

**TAYLORSVILLE CITY COUNCIL
AGENDA ITEM SUMMARY**

MEETING DATE: 18 December 2013

AGENDA ITEM: 7.3 Consideration of Ordinance No. 13-36 and Ordinance No. 13-37. These ordinances have been prepared in tandem to address the enforcement of animal related violations of the Taylorsville Code of Ordinances. The intent is to de-criminalize most violations with the exception of serious animal violations, and enforce the violations through the Administrative Code Enforcement process previously established by the Council. Ordinance 13-36 amends Chapter 18.03 of the Taylorsville Code of Ordinances which is the ordinance that establishes and regulates the City's Administrative Code Enforcement processes. Ordinance 13-37 amends Title 8 of the Taylorsville Code of Ordinances, which is the title that regulates and establishes city laws concerning the responsibility of individuals in the care and control of animals within the City.

These ordinances are presented in tandem to the City as the adoption of the amendments for each are necessary for this change in animal code enforcement to become effective.

PUBLIC HEARING REQUIRED – No

RESOLUTION/ORDINANCE REQUIRED

ORDINANCE X RESOLUTION

FACILITATOR: John Brems

COMMISSION / ADVISORY BOARD RECOMMENDATION: N/A

STAFF RECOMMENDATION: Approve Ordinances 13-36 and 13-37

CITY ATTORNEY (Approved as to form): Yes

ATTACHMENTS: Taylorsville City Council Ordinance 13-36 and Ordinance 13-37

TAYLORSVILLE, UTAH
ORDINANCE NO. 13-36

**AN ORDINANCE AMENDING CHAPTER 18.03 OF THE
TAYLORSVILLE CODE OF ORDINANCES**

WHEREAS, the City Council (“Council”) met in regular meeting on December 18, 2013, to consider, among other things, amending Chapter 18.03 of the Taylorsville Code of Ordinances; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of the health, safety, and welfare of the citizens of Taylorsville to amend Chapter 18.03.

NOW, THEREFORE, BE IT ORDAINED by the Taylorsville City Council that the amendments made to Chapter 18.03 are hereby adopted and are designated by interlineating the words to be deleted and underlining the words to be added, as follows:

Chapter 18.03
ADMINISTRATIVE CODE ENFORCEMENT PROCEDURES

18.03.010: AUTHORITY:

18.03.020: COURTESY NOTICE:

18.03.030: NOTICE OF VIOLATION:

18.03.040: FAILURE TO BRING PROPERTY INTO COMPLIANCE

18.03.050: INSPECTIONS:

18.03.010: AUTHORITY:

Any condition caused, maintained, or permitted to exist in violation of any provisions of this code as defined in section 18.01.015 of this title that constitutes a violation may be abated by the city pursuant to the procedures set forth in this chapter.

18.03.020: COURTESY NOTICE:

Whenever the director or any designated enforcement official determines that a violation of this code as defined in section 18.01.015 of this title has occurred or continues to exist, the director or enforcement official may choose to proceed pursuant to the provisions of this title. If the provisions of this title are used except as provided below, a courtesy notice shall be sent to a responsible person via regular mail at the last known post office address as disclosed by the records of

the county assessor or by personal service. If the responsible person identified in the courtesy notice fails to bring the violation into compliance within ten (10) days of the date of the courtesy notice or as stated in the ordinance that is being violated, the city shall issue a notice of violation. The courtesy notice shall include the following information:

- A. Name of property owner;
- B. Street address of violation;
- C. Date violation observed;
- D. All code sections violated and description of condition of the property that violates the applicable codes;
- E. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, or other appropriate action;
- F. Notice that a failure to bring the violation into compliance within the established deadline could result in further legal action.

The director or authorized code enforcement official shall have the authority to extend the deadline set forth in the courtesy notice for good cause. The director or authorized code enforcement officer shall also have authority to waive the requirements to send a courtesy notice to a responsible person if the responsible person has had at least two (2) separate violations of this title in the two years immediately preceding the courtesy notice that is being waived pursuant to this provision.

18.03.030: NOTICE OF VIOLATION:

If a responsible person who is served a courtesy notice as described in section 18.01.020 of this chapter fails to bring the violation into compliance within the established deadline, or if the courtesy notice is waived as described in section 18.03.020, a notice of violation shall be issued to a responsible person. The notice of violation shall include the following information:

- A. Name of property owner;
- B. Street address of violation;
- C. Date violation observed;

- D. All code sections violated and description of condition of the property that violates the applicable codes;
- E. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, or other appropriate action;
- F. Specific date to correct the violations listed in the notice of violation, which date shall be at least ten (10) days from the date of service of the notice of violation or as stated in the ordinance that is being violated;
- G. Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the notice of violation, which may include, but is not limited to, criminal prosecution; civil penalties; revocation of permits; recordation of the notice of violation; withholding of future municipal permits; abatement of the violation; costs; administrative fees; and any other legal remedies;
- H. That civil penalties will begin to accrue immediately on expiration of the date to correct violations;
- I. The amount of the civil penalty on each violation and that the penalty will accrue daily until the property is brought into compliance;
- J. That only one notice of violation is required for any twelve (12) month period, and that civil penalties begin immediately upon any subsequent violations of the notice. The responsible person may request a hearing on the renewed violations by following the same procedure as provided for the original notice;
- K. Procedures to request a hearing as provided in section 18.08.020 of this title and consequences for failure to request one;
- L. That a reinspection fee of thirty dollars (\$30.00) may be assessed if more than one inspection is required to determine if a violation has been abated;
- M. The notice of violation shall be served on a responsible person using one of the methods of service listed in section 18.01.050 of this title;
- N. More than one notice of violation may be issued against the same responsible person, if it encompasses different dates, or different violations.

18.03.040: FAILURE TO BRING PROPERTY INTO COMPLIANCE:

If a responsible person who is served with a notice of violations as described in section 18.01.050 of this title fails to bring a violation into compliance within ten (10) days of service of the notice of violation, civil penalties shall be owed to the city for each and every subsequent day of violation. The director or authorized code enforcement official shall have the authority to extend the deadline set forth in the notice of violation or stay imposition of penalties for good cause.

18.03.050: INSPECTIONS:

The city shall inspect each property one time after the deadline on any notice or order. If additional inspections are required, a reinspection fee of thirty dollars (\$30.00) may be added to the civil penalties.

This Ordinance, assigned Ordinance No. 13-36, shall take effect as soon as it shall be published or posted as required by law, deposited and recorded in the office of the City Recorder, and accepted as required herein.

PASSED AND APPROVED this _____ day of _____, 2013.

TAYLORSVILLE CITY COUNCIL

By: _____
Dama Barbour, Chairman

SEAL

VOTING:

Dama Barbour	Yea ___ Nay ___
Ernest Burgess	Yea ___ Nay ___
Larry Johnson	Yea ___ Nay ___
Kristie Overson	Yea ___ Nay ___
Brad Christopherson	Yea ___ Nay ___

PRESENTED to the Mayor of the City of Taylorsville for approval this _____ day of _____, 2013.

APPROVED this ____ day of _____, 2013.

ATTEST:

Mayor Jerry Rechtenbach

Cheryl P. Cottle, City Recorder

DEPOSITED in the Recorder's office this ____ day of _____, 2013.

POSTED this ____ day of _____, 2013.

TAYLORSVILLE, UTAH
ORDINANCE NO. 13-37

**AN ORDINANCE AMENDING TITLE 8 OF THE TAYLORSVILLE CODE OF
ORDINANCES**

WHEREAS, the City Council ("Council") met in regular meeting on December 18, 2013, to consider, among other things, amending Title 8 of the Taylorsville Code of Ordinances; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of the health, safety, and welfare of the citizens of Taylorsville to amend Title 8.

NOW, THEREFORE, BE IT ORDAINED by the Taylorsville City Council that the amendments made to Title 8 are hereby adopted and are designated by interlineating the words to be deleted and underlining the words to be added, as follows:

8.08.030: ANIMAL CONTROL OFFICERS; POWERS AND DUTIES:

Each animal control officer shall be authorized to enforce this title in all respects pertaining to animal control within the city, including, but not limited to, the apprehension, transport and impoundment of animals found to warrant such action; the care of animals; the prevention of cruelty to animals; the Administrative Code Enforcement Hearing Program established by Title 18 of this Code; and the issuance of criminal citations. Animal control officers shall further carry out all lawful duties prescribed or delegated by the city by contract or otherwise.

8.24.020: FIERCE, DANGEROUS, OR VICIOUS ANIMALS:

A. It is unlawful for the owner of any fierce, dangerous, or vicious animal to permit such animal to go or be off the premises of the owner unless such animal is under restraint and properly muzzled so as to prevent it from injuring any person or property. Every animal so vicious and dangerous that it is not or cannot be effectively controlled by its owner or person having charge, care, custody, or control of such animal through the use of reasonable restraints, is a hazard to public safety, and the director may seek a court order for destruction, muzzling, or appropriate housing and confinement of the animal.

B. Any person violating any provision of this section shall be guilty of a class B misdemeanor.

8.28.020: IMPOUNDMENT AUTHORIZED; WHEN:

- A. An animal control officer may impound, or leave an animal in the custody of its owner or handler, according to said officer's discretion, whenever such animal is found to be in circumstances which violate the requirements of this title. If left in the custody of the owner or handler, said owner or handler shall nevertheless be required to respond to ~~a citation if issued by the animal control officer~~ the Administrative Code Enforcement Hearing Program established by Title 18.
- B. An animal found in the following circumstances may be impounded by an animal control officer without the filing of a criminal complaint or obtaining a prior order from a court of competent jurisdiction:
1. The animal is running at large outside its owner's or handler's premises;
 2. Any animal which is required by this title to be licensed and is not licensed. An animal not wearing a license tag shall be presumed to be unlicensed for the purpose of this subsection;
 3. The animal is sick or injured and its owner cannot be immediately located;
 4. The animal's owner or handler requests the division to impound the animal and posts a bond, as provided in subsection 8.28.040E of this chapter, or pays, in advance, a fee reasonably calculated to pay for the cost the division will reasonably incur during impoundment and possible destruction of the animal;
 5. The animal is abandoned;
 6. Animals which are not vaccinated for rabies in accordance with this title. For the purpose of this subsection, an animal not wearing a rabies tag shall be presumed to be unvaccinated;
 7. The animal is known by the animal control officer to have been exposed to rabies or bitten by a rabid animal;
 8. The animal is to be otherwise held for quarantine;
 9. The animal is a vicious animal and not properly confined or restrained as required by section 8.24.020 of this title;
 10. The animal is not being kept or maintained as required by any other provision of this title, and as a result thereof, the animal poses an

imminent threat to the health and safety of persons, other animals, or itself;

11. Any animal in physical distress; or

12. Any animal considered a nuisance or a public nuisance animal.

C. The circumstances set forth above in this section are not intended to be a complete list of those in which the city, the division, and/or an animal control officer may impound an animal without a prior order from a court of competent jurisdiction; and said officers are authorized to act as necessary to maintain the peace and safety of the city under the requirements of this title and all other applicable law.

8.28.040: REDEMPTION OF ANIMALS; RESTRICTIONS:

A. The owner of any impounded animal or his authorized representative (a legally responsible adult of age 18 or more) may redeem such animal before disposition, provided he posts a bond, as provided in subsection E of this section, or pays:

1. The impound fee;
2. The daily board charge;
3. Veterinary costs incurred during the impound period, including rabies vaccination or rabies vaccination deposit;
4. License fee, if required;
5. A transportation fee if transportation of an impounded animal by specialized equipment is required. "Specialized equipment" is that equipment, other than the usual patrol and operation vehicles of animal control, which is designed for specific purposes such as, but not limited to, livestock trailers and carcass trailers. The director shall determine this fee at a level that approximates the cost of utilizing the specialized equipment in the particular situation;
6. Any other expenses incurred to impound an animal in accordance with state or local laws;
7. Any unpaid (past due) fees and fines incurred by the owner; and
8. If any dog or cat is fertile, the owner shall also pay a sterilization deposit and comply with any other requirements of Utah law including Utah Code

Annotated section 17-42-101 et seq. For the purposes of this subsection, the term "recipient" contained in the referenced Utah statute shall include an owner or his authorized representative who is redeeming his animal after impound.

- B. If an animal is impounded, the owner shall be required to purchase microchip identification.
- C. Upon the third impoundment and prior to the release of said animal, said animal shall be sterilized. Payment of all fees shall be required and sterilization completed prior to release.
- D. The city council shall set, and periodically revise when necessary, impound fees and daily board charges for the impounding of animals. Such fees shall be as stated on the fee schedule in chapter 8.99 of this title. Such fees may take into account the type of animal impounded, the owner's compliance with animal licensure requirements, the number of confinements in the preceding twenty four (24) months, and the duration of the confinement. No impound fees will be charged the reporting owners of suspected rabid animals if they comply with chapter 8.20 of this title.
- E. The director may require a bond to be posted for the impoundment of neglected, cruelly treated, quarantined, and/or vicious animals being held for revocation of license. Any owner whose animals are impounded for a period exceeding three (3) calendar days that are required to post a bond shall post a bond with the city. The bond must be posted in full within three (3) calendar days of notification of impoundment. Failure to consent to the city's impoundment of such animal and failure to deliver the bond to the city shall constitute abandonment. Upon occurrence of abandonment pursuant to this provision, the animal shall automatically without further action become property of the city, and the decisions regarding the future disposition and/or adoptability of the animal will be the sole responsibility of the director. Circumstances wherein the director may require posting of a bond includes quarantines pending determination of a cruelly treated, vicious animal and/or revocation of license. The amount of the bond shall include costs incurred by the city with respect to holding such animal, an amount to secure thirty (30) days of boarding or until a hearing, and all other fees such as veterinary care and medication. All bond proceeds in excess of the amount to pay the amount set forth above shall be refunded upon disposition of the animal. Notwithstanding the foregoing, if it is determined that the owner of the animal is found not guilty of animal neglect or cruelty, has not neglected the animal or been cruel to the animal, or the animal is not determined to be vicious, or the request for revocation of license is denied, the bond proceeds will be refunded by the city, less veterinary expenses incurred by the city and one-half ($\frac{1}{2}$) of the board fee per day for the animal.

8.36.010: PROHIBITIONS RELATING TO WILD, DANGEROUS, AND EXOTIC ANIMALS; EXCEPTIONS:

- A. It is unlawful for any person to sell, offer for sale, barter, give away, keep, own, harbor, or purchase any wild, dangerous, or exotic animal (as defined in title 50 of the code of federal regulations, in Utah law or regulation, or by this title) or which is otherwise a "vicious animal" or a "nuisance" as defined in this title.
- B. The prohibitions of subsection A of this section shall not apply to a person, animal shelter, zoological park, veterinary hospital, section 501(c)(3) of the internal revenue code animal welfare shelter, public laboratory, circus, sideshow, amusement show, or facility for education or scientific research if such organizations or individuals are otherwise licensed or permitted pursuant to a permit as provided in this title, provided that said animals are restrained or confined in such a manner as to prevent their escape and/or injury to the public.
- C. Any person violating any provision of this section shall be guilty of a class B misdemeanor.

8.40.010: VIOLATION OF TITLE; PENALTIES:

Except for violation of sections 8.12.070, 8.12.080, 8.24.020, and 8.36.010, ¶this title may be enforced through the administrative code enforcement hearing program established by title 18 of this code or by filing a civil or criminal actions in the district court. Violations of sections 8.12.070, 8.12.080, 8.24.020, and 8.36.010 of this title may be enforced through the administrative code enforcement hearing program established by title 18 of this code, by filing a civil or criminal action in the district court, or criminal action in the justice court. Notwithstanding anything to the contrary, ¶the city has sole discretion to decide whether to pursue or file a civil or criminal case for any violations. The possibility of an administrative remedy pursuant to title 18 of this code shall in no way interfere with the city's right to prosecute violations of this title as criminal action. If the city chooses to file both civil and criminal charges for the same violation, no civil penalty may be assessed, but all other remedies are available. Unless otherwise provided herein, any person who violates any mandate or prohibition contained in this title shall be penalized according to the provisions of this title or the provisions of section 1.08.020 of this code.

8.40.020: ISSUANCE OF CITATIONS:

An animal control officer is authorized to issue a criminal citation to any person upon a charge of violating any provisions of this title. The form of the citation, and proceedings to be handled upon the basis of the citation, shall conform to the

~~provisions of applicable law.~~

8.40.030: PICK UP ORDERS:

The director may petition the court for a "pickup order" for an animal within the premises of and/or under the control of a person who is in violation of this title. This section may be used for, but is not limited to, picking up of animals pursued but not captured by an animal control officer, nuisance animals, or for any other violation of this title.

8.40.040: DIRECTOR CONFERENCE:

In a director conference, the party shall be permitted to testify and present evidence, and comment on the issues. Discovery shall be limited. Intervention by a third party is prohibited. No recording will be made of the conference. The conference will be private and not open to the public. The director may vacate, modify, or affirm the findings and correction ordered by the animal control officer in accordance with state statute or this title.

This Ordinance, assigned Ordinance No. 13-37, shall take effect as soon as it shall be published or posted as required by law, deposited and recorded in the office of the City Recorder, and accepted as required herein.

PASSED AND APPROVED this _____ day of _____, 2013.

TAYLORSVILLE CITY COUNCIL

By: _____
Dama Barbour, Chairman

SEAL

VOTING:

Dama Barbour	Yea ___ Nay ___
Ernest Burgess	Yea ___ Nay ___
Larry Johnson	Yea ___ Nay ___
Kristie Overson	Yea ___ Nay ___
Brad Christopherson	Yea ___ Nay ___

PRESENTED to the Mayor of the City of Taylorsville for approval this _____ day of _____, 2013.

APPROVED this ____ day of _____, 2013.

ATTEST:

Mayor Jerry Rechtenbach

Cheryl P. Cottle, City Recorder

DEPOSITED in the Recorder's office this ____ day of _____, 2013.

POSTED this ____ day of _____, 2013.