

MINUTES
ST. CLAIR SHORES CITY COUNCIL MEETING
October 3, 2016

Regular Meeting of the City Council, held in the Council Chambers, located at 27600 Jefferson Circle Dr., St. Clair Shores, Michigan.

Present: Mayor Kip C. Walby, Council Members Peter Accica, John Caron, Ronald Frederick, Peter Rubino, and Chris Vitale

Absent &
Excused: Council Member Candice Rusie

Also Present: City Manager Michael Smith; City Clerk Mary Kotowski; Director Tim Dorner, and City Attorney Robert Ihrie

1. CALL TO ORDER, ROLL CALL AND PLEDGE OF ALLEGIANCE

Mayor Walby called the meeting to order at 7:00 p.m. Ms. Kotowski, City Clerk, called the roll and a quorum was present. The Pledge of Allegiance was said by all.

Moved by Council Member Rubino, seconded by Council Member Frederick to excuse Council Member Rusie.

Ayes: All – 6
Absent: Rusie

Mayor Walby mentioned an amendment to the agenda and said City Council will go into Closed Session under section 15.268 (d) after Mayor's Comments.

2. PROCLAMATIONS & PRESENTATIONS - none

3. AUDIENCE PARTICIPATION ON AGENDA ITEMS (2 MINUTE TIME LIMIT)

Diana Rascano, St. Clair Shores resident and Chairperson of the Animal Care and Welfare Committee, Item #6, thanked the many people who worked diligently during the last year on the Animal Ordinances. They have developed ordinances that will fill resident needs and hopes that City Council will trust them and consider passing the ordinances that will be presented later in the meeting.

4. REQUEST TO ADOPT A RESOLUTION RENEWING THE UNIFORM VIDEO SERVICE FRANCHISES FOR AT&T

The City recommends the approval of the request to adopt a resolution renewing the Uniform Video Service Franchise for AT&T.

On December 21, 2006, Governor Granholm signed legislation to promote competition in providing video service in the state of Michigan. This legislation is known as Public Act 480, or more commonly known as the "Uniform Video Services Local Franchise Act" 2006. PA 480 creates a uniform franchise agreement that is to be used between each franchising entity and video provider in the state of Michigan. The City of St. Clair Shores and AT&T entered into their first Uniform Video Service Local Franchise Agreement on May 7, 2007. The agreement will sunset in 2017.

On September 16, 2016, the City received a letter and a Uniform Video Service Local Franchise Agreement that continues the current terms and conditions from the previous agreement. The 2007 Agreement provided for a PEG (Program, Education and Government Channels) fee to the City of 2%. Attorney Michael Watza and the City confirmed that AT&T has been paying the 2% franchise fee as required per our agreement. In fact, the City collected \$357,000 in FY2015-2016 and budgeted the same amount for FY2016-2017.

The agreement was reviewed by attorney Michael Watza on behalf of the City and he is satisfied that the current franchise renewal submission is acceptable and contains the same 2% PEG fee.

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Lori Doughty, AT&T, Director External Affairs, said this is a standard uniform agreement and there are no changes. This is only a renewal.

Mr. Smith, noted that Mr. Watza keeps the City up to date on this matter and the fees the city is allowed to receive. Last year the City collected \$357,000 in franchise fees.

Mr. Frederick asked what happens in this agreement if technology changes in the cable industry.

Mr. Ihrle said there are several options. One option is to sign the agreement for the 10-year period of time. He indicated that AT&T is requesting this a year before the current contract expires to avoid the rush next year. He said Mr. Watza stated we could not sign it and send it back to AT&T with a letter that he refers to a Reservation of Rights letter indicating if the law changes, we reserve rights. He did not feel strongly with that and could create contention between AT&T and the City of St. Clair Shores. In regards in protecting against technology changes, AT&T and the City of St. Clair Shores would need to communicate with each other. He stated this is a typical 10-year agreement.

Ms. Doughty stated that the fees are based on the number of subscribers and the City's Finance Department receives a quarterly check.

Mr. Ihrle said the contract expires May 7, 2017 and there is no disadvantage to signing this contract early.

Mr. Rubino asked if this contract then starts in 2017.

Mr. Ihrle referred to Section 5 which states that the contract is for 10 years from date of issue which turns our previous contract into a 9-year contract and if signed tonight, this will start a new 10-year contract. He said there is no disadvantage to us being shorted a year on these contracts.

Mr. Vitale stated he feels there is a disadvantage to the City and that nine years from now AT&T may not be in front of City Council to renew in 2026 for another 10 years.

Mr. Vitale asked if they can we make this an 11-year contract and renew it now. Mayor Walby stated they could renew it with an effective date of May 7, 2017 which is to have it start at the end of the old contract.

Discussion was held between Council Members regarding contract effective date, fees, and changes in technology.

Mr. Ihrle said these are not negotiated contracts, but rather standard contracts required by the industry. If we go back to AT&T and look at an 11-year contract, he would like to ask Ms. Doughty if they would push out the City's response time another 14 days which brings it to the next City Council meeting.

Ms. Doughty said this is the second time it has been pushed back and they have been cooperative and this is a standard contract.

Mr. Ihrle stated that the Public Act that governs this issue and our previous contract with AT&T gives AT&T the right to come prior to the conclusion of our existing contract and address the issue and ask for a new contract. When they do that, the time period within which we have to respond remains the same.

Mr. Rubino stated we are not getting a 10-year contract. We will get a 10-year contract on the new one, but our current contract is ending prior to the 10-year period.

Mr. Ihrle stated that the contract we entered into recognized that this could happen and we agreed to it.

Mr. Ihrle said that he will call Mr. Watza to ask some of these questions. We can move this issue to next agenda or City Council can approve this item subject to it commencing on May 7, 2017 or an option of an 11-year contract instead of a 10-year contract commencing now, if lawful.

Ms. Doughty stated there is a definite time frame in which the City needs to approve it. When the renewal was filed, the City had 15 days to deem it complete and we have 30 days to approve it.

Moved by Council Member Vitale, seconded by Council Member Accica to approve either the contract renewal commencing May 7, 2017 for 10 years or commencing now and making it an 11-year contract ending May 7, 2027, if lawful.

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Ayes: All – 6
Absent: Rusie

5. REQUEST FOR NEW CLASS C ON-PREMISE LIQUOR LICENSE FOR DETROIT'S FINEST II, INC. AT 25801 JEFFERSON (TABLED FROM 9/19/16)

The City recommends the denial of the request from Detroit's Finest II, Inc. for a new Class C Liquor License to be located at 25801 Jefferson, St. Clair Shores, Macomb County, Michigan 48081, based on the City ordinance criteria as follows:

- (1) The applicant's management experience in the alcohol/liquor business.
- (11) Whether the applicant has demonstrated the public need or convenience for the issuance of the liquor license for the business facility at the location proposed.
- (12) The uniqueness of the proposed facility when contrasted against other existing or proposed facilities.
- (16) The proximity of the proposed business facility to other similarly situated licensed liquor facilities.

Local legislative approval is required for approval for the issuance of a new license.

City Ordinance requires the City Clerk to place on a Council Agenda the request for approval of an On-Premise Class C Liquor license within 60 days of filing the documents in her office. Their application was filed on August 8, 2016.

City Departments have reviewed this location, and the Fire Marshal has outstanding items that have not been addressed as of this date. Their 2013 site plan indicates seating of 102.

They have completed the City's application, provided necessary documents and included the \$2,500 application fee under the City's Class C Ordinance which provides City Council background information to form a recommendation for this resolution approval request.

Robert Vickrey, Attorney for petitioner, stated Mr. Gjelosh Majakaj runs and maintains a successful and tight ship at his restaurant. They have no violations with the City and are good community representative. He was also approved for an addition to the building which includes a bar area.

He said the City of St. Clair Shores currently has two liquor licenses and the City has a lot of discretion with these licenses and certain criteria needs to be met. He said Mr. Majakaj has met with the City Manager and was told that he should not apply for a liquor license, that he was not going to get it and that his business was too small.

Mr. Vickrey told Mr. Majakaj that he should apply. He feels the reasons for denial are subjective such as a lack of alcohol management experience in the alcohol business. He does not have any management in the alcohol business, but he has managed a very successful food business for 20 years. He stated there is no reason this should be prohibited to him. What is a concern to him is that the proprietors at the business at 11 Mile and Harper had no experience with food and no experience with alcohol and they received a liquor license. Another reason for denial was that similar businesses within the same proximity of one another. He mentioned that there is the Blue Goose, the Baffin Brewery and Pat O'Brien's all in the same vicinity. He asked for a clarification on how it applies as this seems to be without merit. There does not seem to be a basis regarding the reasons to deny the license. He said if there were other players on the field that had experience, he would say okay, but there are no other players on the field.

Mr. Vickrey mentioned that Mr. Majakaj received 360 signatures from customers, family, and relatives to indicate their interest in a liquor license at Detroit Coney Island.

He said the uniqueness of the establishment is a well-established place of business and is unique and aesthetically pleasing. He is hoping the Planning Commission addressed issues such as traffic, the uniqueness of the business, and the colors used on the building before approving the addition to the building and the building was approved with the bar. He said the denial criteria was known by the City Manager when Mr. Majakaj approached him regarding a liquor license.

Mayor Walby stated that Joe and Josephine Majakaj have a nice business that has been in the City since 2013. He said they are reputable and successful, but the City has discretion and that is where he is. Thank you for what you have done in St. Clair Shores. No does not think they are not reputable or do a great job. This is a selective process and you noted there are not any players on the field. He said they did not realize in February or March of

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this year that minor league hockey would come to St. Clair Shores. To capture them, the City was happy they had a liquor license because they may not have come to the City without one. The City has empty buildings and they are looking for something that may happen in 2017. I am going to fall on the unique and discretion and still looking for something to pop up in 2017.

Mr. Caron echoed Mayor Walby's comments on the Coney Island establishment stating they have great food and great service. I am treating you equally. He stated he did not agree with reducing the criteria for a liquor license from 150 seats to 100 seats when the City is down to only two liquor licenses. There are 3 large lots that could hold a bigger type restaurant. None of the surrounding communities have any openings which makes St. Clair Shores an opportunity for other businesses.

Mr. Rubino stated Mr. Majakaj runs a clean and great establishment. You approved the addition with a bar area. There was never any talk of a bar area during the addition approval but was resubmitted without a patio.

Mr. Vickrey stated an addition was approved with a bar area. Mr. Rubino said when they approved that, there was never any talk about a bar in mind. He asked Mr. Majakaj what made him change his mind in his business model.

Mr. Majakaj said customers have been asking for liquor and the reason he got the building next door was to expand and include liquor. He said the plans were drawn with the bar when they applied for it. Mr. Rubino said he was thinking of it as a bar where people sit to eat and not for liquor as he never remembers liquor being discussed.

Mr. Vitale mentioned that Mr. Majakaj is successful in running this business. He said he does not agree with either #1 or #16 of the recommendations, however, he feels there is some merit in #11 and #12. He said when this first came in front of City Council, it came as an outdoor patio, then an outdoor expansion, but they never discussed a liquor bar. Disingenuous to say we approved it with a bar. He agreed to Guardino's having a liquor license, as they have a section of Harper that is dead and needs some development to it. To revive an old vacant building. He does not feel the same condition is there on Jefferson and the Nautical Mile and agrees with other Council Members in not approving a liquor license for them. I don't go into a coney island expecting to drink. I think I would like to see a business model to bring something to an area that needs it.

Mr. Accica said they have a clean establishment and excellent food and he is looking at it differently. He looked at the plans of putting in a bar and getting a liquor license and it seemed to be part of his business model. He said he thinks the City should give him a liquor license.

Mr. Frederick said to Mr. Majakaj that this is not the end of the road in getting a liquor license. Many businesses in St. Clair Shores did not come to City Council to get a liquor license, but purchased one for their business. He said one can be purchased from anywhere in Macomb County. We have to compete with others in Macomb County to attract businesses in to the city. You should consider the option of buying one in the county.

Mr. Smith said when the City gave out the last liquor license, there was a lot of discussion about the remaining two. I was encouraged to meet with businesses who are considering applying. Mr. Majakaj is not the only business owner who wanted a liquor license. He said City Council is looking for something bigger to attract business to an area. He did not want Mr. Majakaj spending \$2,500 when the belief he had was that City Council was looking for something bigger and something to areas that need more development. He said that ultimately it is not his to say, but he is put into a position where he does not like to see anyone spend \$2,500 if there is not a chance. Mr. Smith said that at the second meeting he had with Mr. Majakaj, he encouraged him to come to the next City Council meeting and talk to them under the Audience Participation portion to get a feel of what Council had to say, but Majakaj was committed to spending the money and putting his application in. He stated that when they see plans that a business is going to build a bar, they cannot assume they will ask the City for a liquor license as there are other ways to obtain one. He said other surrounding communities within the county have no liquor licenses left, but other communities in the county have more than 20 liquor licenses they are hanging onto.

Mr. Rubino said we are always close to talking to people about a hotel. This vote has nothing to do with Mr. Majakaj, but rather the fact that the City has only has two liquor licenses left. Holding on to these to make everything better economically in the City.

Mr. Majakaj you are denying me because I am small. The building I tore down shouldn't have been on Jefferson.

Mr. Rubino I am not voting no because you are small has nothing to do with my vote.

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Mr. Vitale it not for size but where you are located. The area is not in need of an economic shot in the arm like the business on Harper was. This is a carrot to entice someone to come in. Use the last licenses where they will have the biggest economic impact.

Mr. Ihrle said according to the City ordinance, there is criteria for decision making on an application for a liquor license so a motion to deny is in order and they must state a reason why. He stated City Council can move to deny for all reasons stated on record by Council.

Moved by Council Member Vitale, seconded by Council Member Caron for all reasons stated on the record by City Council that the request be denied for new class c on-premise liquor license for Detroit's Finest II, Inc. at 25801 Jefferson, St. Clair Shores MI.

Ayes: Caron, Frederick, Rubino, Vitale, Walby
Nay: Accica
Absent: Rusie

6. REQUEST FOR CONSIDERATION OF AMENDMENTS TO THE ANIMAL CONTROL ORDINANCE

The City recommends the approval of the Request for Consideration of Amendments to the Animal Control Ordinance.

Mr. Caron stated that in February, the Animal Care and Welfare Committee started to review City ordinances and county regulations. Several years ago, the City switched their animal control service to Macomb County and the ordinances needed to be updated. Terminology updates and the Macomb County Animal Control services.

They needed to authorize an Animal Control Officer, but not necessarily a direct employee of the Police Department. They also looked at several regulations the county had and which ones would fit with St. Clair Shores.

He said they wanted to make sure City Management and the Police Department were on board with the changes they were recommending and what they were recommending could be enforced.

Mr. Frederick said one thing he did not see in the ordinance was when animals such as reindeers, turtles and snakes are brought into the City for a petting zoo. He said they do this at the Library, the Junefest, and at Christmas time.

Mr. Caron said it is under the existing ordinance, but they did add one line for the exhibition of an exotic animal display stating those organizations need to be accredited by the American Association of Zoological Parks and Aquariums. He said they changed the definition for exotic and wild animals and this would be covered under the ordinance.

Mr. Fredrick asked about rodents and baiting.

Mr. Caron stated any baiting would have to be done by a licensed professional as the chemicals are controlled and licensed by the state.

Mr. Frederick pointed out that you can get rat bait at a hardware store and said the section on poisonous substances prohibited needs to be cleared up in Section 35.069 Section 19-19.

Mr. Ihrle stated they can put an exception into the ordinance about this and people using them on their own private property.

Mr. Vitale said they need clarification on Section 19-19 as there are other than rats/mice that are pests and possibly adding moles. He said he understands we need to follow the county's rules under Section 19-3 regarding the fee structure, but he said it seems vague and he doesn't understand it.

Mr. Rubino if you are a rescuer what is the process. You would have to go to the appeal process if you exceed 3 dogs.

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Moved by Council Member Rubino, seconded by Council Member Frederick to approve the Amendments to the Animal Control Ordinance 35.050 with clarification to Section 19-19 in regards rats/mice/moles which reads as follows:

35.050 - ANIMALS AND FOWL CITY OF ST. CLAIR SHORES, MICHIGAN Chap. 19 Effective: November 22, 1988¹¹

Footnotes: --- (1) --- For city authority relative to animals, see Char. sec. 2.5(c)[10.025].

35.051 - Purpose and intent.

Sec. 19-1. The purpose and intent of this ordinance is to regulate the keeping of animals within the city of St. Clair Shores, and to provide for licensing of animals and animal establishments or businesses. It is hereby determined that the following provisions strike a balance between the right of persons to keep an animal and the public health, safety and welfare of the citizens of the city of St. Clair Shores. (chap. 19 eff. Nov. 22, 1988)

35.052 - Definitions.

Sec. 19-2. As used in this ordinance the following terms mean:

Animal: Any live, vertebrate creature, domestic or wild;

Animal control officer: Any person designated by the city of St. Clair Shores to enforce this ordinance and applicable state law;

Animal ordinance committee: Three mayoral appointees who shall convene for the purpose of hearing appeals as provided in this ordinance, and two alternate appointees who shall serve in place of a committee member in the event of conflict or absence.

Animal shelter: Any facility operated by a humane society, or municipal agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this ordinance or state law;

Auctions: Any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this ordinance. This section does not apply to individual sales of animals by owners;

Circus: A commercial variety show featuring animal acts for public entertainment;

Commercial animal establishment: Any pet shop, grooming shop, auction, riding school or stable, laboratory, zoological park, circus, performing animal exhibition or kennel;

Farm animal: Any livestock, horse, swine, cattle, sheep, goat, llama, duck, chicken, turkey or rabbit. Farm animal also means any other animal, other than a dog or cat, raised for commercial profit or slaughter;

Grooming shop: A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed;

Harboring or having custody or control of an animal: Feeding, sheltering or allowing an animal to remain on the premises for three (3) or more consecutive days. Allowing an animal to remain on the premises shall include acquiescing in its remaining on the premises. Such allowance or acquiescence shall include the failure of an occupant of the premises to contact the Animal Control Officer to request the removal of the animal within the three (3) day period;

Kennel: Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling more than two (2) dogs or three (3) cats except that residential premises shall not be considered a kennel where the Animal Ordinance Committee has approved the keeping of more than three (3) dogs or cats pursuant to section 19-5 [35.055];

Owner: Any person, partnership, corporation or other business entity owning, keeping or harboring or having custody or control of an animal;

Performing animal exhibition: Any spectacle, display, act or event other than circuses, in which performing animals are used;

Person: Any person or any legal entity, including but not limited to, a corporation, firm, partnership or trust;

Pet: Any animal kept for pleasure rather than utility;

Pet shop: Any person, partnership, corporation or other business entity, whether operated separately or in connection with another business enterprise except for a licensed kennel, that buys, sells or boards any species of animal;

Public nuisance: An owner's failure to remove animal waste from the property of others or the existence of malodorous or offensive waste conditions on the owner's premises or any animal which:

1. molests passerby or passing vehicles
2. attacks other animals
3. trespasses on school grounds
4. is at large
5. damages private or public property
6. barks, whines, howls or makes any noise in an excessive continuous or untimely fashion

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7. is defined as vicious by this ordinance or state law.

Remote, underground or non-barrier fencing: Any method of animal restraint using technologies such as, but not limited to: radio waves, underground wiring, bark collars, remote trainers, ultrasonic pet trainers, citronella collars, and/or shock collars, intended to restrain an animal within a designated area.

Restraint of animal: Secured by a leash or lead, or under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner;

Riding school or stable: Any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule or burro;

Show dog or animal: Any dog or animal that is pedigreed and has appeared in at least one (1) competitive show in the preceding year;

Veterinary hospital: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals;

Vicious animal: Any fierce or dangerous animal that constitutes a physical threat to human beings or other animals;

Vicious dog: Any dog which, when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting; or any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance.

However, notwithstanding the above, a dog shall not be deemed vicious if any injury or damage is sustained by a person who, at the time of such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. Further, no dog shall be considered or deemed vicious if any injury or damage was sustained by a domestic animal which, at the time of such injury or damage, was teasing or tormenting, abusing or assaulting the dog. Additionally, no dog shall be considered vicious or deemed vicious if the dog was protecting or defending a human being within the immediate vicinity from an unjustified attack or assault by human or animal.

Wild animal: Any live animal which is generally not bred by humans except in zoological, laboratory or similar settings including the following:

Any non-human primate, including but not limited to animals commonly known as monkeys, chimpanzees, orangutans, gorillas, gibbons, apes, baboon, marmosets, tamarins, lemurs, lorises and galagos;

- alligator (family)
- badger
- bear
- bison
- bird (wild)
- cat (wild family) including but not limited to cougars, cheetahs, jaguars and tigers
- coyote
- deer
- dog (wild family)
- dog-wolf
- elephant
- ferret
- insects of the venomous type
- lizard (poisonous)
- martin
- opossum (family)
- ostrich
- raccoon
- skunk
- snakes of the venomous, constrictor or dangerous type
- spiders (poisonous)
- weasel (family)
- any other animal or fish which a person is prohibited from possessing by state or federal law;

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Zoological park: Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of non domesticated animals operated by a person, partnership, corporation, other business entity or government agency. (chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan 17, 1989; amend. eff. Nov. 19, 1996; amend. eff. Aug. 23, 2000)

35.053 - Licensing requirements of dogs and cats.

Sec. 19-3. Any person owning, keeping, harboring, or having custody of any permitted dog or cat over six (6) months of age within the City of St. Clair Shores shall obtain a license for each such dog or cat as provided herein.

- (a) Application for a license shall be made to the St. Clair Shores Police Department and shall state the name and address of the applicant and the last known previous owner. It shall also include the breed, sex, age, color and unique or distinctive markings of any dog or cat and a certificate of a licensed veterinarian showing that the dog or cat has been vaccinated against rabies. Except as provided in Section 19-5 [35.055] and 19-20 [35.070], application may be made by mail on forms provided by the city.
- (b) Application for a license shall be made within thirty (30) days after obtaining a dog or cat over six (6) months of age, except that this requirement shall not apply to a non-resident keeping a dog or cat within the municipality for no longer than sixty (60) days.
- (c) Each license shall expire on the fourteenth (14th) day of May at midnight. The fee shall be five dollars (\$5.00) per dog or cat. If application for renewal of the license is not made before the fifteenth (15th) day of May, the applicant shall pay the sum of five dollars (\$5.00) as a penalty.
- (d) Upon acceptance of the license application, payment of the fee and compliance with all relevant requirements of this ordinance, the St. Clair Shores Police Department shall issue a durable tag or identification collar stamped with an identifying number and year of issuance.
- (e) Dogs and cats must wear license tags or identification collars at all times when outside a building or residence or otherwise outdoors.
- (f) License fees shall not be required for seeing eye dogs or governmental police or fire dogs.
- (g) A duplicate license may be obtained upon payment of a two dollar (\$2.00) replacement fee.
- (h) No person may use any license for any animal other than the animal for which it was issued.
- (i) The licensing or registration requirements of section 19-20 [35.070] regarding any dog determined to be vicious shall supersede the requirements of this section insofar as they conflict. (chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan 17, 1989; further amended by ord. eff. July 15, 2003)

35.054 - Limitation on number of dogs or cats.

Sec. 19-4. Except as provided in this ordinance and in section 19-5 [35.055] it shall be unlawful to own, possess, shelter, harbor, keep or have custody of more than three (3) dogs which are over six (6) months old on the same premises except in any commercial animal establishment, animal shelter or veterinary hospital or clinic. Except as provided in this ordinance and in section 19-5, it shall be unlawful to own, possess, shelter, harbor, keep or have custody of more than three (3) cats which are over six (6) months old on the same premises except in any commercial animal establishment, animal shelter or veterinary hospital or clinic. (chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan. 17, 1989)

35.055 - Exception to limitation on number of dogs or cats.

Sec. 19-5. Whenever any person does or desires to possess, harbor, shelter, keep or have custody of more than three (3) dogs or three (3) cats on the same premises in contravention of section 19-4 [35.054], said person or establishments shall first make written application to the Animal Ordinance Committee in accordance with the procedure set forth in section 19-7 [35.057](g). The applicant shall be a resident of the premises where the animal is proposed to be kept. For each hearing on an application, the Animal Ordinance Committee shall request the attendance of the Animal Control Officer and shall notify the residents immediately surrounding the subject premises to the north, south, east and west. The Animal Ordinance Committee shall have the authority to review the application and grant the applicant's request after consideration of the following criteria:

- (a) Whether the animal was one of four or more dogs or four or more cats kept on subject premises prior to the effective date of this ordinance.
- (b) The total number of animals required to be licensed by this ordinance which presently are kept or will be kept on the subject premises.
- (c) Convictions, pending violations and complaints pertaining to this ordinance or its predecessor made against the applicant or any resident of premises where the animals are proposed to be kept.
- (d) The reasons for and circumstances surrounding the request.
- (e) The risk of disturbing the peace and quiet of the neighborhood if the request is granted.

The Animal Ordinance Committee shall have the authority to impose reasonable conditions upon a license for additional dogs or cats provided such conditions are designed to encourage compliance with the ordinance,

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particularly the provisions prohibiting an animal's constituting a public nuisance. (chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan. 17, 1989)

35.056 - Permit requirements for commercial animal establishments, animal shelters or veterinary hospitals.

Sec. 19-6.

- (a) No person, partnership, corporation or entity shall operate a commercial animal establishment, animal shelter or veterinary hospital without **first** obtaining a permit in compliance with this section.
- (b) No permit shall be issued for operation of a commercial animal establishment, animal shelter or veterinary hospital on property zoned for residential use.

Further, no such business shall be conducted unless the premises are properly zoned for the intended use or exist as a valid nonconforming use according to the St. Clair Shores Zoning Ordinance.

- (c) As a condition of the issuance of a permit, the applicant shall comply with applicable state law and the rules and regulations promulgated by the Humane Society of the United States as amended, which are hereby incorporated by reference.
- (d) The permit period shall begin with the calendar year and shall run for one (1) year. Renewal applications for permits shall be made thirty (30) days prior to, and up to thirty-one (31) days after, the start of the year. Application for permit to establish a new commercial animal establishment under the provisions of this ordinance may be made at any time and the full annual fee shall be paid.
- (e) Annual permit fees shall be as follows:
 - 1. for each kennel authorized to house less than 10 dogs or cats\$ 25.00
 - 2. for each kennel authorized to house 10 or more but less than 5050.00
 - 3. for each kennel authorized to house 50 or more dogs or cats100.00
 - 4. for each pet shop75.00
 - 5. for each riding stable75.00
 - 6. for each auction50.00
 - 7. for each zoological park100.00
 - 8. for each circus50.00
 - 9. for each performing animal exhibition50.00
 - 10. for each grooming shop50.00
- (f) If renewal application is not submitted before February 1st, the applicant, in addition to the fee enumerated above, shall pay a late fee in the amount of ten (\$10.00) dollars.
- (g) No permit shall be transferable.
- (h) Every facility regulated by this ordinance shall be considered a separate enterprise and requires an individual permit, unless such facilities are part of one business enterprise and exist in the same structure. In such cases, the person, partnership, corporation or entity shall pay one permit fee which shall be equal to the highest permit fee of the facilities in operation in the structure.
- (i) No fee shall be required of any veterinary hospital, animal shelter, laboratory or government-operated zoological park which are licensed and regulated by the state.
- (j) Any person who experiences a change in the category under which a permit was issued shall be subject to reclassification and appropriate adjustment of the permit fee shall be made. (chap. 19 eff. Nov. 22, 1988)

35.057 - License and permit denial and revocation.

Sec. 19-7.

- (a) The St. Clair Shores Police Department and/or Animal Control Officer may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this ordinance, the regulations of the Humane Society of the United States hereby incorporated by reference, or any law governing the protection and keeping of animals.
- (b) Unless otherwise indicated by the Animal Ordinance Committee pursuant to procedures set forth in subsection (g), any person whose permit or license is revoked shall, within thirty (30) days thereafter, remove from the City or humanely dispose of all animals owned, kept, or harbored by such person and no part of the permit or license fee shall be refunded.
- (c) It shall be a condition of the issuance of any permit or license that the St. Clair Shores Police Department or the Animal Control Officer of the City of St. Clair Shores be permitted to inspect all animals and the premises where animals are kept at any reasonable time. If the permission for such

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inspections is refused, the St. Clair Shores Police Department or Animal Control Officer may revoke the permit or license of the refusing owner.

- (d) If the applicant has withheld or falsified any material information on the application, the St. Clair Shores Police Department shall refuse to issue or may revoke a permit or license.
- (e) No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.
- (f) Any person who has been denied a license or permit may not reapply for a period of thirty (30) days. Each reapplication shall be accompanied by a ten (\$10) dollar fee. A person who has had his license or permit revoked may not reapply for a period of one (1) year.
- (g) Any person who has been denied a license or permit or whose license or permit has been revoked may appeal to the Animal Ordinance Committee unless such denial or revocation occurred pursuant to Section 19-20 [35.070]. An appeal shall be filed in writing within ten (10) days of the denial or revocation and shall be accompanied by a fee in an amount established by council. For a hearing on an appeal, the Animal Ordinance Committee shall require the attendance of the person who issued the revocation. The committee shall review the reasons for the denial and revocation and shall, in making its own determination, consider the following factors:
 - 1) Convictions, pending violations and complaints pertaining to this ordinance or its predecessor made against the appellant.
 - 2) The reasons for and circumstances surrounding the denial or revocation.
 - 3) Given the nature of the incident causing the denial or revocation, the risk to the public health safety and welfare, as well as the humane treatment of the affected animal(s), if the license or permit were approved or reinstated.
 - 4) Where a person has been denied a license pursuant to section 19-4 [35.054], the Animal Ordinance Committee shall consider the criteria in section 19-5 [35.055].

The Animal Ordinance Committee shall have the authority to affirm, reverse or modify the denial or revocation by limiting the time period before reinstatement or by imposing additional and reasonable conditions upon a license or permit which are designed to encourage ordinance compliance. A revocation shall not exceed one (1) year in length. (chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan. 17, 1989)

35.058 - Restraint of animals.

Sec. 19-8.

- (a) All dogs shall be kept under restraint and shall not be permitted to be at large. Remote or underground fencing is not considered a method of physical control.
- (b) No owner shall permit a dog to leave the owner's premises unless such animal is wearing a leash and is under the positive control of a person of suitable age and discretion. The leash shall be of sufficient strength and length to restrain the particular animal.
- (c) While restrained by a leash, no animal shall be permitted to enter upon private property other than the animal owner's without the permission of the private property owner.
- (d) An owner shall exercise proper care, control and restraint of his animals to prevent them from becoming a public nuisance.
- (e) A vicious animal shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.
- (f) Every female dog in heat shall be confined in a building or secure enclosure in a manner that such female dog cannot come into contact with another animal except for planned breeding. (chap. 19 eff. Nov. 22, 1988; amend. eff. Aug. 23, 2000; further amend. eff. Jan. 31, 2014)

35.059 - Farm animals prohibited.

Sec. 19-9. No person shall own, keep, harbor, have custody or raise any farm animal except that one rabbit shall be permitted per residential premises. (chap. 19 eff. Nov. 22, 1988)

35.060 - Wild animals prohibited.

Sec. 19-10. Wild animals shall not be allowed, kept, harbored, displayed, offered for sale, sold, or purchased on any premises within the City except as follows:

- (a) The animals are part of a bona fide public zoo, zoological park or bona fide licensed circus, or
- (b) The animals are in the possession of a person, commercial animal establishment or shelter, who or which is licensed by the State of Michigan to temporarily harbor and treat an injured animal or endangered species until permanent quarters are found, and

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- (c) Any such animal permitted pursuant to subsections (a) and (b) is under the care of a trained attendant at all times whose responsibility it shall be to see that the animal is securely confined. (chap. 19 eff. Nov. 22, 1988)

35.060A - Vicious dogs prohibited.

Sec. 19-10A. No person shall keep, maintain or harbor a vicious dog on any premises in the City of St. Clair Shores. (amend. eff. Nov. 19, 1996)

35.060B - Attack dog training prohibited.

Sec. 19-10B. Unless as part of or within the authority of St. Clair Shores Police Department, no person shall own any dog for the purpose of dog fighting, and/or no person shall train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to attack human beings or domestic animals. (amend. eff. Nov. 19, 1996)

35.061 - Performing animal exhibitions.

Sec. 19-11. No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering. All equipment used on a performing animal shall fit properly and be in good working condition. (chap. 19 eff. Nov. 22, 1988)

35.062. - Construction and operation of pigeon lofts

Sec. 19-12.

1. Any new pigeon loft established, constructed or operated within the City of St. Clair Shores shall comply with the following requirements:
 - (a) It shall be unlawful to establish, construct or operate a new pigeon loft within the City of St. Clair Shores without first obtaining a permit therefore.
 - (b) A permit application shall be filed in the form provided by the City Clerk and shall be accompanied with a drawing showing the size and location of the loft which shall be submitted to the Building Department of the City of St. Clair Shores for approval.
 - (c) A permit shall be valid for one (1) year from the date of issuance. The permit fee shall be established by council.
 - (d) The pigeon loft shall not be located nearer than twenty (20) feet to a residential structure, and not less than two hundred (200) feet from a school, church or place of public assembly. It shall also be located and of a size in accordance with setback and lot coverage requirements of the zoning ordinance of St. Clair Shores.
 - (e) It shall be unlawful to have on the same premises more than one pigeon loft.
2. All owners of pigeon lofts within the City of St. Clair Shores shall comply with the following requirements:
 - (a) By February 1, 1988 an owner of a loft which validly existed prior to the effective date of this Ordinance shall obtain a permit for each such loft which shall be valid for one (1) year from the date of issuance. The permit fee shall be established by Council.
 - (b) Any loft which validly existed prior to the effective date of this Ordinance shall not be subject to the requirements of Section 19-12 (1) provided that neither the loft as it exists nor the premises where it is located constitute a public nuisance or pose significant risk to the safety, health and public welfare of the general public.
 - (c) The owner of such lofts shall not allow the pigeons to become a public nuisance to the buildings or property of others in the vicinity.
 - (d) All lofts shall be subject to the inspection by the St. Clair Shores Department of Building and if not maintained in a reasonably clean and orderly manner and in a condition comparable to neighboring buildings, shall be subject to discontinuance at the order of the Department. In the event the Building Department revokes or discontinues a permit under this section, the owner, upon written request to the City Clerk, shall be entitled to a review hearing before the Animal Ordinance Committee to show cause why such permit should not be discontinued or revoked.
 - (e) A copy of any violation shall be forwarded at least ten (10) days prior to the date of hearing to the Secretary, Detroit Center of American Racing Pigeon Union, whose name and address shall be kept on file by the city clerk.
 - (f) Refer to 15.499(Sec. 35.72 Accessory Buildings/Structures.)
3. All pigeon lofts shall meet the specifications established by the Building Department of the City of St. Clair Shores. (chap. 19 eff. Nov. 22, 1988; amend. eff. March 4, 1997)

35.063 - Animal care.

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Sec. 19-13.

- (a) Every owner shall provide his animal(s) food and water and other sustenance necessary for maintenance of the animal's healthy life, with adequate shelter and protection from the weather, veterinary care when needed to prevent suffering and with human care and treatment.
- (b) It shall be unlawful to feed any animal unwholesome or unsuitable food or unclean water to drink or to place same in unclean or unsuitable containers which are likely to cause or produce disease in the animal.
- (c) It shall be unlawful to overdrive, overload, overwork, torture, torment, cruelly beat, mutilate, cruelly kill or otherwise abuse an animal or to cause or instigate any such conduct. The cropping of dogs' ears and tails shall be considered mutilation or cruelty unless such cropping is performed by a registered veterinary surgeon while the dog is under an anesthetic.
- (d) It shall be unlawful to cruelly work or transport animals in violation of M.C.L. 750.50, as amended.
- (e) No owner shall abandon his animal(s).
- (f) It shall be unlawful to cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.
- (g) No person shall willfully and maliciously expose any known poisonous substance, whether mixed with food or not, so that the same is liable to be eaten by another animal, except that it shall not be unlawful to expose on one's own premises common rat poisons mixed only with vegetable substances.
- (h) No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (i) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society. (chap. 19 eff. Nov. 22, 1988)

35.064 - Animal waste.

Sec. 19-14. The owner of every animal shall be responsible for the removal of any excreta deposited by his animal(s) on public walks, recreation areas, or private property. Any excreta deposited by the animal on the owner's property shall be buried upon his premises or confined, covered and cared for in a timely manner to prevent it from being scattered off the premises and to prevent any malodorous or offensive condition to exist. Such condition shall constitute a nuisance. (chap. 19 eff. Nov. 22, 1988)

35.065 - Public nuisance prohibited.

Sec. 19-15. No owner shall permit an animal to become a public nuisance as defined in this ordinance. (chap. 19 eff. Nov. 22, 1988)

35.066 - Disturbing birds prohibited.

Sec. 19-16. It shall be unlawful for any person to willfully injure, molest or disturb in any way any birds or the nest eggs, young or brood of any such birds, except that this provision shall not apply to any birds declared by any law or ordinance to be "pests." (chap. 19 eff. Nov. 22, 1988)

35.067 - Coloring birds prohibited.

Sec. 19-17. It shall be unlawful for any person to artificially color, spray or paint any live bird or fowl or to sell, offer for sale, or otherwise dispose of any such colored bird or fowl. (chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan. 17, 1989)

35.068 - Sick or dead animals.

Sec. 19-18. It shall be unlawful for any person to deposit, throw or place any dead or fatally sick or injured animal, or part thereof on any public or private place, or into or on the banks of any stream, lake, pond, sewer or other body of water. (chap. 19 eff. Nov. 22, 1988)

35.069 - Poisonous substances prohibited.

Sec. 19-19. It shall be unlawful to throw or deposit poisoned meat, or any poison or harmful substances in any street, alley or public place, or on any private premises within the city, for the purpose of destroying any animal unless such activity is supervised or performed by a licensed professional who is eliminating a pest as recognized by the Department of Natural Resources regulations in this regard. (chap. 19 eff. Nov. 22, 1988)

35.070 - Regulation of vicious dogs.

Sec. 19-20.

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- A. *Declaration of purpose.* It is hereby declared that vicious dogs as defined in this ordinance have become a serious and widespread threat to the safety and welfare of the members of the general public, in that vicious dogs have in recent years assaulted without provocation and seriously injured numerous individuals, particularly children, and have killed people and animals. Some of these attacks have occurred in public places. The number and severity of these attacks are also attributable to the failure of owners to register, confine and properly control vicious dogs. It is further declared that the regulation and control of vicious dogs is necessary and requires city-wide regulation, and that existing laws are inadequate to deal with the threat to public health and safety posed by vicious dogs. It is further declared that the owning, keeping and harboring of vicious dogs is a nuisance which should be regulated in the interest of public safety and/or abated. It is further declared that because of the danger posed to the public health, safety and welfare by vicious dogs this section constitutes an emergency measure providing for the immediate preservation of the public health, safety and welfare.
- B. *Impoundment of suspected vicious dog.* In the event the Animal Control Officer or any law enforcement officer has probable cause to believe that a particular dog is vicious and may pose a threat of serious harm to human beings or other domestic animals, the Animal Control Officer or law enforcement officer may seize and impound the dog pending hearing or trial on this issue or trial pertaining to prosecution of the dog owner for harboring a vicious dog. In the case of a dog bite, impoundment procedures set forth in Section 35.072 [Sec. 19-22] shall be followed. In any event, the owner of the dog shall pay all costs and expenses incurred in conjunction with the impoundment of the dog.
- C. *Upon conviction of harboring a vicious dog.* Upon conviction of an owner for keeping, maintaining or harboring a vicious dog, the dog shall be destroyed, removed from the city or subject to the requirements set forth in subsection D., as the court deems appropriate. The owner shall comply with such court order or conditions.
- D. *Requirements for harboring a vicious dog.* Upon conviction of an owner for keeping, maintaining or harboring a vicious dog which does not result in an order to destroy the dog, and/or upon a determination by a court of appropriate authority that a particular dog is vicious but is not subject to destruction, the following requirements shall apply:
1. *License application.* The owner shall apply to the police department for a vicious dog license which shall be valid for one year from the date of its approval provided all conditions of this ordinance section and applicable court order have been met. The license shall be renewable provided that the dog is to be kept on the same premises under the same conditions and its owner has not violated any condition of this ordinance section or court order during the previous license year. No such license shall be transferable to a new owner or the dog or to a new location or address where the dog will be kept.
 2. *Insurance.* Prior to the receipt of a license, the owner shall present to the St. Clair Shores Police Department proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) covering any damage or injury which may be caused by such vicious dog during the twelve (12) month period for which licensing is sought, which policy shall contain a provision requiring the city to be named as additional insured for the sole purpose of the city to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy. In addition, the owner shall sign a statement attesting that the owner shall maintain and not voluntarily cancel the liability insurance during the twelve (12) month period for which licensing is sought, unless the owner shall cease to own the vicious dog prior to expiration of such license.
 3. *Tattooing dog.* Prior to receipt of a license, the owner shall at his own expense, have the licensing number assigned to such vicious dog, or such other identification number as the St. Clair Shores Police Department shall determine, tattooed upon such vicious dog by a licensed veterinarian or person trained as a tattooist and authorized as such by any state or city police department. The tattoo shall be placed either on the upper lip or upper left rear thigh of the vicious dog. The Animal Control Officer may, in his discretion, designate the particular location of said tattoo. Said number shall be noted on the city licensing files for such vicious dog, if it is different from the license number of such vicious dog. For the purpose of this section "tattoo" shall be defined as any permanent numbering of a vicious dog by means of indelible or permanent ink with the number designated by the licensing authority or any other permanent, acceptable method of tattooing.
 4. *Signs.* Prior to receipt of a license, the owner shall display a sign in a prominent place on his or her premises warning of a vicious dog on the premises. Said sign shall be visible and capable of being read from the public highway.
 5. *Confinement outdoors.* Prior to receipt of a license, the owner shall provide for the confinement of the vicious dog. Specifically, when outdoors, the dog shall be confined in a pen or structure with secure sides and top attached to the sides. The structure shall be embedded in the ground no less than 2 feet and constructed in accordance with standards set forth in the St. Clair Shores Building

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Code. Such structure shall not exceed 6 feet in height. It shall, in addition, be constructed of materials and consist of a design suitable to prevent escape of the animal and entry of young children. Additionally, the size and location of the structure shall comply with zoning ordinance provisions, including lot coverage and setback requirements, applicable to accessory structures on the premises. Whenever the animal is inside the structure, the structure shall be locked with a padlock or key lock. Such pens or structures must be adequately lit and kept in a clean and sanitary condition.

6. *Confinement indoors.* No vicious dog shall be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit of its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting.
 7. *Identification photographs.* Prior to receipt of a license, the owner shall provide the police department with two color photographs of the vicious dog which clearly show the color and approximate size of the animal.
 8. The owner shall pay a license fee in an amount established by the council.
 9. *Leash and muzzle requirement.* It shall be unlawful for any owner to allow or cause, by acquiescence or other means, any vicious dog to be outside of the dwelling of the owner or outside the enclosure unless it is necessary for the owner to obtain veterinary care for the vicious dog or to sell or give away the vicious dog or to comply with the commands or directions of the court or Animal Control Officer with respect to the vicious dog, or to comply with the licensing provisions of this chapter. In such event, the vicious dog shall be securely muzzled and restrained with a choker chain leash having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal. The animal shall be under direct control and supervision of the owner of the vicious dog or his agent, either of whom shall be, in any event, a person of eighteen (18) years of age and physically capable of restraining the animal.
 10. *Reporting requirements.* An owner shall notify the police department and Animal Control Officer immediately upon discovery that a vicious dog is on the loose, is unconfined, has attacked an animal or human being or has been stolen. An owner shall notify the police department and Animal Control Officer in writing within one day of the removal of a vicious dog from the city or the dog's death; the birth of the animal's offspring within the city; the new address of a vicious dog should the owner move within the corporate city limits, and the name, address and telephone number of a new owner of the dog.
- E. *Penalties for failing to abide by requirements of 35.070C [Sec. 19-20C].* In the event any owner fails to comply with any condition set forth in Section 35.070C or D [Sec. 19-20C-D] regarding the destruction, removal or harboring of a vicious dog, the Animal Control Officer or a law enforcement officer shall have the authority to confiscate the dog and impound it pending (1) a hearing requiring the owner of the dog to show cause why it should not be immediately destroyed or (2) a probation violation hearing or (3) other hearing as may be permitted by law.

Further the violation of any provision set forth in section 35.060A [Sec. 19-10A], 35.060B [Sec. 19-10B], 35.070C [Sec. 19-20C] and 35.070D [Sec. 19-20D] shall constitute a misdemeanor punishable by a fine not to exceed \$500 or jail not to exceed 90 days or both. Section 35.073 [Sec. 19-23] regarding penalties for violation of other ordinance sections shall not apply to these sections. (chap. 19 eff. Nov. 22, 1988; amend eff. Nov. 19, 1996)

35.071 - Impoundment and violation notice.

Sec. 19-21.

- (a) Unrestrained animals shall be confiscated by a law enforcement officer or the Animal Control Officer and impounded in an animal shelter and there confined in a humane manner.
- (b) Unless a dog or animal is reasonably believed to be vicious or has been impounded pursuant to section 19-20 [35.070], the dog or animal shall be released to the owner or the owner's agent anytime during the five (5) working day period immediately succeeding the impoundment, provided costs and fees entailed in this procedure have been paid.
- (c) If by a license tag or other means, the owner of an impounded animal can be identified, the Animal Control Officer shall immediately upon impoundment notify the owner by telephone or by certified mail, return receipt requested.

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- (d) An owner reclaiming an impounded animal shall pay all costs and expenses incurred for each day the animal has been impounded.
- (e) Any animal not reclaimed by its owner within five (5) working days of impoundment or within five (5) working days of any court proceeding regarding same or within five (5) days of receipt of notice by certified mail, whichever is later, shall become the property of the local government authority, or humane society, and shall be placed for adoption in a suitable home or humanely euthanized.
- (f) In addition to, or in lieu of, impounding an animal found at large, the Animal Control Officer, Humane Officer, or Police Officer may return the animal to the known owner and issue to the known owner of such animal a notice of ordinance violation and may institute proceedings in district court to subject the owner to the penalties described in this ordinance.
- (g) The police department or Animal Control Officer shall maintain a complete record of all dogs impounded under the provisions of this article and the disposition of same. (chap. 19 eff. Nov. 22, 1988)

35.072 - Dog bite procedure.
Sec. 19-22.

- (a) *Report to police department required.* If any person is bitten by a dog, it shall be the duty of that person, or the owner of the dog having knowledge of same to report same to the police department or Animal Control Officer within twelve (12) hours thereafter. If the owner of any dog has any reason to believe or suspect that such dog has become infected with rabies, it shall be the duty of that person to report the same to the police department or Animal Control Officer within twelve (12) hours thereafter.
- (b) *Quarantine; procedure.* In the event of any report of a dog bite, the police department or Animal Control Officer shall seize such dog and deliver it to an animal shelter which shall hold such dog in quarantine until a laboratory analysis by a licensed veterinarian is made to determine whether the dog is infected. The owner of the dog shall pay all costs and expenses incurred during and for the impoundment. (chap. 19 eff. Nov. 22, 1988)

35.073 - Penalties for violation.

Sec. 19-23. Except as specified in the Municipal Civil Infractions Ordinance, Section 11.150, et. seq., any person who shall be convicted of violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed ninety (90) days, or both, in the discretion of the court. Each day a violation continues shall be considered a separate offense and may be punished accordingly except as specified in the Municipal Civil Infractions Ordinance, Section 11.150, et. seq. (chap. 19 eff. Nov. 22, 1988; amend. eff. Aug. 11, 1992)

35.074 - Severability.

Sec. 19-24. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance. (chap. 19 eff. Nov. 22, 1988)

35.075 - Enforcement by animal control officer and police department.

Sec. 19-25. The Animal Control Officer and St. Clair Shores Police Department shall have the authority to enforce the provisions of this ordinance and to pursue prosecution in the event of violation. (chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan. 17, 1989)

SHALL BE AMENDED AS FOLLOWS:

35.052 - Definitions.

Sec. 19-2. As used in this ordinance the following terms mean:

Animal: Any live, vertebrate creature, domestic or wild;

Animal control officer: Any person designated by the city of St. Clair Shores to enforce this ordinance and applicable state law, **including as a contracted service to another enforcement agency (amended 10/3/2016)**

Animal ordinance committee: Three mayoral appointees who shall convene for the purpose of hearing appeals as provided in this ordinance, and two alternate appointees who shall serve in place of a committee member in the event of conflict or absence.

Animal shelter: Any facility operated by a humane society, or municipal agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this ordinance or state law;

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Auctions: Any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this ordinance. This section does not apply to individual sales of animals by owners;

Circus: A commercial variety show featuring animal acts for public entertainment;

Commercial animal establishment: Any pet shop, grooming shop, auction, riding school or stable, laboratory, zoological park, circus, performing animal exhibition or kennel;

Farm animal: Any livestock, horse, swine, cattle, sheep, goat, llama, duck, chicken, turkey or rabbit. Farm animal also means any other animal, other than a dog or cat, raised for commercial profit or slaughter;

Grooming shop: A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed;
Harboring or having custody or control of an animal: Feeding, sheltering or allowing an animal to remain on the premises for three (3) or more consecutive days. Allowing an animal to remain on the premises shall include acquiescing in its remaining on the premises. Such allowance or acquiescence shall include the failure of an occupant of the premises to contact the Animal Control Officer to request the removal of the animal within the three (3) day period. **This definition shall not apply to cats who are cared for as a part of a trap/neuter/release or trap/shelter/release program; (amended 10/3/2016)**

Kennel: Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling more than two (2) dogs or three (3) cats except that residential premises shall not be considered a kennel where the Animal Ordinance Committee has approved the keeping of more than three (3) dogs or cats pursuant to section 19-5 [35.055];

~~*Owner:* Any person, partnership, corporation or other business entity owning, keeping or harboring or having custody or control of an animal;~~

Owner: **Owner shall mean:**

- 1. every person having a right of property in an animal:**
- 2. an authorized agent of the person having a right of property in an animal:**
- 3. every person who keeps or harbors an animal or has it in his or her care, custody or control:**
- 4. every person who has the apparent authority to have a right of property in an animal;**
- 5. the person named in the licensing records of any animal as the owner;**
- 6. the occupant of the premises where the animal is usually kept if such premises are other than the premises of the owner as shown on the licensing records;**

The parent or guardian of an owner under 18 years of age shall be deemed the owner as defined in this section. If an animal has more than one owner, all such persons are jointly and severally liable for the acts or omissions of an owner even if the animal was in the possession of or under the control of a keeper at the time of the offense. (amended 10/3/2016)

Performing animal exhibition: Any spectacle, display, act or event other than circuses, in which performing animals are used;

Person: Any person or any legal entity, including but not limited to, a corporation, firm, partnership or trust;

~~*Pet:* Any animal kept for pleasure rather than utility; (amended 10/3/2016)~~

Pet shop: Any person, partnership, corporation or other business entity, whether operated separately or in connection with another business enterprise except for a licensed kennel, that buys, sells or boards any species of animal;

Public nuisance: An owner's failure to remove animal waste from the property of others or the existence of malodorous or offensive waste conditions on the owner's premises or any animal which:

1. molests passerby or passing vehicles

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2. attacks other animals
3. trespasses on school grounds
4. is at large
5. damages private or public property
6. barks, whines, howls or makes any noise in an excessive continuous or untimely fashion
7. is defined as vicious by this ordinance or state law.

Remote, underground or non-barrier fencing: Any method of animal restraint using technologies such as, but not limited to: radio waves, underground wiring, bark collars, remote trainers, ultrasonic pet trainers, citronella collars, and/or shock collars, intended to restrain an animal within a designated area.

Restraint of animal: Secured by a leash or lead, or under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner;

Riding school or stable: Any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule or burro;

Show dog or animal: Any dog or animal that is pedigreed and has appeared in at least one (1) competitive show in the preceding year;

Veterinary hospital: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals;

Vicious animal: Any fierce or dangerous animal that constitutes a physical threat to human beings or other animals;

Vicious dog: Any dog which, when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting; ~~or any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance.~~
(amended 10/3/2016)

However, notwithstanding the above, a dog shall not be deemed vicious if any injury or damage is sustained by a person who, at the time of such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. Further, no dog shall be considered or deemed vicious if any injury or damage was sustained by a domestic animal which, at the time of such injury or damage, was teasing or tormenting, abusing or assaulting the dog. Additionally, no dog shall be considered vicious or deemed vicious if the dog was protecting or defending a human being within the immediate vicinity from an unjustified attack or assault by human or animal.

Wild/Exotic animal: Includes any wild mammal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, which, because of its size, vicious nature or other characteristics, would constitute a danger to human life or property. Wild or exotic animals include, but are not limited to any poisonous animals, including reptiles and insects; and animals covered under Michigan's Large Carnivore Act (MCL Act 287.1101 - 287.1123 (without proper Federal State or Local permits))

Any live animal which is generally not bred by humans except in zoological, laboratory or similar settings including the following:

~~Any non-human primate, including but not limited to animals commonly known as monkeys, chimpanzees, orangutans, gorillas, gibbons, apes, baboon, marmosets, tamarins, lemurs, lorises and galagos;~~

- ~~— alligator (family)~~
- ~~— badger~~
- ~~— bear~~
- ~~— bison~~
- ~~— bird (wild)~~

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- cat (wild family) including but not limited to cougars, cheetahs, jaguars and tigers
- coyote
- deer
- dog (wild family)
- dog-wolf
- elephant
- ferret
- insects of the venomous type
- lizard (poisonous)
- martin
- opossum (family)
- ostrich
- raccoon
- skunk
- snakes of the venomous, constrictor or dangerous type
- spiders (poisonous)
- weasel (family)
- any other animal or fish which a person is prohibited from possessing by state or federal law; **(amended 10/3/2016)**

Zoological park: Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of ~~non~~ domesticated **non-domesticated** animals operated by a person, partnership, corporation, other business entity or government agency. (amended 10/3/2016)
(chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan 17, 1989; amend. eff. Nov. 19, 1996; amend. eff. Aug. 23, 2000)

35.053 - Licensing requirements of dogs ~~and cats~~.

Sec. 19-3. Any person owning, keeping, harboring, or having custody of any permitted dog ~~or cat~~ over ~~six (6)~~ **four (4)** months of age within the City of St. Clair Shores shall obtain a license for each such dog ~~or cat~~ as provided herein.

- (a) Application for a license ~~shall be made to the St. Clair Shores Police Department and shall state the name and address of the applicant and the last known previous owner. It shall also include the breed, sex, age, color and unique or distinctive markings of any dog or cat and a certificate of a licensed veterinarian showing that the dog or cat has been vaccinated against rabies. Except as provided in Section 19-5 [35.055] and 19-20 [35.070], application may be made by mail on forms provided by the city.~~ **A dog license shall be issued for only a dog that has a current rabies vaccination. All dogs shall be currently protected by a rabies vaccine active at the time of license issuance. Such vaccine shall be administered by a veterinarian except when a veterinarian states in writing that the dog should not be vaccinated for medical reasons and indicates when the dog can be vaccinated. (amended 10/3/2016)**
- (b) Application for a license shall be made within thirty (30) days after obtaining a dog ~~or cat~~ over ~~six (6)~~ **four (4)** months of age, except that this requirement shall not apply to a non-resident keeping a dog ~~or cat~~ within the municipality for no longer than ~~sixty (60)~~ **thirty (30)** days.
- (c) Each license shall expire on the fourteenth (14th) day of May at midnight. The fee shall be five dollars (\$5.00) per dog or cat. If application for renewal of the license is not made before the fifteenth (15th) day of May, the applicant shall pay the sum of five dollars (\$5.00) as a penalty. **The Macomb County Chief Animal Control Officer shall issue licenses as provided by MCLA 287.274. License fees shall be established from time to time by the Macomb County Board of Commissioners.**
- (d) Upon acceptance of the license application, payment of the fee and compliance with all relevant requirements of this ordinance, the St. Clair Shores Police Department shall issue a durable tag or identification collar stamped with an identifying number and year of issuance. **Failure to comply with the licensing requirements of Section 19.3 will result in the imposition of such late fees and penalties as may be established from time to time by the Macomb County Board of Commissioners in addition to penalties established by state law or city ordinance.**
- (e) Dogs and cats must wear license tags or identification collars at all times when outside a building or residence or otherwise outdoors. **Dogs must wear valid license tags when off their owner's**

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property. An owner whose dog is off his/her property without wearing a valid license tag is in violation of this ordinance and MCL 287.90.

- (f) License fees shall not be required for seeing eye dogs or governmental police or fire dogs.
 - (g) ~~A duplicate license may be obtained upon payment of a two dollar (\$2.00) replacement fee.~~
 - (~~h~~) ~~(f)~~ No person may use any license for any animal other than the animal for which it was issued.
 - (~~h~~) ~~(g)~~ The licensing or registration requirements of section 19-20 [35.070] regarding any dog determined to be vicious shall supersede the requirements of this section insofar as they conflict.
- (chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan 17, 1989; further amended by ord. eff. July 15, 2003)
(amended 10/3/2016)

35.054 - Limitation on number of dogs or cats.

Sec. 19-4. Except as provided in this ordinance and in section 19-5 [35.055] it shall be unlawful to own, possess, shelter, harbor, keep or have custody of more than three (3) dogs which are over ~~six (6)~~ **four (4)** months old on the same premises except in any commercial animal establishment, animal shelter or veterinary hospital or clinic. Except as provided in this ordinance and in section 19-5, it shall be unlawful to own, possess, shelter, harbor, keep or have custody of more than three (3) cats which are over ~~six (6)~~ **four (4)** months old on the same premises except in any commercial animal establishment, animal shelter or veterinary hospital or clinic.

(chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan. 17, 1989)

35.056 - Permit requirements for commercial animal establishments, animal shelters or veterinary hospitals.

Sec. 19-6.

- (a) No person, partnership, corporation or entity shall operate a commercial animal establishment, animal shelter or veterinary hospital without **first** obtaining a permit in compliance with this section.
- (b) No permit shall be issued for operation of a commercial animal establishment, animal shelter or veterinary hospital on property zoned for residential use.

Further, no such business shall be conducted unless the premises are properly zoned for the intended use or exist as a valid nonconforming use according to the St. Clair Shores Zoning Ordinance.

- (c) As a condition of the issuance of a permit, the applicant shall comply with applicable **federal and** state law and the rules and regulations ~~promulgated by the Humane Society of the United States as amended, which are hereby incorporated by reference~~ **of this ordinance.**
- (d) The permit period shall begin with the calendar year and shall run for one (1) year. Renewal applications for permits shall be made thirty (30) days prior to, and up to thirty-one (31) days after, the start of the year. Application for permit to establish a new commercial animal establishment under the provisions of this ordinance may be made at any time and the full annual fee shall be paid.
- (e) Annual permit fees shall be as follows:
 1. for each kennel authorized to house less than 10 dogs or cats\$ 25.00
 2. for each kennel authorized to house 10 or more but less than 5050.00
 3. for each kennel authorized to house 50 or more dogs or cats100.00
 4. for each pet shop75.00
 5. for each riding stable75.00
 6. for each auction50.00
 7. for each zoological park100.00
 8. for each circus50.00
 9. for each performing animal exhibition50.00

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10. for each grooming shop50.00
- (f) If renewal application is not submitted before February 1st, the applicant, in addition to the fee enumerated above, shall pay a late fee in the amount of ten (\$10.00) dollars.
 - (g) No permit shall be transferable.
 - (h) Every facility regulated by this ordinance shall be considered a separate enterprise and requires an individual permit, unless such facilities are part of one business enterprise and exist in the same structure. In such cases, the person, partnership, corporation or entity shall pay one permit fee which shall be equal to the highest permit fee of the facilities in operation in the structure.
 - (i) No fee shall be required of any veterinary hospital, animal shelter, laboratory or government-operated zoological park which are licensed and regulated by the state.
 - (j) Any person who experiences a change in the category under which a permit was issued shall be subject to reclassification and appropriate adjustment of the permit fee shall be made. (chap. 19 eff. Nov. 22, 1988) **(amended 10/3/2016)**

35.057 - License and permit denial and revocation.

Sec. 19-7.

- (a) The St. Clair Shores Police Department and/or Animal Control Officer may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this ordinance, ~~the regulations of the Humane Society of the United States hereby incorporated by reference, or any law governing the protection and keeping of animals~~ **or any law governing the protection and keeping of animals.**
- (b) Unless otherwise indicated by the Animal Ordinance Committee pursuant to procedures set forth in subsection (g), any person whose permit or license is revoked shall, within thirty (30) days thereafter, remove from the City or humanely dispose of all animals owned, kept, or harbored by such person and no part of the permit or license fee shall be refunded.
- (c) It shall be a condition of the issuance of any permit or license that the St. Clair Shores Police Department or the Animal Control Officer ~~of the City of St. Clair Shores~~ be permitted to inspect all animals and the premises where animals are kept at any reasonable time. If the permission for such inspections is refused, the St. Clair Shores Police Department or Animal Control Officer may revoke the permit or license of the refusing owner.
- (d) If the applicant has withheld or falsified any material information on the application, the St. Clair Shores Police Department **or Animal Control Officer** shall refuse to issue or may revoke a permit or license.
- (e) No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.
- (f) Any person who has been denied a license or permit may not reapply for a period of thirty (30) days. Each reapplication shall be accompanied by a ten (\$10) dollar fee. A person who has had his license or permit revoked may not reapply for a period of one (1) year.
- (g) Any person who has been denied a license or permit or whose license or permit has been revoked may appeal to the Animal Ordinance Committee unless such denial or revocation occurred pursuant to Section 19-20 [35.070]. An appeal shall be filed in writing within ten (10) days of the denial or revocation and shall be accompanied by a fee in an amount established by council. For a hearing on an appeal, the Animal Ordinance Committee shall require the attendance of the person who issued the revocation. The committee shall review the reasons for the denial and revocation and shall, in making its own determination, consider the following factors:
 - 1) Convictions, pending violations and complaints pertaining to this ordinance or its predecessor made against the appellant.
 - 2) The reasons for and circumstances surrounding the denial or revocation.
 - 3) Given the nature of the incident causing the denial or revocation, the risk to the public health safety and welfare, as well as the humane treatment of the affected animal(s), if the license or permit were approved or reinstated.
 - 4) Where a person has been denied a license pursuant to section 19-4 [35.054], the Animal Ordinance Committee shall consider the criteria in section 19-5 [35.055].

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The Animal Ordinance Committee shall have the authority to affirm, reverse or modify the denial or revocation by limiting the time period before reinstatement or by imposing additional and reasonable conditions upon a license or permit which are designed to encourage ordinance compliance. A revocation shall not exceed one (1) year in length.

(chap. 19 eff. Nov. 22, 1988; amend. by ord. eff. Jan. 17, 1989) **(amended 10/3/2016)**

35.060 – Wild/**Exotic** animals prohibited.

Sec. 19-10. Wild/**Exotic** animals shall not be allowed, kept, harbored, displayed, offered for sale, sold, or purchased on any premises within the City except as follows:

- (a) The animals are part of a bona fide public zoo, zoological park or bona fide licensed circus, or
- (b) The animals are in the possession of a person, commercial animal establishment or shelter, who or which is licensed by the State of Michigan to temporarily harbor and treat an injured animal or endangered species until permanent quarters are found, and
- (c) Any such animal permitted pursuant to subsections (a) and (b) is under the care of a trained attendant at all times whose responsibility it shall be to see that the animal is securely confined.

(d) Exhibition of exotic animals shall be permitted to organizations and/or entities that are accredited by the American Association of Zoological Parks and Aquariums (AZA).

(chap. 19 eff. Nov. 22, 1988) **(amended 10/3/2016)**

35.063 - Animal care.

Sec. 19-13.

- (a) Every owner shall provide his animal(s) food and water and other sustenance necessary for maintenance of the animal's healthy life, with adequate shelter and protection from the weather, veterinary care when needed to prevent suffering and with human care and treatment.
- (b) It shall be unlawful to feed any animal unwholesome or unsuitable food or unclean water to drink or to place same in unclean or unsuitable containers which are likely to cause or produce disease in the animal.
- (c) It shall be unlawful to overdrive, overload, overwork, torture, torment, cruelly beat, mutilate, cruelly kill or otherwise abuse an animal or to cause or instigate any such conduct. The cropping of dogs' ears and tails shall be considered mutilation or cruelty unless such cropping is performed by a registered veterinary surgeon while the dog is under an anesthetic.
- (d) It shall be unlawful to cruelly work or transport animals in violation of M.C.L. 750.50, as amended.
- (e) No owner shall abandon his animal(s).
- (f) It shall be unlawful to cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.
- (g) No person shall willfully and maliciously expose any known poisonous substance, whether mixed with food or not, so that the same is liable to be eaten by another animal, except that it shall not be unlawful to expose on one's own premises common rat poisons mixed only with vegetable substances.
- (h) No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (i) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.
- (j) No person shall confine a dog on a tethering device for an unreasonable time unless the tethering device permits movement over at least sixty (60) square feet and allow the dog free access to a suitable shelter and water. The tether shall be coated steel cable specifically designed for restraining dogs and attached to a harness or non-choke collar specifically designed for tethering, with a swivel attached to both ends, done in such a manner as to not**

Agenda Item 6 (cont'd)

cause injury, strangulation or entanglement of the dog on fences, trees, another tethered dog, or any other manmade or natural objects. The owner shall ensure any water supply cannot be tipped over by the tethering device.

(k) No dog shall be left without attention for an unreasonable time. The dog must have access to water and shelter if left outdoors unattended for any extended period of time.

(chap. 19 eff. Nov. 22, 1988) **(amended 10/3/2016)**

35.064 - Animal waste.

Sec. 19-14. The owner of every animal shall be responsible for the removal of any excreta deposited by his animal(s) on public walks, recreation areas, or private property. Any ~~excreta~~ **fecal matter** deposited by the animal on the owner's property shall be ~~buried upon his premises or confined, covered and cared for~~ **properly disposed of** in a timely manner to prevent it from being scattered off the premises and to prevent any ~~malevolent or~~ offensive condition to exist. Such condition shall constitute a nuisance.

(chap. 19 eff. Nov. 22, 1988) **(amended 10/3/2016)**

35.066 - Disturbing birds prohibited.

Sec. 19-16. It shall be unlawful for any person to willfully injure, molest or disturb in any way any birds **or fowl** or the nest eggs, young or brood of any such birds, except that this provision shall not apply to any birds declared by any law or ordinance to be "pests."

(chap. 19 eff. Nov. 22, 1988) **(amended 10/3/2016)**

35.069 - Poisonous substances prohibited.

Sec. 19-19. It shall be unlawful to throw or deposit poisoned meat, or any poison or harmful substances in any street, alley or public place, or on any private premises within the city, for the purpose of destroying any animal unless such activity is supervised or performed by a licensed professional who is eliminating a pest as recognized by the Department of Natural Resources regulations in this regard.

(chap. 19 eff. Nov. 22, 1988)

35.071 - Impoundment and violation notice.

Sec. 19-21.

- (a) Unrestrained animals shall be confiscated by a law enforcement officer or the Animal Control Officer and impounded in an animal shelter and there confined in a humane manner. **This shall not apply to cats who are cared for as a part of a trap/neuter/release or trap/shelter/release program.**
- (b) Unless a dog or animal is reasonably believed to be vicious or has been impounded pursuant to section 19-20 [35.070], the dog or animal shall be released to the owner or the owner's agent anytime during the five (5) working day period immediately succeeding the impoundment, provided costs and fees entailed in this procedure have been paid.
- (c) If by a license tag or other means **(including but not limited to micro-chip or ID tag)**, the owner of an impounded animal can be identified, the Animal Control Officer shall immediately upon impoundment notify the owner by telephone or by certified mail, return receipt requested.
- (d) An owner reclaiming an impounded animal shall pay all costs and expenses incurred for each day the animal has been impounded.
- (e) Any animal not reclaimed by its owner within five (5) working days of impoundment or within five (5) working days of any court proceeding regarding same or within five (5) days of receipt of notice by certified mail, whichever is later, shall become the property of the local government authority, or humane society, and shall be placed for adoption in a suitable home or humanely euthanized.
- (f) In addition to, or in lieu of, impounding an animal found at large, the Animal Control Officer, Humane Officer, or Police Officer may return the animal to the known owner and issue to the known owner of such animal a notice of ordinance violation and may institute proceedings in district court to subject the owner to the penalties described in this ordinance.
- (g) The police department or Animal Control Officer shall maintain a complete record of all dogs impounded under the provisions of this article and the disposition of same.

Agenda Item 7a (cont'd)

original base bid plus alternatives 3 and 6 now, and if there are additional funds available in the future, then the 500 square foot addition could be bid out in the spring of 2017.

Federal guidelines state that the City is required to award bids to the lowest qualified responsive and responsible bidder. The architect and staff have determined that Cross Construction, the lowest bidder, is qualified and responsible based on interviews with the company, a visit to one of their jobsites, and reference checks.

Mr. Smith thanked everyone on the committee for their commitment, hard work and ideas. There were vast expectations on how far \$1 million goes today. The committee unanimously recommends the bid award to Cross Construction with a base bid of \$1,291,997.

Mr. Frederick asked that in the spring we bid out the 500 square foot addition.

Mr. Rubino stated he has only one thing to add regarding the addition and that it should be based on how much money we have left. He asked if we have to bid it if we put it in the motion.

Mayor Walby stated yes.

Mr. Smith said this time they put in the plan things like allowances for soil, etc. and stated we do not have more of a contingency than we need.

Mr. Smith said City Council can make the motion to approve the base bid with options #3 and #6 with direction to Administration that once construction is to a certain stage, that they have a feel for how much in funds are left in contingency. That information will be brought back to City Council in regards to bidding out the additional room which may be somewhere between \$5,000 - \$10,000.

Mr. Frederick said two members indicated they might do fundraising. He would like to know the amount since they will need a goal for fundraising.

Mr. Caron indicated that the verbiage has to come back to City Council to sign and as long as the decision has to come back to City Council, we can decide what we have to spend.

Moved by Council Member Caron, seconded by Council Member Frederick to approve the request to award the construction contract for the expansion and renovation of the Senior Activity Center to Cross Construction for \$1,331,497, plus alternatives #3 and #6 and the stipulation for an additional room to come back to City Council with updated contingency figures in the spring for re-evaluation, as recommended by the City Manager.

Ayes: All – 6

Absent: Rusie

b. Golf Cart Lease (rescheduled from 9/19/2016)

The City recommends approval of a 5-year lease agreement for 75 EZ-GO TXT golf carts through Spartan Distributors.

In February, the City solicited bids for both purchasing and leasing. We received bids from Club Car and EZ-GO, but not Yamaha. Although we spoke with Yamaha and made them aware of the bid request, they did not submit one. Another factor that made it difficult to compare was that Club Car bid a DC drive system and EZ-GO bid their AC drive system. After reviewing the bids, we determined that it would be in our best interest to reject both and rebid. In July, we put out another request for bids. In the bid document, we requested pricing for both purchasing and leasing. In addition, we asked for an alternate bid for three carts to be purchased for the use of our Activity groups. In our bid document, we specified that if a company offered both drive systems, they should submit pricing for both as we would be comparing AC against AC and DC against DC in our evaluation of the bids. We also requested annual pricing for a service agreement.

We are recommending that we enter into a five year lease for the EZ-GO TXT carts, which are a DC drive system. Although we liked the AC drive system, it was very difficult to quantify any potential electrical savings. EZ-GO is offering lowest price for the annual payment and service agreement. In addition, they are offering the most for the trade in value and have the lowest bid for the additional carts for activities.

Agenda Item 7b (cont'd)

The City has 75 carts in their fleet. They are all electric, model years 2006, 2007 & 2008. They prefer electric over gas because of less maintenance and customers prefer electric. The batteries are the major expense and they can get 4 to 5 seasons out of a set of batteries. Prior to the fire that destroyed the cart barn and cart fleet in 1999, they had a cart replacement program where they would purchase 7 to 10 new carts every year. They would keep the carts approximately seven years, putting new batteries in them one time during the seven year period. After the fire, they started a replacement program that replaced 25 per year for three years. They would start the cycle again before the oldest carts needed the batteries replaced which were approximately 4 to 5 years old. Because of budget limitations, they chose not to continue the replacement plan that they had been following.

At the end of 2012, a decision was made to start installing new batteries. All of the carts had new batteries installed by the spring of 2013. By doing this, they extended the use of the current fleet for another 3 to 4 years before they would need to start replacing carts. They are now starting to see battery life being diminished and other major failures such as broken axles and leaf springs occurring. To avoid future expense for batteries and other repairs, they are proposing to replace the fleet by the end of the 2016 season.

They considered three options for replacement:

1. Replace the entire fleet with a one-time purchase and plan to keep them for seven years knowing they will have an expense after year 4 for batteries and other wear and tear items like seats, tires, etc.
2. Start a replacement program that would allow them to purchase 25 carts per year for 3 years changing them out before they incur any major expense for batteries.
3. Leasing the entire fleet.

There are three major companies in the golf cart market: Club Car, EZ-GO and Yamaha. There are two types of drive systems available, AC and DC. Yamaha and EZ-GO offer both while Club Car only offers DC. AC is more efficient, but costs a little more. We considered both drive systems because, in theory, there should be some electrical savings that could potentially offset the extra expense of an AC drive system.

In February, we solicited bids for both purchasing and leasing. We received bids from Club Car and EZ-GO, but not Yamaha. Although the City spoke with Yamaha and made them aware of the bid request, they did not submit one. Another factor that made it difficult to compare was that Club Car bid a DC drive system and EZ-GO bid their AC drive system. After reviewing the bids, they determined that it would be in their best interest to reject both and rebid.

We contacted all three distributors and asked them to provide us with demonstrator carts that we could utilize for a few weeks so we could determine the pros and cons of each drive system and other features. We rented them to customers and staff members and obtained their feedback.

In July, we put out another request for bids. In the request we requested pricing for both purchasing and leasing. In addition, we asked for an alternate bid for three carts to be purchased for the use of our Activity groups. In our bid document, we specified that if a company offered both drive systems, they should submit pricing for both as we would be comparing AC against AC and DC against DC in our evaluation of the bids. We also requested annual pricing for a service agreement.

After evaluating all of the bids, we feel that it is in our best interest to lease rather than purchase. We disqualified Yamaha because of their inability to provide the level of service and meet the bid requirement of having a brick and mortar service center within 40 miles. Another factor in their disqualification was the lack of stability in the distributor. This is the third distributor in the last five years that Yamaha has had covering the state of Michigan.

We are recommending that we enter into a five-year lease for the EZ-GO TXT carts which are a DC drive system. Although we liked the AC drive system, it was very difficult to quantify any potential electrical savings. EZ-GO is offering lowest price for the annual payment and service agreement. In addition, they are offering the most for the trade-in value and have the lowest bid for the additional carts for activities.

Mr. Caron asked about the three activity golf carts and suggested that we put them under the City Manager budget since they coordinate these with the committees on their events. Mr. Smith said this could be done.

Mr. Dorner said a battery lasts about five to six years. The Club Car went to 12 volt batteries instead of 8 volts.

Agenda Item 7b (cont'd)

Discussion was held regarding leasing versus purchasing the golf carts.

Mr. Accica stated that he believes we should purchase the golf carts.

Mr. Caron said he would opt for leasing as it is \$45,000 less over five years.

Mr. Dorner said paying an annual payment for leasing will save us money on interest. He said the estimate on battery replacement is \$56,250.

Mr. Rubino said that over a 5-year time period, leasing is better, but if we get eight years out of them, purchasing is less expensive.

Mr. Vitale said one additional cost of purchasing versus leasing is in how much time will be spent to maintain them.

Mr. Dorner mentioned he could work out a deal to have them service the carts even if we purchase them.

Mr. Caron mentioned it comes out equal, but at the end of 8 years we will have \$100,000 equity.

Mr. Dorner said this has been delayed for a couple of months, but to avoid any future increases, we need to make the commitment soon.

Mayor Walby suggested bringing this issue back to the next meeting.

Mr. Smith said City Council should make a motion to commit to either purchase or lease the 75 carts from Spartan, but to decide on a lease or purchase at the next meeting.

Moved by Council Member Caron, seconded by Council Member Accica to either purchase or lease 75 golf carts from Spartan Distributors for the pricing they have specified, and bring this issue back to the next City Council meeting to decide on a lease or purchase, and to purchase three carts for the committee activities to be assigned to the City Manager's Budget.

Ayes: All – 6

Absent: Rusie

c. Purchase Mower for Golf Course using State of Michigan Contract (rescheduled from 9/19/2016)

The City recommends purchasing a Toro 3500 Mower from Spartan Distributors utilizing the State of Michigan Purchasing Bid.

This machine is a scheduled replacement. We wanted to replace it in FY 2016, but we had other items that were higher priority. Our current mower was purchased in 2004 and has logged 5300 hours. This is a mower that we expect to get a minimum of 4000 hours of service from. It is a specialized mower that is designed to mow around tees, greens and bunkers. This machine has a patented articulating mowing deck system that allows the operator to slide the mowing decks side to side up to 24" allowing the machine to mow hard to reach areas, thus eliminating trim work that has to be done by hand with a string trimmer. There are three purchasing agreements available to us to purchase this mower; The State of Michigan, the National IPA or the National Joint Powers Alliance (NJPA) with pricing being the same. Toro only sells through their distributor network. Spartan Distributors is the only distributor for the Toro Golf and Commercial Equipment line in the state of Michigan.

Moved by Council Member Rubino, seconded by Council Member Frederick that the recommendation of the City Manager be approved purchasing a Toro 3500 Mower from Spartan Distributors utilizing the State of Michigan Purchasing Bid in the amount of \$30,753.71.

Ayes: All – 6

Absent: Rusie

d. Purchase Trencher for Golf Course using National IPA Contract (rescheduled from 9/19/2016)

The City recommends purchasing a Toro TRX-20 Trencher from Alta Equipment utilizing the National IPA Purchasing Contract.

Agenda Item 7d (cont'd)

Installing and maintaining the drainage system on the course is an ongoing process. Having a reliable trencher is important so the work can be completed in a timely and efficient manner. Our current machine was purchased in 1976 and needs to be replaced. We looked at several options for replacement. The machine we found to be best for our purposes was the Toro TRX-20. In 2012, Toro acquired Astec Underground's equipment line of trenchers, vibratory plows and horizontal directional drills for the underground utilities market. This line of equipment can be purchased through either the National IPA or the National Joint Powers Alliance (NJPA) with pricing being the same. Toro only sell through their distributor network. Alta Equipment and Weingartz are the two distributors in our area for the Toro underground equipment line. We are recommending making the purchase through Alta Equipment because they are offering more for the trade in of the old trencher.

Moved by Council Member Frederick, seconded by Council Member Caron that the recommendation of the City Manager be approved purchasing a Toro TRX-20 Trencher from Alta Equipment utilizing the National IPA Purchasing Contract.

Ayes: All – 6
Absent: Rusie

8. CONSENT AGENDA – All items listed on the consent agenda are considered to be routine and will be enacted by one motion and approved by a vote of City Council. There will be no separate discussion of the items unless the Mayor and or a Council Member so requests, in which event the item will be removed from the general order of business and considered under the last item of the Consent Agenda.

Moved by Council Member Caron, seconded by Council Member Frederick to approve the Consent Agenda items a - f, as follows:

a. Bills

September 22, 2016	\$5,023,258.31
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Resolved to approve the release of checks in the amount of \$5,023,258.31 for services rendered, of the report that is 25 pages in length, and of the grand total amount of \$5,023,258.31, \$2,849,413.93 went to other taxing authorities.

b. Fees - none

c. Progress Payments

Resolved that the following Progress Payments be approved as presented:

Florence Cement Company	\$446,134.68
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d. Approval of Minutes - none

e. Receive & File Boards, Commissions & Committee Minutes

Resolved that the following minutes be received and filed:

<u>Minutes</u>	<u>Meeting Date</u>
Cultural Committee	August 10, 2016
Library Board	August 18, 2016
Older Persons Advisory Committee	June 17, 2016

f. Approval of the 2017 City Council Meeting Schedule

Resolved that the following meeting schedule be received and filed:

January 3	July 3 NO MEETING
January 16	July 17
February 6	August 7
February 21 (Tues)*	August 21
March 6	September 5 (Tues)*
March 20	September 18
April 3	October 2

Agenda Item 8f (cont'd)

April 17
 May 1
 May 15
 June 5
 June 19

October 16
 November 6 **NO MEETING**
 November 20 (Regular & Organizational)
 December 4
 December 18

Ayes: All – 6
 Absent: Rusie

9. UPDATES AND FOLLOW-UPS FROM COUNCIL MEETING

Mayor Walby mentioned that he appreciates Mr. Caron sitting in for him at the last City Council meeting.

- **Rodent issues** - Mr. Smith said they are working with CDI and Code V on where they have issues.
- **Police Department** - they have received direction to look at architects for the Police Department.
- **Downspouts on apartment buildings** – this task has been added to the Rental Inspector's list.
- **Stephens's house** – Mr. Smith stated this house is no more.
- **Plastic material at 9 Mile and Harper** – Mr. Smith said this material has been removed. The holes in the parking lot are no longer there and the plywood has been painted for a better appearance.
- **North End Fire Station** – Mr. Smith said the roof for the North End Fire Station is out for bid.
- **Parking Lot Patches** - Mr. Smith said they are working with DPW to find out what the charges are.
- **Tree Planting Grants** – Mayor Walby said kudos to DPW's Mr. Babcock who obtained a grant for \$3,000 for the DTE Energy Foundation Tree Planting to purchase 40 trees to plant. He also obtained a \$100,000 grant from the USDA Forest Service Great Lakes Restoration Initiative to plant 375 trees and 105 through DPW. Together this equates to almost 500 trees for 2017. Some will be planted on Greater Mack and some at the parks.
- **Old Chapaton Apartment site** - Mayor Walby said we don't have shovels in the ground yet, but we have signs. Mr. Smith stated bid are coming in on the 6th and a contractor should be selected soon.
- **Kroger Store** – Mr. Rayes mentioned there is no news to report regarding the Kroger store at 13 Mile Road.
- **Skate Park** - Mayor Walby mentioned the City will need to tweak their grant application documents.
- **Capital** - Mayor Walby said they are moving on capital and they have the ambulance out to bid and the fire truck will be out to bid sometime at the end of October.
- **Bike Rides** - Mayor Walby congratulated Roy O'Brien on a great job with the bike rides this year. He said the event on September 17th was fantastic.
- **Minor League Hockey** – Opening Day is October 30th.
- **Halloween in the Park** – Mayor Walby stated the event is October 30th at Veterans Memorial Park. There will be over 50 vendors giving out candy.
- **Bootleggers Festival** – the event had a fairly good turnout for the first year. They will need to make a few tweaks for future events.

Mayor Walby thanked all of Mr. Accica's hard work as he sees him everywhere there is construction to be done within the City.

10. COMMENTS BY INDIVIDUAL COUNCILPERSONS

Council Member Rubino said Ms. Rusie asked him to make the following two announcements: Triumphant Cross Lutheran Church will be having their annual Trunk or Treat on October 15th from 5 p.m. - 7 p.m. The St. Clair Shores Cultural Committee is sponsoring the DIA's Director's Cut where Salvador Salort-Pons will be presenting his favorite works of art on November 3rd at 7 p.m. at Assumption Greek Orthodox Church.

He mentioned that the St. Clair Shores Cops for Kids will have their Annual Pasta Dinner on October 13th from 5 p.m. – 9 p.m. at Lakeland Manor. Tickets are \$10 and proceeds benefit Cops for Kids.

Shorestoberfest is October 15th from 6 p.m. – 11 p.m. at Veterans Memorial Park.

Mr. Rubino said at 22501 Lakecrest in Eagle Pointe, there is a heave the in cement and it is getting worse. He said we need to have someone grind it down or break it up.

He asked if the City is going to camera all of the sanitary sewers south of 9 Mile. Mayor Walby stated it is on the next agenda.

Agenda Item 10 (cont'd)

He asked how we assess a flood claim. Mr. Smith said it goes to the insurance company and they evaluate whether the backup is the result of the City not properly taking care of the sewers. They take a look at the upstream and downstream sewer and what is going on with the house to see if there are any issues.

He said there is another home on Eagle Pointe with some issues and asked City Administration to ensure these are addressed.

Council Member Caron said the Dog Park's Halloween Party will be on October 16th from 1 p.m. – 3 p.m. Costumes are encouraged for the dogs. Participants must be a member of the Dog Park.

He requested that everything AEW will be presenting on the basement flooding at the October 17th City Council

Meeting be sent to City Council members on the Friday before the meeting.

Council Member Frederick said our Communications Department has won the PHILO award and has the opportunity to receive the award in person on October 28th. He asked if he can get approval to send them out of state to receive the award. The cost is approximately \$600 - \$650. Mr. Smith stated this issue will go under the City Manager's Report.

The Annual Vendor Show will be held on October 9th at the Eagles Club on Greater Mack. Proceeds will benefit Detroit Public Safety Foundation in the name of Ken Steil.

The Firehouse Pub will have a fundraiser on October 24th at 4 p.m. for Captain Steil.

Lake Shore is teaming up with the St. Clair Shores Adult Education and the Eastside Art Show and will be putting on a Sip and Savor food and wine tasting at Lakeland Banquet Event Center on November 10th from 6 p.m. to 10 p.m. The cost is \$65 per person and proceeds go to Lake Shore, St. Clair Shores Adult Education and the Eastside Art Show.

He announced Library events.

Council Member Vitale said in regards to the Waterfront Environmental Committee, they have their watershed marker up behind the Music Pavilion at Veterans Memorial Park.

The Waterfront Environmental Committee is having their monthly I-94 ramp cleanup from 10 a.m. – 12:00 p.m.

Council Member Accica said the plumbers at Veterans Memorial Park will be wrapping things up. He thanked the tile setters for their help at the Ice Arena.

He said that Blossom Heath was a beautiful venue and they did a nice job at his son's wedding.

11. CITY MANAGER'S REPORT

Motion by Council Member Frederick, seconded by Council Member Rubino to approve out of state travel for the Communications Department to attend the PHILO Media Award Event, not to exceed \$700.

Ayes: All – 6
Absent: Rusie

Motion by Caron, seconded by Frederick to authorize the City Manager to execute the storm drain easement agreement, subject to City Attorney review, for the land behind the St. Gertrude location.

Ayes: All – 6
Absent: Rusie

Mayor Walby mentioned that baseball will not be played at St. Gertrude's in 2017. They need that area for staging, but they will be putting in drought resistant seed.

The last Farmer's Market was at the end of September. They had a great season and will be back again next year.

12. AUDIENCE PARTICIPATION (5 MINUTE TIME LIMIT)

Scott Dodich, St. Clair Shores resident, spoke about LED lights on business windows. He wanted to know if these were going to be banned as it is very distracting for people with glaucoma or night vision blindness.

He said there is a street light at Lange and Jefferson where the street lights are missing and the wires are capped off. The other one is north of the BP Station on Jefferson.

He wanted to know the need for the lights inside Blossom Heath Park as the park is locked and gated at night. City Council mentioned that they have events there such as the Farmer's Market and Aqua Freeze.

Mayor Walby said when you ride your bike down Nautical Mile some of the trees need to be trimmed. Mr. Smith will check on this issue with Mr. Babcock.

13. MAYOR'S COMMENTS - none

14. REQUEST TO ENTER CLOSED SESSION AS PERMITTED BY STATE STATUTE MCLA 15.268 Section 8 (d)

Motion by Council Member Rubino, seconded by Council Member Frederick to enter Closed Session as permitted by State Statute MCLA 15.268 Section 8 (d) at 10:00 p.m.

Roll Call Vote
Ayes: All – 6
Absent: Ruise

Motion by Council Member Frederick, seconded by Council Member Vitale to return to Open Session at 10:35 p.m.

Ayes: All – 6
Absent: Rusie

15. ADJORNMENT

Motion by Caron, seconded by Frederick to adjourn at 10:35 p.m.

Ayes: All – 6
Absent: Rusie

KIP C. WALBY, MAYOR

MARY A. KOTOWSKI, CITY CLERK

(THE PRECEDING MINUTES ARE A SYNOPSIS OF A CITY COUNCIL MEETING AND DO NOT REPRESENT A VERBATIM RECORD).