impoundment of the animal(s) and/or the issuance of citations.**

Sec. 4-28. Dangerous or Vicious Animals.

- (a) No person shall own, keep, harbor or have charge of or in any way maintain within the city any animal which is vicious or dangerous as described in the definitions of this chapter, or that has attacked or injured any person or domesticated pet without intentional provocation, or in an aggressive or dangerous manner approaches any person or domesticated pet in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated. This section shall not apply to any animal that attacks any person or animal that is unlawfully upon its owner or keepers premises.**
- (b) Any person witnessing an animal attacking a human being or domesticated pet shall notify the animal services offices officer or other law enforcement agency authorized to enforce this chapter. Whenever the animal control office has determined that an animal has bitten or attacked a person, the animal services officer shall promptly notify the Department of Health and Environmental**

Control (DHEC) of the bite or attack and shall cooperate with the health department in its capture or impoundment, and the ten-day quarantine.

- (c) If the animal services officer has probable cause to believe that an animal has dangerous propensities or has attacked someone or a domesticated pet without intentional provocation, the animal services officer shall temporarily impound the animal pending trial on a violation of this ordinance. Within 48 hours, excluding weekends and holidays, the animal service officer must seek a determination of probable cause in the form of a judgement order from the court ofr the impoundment of the animal.**
- (d) All animals deemed vicious and/or dangerous will be registered at the office of animal services.**
- (e) If the owner or keeper cannot immediately be identified or found, the animal services officer shall leave written notice in a conspicuous place about the premises as to the conditions of the impoundment, where the animal is being held, and the officer who impounded the animal.**
- (f) Upon final determination of guilt of the owner or keeper by the court or if the owner or keeper pleads guilty or no contest to this code section, the animal services officer may release the animal for humane destruction if so ordered by the court that the dangerous animal represents a continuing threat of serious harm to human beings or domestic animals. If the court determines that the animal was vicious and dangerous in the particular incident, but does not pose a continuing threat to human beings or domestic animals, the animal may be released to the owner provided it is confined to the owner or keeper's premises in a securely enclosed fence or locked pen, kept indoors, or a combination of these confinements. The fenced area, locked pen, or premise must be clearly posted giving notice that a dangerous animal is kept on the property. The fenced area, locked pen, or premise must be designed to prevent the entry of the general public, including children, and to prevent the escape or release of the animal. The fenced area or pen must have all sides six (6) feet high or a secure top. If the fenced area or pen does not have a secure bottom, the sides must be embedded into the ground at least one (1) foot deep. In addition, a proof of liability insurance or surety bond of at least \$50,000 insuring or securing the owner for personal injuries inflicted by the dangerous animal. Failure to comply within three (3) days shall be cause for the temporary impoundment of the animal pending a show cause hearing.**

- (g) **This section does not apply to licensed security companies on patrol in a confined area or animals used for law enforcement purposes by law enforcement officers.**
- (h) **Nothing in this chapter shall be construed to prevent the immediate destruction by an animal services officer or a police officer of any aggressive or dangerous animal when less drastic methods are not available or effective and when an animal services officer, a police officer or the animal's owner is unable to promptly and effectively restrain or control the animal so that it might be impounded.**

Sec. 4-29. Commercial Animal Establishment.

- (a) **It shall be required that any and all commercial animal establishments have a license issued by the city to conduct business within the city limits.**
- (b) **An application shall be submitted to the city , pay all applicable fees for a period of one year beginning with the date of issuance of the license, an inspection of said business will be conducted within thirty (30) days after issuance of the license by the animal services officer.**

Sec. 4-30. Inspection of Premises.

- (a) **As a condition of the issuance of the license, the animal services officer is granted permission to inspect the establishment to ensure all animals meet the standards set forth in this chapter.**
- (b) **If permission is not granted at time of inspection, the license and permit may be revoked.**
- (c) **No person who has been found guilty of cruelty to animals or who has given false information on an application shall be issued a permit.**

Sec. 4-31. Revocation of Commercial Animal Establishment License

- (a) **Any commercial animal establishment which fails to comply with the standards of this chapter or any laws governing the protection and humane treatment of animals may have their permit revoked.**
- (b) **When any commercial animal establishment permit is revoked, all of the animals covered by the permit will become the property of the animal shelter and will be the sole discretion of the director of the animal shelter to place the animals for adoption or humanely euthanize the animals.**

Sec. 4-32. Animal Breeders.

Any person or business entity that owns unaltered animals for the purposes of breeding must be registered. This shall be recorded when licenses are issued and will be subject to an additional charge.

Any registered breeding animal that is impounded will be returned to the owner without being spayed or neutered.

Sec. 4-33. Disposition of Feral or Dangerous Animals.

Any animal that is feral, wild or otherwise dangerous to the animal shelter staff and in the opinion of the animal services officer and the shelter manager, is dangerous to the safety and welfare of the animal shelter staff, to provide basic sustenance and shelter, the ~~three~~ **(3) five (5) day period may be waived and the animal shall be humanely euthanized. Except for the following:**

- (a) Any animal being held as evidence.**
- (b) Any animal taken pursuant to a search warrant.**
- (c) Any animal being held pending court disposition.**
- (d) Any animal held for quarantine.**

Sec. 4-34. Transportation of Animals.

No person driving a motor vehicle shall transport any animal in the open back of the vehicle in a space intended for any load on the vehicle on a highway unless the space is enclosed or has side and tail racks to an appropriate height, or is protected by a secured container or cage, in a manner which will prevent the animal from being thrown, falling, or jumping from the vehicle.

Sec. 4-35. Designated Penalties for Animal Control Ordinances.

Whenever a party is found guilty of any breach of these ordinances the Municipal Judge may, for each offence, sentence them to fines not exceeding (\$500) five hundred dollars or thirty (30) days imprisonment or both.



MEMORANDUM

TO: Mayor and Members of City Council

FROM: Ed Memmott, City Manager

SUBJECT: Report Regarding Proposed Amendments to Chapter 4. Animals and Fowl, of the City Code

DATE: March 22, 2018

Staff supports many of the committee's recommendations but offers the following commentary and suggestions for Council consideration.

Setting a Temperature Requirement to Bring Dogs into a Climate Controlled Environment

Staff accepts that it is appropriate to require owners to move their dogs indoor to a climate controlled environment during extreme cold weather. After reviewing various standards and talking with local veterinarians, staff has concluded that setting a temperature standard is a classic "judgment call." Standards adopted by various communities vary widely.

In developing its standard, staff suggests Council give consideration to an owner's ability to bring a dog indoors. Lease provisions may hinder compliance for owners who reside in rental housing. Health conditions (allergies and respiratory) may also impede compliance for some owners. In other circumstances, a dog may be too aggressive to be brought indoors. In these instances, compliance could be a significant burden requiring owners to make alternative arrangements for sheltering their dog indoors. Owners who cannot find or afford alternative shelter may have to give up their dog for adoption.

How Often Would Various Temperature Standards Be Triggered?

In December (2013-17), a 32 degree or lower standard was reached 20 times in 2016 with an average of 14. A 25 degree standard was reached 9 times in 2013 with an average of 6. A 20 degree or lower standard was reached 3 times in 2016 and 1 time on average.

In January (2014-2018), a 32 degree or lower standard was reached 26 times in 2014 with an average of 20. A 25 degree standard was reached 8 times in 2013/2016 with an average of 6. A 20 degree or lower standard was reached 11 times in 2018 and 6 times on average.

In February (2014-18), a 32 degree or lower standard was reached 20 times in 2015 with an average of 14. A 25 degree standard was reached 12 times in 2015 with an average of 7. A 20 degree or lower standard was reached 7 times in 2017 and 2 times on average.

For the month of March (2013-2017), a 32 degree standard or lower was reached 15 times in 2016 with an average of 12. A 25 degree or lower standard was reached 7 times in 2013 with an average of 3. A 20 degree or lower standard was reached 1 time in 2015.

Aggregating annually for 2012-2017 (Dec. – March), temperatures reached 32 degrees or lower an average of 60 times (about 50% of the time), 28 times at 25 degrees or lower, and 7 times at 20 degrees or lower.

Finally, with respect to setting a cold weather temperature standard, Council is reminded that the current requirements allow staff to address any situation where staff determines an animal is in physical distress whether caused by cold temperature or other factors.

Given all these factors, staff recommends a standard of 20 degrees Fahrenheit or less as the temperature when a dog must be brought indoors.

With respect to other weather extremes (heat advisories, tornado warning, or hail), staff believes compliance would prove difficult for many of the same reasons outlined above. Staff's conversations with local veterinarians indicated that during high temperatures dogs are not at risk provided they have access to shade and water. Staff also questions the practicality of requiring an owner to bring a dog indoors during severe weather events that may develop quickly while the owner is away from home or has inadequate time to make alternate arrangements for shelter.

Restraint of a Dog

Community standards and opinions on proper dog restraint vary widely. Many communities have restrictions on chaining a dog. Staff agrees with the committee's recommendation to make chaining or tethering of a dog to tree, post, or metal stake illegal. The committee's recommendation is to allow use of a cable trolley system for a maximum of 2 hours in any 12 hour period.

Staff is concerned that a time limitation on use of a cable trolley system will result in more dogs being placed in pens where the animal would be more isolated and have less ability to move. Therefore, staff does not recommend any time limitation be placed on use of a trolley restraint system.

Public Understanding of Enforcement Process

Staff also recommends that any ordinance amendment include language that informs the public regarding the enforcement process. Staff suggests that Sec. 4-35 be added to the proposed text amendment.

Sec. 4-35. Warnings, Citations and Impoundment of Animals for Non-Compliance

- (a) The City may seek voluntary compliance and extend time for an owner to achieve compliance for violations that do not constitute abuse, cruelty, or inhumane treatment of an animal.
- (b) If an animal enforcement officer believes that any violation of this section exists, such officer may move before the municipal court for an Order to:
 - 1. Seize the animal(s), remove the animal(s) from its present location, and impound the animal(s) if it is deemed by the court that removal of the animal(s) is necessary to prevent further suffering or ill-treatment of the animal(s); or
 - 2. Compel the owner, at the owner's expense, to provide certain care to the animal(s) without removing the animal(s) from the owner's premises.

- (c) If the animal is seized and impounded by the court, the animal enforcement department and the animal shelter shall provide for the animal until either:
1. The court determines that the owner is able to adequately provide for and have custody of the animal, in which case the owner may redeem the animal on or before the 5th day after the court's order and upon payment of the costs of the care and provision of the animal while the animal was impounded; or
 2. The court determines that the owner is unable to adequately provide for, and have custody of, the animal, in which case the court shall transfer ownership of the animal to the animal shelter.
- (d) If the owner does not pay for the care and provision of the animal while the animal was impounded, the animal may become the property of the animal shelter and may be placed for adoption or euthanized.
- (e) The court, in determining whether the owner is able to adequately provide for the animal or is a fit person to own the animal, may take into consideration, among other things, the owner's past record of convictions under this chapter, or one (1) similar thereto, and the owner's mental and physical condition.
- (f) Nothing in this section shall be construed to require court action for seizing, impoundment and proper disposition of an animal running at large or abandoned animals as otherwise provided in this chapter and lawfully performed by the animal enforcement department.
- (g) Nothing in this section shall be construed to limit an animal enforcement officer's authority to enforce this chapter, including, but not limited to, the authority to investigate possible violations or to issue notifications, citations, summons, or warrants pursuant to this chapter or otherwise.
- (h) Nothing in this section shall be construed to prohibit the immediate euthanization of a critically injured or ill animal for humane purposes.

ORDINANCE

TO AMEND THE CODE OF THE CITY OF SPARTANBURG 1988, CHAPTER 4, "ANIMALS AND FOWL" TO CHANGE THE TITLE OF SAID CHAPTER AND MAKE AMENDMENTS IN SECTIONS AS INDICATED

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 4, "ANIMALS AND FOWL", to change the title of the Chapter 4 to read, "**ANIMAL STANDARD OF CARE AND TREATMENT**".

Section 2. To amend Section 4-1. Definitions, as follows:

Amend "*Proper Shelter*" to read:

"Adequate Shelter: Shelter that is safe and protects the animal from injury, rain, sleet, snow, hail, the adverse effect of heat or cold, and physical suffering, and that is of a size sufficient for the animal to stand up and turn around. Portable pet carriers wire crated, pet taxis or metal barrels are not adequate shelter."

Add "*Adequate Space*" to read:

"Adequate Space: Sufficient space to allow the animal to easily stand, sit, lie, turn, and make all other normal body movements in a comfortable, normal position for the animal."

Amend "*Restraint*" to read:

"Restraint: An animal controlled by means of a leash, secured on a cable or cable trolley system, or secured inside a vehicle while being driven or parked, or within a secure enclosure.

(Voice command, using audible signals or hand signals are not viable means of restraint.)

Section 3. To amend Section 4-8. Impoundment of Animals, sub-section (b) to read as follows:

(b) Impounded animals shall be kept for a minimum of five (5) days before becoming the property of the animal shelter.

Section 4. To amend Section 4-11. Limiting the Ownership of Dogs and cats within the City Limits, sub-section (c), (1) to read as follows:

- (c) (1) *Approved inspection:* The owner/keeper shall provide current rabies vaccinations for all animals, current city license for all required animals, **adequate** shelter for all animals, accessible food and water, living environment free of accumulated debris and waste, any tethering device shall be at least 10 ft. and have snap swivel or other similar device to prevent choking and tangling. Any other additional animals that may be added after the inspection must be approved in the same manner.

Section 5. To amend Section 4-15. Mistreatment of Animals, sub-section (c) to read as follows:

- (c) If an animal services officer finds a violation of this section, the office shall seize and impound the animal and leave written notice of impoundment in a conspicuous location about the premises. The animal will remain as evidence at the animal shelter pending the court's decision. If an owner or keeper is not found the animal will irrevocably become the property of the animal shelter after a **five (5)** day impound period.

Section 6. To amend Section 4-16. Human Treatment Required, sub-section (a) to read as follows:

- (a) No owner or keeper shall **fail** to provide clean fresh water, good wholesome food, **adequate** shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane treatment. The owner or keeper must maintain a clean living environment free of accumulated waste and debris so that the animal can walk and lay down without coming into contact with any waste or debris.

Section 7. To amend Section 4-16. Humane Treatment Required sub-section (b) with an addition of sub-section (1) and (2) to read as follows:

- (b) **Adequate shelter means the provision of and access to shelter that is safe and protects the animal from injury, sleet, rain, snow, hail, and the adverse effects of heat or cold, and physical suffering, and that is of a size sufficient for the animal to stand up and turn around.**

For a dog confined outside, the term adequate shelter shall additionally mean that:

- (1) In winter months, the dog must have access to shelter with a roof, that has an entrance covered by a flexible wind-proofing material or self-closing door, that sits on a platform at least 4 inches off the ground and that contains dry bedding, which shall consist of an insulating material that does not retain moisture, such as straw, and is of a sufficient depth for the dog to burrow.**
- (2) In all other months, the dog must have access to a shelter shaded by trees, a roof, a tarp or tarp-like material.**

Section 8. To amend Section 4-16. Humane Treatment Required, to add sub-section (c), and to change sub-section reference order (e) to (d), and sub-section reference (d) to (e) with text to remain the same in those sub-sections, to read as follows:

- (c) Animals must be brought into a temperature controlled environment facility when the temperature is at or below 25 degrees Fahrenheit or when a heat advisory, wind chill warning, or tornado warning has been issued by local, state, or national authority except when the dog is in visual range of a competent adult who is outside with the dog.**
- (d) No person shall crop a dog's ears or tail except a licensed veterinarian.**
- (e) No person shall give away any live animal, fish, reptile or bird as a prize for, or an inducement to enter any contest, game or other competition for as an inducement to enter a place of amusement or as an incentive to enter into any business agreement whereby the offer was for a purpose of attracting trade.**

Section 9. To amend Section 4-17. Abandoning Animals, sub-section (c) to read as follows:

- (c) If the animal has not been removed after 24 hours or if animal control has not been notified that the animal is being cared for, the animal services officer shall impound the animal at the animal shelter for a period of not less than **five (5)** days.**

Section 10. To amend Section 4-26. Tying or Staking Animals to “Restraining Animals”, to delete sub-sections (a) through (g), and add sub-sections (a)(1) Cable Trolley Systems, (2) Pens or Secure Enclosures, and add sub-section (b) to read as follows:

Sec. 4-26. Restraining Animals.

(a) Animals may be restrained as follows:

(1) Cable Trolley Systems –

To utilize a cable trolley system, the primary trolley runner line must be at least ten (10) feet in length between the two pulley stop points. The secondary line shall attach to the animal’s properly fitting metal buckle-style collar or harness made of nylon or leather, no less than one inch in width and one inch or greater in diameter than the animal’s neck or torso. It shall have a rolling trolley, which is freely moveable a distance of at least ten (10) feet on the primary trolley line with a spring/shock absorber attachment and swivels at both ends.

The trolley system shall allow the animal unrestricted body movement and utilization of the entire area designated by the trolley system. The trolley system must also allow the animal free access to food, water and adequate shelter.

The trolley system must be of appropriate configuration to prevent escape of the animal, entanglement with other objects, and confine the animal to the owner’s property. The primary trolley line shall be used to restrain only one animal at a time.

No person shall restrain an animal outside of the range of a competent adult, also outside with the animal nor, in any case, by use of the Cable Trolley System for more than two hours in any continuous 12-hour period. The tether is connected to the animal with a buckle type collar or a body harness made of nylon or leather; is not less than one inch in width and is one inch greater in diameter than the animal’s neck or torso. The animal must be in visual range of the responsible party and the responsible party must be outside with the animal.

(2) Pens or Secure Enclosures

To utilize a pen or secure enclosure, the enclosure must be at least 100 square feet. A dog over eighty (80) pounds must be provided with an additional fifty (50) square feet. For each additional dog inside the enclosure, fifty (50) square feet of space for exercise must be added per dog.

- (b) All collars used to restrain an animal must be made of nylon, leather, or other durable material, and must be fitted so as to not cause injury to the animal or embed itself in the animal's neck. The use of chain, choke, pronged or pinch type collars as a primary collar is prohibited.

Section 11. To amend Section 4-33. Disposition or Feral or Dangerous Animals, to read as follows:

Any animal that is feral, wild or otherwise dangerous to the animal shelter staff and in the opinion of the animal services officer and the shelter manager, is dangerous to the safety and welfare of the animal shelter staff, to provide basic sustenance and shelter, the **five (5)** day period may be waived and the animal shall be humanely euthanized. Except for the following:

- (a) Any animal being held as evidence.
- (b) Any animal taken pursuant to a search warrant.
- (c) Any animal being held pending court disposition.
- (d) Any animal held for quarantine.

Section 12. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this ____ day of _____, 2018.

ATTEST:

CITY CLERK

MAYOR

___/___/___ 1st Reading

___/___/___ 2nd Reading

APPROVED AS TO FORM:

CITY ATTORNEY



REQUEST FOR COUNCIL ACTION

TO: Mayor and Members of Spartanburg City Council

FROM: Patty Bock, Economic Development Director

SUBJECT: Ordinance to Approve a Development Agreement with 127 W. Main, LLC

DATE: March 22, 2018

BACKGROUND:

127 West Main is an important structure among the most prominent section of the downtown and within the historic blocks of Morgan Square. It has been near vacant for a decade, last occupied by nightclubs lacking any contribution to daytime business and pedestrian activity along its 65 foot storefront on Main Street. Since that time, our Economic Development staff has sought to encourage a mixed use renovation and reuse of this 25,000 +/- square foot building.

Recently 127 W. Main, LLC, a locally owned corporation, purchased the building for the purpose of renovating and restoring the property to being a productive contributor to our downtown. The plans are for the entire building to be utilized with a full service restaurant, an upscale event venue and an eight lane boutique bowling alley.

The attached Development Agreement sets forth the terms and conditions and will provide necessary incentives to ensure completion of this undertaking. Staff has a high degree of confidence that 127 W Main, LLC will meet all of its obligations associated with this project. We feel that the renovation of this building, the addition of three unique new businesses and the significance of the location are key factors in further enhancing downtown's urban vitality and will catalyze corporate, retail, entertainment, multi-family, and mixed use development in our downtown.

The Development Agreement (if approved by Council) would obligate the City to:

1. To certify by resolution that two (2) units at 127 West Main Street qualify for the South Carolina Abandoned Buildings Revitalization Act.
2. Take necessary steps to ensure the project benefits from a Special Assessment for Rehabilitated Historic Property for a period of ten (10) years.
3. To provide through the CSDC a grant of up to a maximum of \$100,000 to offset building renovation costs.
4. To expend up to \$25,000 for improvements to the Broad Street sidewalk and streetscaping
5. To facilitate a subordinate nonrecourse loan from the CSDC of \$300,000 at 0% interest.
6. To assure availability of its free, first come, first serve public parking within the vicinity of the Project will remain in place.

The Development Agreement would obligate 127 W. Main, LLC to:

1. To fully renovate 127 West Main as a mixed use facility utilizing both levels of the Property and to include an upscale event venue, a restaurant and 8-lane bowling alley.
2. To make a capital investment of at least \$3.5 million.
3. Execute Loan Agreement and Promissory Note for the CSDC loan.

Staff recommends approval by Ordinance of the attached Development Agreement and believes that these inducements are both necessary and appropriate for a project that will generate future investments and increased activity in our city.

ACTION REQUESTED:

First Reading Approval on an Ordinance to Authorize the City Manager to negotiate final term and sign a Development Agreement between City and 127 W. Main, LLC.

BUDGET AND FINANCE DATA:

\$25,000 in street/sidewalk improvements

\$100,000 grant for renovation costs

\$300,000 subordinate, non-recourse, 0% interest loan from CSDC

AN ORDINANCE

APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SPARTANBURG AND 127 W. MAIN, LLC

WHEREAS, the City of Spartanburg (herein referred to as “City”) has determined that it is in the public interest to encourage redevelopment and private investment in its downtown; and

WHEREAS, the City has in the past entered into public-private partnerships to induce private investment, create private jobs, and increase the tax base; and

WHEREAS, the City in these public-private partnerships has provided incentives and received the commitment of private parties under the terms of development agreements; and

WHEREAS, the City has reached an agreement on certain terms and conditions with 127 W. MAIN, LLC for the redevelopment of 127 West Main Street into a mixed use project that will further boost our downtown economy and revitalization efforts to the Morgan Square Historic District; and

WHEREAS, a development agreement would memorialize the respective obligations of the City and 127 W. MAIN, LLC; and

WHEREAS, should Council conclude that it is in the City’s best interest to finalize an agreement with 127 W. MAIN, LLC, it will be necessary for Council to formally act and authorize the City Manager to take certain actions.

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

SECTION 1. A Development Agreement between the City and 127 W. MAIN, LLC substantially in its final form attached hereto is hereby approved.

SECTION 2. The City Manager is authorized to execute the Development Agreement and any other documents necessary to meet the City obligations as set forth in the Development Agreement provided such documents are consistent with the intent of this Ordinance.

SECTION 3. The City Manager, upon the advice of the City Attorney, is authorized to make minor, nonmaterial modifications to the Development Agreement prior to its signature.

SECTION 4. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this _____ day of _____, 2018.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

STATE OF SOUTH CAROLINA) DEVELOPMENT AGREEMENT BETWEEN CITY
COUNTY OF SPARTANBURG) OF SPARTANBURG AND 127 W. MAIN, LLC

WHEREAS, the City of Spartanburg (“City”) has determined it is in the best interest to encourage economic redevelopment of its downtown; and

WHEREAS, the City has from time-to-time entered into public-private partnerships which have resulted in substantial private investment; and

WHEREAS, the economic development projects resulting from these partnerships have improved the economic vitality, increased the tax base, increased employment opportunities, and improved the physical appearances of downtown; and

WHEREAS, the City remains committed to the redevelopment of its downtown and continues to seek opportunities to achieve positive results for the Spartanburg Community; and

WHEREAS, the City and City of Spartanburg Development Corporation (“CSDC”) has provided incentives to projects that provide significant benefit and leveraging of public resources and which are likely to create additional jobs and generate revenues for the City; and

WHEREAS, 127 W. Main, LLC (the “Developer”) is the owner of 127 West Main St., TMS 7-12-21-048.00 (the “Property”) and is making substantial private investment in the Property to redevelop it as a mixed use commercial venue that will contribute to the continued revitalization of the downtown; and

WHEREAS, 127 West Main is a landmark of strategic importance to the positive development of downtown Spartanburg; and

WHEREAS, the City now has the opportunity to benefit from additional private investment by entering into this Agreement and has determined that the provision of certain economic development incentives are necessary to secure the commitment by the Developer for the redevelopment of the Property; and

WHEREAS, the City is awarding up to a \$100,000 grant to offset a portion of the Property renovation costs; and

WHEREAS, the City intends for the CSDC to loan \$300,000 to the Developer.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the Developer and the City in consideration of the promises and the mutual covenants and agreements herein contained do hereby agree to the following:

Developer Commitments:

1. To fully renovate, 127 West Main expending a minimum of \$3.5 million on the project (the "Project") as a mixed use facility utilizing both levels of the Property and to include an upscale event venue, a restaurant and 8-lane bowling alley.
2. To engage properly licensed contractor(s) and/or subcontractor(s) to make the interior and exterior improvements as stated above.
3. To meet all typical and customary City permitting (Zoning, Building Inspections, Design Review Board and Business License) requirements. Nothing in this Agreement relieves the Property Owner from complying with all other City Ordinances, statutes, laws, or regulations that pertain to the construction of the Project.
4. Execute Loan Agreement and Promissory Note for the CDSC loan (described in City Commitment 5 below) requiring that beginning in the 13th month of business operation, and continuing monthly until loan is paid in full, Developer pay a minimum monthly loan repayment of \$2,500 each month that tenant rent payments are paid in full. Should, at any point, tenant businesses renew or extend their leases at rent levels higher than those in current project proforma, the minimum loan payment(s) would increase to \$3,000 per month.

City Commitments:

1. To certify by resolution that two (2) units at 127 West Main Street qualify for the South Carolina Abandoned Buildings Revitalization Act.
2. Take necessary steps and engage its best efforts to work with Spartanburg County to ensure the project benefits from a Special Assessment for Rehabilitated Historic Property for a period of ten (10) years.
 - a. The City by and through its CSDC will provide Developer with a grant of up to a maximum of \$100,000 to offset building renovation costs as follows: The City will disburse \$50,000 upon issuance of the first construction draw on the Property. The City will disburse the remaining \$50,000 upon issuance of the Certificate of Occupancy by the City and public opening of tenant business. Documentation of expenses will be required by the City. The City will not unreasonably withhold its approval and/or the release of funds.
3. The City will expend up to \$25,000 for improvements to the Broad Street sidewalk and streetscaping at the entryway of the Property intended to enhance the appearance of the primary entry to the event venue.
4. The City will facilitate a subordinate nonrecourse loan from the City of Spartanburg Development Corporation of \$300,000 at 0% interest containing the repayment terms set forth above.

5. The City will assure that the current availability of its free, first come, first serve public parking within the vicinity of the Project will remain in place.

General Conditions

1. **Invalidity.** Should any of the provisions of this Agreement held invalid in whole or in part, it shall not affect or invalidate the balance of such provision or any other provisions.
2. **Amendments.** This Agreement may not be amended, modified or changed, except by an instrument in writing and signed by all the parties.
3. **Entire Agreement.** This Agreement contains the sole and entire understanding between the parties, and all other promises, inducements, offers, solicitations, agreements, representations and warranties heretofore made between the parties, if any, are merged into this Agreement.
4. **Notices.** All, notices, requests, demands, or other communications required or permitted to be given hereunder shall be in writing and shall be addressed and delivered by hand or by certified mail, return receipt requested, or by overnight courier, or by fax, with evidence of delivery, to each party at the addresses set forth below. Any such notice, request, demand or other communication shall be considered given or delivered, as the case may be, on the date of delivery. Rejection or other refusal to accept or inability to deliver because of changed address of which proper notice was not given shall be deemed to be receipt of the notice, request, demand or other communication. By giving prior written notice thereof, any party, from time to time, may change its address for notices hereunder.

As to City:

City Manager
PO Box 1749
Spartanburg, SC 29304

Mayor
City of Spartanburg
PO Box 1749
Spartanburg, SC 29304

As to 127 W. Main, LLC

Sean McEnroe
127 W. Main, LLC
532 Twin Dr.
Spartanburg, SC 29302

5. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same agreement.
6. **Successor and Assigns; Termination.** This Agreement shall be binding on the parties hereto, their heirs, successors and assigns. This Agreement may only be terminated with

the consent of all parties hereto.

- 7. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.
- 8. **No Continuing Waiver.** The waiver of any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands and seals and executed this Agreement this ____ day of _____, 2018.

IN THE PRESENCE OF:

127 W. MAIN, LLC

By: _____

Sean McEnroe

Its: Principal

CITY OF SPARTANBURG

By: _____

Ed Memmott

Its: City Manager

APPROVED AS TO FORM:

By: _____





775



ENTRANCE

PDC

SBT
SOUTHERN BELL TELEPHONE

MICHIGAN



REQUEST FOR CITY COUNCIL ACTION

TO: Ed Memmott, City Manager
FROM: Martin Livingston, Neighborhood Services Director
SUBJECT: Spartanburg County Fair Housing Funding
DATE: March 26, 2018

BACKGROUND:

Spartanburg County Community and Economic Development has allocated \$20,000 in Community Development Block Grant (CDBG) Funds for Fair Housing Activities in the City and County. Activities will include Homeownership Fair, Neighborhood Conference, Fair Housing Events and marketing materials in partnership with other local organizations.

ACTION REQUESTED:

Approval of Resolution

BUDGET & FINANCIAL DATA:

Spartanburg County CDBG Funds – \$20,000.00

A RESOLUTION

TO AUTHORIZE THE CITY TO EXECUTE AN AGREEMENT TO RECEIVE A PORTION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS AWARDED SPARTANBURG COUNTY AND TO AUTHORIZE THE CITY MANAGER TO EXECUTE A SUBRECIPIENT AGREEMENT WITH THE COUNTY.

WHEREAS, the County of Spartanburg has received *Community Development Block Grant (CDBG) or HOME* funds from the United States Department of Housing and Urban Development (HUD); and

WHEREAS the grant was awarded to Spartanburg County to benefit low and moderate-income persons; and

WHEREAS the City of Spartanburg is eligible to receive a portion of the Grant proceeds; and

WHEREAS the County wants to designate these funds for Fair Housing activities to be undertaken by the City in cooperation with Spartanburg County.

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

Section 1. The City Manager is authorized to execute a Subrecipient Agreement with Spartanburg County for \$20,000.

Section 2. The City can use the funds for Fair Housing activities.

Section 3. This Resolution shall become effective immediately upon its enactment.

This Resolution adopted this ____ day of _____, 2018.

Junie L. White, Mayor.

ATTEST:

Connie S. McIntyre, City Clerk.

APPROVED AS TO FORM:

Larry Flynn, City Attorney.