

**REQUEST FOR CITY COUNCIL CONSIDERATION**

Meeting Date: August 19, 2019

Agenda Item: <b>5J</b>	Prepared By: Chris Noury, City Attorney
Agenda Section: Consent. Ordinance. Second Reading.	Date: July 12, 2019
Subject: An ordinance to amend Chapter 4, Animals and Fowl.	Division: Legal

**BACKGROUND:**


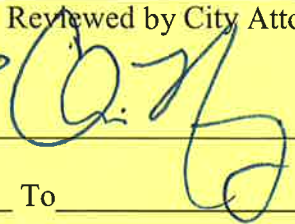
Attached for Council's review is an ordinance to amend Chapter 4, Animals and Fowl, to add language and other terms to section 4-1 which is the definitions section for the chapter and to amend section 4-5 to include language that prohibits leaving an animal in any unattended motor vehicle under circumstances that could reasonably be expected to cause suffering, disability, or death to an animal.

In addition, language has been added to section 4-5 that places parameters on the manner, conditions, and type of tether that may be used to restrict the movement of a dog.

Also, section 4-6 has been amended to prohibit the sale of dogs and cats at a pet shop but allows a pet shop to make space available to an animal shelter or animal rescue organization to offer to the public dogs and cats for adoption.

**NOTE:** Since first reading, section 4-6 has been further amended to prohibit all commercial establishments, in addition to pet shops, from selling dogs and cats but authorizes commercial establishments, in addition to pet shops, to make space available to an animal shelter or animal rescue organization to offer to the public dogs and cats for adoption.

**RECOMMENDED ACTION:** Adoption of the Ordinance on second reading.

Reviewed by Division Head	Reviewed by City Manager	Reviewed by City Attorney
		
Council Action: Motion By _____	2 <sup>nd</sup> By _____	To _____

**AN ORDINANCE TO AMEND CHAPTER 4 ANIMALS AND FOWL, SECTIONS 4-1, 4-5 AND 4-6 AS  
FOLLOWS:**

Chapter 4, Animals and Fowl, Article 1. In General, the following terms shall amended by adding to Section 4-1, Definitions:

*Adequate shelter:* That shelter which will keep a non-aquatic animal dry, out of the direct path of winds and out of the direct sun and at a temperature level that is healthful for the animal. The containment area for the animal shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with waste or debris. A suitable method of drainage shall be provided to rapidly eliminate any excess water or moisture. Aquatic and semi-aquatic animals shall have an adequate amount of clean water in which to move. For dogs left outside and unattended, adequate shelter shall meet the following minimum standards: A) The shelter shall be a waterproof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, waterproof floor raised at least three (3) inches from the ground and the roof should extend eight (8) inches over the doorway to keep out rain. A doghouse shall not be constructed of metal or any material that readily conducts heat or cold. B) The structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable, clean bedding material to provide insulation and protection against cold and dampness and promote retention of body heat. C) All dogs must be afforded one or more separate areas of shade large enough to accommodate the entire body of the dog at one time to ensure protection from the direct rays of the sun.

*Extreme weather:* Any period in which a severe weather advisory or warning has been issued for the area by the National Weather Service.

*Outside and unattended:* Any dog who is exposed to the elements for a duration of longer than 15 minutes and not in visual range and physical presence of the owner. This expressly includes, but is not limited to, a dog in a securely fenced-in yard, a dog in a kennel, or a dog that is tethered. For purposes of this section, a dog shall be considered "outside" regardless of access to an outdoor doghouse or similar structure.

*Pet Shop:* An establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the public.

*Commercial Establishment:* An establishment involving an activity with goods, merchandise, or services for sale or involving a rental fee.

*Offer for sale:* To sell, exchange for consideration, offer for adoption, advertise for the sale of, barter, auction, give away, or otherwise dispose of animals.

*Dog:* A member of the species of domestic dog, *Canis familiaris*.

*Cat:* A member of the species of domestic cat, *Felis catus*.

*Animal rescue organization:* Any not-for-profit organization having tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or significant part, the rescue and placement of animals into permanent homes, and which does not breed animals. Animal rescue organizations do not include any entity which: (1) is located on the same premises as a person or entity that breeds dogs or cats; (2) has any personnel in common with such a person or entity, including but not limited to, any employee, manager, or board member; (3) obtains any dogs or cats from such a person; or (4) facilitates the sale of dogs or cats that were obtained from such a person.

Section 4-5, *Cruelty to or poisoning of animals*, shall be amended by adding the following:

(c) It shall be unlawful to leave or confine an animal in any unattended motor vehicle under such conditions that would endanger the health or well-being of the animal due to heat, cold, lack of adequate ventilation, lack of food and water, or any other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(d) It shall be unlawful for any person to allow a dog to be tethered: (1) between the hours of 10 p.m. and 6 a.m. or when no owner or keeper of the dog is present on the premises; (2) by a tether of less than ten feet in length, or less than four times the length of the dog's body from tip of nose to base of tail, whichever is greater; (3) by a tether the length of which allows the dog to cross the property line of the property on which it is tethered; (4) using a logging chain, tow chain, or other tether that causes injury or pain to the dog because of the material of which it is made or because of the size or weight of the tether; (5) by attaching the tether to the dog by a collar that is not properly fitted or by means of a choke chain collar, pinch collar, or prong collar; (6) in an area likely to cause injury or pain to the dog because of entanglement or because of surrounding structures.

(e) It shall be unlawful to leave a dog outside and unattended during extreme weather.

(f) Violation of this section shall be punished as provided in Section 1-6, General Penalty.

Section 4-6, *Selling, releasing, displaying certain animals prohibited*, shall be amended by adding the following:

(1) Dogs and Cats

A. It shall be unlawful for any pet shop, as defined in 4.1, or any other commercial establishment located within the City to offer for sale a dog or cat.

B. A pet shop or other commercial establishment may provide space to an animal shelter, as defined under S.C. Code 47-3-10(2), or an animal rescue organization as defined in 4.1 to offer to the public dogs or cats for a nominal adoption fee, provided that the pet shop or commercial establishment shall not have any ownership interest in the animals offered and shall not receive any fee for providing space or for the adoption of any of the animals.

(C) Violation of this section shall be punished as provided in Section 1-6, General Penalty.

(2) Exotic Animals

- A. It shall be unlawful to sell, give away, barter, exchange; display in any street, right-of-way, public property or private property open to the public; or to intentionally release from captivity from a confined container, cage or other containment device into any outdoor or unconfined and/or uncontained area; any "exotic animal" as defined below:
- B. "Exotic animal" means any member of the following families in the Class Reptilia, including hybrids thereof, and further defined as follows:
  - a. Order Squamata:
    - i. Family Varanidae (water monitors and crocodile monitors);
    - ii. Family Boidae (anacondas (Genus Eunectes), boas constrictors, Burmese pythons (Python morlurus), reticulated pythons (Python reticulatus), amethystine pythons (Morelia amethistinus), scrub pythons (Morelia kinghorni), Northern African pythons (Python sebae), Southern African pythons (Python natalensis), Ball Python (Python Regius), Brazilian Rainbow boa and all species whose adult length has the potential to exceed eight feet in length;
    - iii. Family Colubridae (boomslangs (Dispholidus typus), twig snakes (Genus Thelotomis);
    - iv. Family Elapidae (all species such as cobras, mambas, and coral snakes);
    - v. Family Nactricidae (only keelback snakes);
    - vi. Family Viperidae (all species such as rattesnakes, pit vipers, and puff adders;
  - b. Order Crocodilia (such as crocodiles, alligators, caimans, gavials).
- C. Exceptions to the prohibition against displaying exotic animals include zoos, non-profit educational or research facilities and for-profit businesses where reptiles are displayed but are not sold, bartered, given or traded to the public.

(Ord. No. 13-29, 1-6-14)

DONE, RATIFIED AND PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

**AN ORDINANCE TO AMEND CHAPTER 4, ANIMALS AND FOWL, SECTIONS 4-1, 4-5 AND 4-6**

\_\_\_\_\_  
Mayor Hatley

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to form:

Reviewed:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Manager

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_