



CITY OF SOUTHPORT
BOARD OF ALDERMEN
SPECIAL AGENDA REVIEW WORKSHOP
INDIAN TRAIL MEETING HALL, 113 W. Moore Street, Southport
March 3, 2023
9:00 AM

Agenda

Please turn off all cell phones

Meetings are open to the public. Face masks and social distancing may be used at the discretion of each individual. The Board of Aldermen reserve the right to make changes to this policy, as needed to help prevent the spread of the Coronavirus.

If you are not able to attend the Board of Aldermen meetings in person, the meeting will be available for you to watch via live-stream on the City of Southport website (<https://cityofsouthport.com/board-of-aldermen-meetings/>), Facebook page, and YouTube channel.

ETHICS STATEMENT:

"If any members know of any conflict of interest or the appearance of a conflict of interest concerning matters on the agenda, please so state at this time."

- A. Call to Order**
- B. Invocation**
- C. Pledge of Allegiance**
- D. Approval of Agenda**
- E. Agenda**
 - 1. Yacht Basin Mobility Study (Cape Fear Council of Government)
 - 2. Animal Welfare Ordinance with Accommodation (Kate Marshall, APS Director)
 - 3. Right-of-Way Discussion (Travis Henley, Director of Development Services)
 - 4. 4-Year Mayoral Term and Charter Revision (Board of Aldermen, City Attorney Herman)
 - 5. Review of Regular Board Meeting Agenda March 9, 2023 (B. Therrien, City Manager & D. Dutton, Asst. City Manager/City Clerk)
- F. Mayor's Comments**
- G. Board Comments**
- H. Adjourn**

Yacht Basin Mobility Study for the City of Southport

March 3, 2023

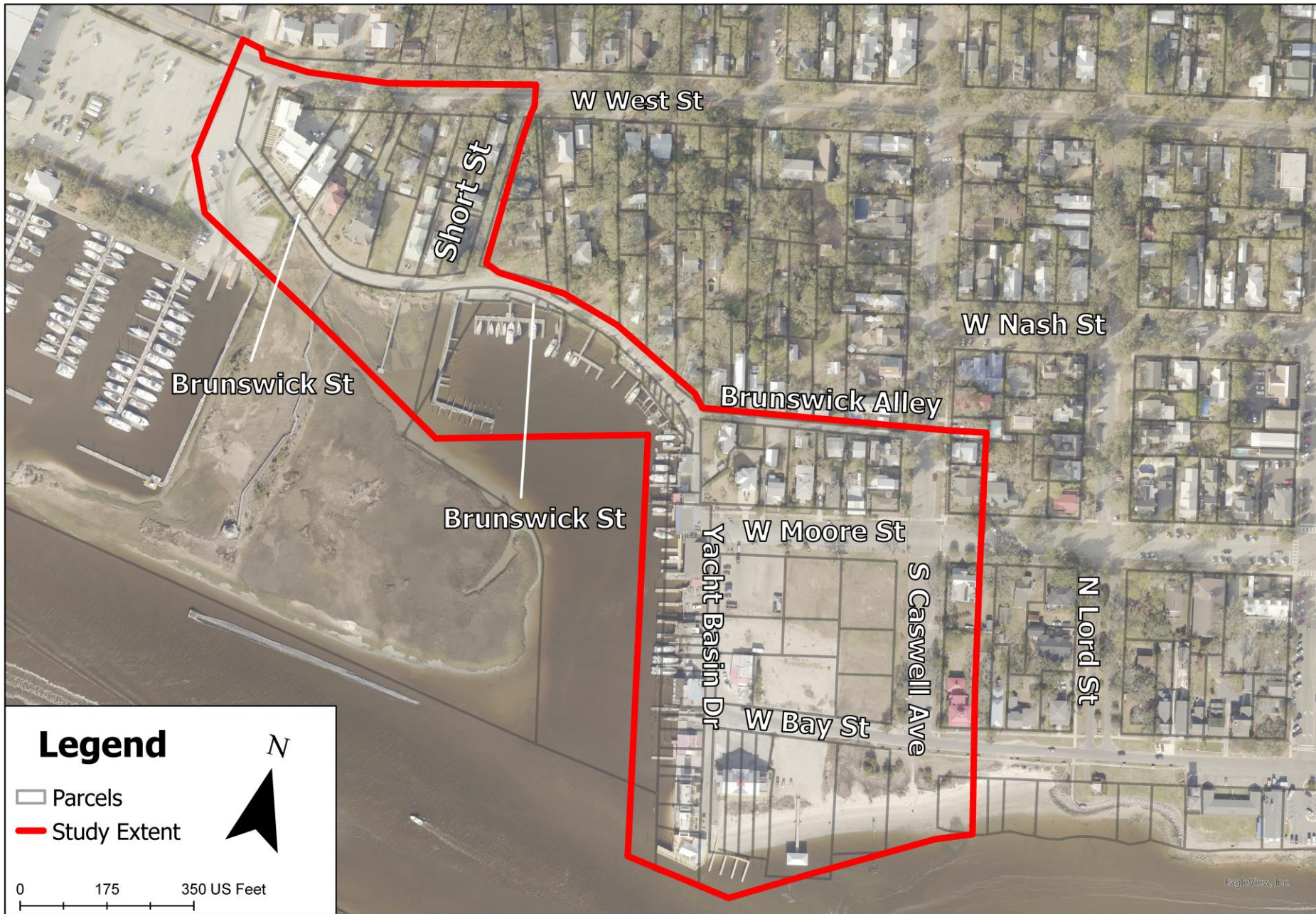
WES MACLEOD, AICP, ASLA –
LOCAL GOVERNMENT SERVICES DIRECTOR



Elements of the Study

- Purpose
- Process
- Existing Conditions
- S.W.O.T. Analysis
- Recommendations





Map 1: Yacht Basin Study Area

West Bay Street



Yacht Basin Drive



Yacht Basin/Brunswick Street



Brunswick Street



Short Street



Opportunities

Create defined space through visual & physical improvements.

Embrace waterfront asset through boardwalk connection.

Increase availability of bicycle & golf cart parking.

Accentuate the unique setting through a formalized and designed Woonerf/Living Street concept.

Establish branding for the “Yacht Basin District”

S.W.O.T. Analysis:

Opportunities

Example Woonerf/Living Street: Asheville, NC



Example Woonerf/Living Street: Madison, WI



Generalized Recommendations

- **West Bay Street:** Repaint existing striping to separate non-motorized traffic; install armadillo dividers; formalize parking.
- **Yacht Basin Drive:** Create “Yield Roadway”; formal Woonerf/living street and shared roadway; waterfront Boardwalk.
- **West Moore/South Caswell:** Repaint parking spaces to match CBD dimensions; install bulb outs and high visibility cross walks; additional sidewalks and stormwater features.
- **Brunswick Street:** Paint striping to separate non-motorized traffic; install armadillo dividers; construct boardwalk to connect to Yacht Basin.
- **Short Street:** No modification to existing traffic flow.



Next Steps

- Consider adoption of this study.
- Designate staff to oversee the implementation of this study.
- Designate the Yacht Basin Overlay District Committee (YBODC) as the potential responsible board for implementation of this study.
- Create a five to six-year Pedestrian and Bicycle Capital Improvement Program (CIP) to assist with prioritization of projects outlined by the YBODC.

Questions?



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BOARD OF ALDERMEN AGENDA ITEM SUMMARY

DATE: 02/28/2023 **DEPARTMENT:** Animal Protective Services (APS)

PRESENTED BY: Kate Marshall

ITEM SPONSORED BY: _____

ITEM/TOPIC: Public Hearing: Chapter 3. Animal Welfare Ordinance, definition of Leash being added.

COST: n/a **BUDGET LINE ITEM:** n/a

JUSTIFICATION: The APS Officer would like to present a revised definition of LEASH, with supplemental information. The ADA language is not being recommended because it is quite complex and harder to determine eligibility.

IMPACT IF NOT APPROVED: All sorts of "leashes" could be used which would cause confusion and even put other animals (and people) at risk if there is not proper control.

DEPARTMENT HEAD COMMENTS: The APS Officer is willing to allow electronic collars in the future, and make exceptions as needed.

CITY MANAGER COMMENTS: _____

If we discover that the changes are not working the way they are intending, they can be amended later. It is better to have definitions in place, and then adapt them as needed. It is reasonable for individuals to seek exceptions from the Ordinance on a case-by-case basis.

ATTACHMENTS: Two articles about leashes/collars, US DOJ FAQs about service animals and ADA, memo and draft ordinance amendment.

REQUESTED ACTION: After listening to comments at a Public Hearing, the Board should make a motion to a adopt or deny an amendment to the APS Ordinance to include the definition of Leash, and Sec.3-10. (11). Prohibited acts.

PROPOSED MOTION: I move to adopt the amendment to Chapter 3. Animal Welfare Ordinance of the City of Southport Code of Ordinances, as presented.

BOARD OF ALDERMAN

SUMMARY

JUSTIFICATION: Animal Protective Services is recommending that the changes submitted to the Board of Alderman at the February meeting be accepted as written. I have researched the objections that were stated by several of the Alderman regarding the use of electronic collars as leashes and have included more information on this topic.

The proposed changes to the Animal Welfare Ordinance is in keeping with the standards currently used and accepted by surrounding jurisdictions.

It is commonly understood that the meaning of *restraint* is a leash providing physical control between a competent person and a dog.

No surrounding jurisdictions recognize an electronic collar as a leash. It is not, however, clearly defined in their ordinances.

No other surrounding jurisdictions make exceptions to the leash requirement and allow the use of an electronic collar unless on private property.

The addition of ADA wording in the Ordinance was also not recommended due to the complexity of ADA requirements and the ability of APS to determine eligibility for those claiming exception.

Leash required. No person shall own or keep in the City, outside the confines of the owner's or keeper's property, any dog which is not held firmly on a leash and under the owner's or keeper's physical control, except that it shall be a defense to a citation for a violation of this provision that the dog is currently wearing an operational electronic collar, is within 25' of the owner or keeper, and that the owner or keeper is a person with a "disability," as that term is defined in the Americans with Disabilities Act, 42 U.S.C. § 12102.

A system for permitting the use of an electronic collar in limited circumstances could be implemented in the future if APS staffing allowed.

Accepting the addition of the leash definition and the leash requirement is in keeping with the APS Mission Statement of progressive animal welfare initiatives and protecting the safety and welfare of Southport's animals and citizens.

1. City of Southport Animal Welfare Ordinance

Sec. 3-1. - Definitions.

Restraint means a dog shall be considered under restraint within the meaning of the chapter if:

- (1) It is confined within, or in an open area, of a vehicle, truck, golf cart, or other vehicle operated on city streets or rights-of-ways in a secure humane manner that prevents the animal from falling from, jumping from, or being thrown from the vehicle.
- (2) It is confined within a secure enclosure on the owner's real property limits.
- (3) It is controlled by means of a leash or other like restraint system. A restraint system can be an overhead pulley system or a swiveled cable anchored into the ground. If a dog is restrained by a leash or other restraint system, it shall be designed and placed to prevent choking or strangulation and entanglement. Such restraint will either include a swivel designed to prevent the dog from choking or strangling itself, or on a run.
- (4) It is on the premises of the custodian and attended by and under the control of a competent person.
- (5) Voice command is not recognized as restraint.

2. ADD:

Leash means a line, rope, etc. for maintaining control or leading a dog. Electronic collar devices are not recognized as leashes or having a dog under control.

Sec. 3-10. - Prohibited acts.

1. ADD:

(11) Leash required. No person shall own or keep in the city, outside the confines of the owner's or keeper's property, any dog which is not held firmly on a leash and under the owner's or keeper's physical control.

2. New Hanover County NC Animal Ordinance:

Sec. 5-4. - Definitions.

Restraint means the state of a dog if it is controlled by means of an **attended leash** or is on or within a vehicle being driven or parked, or is within a secure enclosure. Exceptions to restraint are as follows: Organized and lawful dog functions; e.g., dog exercise within designated areas of public parks, hunting, obedience training, field and water training, law enforcement training and/or in the pursuit of working or competing in those legal endeavors. A dog shall be maintained securely on the property of its owner. Ropes, chains and the like are prohibited for any purpose under this chapter.

3. Oak Island NC Animal Ordinance:

Sec. 4-1. - Definitions.

At large means off the premises of the owner, when neither under the **physical control** of the owner, nor some other person assuming responsibility for the owner's dog.

Restraint means controlled by means of a leash, chain, or rope, of reasonable length, at all times. Voice command is not recognized as adequate restraint.

Sec. 4-48.1. - Dogs on public property.

(a) Dogs on public property must abide by the following terms and conditions:

- (1) All dogs must be **physically restrained** and under control by owner/keeper at all times. (Except in areas where written exceptions are clearly posted.)

4. Brunswick County NC Animal Ordinance

Sec. 1-3-152. – Definitions.

At large - means any animal found off of the property of its owner and not under **physical restraint** of a competent person shall be deemed at large. Any animal, which has been the subject of a previous at-large complaint, and which has been deemed at large by the sheriff upon probable cause, shall be deemed at large when found unrestrained on the owner's property.

Sec. 1-3-153. - Animals at large.

The owner of an animal shall keep the animal on his property or **under restraint** at all times. Any animal that has been previously deemed by the sheriff as being at large, based upon probable cause, or has previously caused injury to a person or animal, or has displayed vicious tendency, or has been a public nuisance, must be restrained by leash, chain, fence or enclosure by the owner even when on the owner's property. (Ord. of 6-18-12)

Is a Remote Dog Training Collar a substitute for a leash?

by

Robin McFarland - Senior Consultant Partnership for Electronic Training Technology

I had an interesting call the other day from an Animal Control officer wanting to know my take on whether or not a remote dog training collar should be considered the same as a leash. Apparently the idea was proposed that city ordinances be altered to include e-collars as an acceptable substitute for a physical leash.

Those of you that have been following this blog for a while are probably pretty aware that you won't find a much bigger advocate for remote collar dog training than myself so do you want to guess my response?

There is no way I would want a city ordinance to say that an electronic or remote dog training collar is considered as a substitute for a leash.

Blasphemy, coming from me you say?...well, let me explain.

It just isn't that simple. If municipalities go that route of thinking it is too easy for someone to go out to the pet store, purchase a remote dog training collar, strap it on their dog and go on their merry way believing they are abiding by the law. Government entities are concerned with dog's being under control so that their constituents feel at ease with dog's being in public. An electronic collar strapped to the dog's neck doesn't mean the dog is under control of the owner. Or course neither does a leash, a head halter, a prong collar or a bag full of treats. These are all just tools created to assist a dog owner in gaining control through training. How would we know if the person took time to learn how to use these things successfully?

A dog running a-muck, barking, lunging or dragging someone down the street puts a black eye on all of us. It is a problem. (oh yeah, and the pooping on the street and not picking it up, shame!

In the world I envision the laws will allow for dog's to be off leash in public if owners prove themselves capable of maintaining control despite distractions. A simple test administered by the ACO or other official and the dog/owner team earns a permit for off leash access to the city that year. It would be good for dog training, good as a revenue source for the city, good for dogs and good for helping owners learn more about how to develop that kind of relationship with their beloved pet. A big win all around.

And get this...It is already actually being done! No need to reinvent the wheel if your looking to create this kind of legislation in your area.

It isn't about the tool. I urge you to remember it about understanding dogs, people and training.

Now don't get me wrong or I risk losing my **Shock Collar** reputation! (*wink, wink*) I still firmly believe a remote dog training collar can help the average dog lover achieve off leash reliability WAY faster than they would otherwise.

THE BLOG: [HEALTHY LIVINGDOG WALKING](#)

Electronic Collars vs. Traditional Leashes for Exercising Dogs on Town Streets

In the hands of an expert, many dogs can learn to consistently trot by one's side -- even in the face of major distractions. For most owners, however, this is not likely to occur.

By

Sophia Yin, Contributor

Veterinarian, Applied Animal Behaviorist

What People *Think* Happens When You Use an Electronic Collar

When people think of electronic leashes -- known more precisely as electronic shock collars -- they imagine their dog trotting next to them in an unerring path as if held in place by an invisible force field. With this "miracle cure" for pulling, or even running away, they envision everything they can do on their walk now that they can safely ignore their dog: listen to the radio, text-message their friends or just power ahead in a daydream state. And even if a squirrel, cat or another dog crosses their path, they imagine that the invisible force field will magically hold the dog by their side.

What *Really* Happens When You Use an Electronic Collar or Electronic Leash

In the hands of an expert, many dogs can learn to consistently trot by one's side -- even in the face of major distractions. For most owners, however, this is not likely to occur. There are several reasons for this. First, *the dog has to be taught to stay next to you* -- and do so at all times. For the collar to work, the owner must be able to give the shock right when the dog starts getting ahead, falling behind or walking too far to the side -- even after the dog knows the heel behavior. For instance, if the dog sees a buddy and starts to run off to greet him, the owners must deliver the shock immediately as he *starts*, not one or two seconds later. That means that the owner must always be holding the electronic collar with finger on the delivery button, or the dog will know that sometimes he has at least two to four second window to do something a human might consider naughty. And if the owner cannot deliver the shock at the very start of the dog's running off, the dog is not learning that running off is the problem. In the dog's mind, he is being punished for whatever he is doing at that exact moment he receives the shock.

Even if the owner is always able to be ready and hold the remote control at all times, there are other factors too. The collar has to be charged similarly to how you'd charge a video camera, and it must be snugly fit. A loose fit or weak charge results in an unreliable shock. The dog must always wear a real electronic collar, rather than a fake or dummy collar. Dummy collars are often used in place of an actual electronic collar when the owners have two dogs whose behavior needs modifying but they don't want to pay for two electronic collars. Another thing most people don't consider is that all electronic collars are not created equally. Some are poorly built and don't consistently work.

One huge issue, regardless of how careful one is in addressing all of the concerns listed above, is when using the collar, the shock level must be at the right intensity for the dog's level of distraction or the dog's level of excitement. In one situation, a low-level shock is appropriate -- just enough to remind him of what happens if he doesn't respond, but not enough to startle, scare or hurt him. A low level may be all that's needed to get the dog to move back by your side. But in another situation, like a squirrel running by, anything short of the "super high" setting and Rover won't even feel it. In fact, even with the collar set to deliver the highest level of shock, some dogs will ignore the pain when they are extremely motivated to perform the undesired behavior.

You can't really solve the problem by keeping the collar on "super high" at all times. If Rover just drifts one step out of place, it's not really fair to give a shock that will make him leap out of his skin. Many owners would hesitate to be so unfair, and they would elect to avoid correcting this little error at all if they only have the option of using a super high-level shock. As a result, the dog's grey zone for where he's allowed to be would get wider and wider. Of course, if you have the collar on a level appropriate for correcting small errors and Rover suddenly bee-lines after a deer, your first zap is too low and you then have to adjust the level -- most often with your free hand. That adds two to four seconds, as you try to reach the appropriately high level.

Even More Can Go Wrong in the Hands of the Average Dog Owner

Now let's add into this mix the fact that most dog owners are not dog training experts. So whereas an expert may expect the dog to trot along in a perfect heel position and gives the dog a zap every time the dog surges slightly ahead or falls behind or starts straying to the side, the *regular* dog owner has shades of grey -- not to mention long periods of mental snoozing on the job. The typical dog owner's criteria for using the collar changes randomly. Their dog runs ahead of them, weaves back and forth or is in the general area, and it's okay at least nine out of 10 times. Then, once in a while, that same behavior earns a zap. It's not unusual that the owner never quite trains their dog what heel position is in the first place. Realistically, if they did, they could just wear a hands-free leash (such as the buddy system). This would tie around their waist, so even when using an electronic collar, the leash would not be an inconvenience at all.

In my experience, about 95 percent of individuals using an electronic collar use it incorrectly or are in a family where at least one of the family members who handles the dog uses it incorrectly. This means that the dog gets mixed signals about what is, or is not, appropriate behavior. I've also seen many people use it to punish their dog for something it did three to five minutes earlier. They are angry, so hit the button while the dog is not engaged in an inappropriate behavior. The dog cannot be expected to learn what is allowed and what is not under these conditions -- which, sadly, are not uncommon.



Frequently Asked Questions about Service Animals and the ADA

Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

The Department of Justice continues to receive many questions about how the Americans with Disabilities Act (ADA) applies to service animals. The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make “reasonable modifications” in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a “no pets” policy generally must modify the policy to allow service animals into their facilities. This publication provides guidance on the ADA’s service animal provisions and should be read in conjunction with the publication *ADA Revised Requirements: Service Animals*.

DEFINITION OF SERVICE ANIMAL

Q1: What is a service animal?

A: Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person’s disability.

Q2: What does “do work or perform tasks” mean?

A: The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

Q3: Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?

A: No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some State or local governments have laws that allow people to take emotional support animals into public places. You may check with your State and local government agencies to find out about these laws.

Q4: If someone's dog calms them when having an anxiety attack, does this qualify it as a service animal?

A: It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

Q5: Does the ADA require service animals to be professionally trained?

A: No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

Q6: Are service-animals-in-training considered service animals under the ADA?

A: No. Under the ADA, the dog must already be trained before it can be taken into public places. However, some State or local laws cover animals that are still in training.

GENERAL RULES

Q7: What questions can a covered entity's employees ask to determine if a dog is a service animal?

A: In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

Q8: Do service animals have to wear a vest or patch or special harness identifying them as service animals?

A: No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

Q9: Who is responsible for the care and supervision of a service animal?

A: The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal.

Q10: Can a person bring a service animal with them as they go through a salad bar or other self-service food lines?

A: Yes. Service animals must be allowed to accompany their handlers to and through self-service food lines. Similarly, service animals may not be prohibited from communal food preparation areas, such as are commonly found in shelters or dormitories.

Q11: Can hotels assign designated rooms for guests with service animals, out of consideration for other guests?

A: No. A guest with a disability who uses a service animal must be provided the same opportunity to reserve any available room at the hotel as other guests without disabilities. They may not be restricted to “pet-friendly” rooms.

Q12: Can hotels charge a cleaning fee for guests who have service animals?

A: No. Hotels are not permitted to charge guests for cleaning the hair or dander shed by a service animal. However, if a guest’s service animal causes damages to a guest room, a hotel is permitted to charge the same fee for damages as charged to other guests.

Q13: Can people bring more than one service animal into a public place?

A: Generally, yes. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert dog. Other people may need two service animals for the same task, such as a person who needs two dogs to assist him or her with stability when walking. Staff may ask the two permissible questions (See Question 7) about each of the dogs. If both dogs can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal. For example, in a crowded small restaurant, only one dog may be able to fit under the table. The only other place for the second dog would be in the aisle, which would block the space between tables. In this case, staff may request that one of the dogs be left outside.

Q14: Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room?

A: Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services.

Q15: What happens if a patient who uses a service animal is admitted to the hospital and is unable to care for or supervise their animal?

A: If the patient is not able to care for the service animal, the patient can make arrangements for a family member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not to be separated, or to keep the dog during the hospitalization. If the patient is unable to care for the dog and is unable to arrange for someone else to care for the dog, the hospital may place the dog in a boarding facility until the patient is released, or make other appropriate arrangements. However, the hospital must give the patient opportunity to make arrangements for the dog’s care before taking such steps.

Q16: Must a service animal be allowed to ride in an ambulance with its handler?

A: Generally, yes. However, if the space in the ambulance is crowded and the dog's presence would interfere with the emergency medical staff's ability to treat the patient, staff should make other arrangements to have the dog transported to the hospital.

CERTIFICATION AND REGISTRATION

Q17: Does the ADA require that service animals be certified as service animals?

A: No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.
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Q18: My city requires all dogs to be vaccinated. Does this apply to my service animal?

A: Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

Q19: My city requires all dogs to be registered and licensed. Does this apply to my service animal?

A: Yes. Service animals are subject to local dog licensing and registration requirements.

Q20: My city requires me to register my dog as a service animal. Is this legal under the ADA?

A: No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

Q21: My city / college offers a voluntary registry program for people with disabilities who use service animals and provides a special tag identifying the dogs as service animals. Is this legal under the ADA?

A: Yes. Colleges and other entities, such as local governments, may offer voluntary registries. Many communities maintain a voluntary registry that serves a public purpose, for example, to ensure that emergency staff know to look for service animals during an emergency evacuation process. Some offer a benefit, such as a reduced dog license fee, for individuals who register their service animals. Registries for purposes like this are permitted under the ADA. An entity may not, however, require that a dog be registered as a service animal as a condition of being permitted in public places. This would be a violation of the ADA.

BREEDS

Q22: Can service animals be any breed of dog?

A: Yes. The ADA does not restrict the type of dog breeds that can be service animals.

Q23: Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?

A: No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, if a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

Q24: If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?

A: No. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the "direct threat" provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.

EXCLUSION OF SERVICE ANIMALS

Q25: When can service animals be excluded?

A: The ADA does not require covered entities to modify policies, practices, or procedures if it would "fundamentally alter" the nature of the goods, services, programs, or activities provided to the public. Nor does it overrule legitimate safety requirements. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

Q26: When might a service dog's presence fundamentally alter the nature of a service or program provided to the public?

A: In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example, at a boarding school, service animals could be restricted from a specific area of a dormitory reserved specifically for students with allergies to dog dander. At a zoo, service animals can be restricted from areas where the animals on display are the natural prey or natural predators of dogs, where the presence of a dog would be disruptive, causing the displayed animals to behave aggressively or become agitated. They cannot be restricted from other areas of the zoo.

Q27: What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?

A: The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. In the school (K-12) context and in similar settings, the school or similar entity may need to provide some assistance to enable a particular student to handle his or her service animal. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. For example, a person who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

Q28: What can my staff do when a service animal is being disruptive?

A: If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

Q29: Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?

A: No, the dog must be under the handler's control at all times.

Q30: What happens if a person thinks a covered entity's staff has discriminated against him or her?

A: Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

MISCELLANEOUS

Q31: Are stores required to allow service animals to be placed in a shopping cart?

A: Generally, the dog must stay on the floor, or the person must carry the dog. For example, if a person with diabetes has a glucose alert dog, he may carry the dog in a chest pack so it can be close to his face to allow the dog to smell his breath to alert him of a change in glucose levels.

Q32: Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?

A: No. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit or be fed at the table.

Q33: Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?

A: No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

Q34: Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?

A: No. Religious institutions and organizations are specifically exempt from the ADA. However, there may be State laws that apply to religious organizations.

Q35: Do apartments, mobile home parks, and other residential properties have to comply with the ADA?

A: The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with a disabilities, or provide emotional support to alleviate a symptom or effect of a disability. For information about these Fair Housing Act requirements see HUD's Notice on Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-funded Programs.

Q36: Do Federal agencies, such as the U. S. Department of Veterans Affairs, have to comply with the ADA?

A: No. Section 504 of the Rehabilitation Act of 1973 is the Federal law that protects the rights of people with disabilities to participate in Federal programs and services. For information or to file a complaint, contact the agency's equal opportunity office.

Q37: Do commercial airlines have to comply with the ADA?

A: No. The Air Carrier Access Act is the Federal law that protects the rights of people with disabilities in air travel. For information or to file a complaint, contact the U.S. Department of Transportation, Aviation Consumer Protection Division, at 202-366-2220.

For more information about the ADA, please visit our website or call our toll-free number.

ADA Website

www.ADA.gov

To receive e-mail notifications when new ADA information is available, visit the ADA Website's home page and click the link near the bottom of the right-hand column.

ADA Information Line

800-514-0301 (Voice) and 800-514-0383 (TTY)

24 hours a day to order publications by mail.

M-W, F 9:30 a.m. – 5:30 p.m. , Th 12:30 p.m. – 5:30 p.m. (Eastern Time)
to speak with an ADA Specialist. Calls are confidential.

For people with disabilities, this publication is available in alternate formats.

Duplication of this document is encouraged.

July 20, 2015

AN ORDINANCE AMENDING CHAPTER 3. OF THE CITY OF SOUTHPORT CODE OF ORDINANCES AS IT PERTAINS TO ANIMAL WELFARE SEC. 3-1 and SEC. 3-10

BE IT ORDAINED, by the Board of Aldermen of the City of Southport that Chapter 3 is amended with the following changes and additions:

Sec. 3-1. - Definitions.

***Leash* means a line, rope, etc., for maintaining control or leading a dog. Electronic collar devices are not recognized as leashes or having a dog under control.**

(Ord. of 3-14-19)

Sec. 3-10. - Prohibited acts.

It shall be unlawful for any person within the city to do any of the following:

(1)To interfere with, hinder or assault the animal protective services officer or other authorized officers in the performance of any duty authorized by this chapter, or seek to release any animal in the custody of such person. An animal captured in a trap set by the animal protective services officer shall be deemed to be in the custody of animal protective services.

(2)To have custody of any dog, cat or ferret over the age of four (4) months of age, which is not vaccinated against rabies by a licensed veterinarian or by a certified rabies vaccinator with a rabies vaccine approved by the United States Department of Agriculture and approved by the state commission for health services for use in this state.

(3)To allow animals to live in crowded conditions. Dogs and cats must have a minimum of not less than one hundred (100) square feet of unobstructed area per each dog or cat weighing twenty (20) pounds or under, or two hundred (200) square feet of unobstructed area per each dog or cat weighing greater than twenty (20) pounds.

(4)To give away, raffle or offer as a prize, premium or advertising device for, or as an inducement to enter, any contest, game or other competition involving skill or chance a live animal.

(5)To shelter an animal from the elements by means of an animal shelter, a cage or pen which shall fail to conform it to the requirements as set for in section 3-1.

(6)To tease, molest, bait, or in any way bother any animal not belonging to him or legally under his control.

(7)To carry or cause to be carried in or upon the open area of a truck, golf cart or other vehicle operated on city streets or rights-of-ways any animal that is not secured in an animal carrier or by a harness or other device, such that the animal cannot fall from, jump from or be thrown from the vehicle.

(8)To fail to report an injured or suffering domesticated animal found on an owner's property to the animal protective services officer or law enforcement as soon as the animal is discovered.

(9) To tether, fasten, tie, or restrain an animal, or cause such restraining of an animal to any object during periods of which tethering is unlawful. Periods of lawful tethering shall be temporary in nature and may only occur during the daylight hours between dawn and dusk. Lawful tethering shall not be misconstrued to permit the practice of continuous tethering of a dog as a method of restraint or confinement. An animal may be tethered, subject to the requirements of Section 3-10 (10) in the following circumstances:

- a. For a maximum of three (3) hours per day while unattended.
- b. When the animal's caretaker is outside and within eyesight of the animal.
- c. Lawful animal event (such as a show or sporting event).
- d. When meeting the requirements of a camping or recreation facility.
- e. Law Enforcement activities.
- f. After taking possession of a dog that appears to be a stray dog and after having advised animal protective services of the stray.
- g. Tethering does not include restraint of a dog on an attended leash.

(10) During periods of lawful tethering, the following requirements shall apply:

- a. Tethers must be made of rope, cord, cable, or similar material with a swivel on one (1) end and is at least ten (10) feet in length, with swivels on both ends and which does not exceed ten (10) percent of the dog's body weight. The use of any kind of chain, as a part of a tethering device, is not allowed.
- b. All collars or harnesses used for the purpose of the lawful tethering of a dog must be made of fabric or leather.
- c. No person shall tether a dog or cause such attachment to, any collar other than a buckle-type collar or body harness.
- d. No person shall tether a dog or cause such attachment to, a head harness, choke-type collar, or pronged collar.
- e. No person shall tether a dog where the weight of the tethering device and the collar combined exceeds ten (10) percent of the dog's body weight.
- f. No person shall tether with any device to a dog in such a manner that does not allow the dog continual access to adequate food, water and shelter.
- g. Trolley systems: The length of the cable along which the tethering device can move must be at least ten (10) feet, and the tethering device must be of such length that the dog is able to move freely from the cable perpendicularly and attached in such a manner as to prevent strangulation or other injury to the dog and entanglement with objects.
- h. No person shall tether a sick, diseased and/or injured dog, or puppy (a dog that is one (1) year of age or younger).

- i. To tether a dog to a stationary object that would allow the dog to come within five (5) feet of any property line.

(11)Leash required. No person shall own or keep in the City, outside the confines of the owner's or keeper's property, and dog which is not held firmly on a leash and under the owner's or keeper's physical control.

(Ord. of 3-14-19)

All sections of Chapter 3 not included in this amendment are unchanged from the Animal Welfare Ordinance adopted on March 14, 2019.

This ordinance shall become effective upon adoption. Adopted and signed this 9th day of March 2023.

Dorothy Dutton, City Clerk
Assistant Manager, City of Southport

Joseph P. Hatem, M.D., M.P.H.
Mayor, City of Southport

Background and Impetus for Study

Over time, City Staff have encountered numerous issues with regard to what is and is not allowed to be placed within City rights-of-way. It has become readily apparent that different rules have applied to different citizens over time and that there is no uniform standard for how existing Ordinances have been enforced, if they were enforced at all. This experience led Staff to begin the process of addressing this issue with input once and for all, in an effort to ensure that we have clear direction with regard to permitting and enforcement and that the public has clear and concise guidelines as to what they are and are not allowed to do within City rights-of-way.

City of Southport Staff respectfully submit the following as a recommendation for addressing encroachments within City rights-of-way. This recommendation has been drafted in an attempt to balance the traditional approach the City has taken with regard to rights-of-way and the needs of emergency services and infrastructure maintenance and installation as the City continues to modernize and grow.

Recommended Ordinance Amendments

Currently, City regulations prohibit anything to be placed within the right-of-way that extends above the horizontal plane of the ground, as referenced both within the Code of Ordinances and within the Unified Development Ordinance. Following feedback from the Board of Aldermen, Staff have drafted language that clarifies what is intended by “horizontal plane of the ground” and provided other mechanisms to ensure that City ROWs remain clear and safe for vehicular and pedestrian movement.

Specifically, recommended Ordinance amendments include the following:

- The further refinement of the existing language within the Code of Ordinances and UDO to include the following:
 - It shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk, or other public right-of-way within the city any wall, fence, gate, brick, stone, wood, rock, vegetation, or other structure, material, or substance above the horizontal plane of the existing ground.
 - For the purposes of this section, pervious pavement or gravel may be installed within a right-of-way for the purposes of driveways or parking in accordance with an approved Right-of-Way Encroachment Agreement (see below).
 - Existing trees shall be permitted to remain as of the date of adoption of this ordinance, vegetation other than grass shall not be permitted.
 - An explicit mention that parking is permissible within rights-of-way in a manner that does not violate other relevant sections of the ordinance.
 - Parking shall be allowable whether on pervious pavement as mentioned earlier or on grass/existing ROW conditions.

- Specific Unified Development Ordinance amendments:
 - Clarification with regard to non-conforming R-10 lots: These lots shall remain exempt from single-family parking requirements, but any parking within a right-of-way is in no way considered reserved for the home immediately adjacent to that section of right-of-way. Any signs or other attempts to reserve right-of-way parking shall be removed.
 - By code enforcement? By police?
 - Required tree mitigation shall be required to be placed on the property requiring mitigation – such mitigation trees shall not be placed within a City right-of-way.
 - Improve all ordinance sections pertaining to outdoor seating.
 - Protective barriers?
 - Orientation?

Enforcement of Encroachments

Allowable encroachments within City rights-of-way shall be reviewed and approved via a City-issued Right-of-Way Encroachment Permit. Any such Ordinance amendments within the Unified Development Ordinance shall include ordinance language outlining the permit process. Such permit shall be reviewed and approved by the following entities:

- UDO Administrator or Designee (could include City Planner, Permit Technician, and/or Code Enforcement Officer)
- Public Services Director or Designee
- Fire Marshal

Included within the permit process shall be a required acknowledgement to be made by the applicant that, should the City need to perform work within a right-of-way that impacts those encroachments, that the City will remove any encroachments necessary to perform the work and will not be liable for the replacement of those encroachments. Replacing those encroachments shall require the review and approval of a new encroachment permit should such a scenario come to exist. Additionally, such review authority shall also include the ability of Staff to utilize defined discretion in approving permit requests, such as when infrastructure projects are programmed for the subject area within a future city-adopted Capital Improvement Program, that would give Staff the legal authority to deny permit applications for projects which would immediately impact programmed and funded City projects.

In the case of existing right-of-way encroachments, Staff recommends the establishment of a grace period not to exceed six (6) months in order for citizens of the City to remove encroachments from the City's rights-of-way that violate the updated Ordinance language. The grace period shall include an aggressive public relations campaign to ensure citizens know of the new language, and Staff will begin the process of identifying Ordinance violations and attempting to work with citizens to begin the process of rectifying those issues either via removal or via permitting, if existing encroachments become allowable under updated language. The public relations campaign will be a joint effort between Development Services and Community Relations and can include, but is not limited to:

- Presentations to boards and community groups;
- Continuous social media engagement;
- Inclusion of fliers in other city mailers;
- Certified mailers to homes with identified violations in the grace period;
- Door-to-door engagement; and
- Anything else recommended by the Board, Community Relations, etc.

Beyond the grace period, City Staff, including Development, Emergency, and Public Services personnel, will work collaboratively on an active process to remove encroachments that cannot be permitted under the new ordinances. Enforcement of right-of-way encroachments shall be conducted via proactive enforcement methods in which Staff shall work to identify new violations and take action appropriately, with complaints from citizens also being fielded and investigated as needed in accordance with previously adopted policies and procedures. The goal with enforcement action remains voluntary compliance on the part of the offending party.

Remaining Items to Address

Staff are working on UDO amendments to take the City to an official proactive code enforcement scheme. The following items remain up for discussion, with Staff seeking the direction of the Board of Aldermen on:

- Pervious Pavement: require a certification from an engineer as to construction? Is this too much of a burden to put on citizens?
- Staffing: Does City remove encroachments, or pursue court-ordered removal by property owner?
 - Will need attorney guidance here; may be difficult to prove fault, and also because violations will be within City property, traditional zoning enforcement methods may not be effective.
 - If City to remove, will need additional Staff for Public Services, or via contracting.
- Alleyways are also City rights-of-way, seeking Board direction on if alleyways are also part of this discussion and if so, are they of the same priority as the traditional rights-of-way.
- The Board expressed some interest in treating residential and non-residential differently. The Right-of-Way issue will require addressing parking in terms of the interplay between residential and non-residential uses. The following is a snapshot of parking-related conflicts that the right-of-way question presents:
 - Non-residential parking in residential areas.
 - Reductions or exemptions from parking requirements for residential and non-residential uses
 - Parking in front of driveways.
 - Parking enforcement.
 - City sponsored parking projects.



BOARD OF ALDERMEN

AGENDA ITEM SUMMARY

DATE: February 21, 2023 DEPARTMENT: Board of Aldermen

PRESENTED BY: Board of Aldermen

ITEM SPONSORED BY: Board of Aldermen

ITEM/TOPIC: Four Year Mayoral Term and City Charter Revisions

COST: Not applicable BUDGET LINE ITEM: Not applicable

JUSTIFICATION: At your Leadership Training/Strategic Planning meeting, you discussed changing the current two-year term of the Mayor to a four-year term and you wanted this topic on your next agenda.

IMPACT IF NOT APPROVED: The Mayoral term would remain at two years and the charter would stay the same.

DEPARTMENT HEAD COMMENTS: Not applicable

CITY MANAGER COMMENTS: Not applicable

The UNC SOG indicates that the State Representatives have generally fonder of following the more public procedure with the Resolution of Intent.

ATTACHMENTS: Research on changing the Code and Charter of a community

REQUESTED ACTION: Discussion and direction as to which process to follow. The Board can adopt a Resolution of Intent or a Resolution asking the NC General Assembly to consider amending the charter. If the Resolution of Intent is adopted, a public hearing will be scheduled within 45 days, and then no more than 60 days after, the Board may consider an ordinance.

PROPOSED MOTION: Motion to request the City Manager to prepare a Resolution of Intent or Resolution requesting action from the NC General Assembly, and authorize City staff to move forward with the appropriate steps provided in NCGS 160A-101.

AMENDING THE CITY CHARTER

A city that wishes to amend its charter can use the charter change statute (G.S. 160A-101) or may ask the General Assembly to make the change. However, the City's representatives in the G.A. might prefer the city use the statutory procedures.

AMENDMENT BY ORDINANCE

1. Board must adopt a resolution of intent. The resolution must describe the proposed amendment.
2. A public hearing must be scheduled for not more than (45) days after the adoption of the resolution. Notice of the hearing must be published at least once not less than (10) days before the hearing.
3. No more than (60) days after the hearing, the council may adopt an ordinance amending the charter as proposed in the resolution. The ordinance could state that it is subject to a vote or not. If the ordinance does not state that, and the Board approved the ordinance, the public can petition. If subject to vote, 10% of registered voters or 5,000 people must vote for the ordinance.

AMENDMENT BY LOCAL ACT

1. Board must adopt a resolution requesting the NC General Assembly to consider amending the charter.
2. The General Assembly can request more information (public vote) from the city, or they can send it to their writers to compose the amendment. This would get handled from a state level.





**CITY OF SOUTHPORT
BOARD OF ALDERMEN
REGULAR MEETING AGENDA**
223 E. BAY STREET
March 9, 2023
6:00 PM

Agenda

Please turn off all cell phones

Meetings are open to the public. Face masks and social distancing may be used at the discretion of each individual. The Board of Aldermen reserve the right to make changes to this policy, as needed to help prevent the spread of the Coronavirus.

If you are not able to attend the Board of Aldermen meetings in person, the meeting will be available for you to watch via live-stream on the City of Southport website (<https://cityofsouthport.com/board-of-aldermen-meetings/>), Facebook page, and YouTube channel.

ETHICS STATEMENT:

"If any members know of any conflict of interest or the appearance of a conflict of interest concerning matters on the agenda, please so state at this time."

A. Call to Order

B. Invocation

C. Pledge of Allegiance

D. Public Comment

E. Approval of Agenda

F. Special Recognition

1. Presentation of Donation by Lions Club (Unlimited Play Inclusive Playground)
2. Police Commendation (Chief Coring)

G. Approval of the Consent Agenda

1. Approval of Water Merger Grant Funding
2. Approval of Wastewater Merger Grant Funding
3. Adoption of Revised Regular Board Schedule
4. Board of Aldermen Regular Meeting Minutes February 12, 2023

H. Agenda

1. Debt Capacity for Wastewater Treatment Plant Expansion (B. Therrien)
2. Electric Rate Study (B. Therrien, E. Pittenger)

3. Mayoral Term Change to Four Years (Board of Aldermen, B. Therrien)
4. Amendment to Chapter 3. Animal Welfare (K. Marshall)
5. Shoreline Stabilization Project-Decision on Shoreline To Be Included (H. Hemphill)

I. Manager's Report

J. Committee Reports

1. Planning Board Minutes
2. Forestry Committee
3. Southport ABC Board

K. Mayor's Comments

L. Staff Reports

1. Animal Protective Services
2. Community Relations and Communication
3. Development Services
4. Finance
5. Fire/EMS Department
6. Parks and Recreation
7. Police Department
8. Public Services

M. Board Comments

N. Adjourn