



OPELIKA CITY COUNCIL
“ REGULAR MEETING MINUTES “
204 South 7th Street
February 5, 2019
TIME: 7:00 PM

1. Call to Order

President Smith called the city council meeting to order at 7:00 pm and asked Mr. Shuman to call the roll.

2. Roll Call

Mr. Shuman called the roll and all council members were present.

1. Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

3. Invocation

The Minister Diane Washington provided the invocation.

1. Minister Diane Washington from the Mustard Seed Church.

4. Pledge of Allegiance

Axel and Kimberly lead the Pledge and did a great job.

1. Axel Ortiz Montecalvo and Kimberly Marcus from Carver Primary School.

5. Reading of Minutes

1. Minutes from the 1-15-19 city council meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Tiffany Gibson-Pitts, Council Member
SECONDER:	David Canon, Council Member
AYES:	Jones, Gibson-Pitts, Smith T, Canon, Smith

6. Unfinished Business

7. Remarks By the Mayor

1. December 2018 City financial report.

Mayor Fuller passed out a copy of the City's December 2018 financial report to each council member.

2. Nominate Elaine Burton to the Historic Preservation Commission.

Mayor Fuller nominated Elaine Burton to fill a vacant position on the Historic Preservation Commission.

3. Recognize of Gene Dorris.

Mayor Fuller presented a proclamation to the family of Gene Dorris honoring his life and contributions to the City of Opelika.

4. Recognize Officer Shayna Hodges as the Police Officer of the Quarter.

Mayor Fuller recognized Officer Shayna Hodges as the Police Officer of the Quarter and presented her with a small token of appreciation from the City and a local attorney.

5. Recognize the OCS 2018 Teachers of the Year.

Mayor Fuller and Dr. Mark Neighbors recognized the Opelika City School 2018 Teachers of the Year. Mayor Fuller presented each Teacher of the Year with a small token of appreciation from the City.

8. Citizen Communications

(Limit comments to five minutes or less). No one came forward to speak.

9. Report of Disbursements

10. Committee Reports

11. General Business

1. Public Hearing, Amend Text Zoning Ordinance Section 7.3 C Use Categories (Matrix Table)

Mr. Shuman stated this is a public hearing concerning an amendment to the Text of the Zoning Ordinance, Sec. 7.3 Use Categories. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said zoning amendment.

Amber Kirby thanked the Mayor and City Council for considering said amendment. She stated that she intends to run a professional tattoo business. She will be open during normal business hours, allow no intoxicated individuals, allow no drugs or alcohol, will not allow any loitering, will maintain the property and I am licensed with the Health department. I have had a license since September 6th, 2018 and did not know the Opelika location was not zoned properly. Thanks for your assistance.

President Smith closed the public hearing.

2. Public Hearing, development agreement, DAHLCO DT, LLC.

Mr. Shuman stated this is a public hearing concerning the project development agreement with DAHLCO DT, LLC. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said development agreement. No one came forward to speak. President Smith closed the public hearing.

12. Awarding of Bids

1. Bids 012-19 Residential Building Demolitions - INSP

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

13. Resolutions

1. Resolution 013-19 Expense reports from various departments.

RESULT: APPROVED [4 TO 0]

MOVER: David Canon, Council Member

SECONDER: Patricia Jones, President Pro-Tem

AYES: Patricia Jones, Tiffany Gibson-Pitts, David Canon, Eddie Smith

ABSTAIN: Dozier Smith T

2. Resolution 014-19 Designate City Personal Property Surplus and Authorize Disposal

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

3. Resolution 015-19 Purchase - Cisco Equipment - IT

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

4. Resolution 016-19 Purchase - 2019 Ford F450 Crew Cab and Chassis - PW

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

5. Resolution 017-19 Emergency Repair - Northpark Lift Station Sewer Pump - PW

RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

6. Resolution 018-19 Request for a special use permit, T-Mobile at 3460 Hwy 280 East.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

7. Resolution 019-19 Project Development Agreement - DAHLCO DT LLC.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

8. Resolution 020-19 Support of local control and H.R. 530 or similar legislation.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

9. Resolution 021-19 Special appropriation to Opelika City Schools - Bicentennial program.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

10. Resolution 022-19 Special appropriation to Opelika City Schools - speaker program.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

11. Resolution 023-19 Agreement, Police services with EAMC.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

14. Ordinances

1. Ordinance Amend Text Zoning Ordinance Section 7.3 C Use Categories (Matrix Table) -
1st Reading.

Mr. Smith T made the motion to send said ordinance back to the Planning Commission with the intention that they add specific and appropriate conditions that must be met by an applicant before a business license is granted. Mr. Canon seconded said motion. The following vote was recorded:

Ayes Jones, Pitts, Smith T, Canon, Smith

Nays None

RESULT: REMOVED FROM AGENDA [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Ordinance Amend City Code, Chapter 4 Animal Control - OES - 2nd Reading.
Mr. Canon introduced this ordinance for a 1st Reading.

RESULT: FIRST READING INTRODUCED

15. Appointments

1. Appoint Elaine Burton to the Historic Preservation Commission. Assume term ending 8-19-21.

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: Dozier Smith T, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

16. Adjourn

The City Council meeting minutes of February 5, 2019 are hereby adopted and approved this the 19th day of February, 2019.

/s/ Eddie Smith

President of City Council

City of Opelika, Alabama

ATTEST:

/s/ R. G. Shuman

R. G. "Bob" Shuman, CMC

City Clerk - Treasurer

1. Motion to adjourn.
The council meeting ended at 7:56 pm.

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Dozier Smith T, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith



City Council
204 South 7Th Street
Opelika, AL

ADOPTED

CM MINUTES (ID # 3256)

Meeting: 02/05/19 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:
DOC ID: 3256

Minutes from the 1-15-19 city council meeting.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith



OPELIKA CITY COUNCIL “ REGULAR MEETING MINUTES “

204 South 7th Street

January 15, 2019

TIME: 7:00 PM

1. Call to Order

President Smith called the council meeting to order and asked Mr. Shuman to call the roll.

2. Roll Call

Mr. Shuman called the roll. All council members were present.

1. Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

3. Invocation

Pastor Smith gave the invocation.

1. Pastor Henry Smith.

4. Pledge of Allegiance

Tyjah and Richard lead the Pledge of Allegiance.

1. Tyjah Porter and Richard Howard from the West Forest Intermediate School.

5. Reading of Minutes

1. Minutes from the 1-02-19 City Council meeting.

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

6. Unfinished Business

7. Remarks By the Mayor

1. December 2018 Monthly Building Report

Mayor Fuller called on Joey Motley, City Administrator, to provide a summary of the December 2018 Building permit report.

2. Proclamation declaring January 2019, Human Trafficking Awareness Month.

Mayor Fuller presented said proclamation to representatives of East Ala. Mental Health, DHR and Twin Cedars Family Services.

3. Presentation of the name of the 2nd Avenue Bridge honoring Sharron Robinson Fuller.

Mayor Fuller presented a framed Resolution honoring the life of Sharron Robinson Fuller to her husband John Fuller, son Houston Fuller and daughter Kathryn Fuller. Mayor Fuller also unveiled the sign naming the 2nd Avenue bridge the Sharron Robinson Fuller Memorial Bridge. It was standing room only with many family and friends present.

8. Citizen Communications

(Limit comments to five minutes or less). No one came forward to speak.

9. Report of Disbursements

10. Committee Reports

11. General Business

1. Pubic Hearing, amend zoning ord & map: 2015 Gateway Drive, I-1, GC-P to C-2, GC-P.

President Smith open the public hearing asking if there was anyone present that would like to speak for or against said rezoning. No one came forward to speak. President Smith closed the public hearing.

12. Awarding of Bids

There was no bids.

13. Resolutions

1. Resolution 008-19 Resolution for Demolition, 112 N. 18Th Place - TABLED
Mr. Canon made the motion to remove this resolution from the Table and was seconded by Ms. Jones. The following vote was recorded:

Ayes Jones, Pitts, Smith T, Canon, Smith.

Nays None.

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Patricia Jones, President Pro-Tem

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Resolution 009-19 Expense reports from various departments.

RESULT: APPROVED [4 TO 0]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Dozier Smith T, Council Member

AYES: Patricia Jones, Dozier Smith T, David Canon, Eddie Smith

ABSTAIN: Tiffany Gibson-Pitts

3. Resolution 010-19 Naming the 2nd Avenue Bridge in honor of Sharron Robinson Fuller.

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

4. Resolution 011-19 Authorize grant application, National Fish & Wildlife - Eng.

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: Dozier Smith T, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

14. Ordinances

1. Ordinance 002-19-ORD Amend Zoning Ord & Map, 2015 Gateway Drive, I-1, GC-P to C-2, GC-P - 1st Reading.

Ms. Jones introduced the ordinance. Then Mr. Smith T made the motion to suspend the rules and was seconded by Ms. Pitts. The following vote was recorded:

Ayes Jones, Pitts, Smith T, Canon, Smith.

Nays None.

RESULT: FIRST READING AND APPROVED [UNANIMOUS]

MOVER: David Canon, Council Member

SECONDER: Patricia Jones, President Pro-Tem

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

15. Appointments

1. Reappoint Tipi Miller to the Zoning Board of Adjustments. New term ends 2-11-22.

RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Reappoint Jay Walters to the Zoning Board of Adjustments. New term ends 2-11-22.

RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

3. Reappoint Chris Nunn to the Zoning Board of Adjustments. New term ends 2-11-22.

RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

16. Adjourn

The City Council meeting minutes of January 15, 2019 are hereby adopted and approved this the ____ day of _____, 2019.

/s/

 President of City Council
 City of Opelika, Alabama

ATTEST:

/s/

 R. G. "Bob" Shuman, CMC

City Clerk - Treasurer

1. Motion to adjourn.
 The council meeting adjourned at 7:25 pm.

RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

Attachment: CM 2-05-19, minutes from 1-15-19 CM (2) (3256 : Minutes from the 1-15-19 city council meeting.)



City Council

204 South 7th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3248)

Meeting: 02/05/19 07:00 PM

Department: Planning

Category: Public Hearing

Prepared By: Marty Ogren

Initiator: Charles Mosley

Sponsors:

DOC ID: 3248

Public Hearing, Amend Text Zoning Ordinance Section 7.3 C Use Categories (Matrix Table)

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Opelika will hold a Public Hearing on Tuesday, February 5, 2019, at 7:00 p.m. in the City Council Chambers of the Municipal Building, 204 S. 7th Street, Opelika, Lee County, Alabama.

PURPOSE

The purpose of said Public Hearing will be to consider the adoption of an ordinance to amend Ordinance Number 124-91 (entitled “Zoning Ordinance of the City of Opelika”) adopted on September 17, 1991. At said Public Hearing all who desire to be heard shall have the opportunity to speak for or in opposition to the adoption of the following ordinance:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE CITY OF OPELIKA

BE IT ORDAINED by the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”) as follows:

Section 1. Amendment. That Ordinance 124-91 entitled “Zoning Ordinance of the City of Opelika, Alabama”, adopted on September 17, 1991, as amended, is further amended in the following respect:

That Section 7.3, “USES”, as amended, is further amended so that the use category of Body Art (Tattoo & Piercing) as shown in the matrix table shall be revised by changing the use in the C-2 zoning district from Not Allowed (N) to Conditional Use (C):

Uses:

Districts:

	R-1	R-1A	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC-P	GC-S
Body Art (Tattoo & Piercing	N	N	N	N	N	N	N	N	N	C	C	A	N	N	N	N

Section 2. Repeal of Conflicting Ordinances. Any ordinance or part thereof in conflict with provisions of this Ordinance be and the same are hereby repealed.

Section 3. Effective Date. This Ordinance shall become effective upon its adoption, approval and publication as required by law.

Section 4. Publication. This Ordinance shall be published in a newspaper of general circulation in the City of Opelika, Lee County, Alabama.

WITNESS my hand this the ____ day of _____, 2019.

CITY CLERK OF THE CITY OF OPELIKA, ALABAMA

TO: PUBLISHER

Opelika, Alabama 36801

Please publish the foregoing Notice one (1) time in the January ____, 2019 issue of your paper.

CITY CLERK

At the December 18th meeting the Planning Commission voted 7 to 0 (one abstain) to send a positive recommendation to City Council to approve the attached text amendments. At the January 2nd CC WS, the City Council reviewed the text amendments and approved advertising for a CC PH.

COMMENTS - Current Meeting:

Mr. Shuman stated this is a public hearing concerning an amendment to the Text of the Zoning Ordinance, Sec. 7.3 Use Categories. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said zoning amendment.

Amber Kirby thanked the Mayor and City Council for considering said amendment. She stated that she intends to run a professional tattoo business. She will be open during normal business hours, allow no intoxicated individuals, allow no drugs or alcohol, will not allow any loitering, will maintain the property and I am licensed with the Health department. I have had a license since September 6th, 2018 and did not know the Opelika location was not zoned properly. Thanks for your assistance.

President Smith closed the public hearing.

City of Opelika

Planning Commission Report

Action Requested: Text Amendment –Amend Section 7.3 Specific District Regulations for Conditional Use in C-2.

Amendments: Amend Section 7.3 Specific District Regulations for Body Art (Tattoo & Piercing) with conditional use in C-2

Body Art (Tattoo & Body Piercing). The practice of physical penetration of the skin for placing of designs, letters, figures, symbols or other marks upon the skin of any person, using ink or other substances that result in the permanent of coloration of the skin by the use of needles or other instruments¹.

1. Modified November 7, 2007

USES	DISTRICTS															
	R-1	R-1A	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3	M-1	M-2	I-1	GC-P	GC-S
COMMERCIAL																
Body Art (Tattoo & Piercing)	N	N	N	N	N	N	N	N	N	N	C	A	N	N	N	N

Staff Comments – Over the past two years, staff has received multiple requests for new tattoo shops in the City of Opelika. In most instances, the locations that were requested were not allowed by the Zoning Ordinance. Staff directed applicants to locations that would be allowed including the C-3 or M-1 zoning districts. Recent, a tattoo shop opened at 100 N. 7th Street. We spoke to the proprietors and informed them that the use was not allowed at this location. They requested the ordinance be modified to allow the use at this location. This would require that the use be at least conditionally allowed in the entire C-2 zoning district.

Body art shops are somewhat different today than in the past. In times past, these locations would be considered undesirable. This included both the physical locations and the clientele that would use them. Today, the industry is much more regulated and tattoos and other body art are much more common, especially among younger adults. These uses often co-locate with artist shops or hair salons. From a use perspective they are very similar to a hair or nail salon. They tend use the same amount of parking and function in the same manner. Two differences are that body art shops still tend to stay open later and their clients are often there for longer appointments.

Staff believes that allowing these uses conditionally will allow Planning Commission some flexibility to permit these uses in additional areas of the City. The Planning Commission may also deny them if they feel the use is unconducive to the surrounding properties or neighborhood. Any conditions must address specific issues including location, signage, time/hours of operation or other issues that will mitigate potential nuisances.

Recommendation: Approve text amendments.

At the December 18th meeting, the Planning Commission voted 7 to 0 (one abstain) to send a positive recommendation to City Council to approve the text amendments.



City Council

204 South 7th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3258)

Meeting: 02/05/19 07:00 PM
Department: Economic Development
Category: Public Hearing
Prepared By: Kathryn Daugherty
Initiator: Lori Huguley
Sponsors:
DOC ID: 3258

Public Hearing, development agreement, DAHLCO DT, LLC.

LEGAL NOTICE OF PUBLIC MEETING AND PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF OPELIKA, ALABAMA

NOTICE is hereby given that the City Council (the “Council”) of the City of Opelika, Alabama, (the “City”) will meet in public session at 7:00 p.m. on Tuesday, February 5, 2019, in the City Council Chambers of the Municipal Building, 204 South 7th Street in the City of Opelika, Alabama, for the purpose of considering the transaction of business that may properly come before the Council, such business to include, but not be limited to, the following:

1. The authorization by the Council, pursuant to Amendment 642 of the Constitution of Alabama of 1901, of a resolution (the “Resolution”) approving the execution and delivery of a Project Development Agreement (the “Agreement”) between the City and Dahlco DT, LLC (the “Company”) dated the date of delivery.

2. Pursuant to the Agreement, the Company will agree to acquire, renovate or cause to be renovated the Dollar Tree building and lot located at 501 2nd Avenue (the “Project Area”) in the corporate limits of the City. In consideration of such obligation of the Company, the City has agreed to share with the Company for a five year period an amount equal to fifty percent (50%) of the City’s sales tax and use tax revenues that exceeds 30,000 in a calendar year to be collected by retail facilities in the Project Area, up to a total maximum City contribution of \$62,500.00. If the City Sales Tax Proceeds received by the City from businesses in the Project Area do not exceed \$30,000 for any calendar year, no shared sales tax revenues shall be due from the City to the Developer for that year.

3. The City seeks to achieve by undertaking its obligations pursuant to the Agreement and the Resolution, to promote local economic development of the City by facilitating the construction of the Project for the benefit of the general public, to improve aesthetics along the 2nd Avenue corridor, and to boost property values in the City, to boost property values in the City and to increase the tax base and revenues of the City.

4. The business entities to whom or for whose benefit the City proposes to lend its credit or grant public funds or a thing of value are Dahlco DT, LLC, its tenants and the users and operators of the retail facilities in the Project Area.

5. All interested persons may examine and review the Agreement and Resolution and all relevant documents and make copies thereof at personal expense, at the offices of the City Clerk and City Council during normal business hours, before and after the meeting referenced herein.

6. During the public meeting referenced above the Council will conduct a public hearing with respect to the Agreement and the matters therein contained. Interested persons will be given reasonable opportunity to express their opinions, arguments and their views, either orally or in writing, or both, at the hearing. Persons unable to attend the public hearing may submit their opinions, arguments and their views to the office of the City Clerk, 204 South 7th Street, Opelika, Alabama 36801.

7. All interested persons will be given the opportunity to submit their oral or written comments at the time of the public hearing. Persons unable to attend the public hearing may submit their comments and views to the Office of the City Clerk, 204 S. 7th Street, Opelika, Alabama, 36801. Further information concerning this Notice and the public hearing can be obtained from the office of the City Clerk during normal business hours.

8. Please contact Lisa McLeod, the City's ADA Coordinator, at 334-705-5132 at least two (2) working days prior to the meeting if you require special accommodations due to a disability.

DATED this the 29th day of January, 2019.

CITY CLERK OF THE CITY OF OPELIKA, ALABAMA

TO: PUBLISHER
The Opelika-Auburn News
P.O. Drawer 2208
Opelika, AL 36803-2208

Please publish the foregoing Notice one (1) time in the _____, 2019 issue of your paper.

CITY CLERK

**LEGAL NOTICE OF PUBLIC MEETING AND PUBLIC HEARING
OF THE CITY COUNCIL OF THE CITY OF OPELIKA, ALABAMA**

NOTICE is hereby given that the City Council (the "Council") of the City of Opelika, Alabama, (the "City") will meet in public session at 7:00 p.m. on Tuesday, February 5, 2019, in the City Council Chambers of the Municipal Building, 204 South 7th Street in the City of Opelika, Alabama, for the purpose of considering the transaction of business that may properly come before the Council, such business to include, but not be limited to, the following:

1. The authorization by the Council, pursuant to Amendment 642 of the Constitution of Alabama of 1901, of a resolution (the “Resolution”) approving the execution and delivery of a Project Development Agreement (the “Agreement”) between the City and Dahlco DT, LLC (the “Company”) dated the date of delivery.

2. Pursuant to the Agreement, the Company will agree to acquire, renovate or cause to be renovated the Dollar Tree building and lot located at 501 2nd Avenue (the “Project Area”) in the corporate limits of the City. In consideration of such obligation of the Company, the City has agreed to share with the Company for a five year period an amount equal to fifty percent (50%) of the City’s sales tax and use tax revenues that exceeds 30,000 in a calendar year to be collected by retail facilities in the Project Area, up to a total maximum City contribution of \$62,500.00. If the City Sales Tax Proceeds received by the City from businesses in the Project Area do not exceed \$30,000 for any calendar year, no shared sales tax revenues shall be due from the City to the Developer for that year.

3. The City seeks to achieve by undertaking its obligations pursuant to the Agreement and the Resolution, to promote local economic development of the City by facilitating the construction of the Project for the benefit of the general public, to improve aesthetics along the 2nd Avenue corridor, and to boost property values in the City, to boost property values in the City and to increase the tax base and revenues of the City.

4. The business entities to whom or for whose benefit the City proposes to lend its credit or grant public funds or a thing of value are Dahlco DT, LLC, its tenants and the users and operators of the retail facilities in the Project Area.

5. All interested persons may examine and review the Agreement and Resolution and all relevant documents and make copies thereof at personal expense, at the offices of the City Clerk and City Council during normal business hours, before and after the meeting referenced herein.

6. During the public meeting referenced above the Council will conduct a public hearing with respect to the Agreement and the matters therein contained. Interested persons will be given reasonable opportunity to express their opinions, arguments and their views, either orally or in writing, or both, at the hearing. Persons unable to attend the public hearing may submit their opinions, arguments and their views to the office of the City Clerk, 204 South 7th Street, Opelika, Alabama 36801.

7. All interested persons will be given the opportunity to submit their oral or written comments at the time of the public hearing. Persons unable to attend the public hearing may submit their comments and views to the Office of the City Clerk, 204 S. 7th Street, Opelika, Alabama, 36801. Further information concerning this Notice and the public hearing can be obtained from the office of the City Clerk during normal business hours.

8. Please contact Lisa McLeod, the City's ADA Coordinator, at 334-705-5132 at least two (2) working days prior to the meeting if you require special accommodations due to a disability.

DATED this the _29th____ day of ____January_____, 2019.

CITY CLERK OF THE CITY OF OPELIKA, ALABAMA

TO: PUBLISHER
The Opelika-Auburn News
P.O. Drawer 2208
Opelika, AL 36803-2208

Please publish the foregoing Notice one (1) time in the _____, 2019 issue of your paper.

CITY CLERK

COMMENTS - Current Meeting:

Mr. Shuman stated this is a public hearing concerning the project development agreement with DAHLCO DT, LLC. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said development agreement. No one came forward to speak. President Smith closed the public hearing.



City Council
204 South 7Th Street
Opelika, AL

ADOPTED

BIDS 012-19

Meeting: 02/05/19 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 3265

Residential Building Demolitions - INSP

RESOLUTION NO. _____

WHEREAS, the Purchasing Department opened sealed bids for a contract for Residential Building Demolitions located at 9 Avenue B, 206 Byrd Ave., and 1003 Alton Ct. for the Inspection Department; and

WHEREAS, W J Cash Construction Co., Inc. submitted the lowest bid meeting specifications; and

WHEREAS, this is a budgeted contract;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

1. That the contract be awarded to W J Cash Construction Co., Inc. on their low bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to W J Cash Construction Co., Inc. in the amount of \$20,400.00.
3. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.
4. That the Controller is authorized to adjust the budget as necessary for this purchase.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

C.E. "Eddie" Smith, Jr.
President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman
City Clerk - Treasurer

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

Council Meeting: 2/5/19

FACT SHEET

SUBJECT: Sealed Bid #19005 – We are asking the Council to approve a contract for Residential Building Demolitions located at 9 Avenue B, 206 Byrd Ave., and 1003 Alton Ct.

FACTS:

- Bid opening date – 1/28/19
- User department(s) – Inspection Department
- The bid was mailed to 13 vendors
- 1 bid was received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend contract be awarded to W J Cash Construction Co., Inc. on their low bid meeting specifications in the amount of \$20,400.00.**

[illegible]

RESOLUTION NO. 013-19

Expense reports from various departments.

RESOLUTION NO. _____

BE IT RESOLVED, by the City Council of the City of Opelika, Alabama, as follows:

-) That the following employee(s) were required by the City of Opelika to travel on City business and/or attend a training session, meeting or conference.

	Employee	Department	\$ Amount
	-----	-----	-----
	Cindy Boyd	Accounting	110.14
	Guy Gunter	City Attorney	149.11
	Matt Battles	P&R	192.56
	Gary Fuller	Mayor	5,356.13
	Gary Fuller	Mayor	14.34
788.30	Lori Huguley	Economic Dev.	
5,606.13	Lori Huguley	Economic Dev.	
	Derek Lee	OPS	496.88
342.40	Dozier Smith T	City Council	
	Eddie Smith	City Council	410.60

-) That attached is an expense report(s) prepared, dated and signed by the City employee or official covering the various expenses incurred on said trip and reviewed/approved by the City's accounting department and City official.
- 3) That the Opelika City Council hereby approves the attached expense reports for

reimbursement to said City employee or official.

- 4) That the Mayor and/or appropriate City official is hereby directed and authorized to take the necessary steps so a check(s) can be prepared covering the attached expense report(s).
- 5) That the City Treasurer is authorized to sign said check(s) so it can be delivered to the appropriate City employee or official.

ADOPTED and APPROVED this the ____ day of _____, 2019.

C. E. "Eddie" Smith, Jr.

President of the City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - City Treasurer

EXPENSE REPORT

NAME Cindy Boyd DEPARTMENT Accounting PERIOD ENDING 1/16/2019

ITEMIZE ALL REIMBURSABLE EXPENSES IN APPROPRIATE BLANKS - ITEMIZE ANY NON-REIMBURSABLE EXPENSES ON REVERSE OF LAST COPY.

DATE	DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS Itemize Below			ENTERTAINMENT Itemize Below	MISC EXPENSES Itemize Below	DAILY TOTAL
				AIR, RAIL, ETC	RENTAL CAR, LIMO, ETC	LOCAL TAXI, TOLLS, & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
	SUN												\$ -
14-Jan	MON	Orlando, FL					\$ 53.36 53.67						\$ 53.36
15-Jan	TUE	Orlando, FL					\$ -						\$ -
16-Jan	WED	Orlando, FL					\$ 53.36 53.07						\$ 53.36
	THU												\$ -
	FRI												\$ -
	SAT												\$ -
WEEKLY CATEGORY TOTALS \$			\$ -	\$ -	\$ -	\$ -	\$ 106.72 110.14	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 106.72

ITEMIZED ENTERTAINMENT AND BUSINESS MEALS					
DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	ALLOCATED TO BUSINESS
			Agree To P.O.		
			Ends Verified		
			Fooding Verified		
			Inv. Price No Price		
			Ok To Pay		
			A/C # Verified		

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING, REPAIRS, ETC	AMOUNT
14-Jan	Mileage to Airport 92 mi * .58 94.96 + .58	\$ 53.36
16-Jan	Mileage to Airport 92 mi * .58 94.96 + .58	\$ 53.36

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT

WEEKLY TOTAL OF EXPENSES ↑

NUMBER OR DAYS AWAY FROM HOME

3

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0

NATURE OR PURPOSE OF TRAVEL

GFOA Intermediate Accounting Seminar

METHOD OF REIMBURSEMENT

MAIL TO:

Cindy Boyd \$106.72 110.14

SIGNATURE

APPROVED BY

EXPENSE REPORT

NAME

Name Guy F. Gunter, III

DEPARTMENT

Department: Legal

PERIOD ENDING

1/25/2019

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												0.00
MON												0.00
TUE												0.00
WED												0.00
THU 1/24	Small Cell Wireless Meeting							99.24			49.87	149.11
FRI												0.00
SAT												0.00
WEEKLY CATEGORY TOTALS \$		0.00	0.00	0.00	0.00	0.00	0.00	99.24	0.00	0.00	49.87	149.11

WEEKLY TOTAL EXPENSES ↑

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS
1/24	Baller, Stokes & Lide/CTE	Niffer's/Opelika	Lunch following meeting	99.24	100%

NUMBER OF DAYS AWAY FROM HOME

0

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

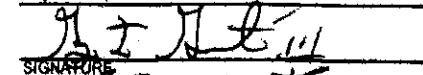
ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
	Agree To P.O.	
	Extra Verified	
	Feeling Verified	
	Inv. Price Bld Price	
	Ok To Pay	
	A/C # Verified	

Guy F. Gunter, III

City Attorney

Opelika, AL 36801



SIGNATURE

APPROVED BY

EXPENSE REPORT

NAME

Regions - Matt Battles

DEPARTMENT

Department Parks & Recreation

PERIOD ENDING

1-3-2019

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS Itemize Below			ENTERTAIN- MENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
1/2/2019						96.28						96.28
3-Jan						96.28						96.28
												0.00
												0.00
												0.00
												0.00
												0.00
												0.00
WEEKLY CATEGORY TOTALS \$			0.00	0.00	0.00	0.00	192.56	0.00	0.00	0.00	0.00	192.56

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PUPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS
					100%
					100%
					100%
					100%
					100%
					100%

NUMBER OF DAYS AWAY FROM HOME

5

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

Trip to Dahlonaga, Georgia for Matt Battles,
Leigh Krehling, and Rosanna McGinnis.

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL TO

Send to Matt Battles at Denson Rec Center

Sam Bailey
Signature

Approved By

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
1/2/19	POV mileage 166miles @ \$.58	96.28
1/3/19	POV mileage 166miles @ \$.58	96.28
	Total	192.56

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT
1/2/19	Entry Verified	
1/3/19	Footling Verified	
	Inv. P 100 Bld Price	
	Ok To Pay	
	A/C # Verified	

EXPENSE REPORT

PERIOD ENDING

NAME

Name Gary Fuller

DEPARTMENT

Department Mayor's Office 11050

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC.	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
5/26/19 Friday	Dublin, Ireland		5,356.13									5,356.13
												0.00
												0.00
												0.00
												0.00
												0.00
												0.00
WEEKLY CATEGORY TOTALS \$		0.00	5,356.13	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,356.13

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED: COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

NUMBER OF DAYS AWAY FROM HOME

6

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

Economic Development Bio trip

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE

☒ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
	Agree To P.O.	
	Extr. Verified	
	Booting Verified	
	Inv. Price Bio Price	
	Ok To Pay	
	A/C # Verified	

Gary Fuller

Mayor's office

SIGNATURE

APPROVED BY

EXPENSE REPORT

NAME

Name Gary Fuller

DEPARTMENT

Department Mayor's Office 11050

PERIOD ENDING

6/12/19

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC.	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
6/12/19 Wed	Sydney, Australia										14.34	14.34
												0.00
												0.00
												0.00
												0.00
												0.00
												0.00
												0.00
WEEKLY CATEGORY TOTALS \$		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	14.34	14.34

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

NUMBER OF DAYS AWAY FROM HOME

10

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

Economic Development

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
6/12	Visa Application	14.34
	Agree to P.O.	
	Extra Verified	
	Footing Verified	
	Inv. Price Bto Price	
	OK To Pay	
	A/C # Verified	

Gary Fuller

Mayor's office

SIGNATURE

APPROVED BY

EXPENSE REPORT

NAME

Name Lori Huguley

DEPARTMENT

Department Econ Dev

PERIOD ENDING

1.23.19

[illegible]

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PUPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS
					100%
					100%
					100%
					100%
					100%

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS 0 Days

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS 0%

NATURE OR PURPOSE OF TRAVEL

ED Utah travel

METHOD OF REIMBURSEMENT
☐ DEDUCT FROM
 MY ADVANCE

☒ MAIL: TO

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT
	Agree To P.O.	
	Extra Material	
	Floating W. Card	
	Inv. Price Eto Price	
	OK To Pay	
	AIO #111111	

SIGNATURE:

APPROVED

DEPARTMENT

Name Lori Huguley

Department Econ Dev

PERIOD ENDING

1.23.19

[illegible]

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PUPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS
					100%
					100%
					100%
					100%
					100%

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS 0 Days

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS 0%

NATURE OR PURPOSE OF TRAVEL

ED Ireland travel

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM MY ADVANCE☒ MAIL: TO

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT
	Agree To P.O.	
	Extra Verified	
	Fooding Verified	
	Inv. Price Eto Price	
	Ok To Pay	
	A/C # Verified	

50

~~APPROVED BY~~

EXPENSE REPORT

NAME

Derek S. Lee

DEPARTMENT

OPS

PERIOD ENDING

1-11-19

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												0.00
MON	Washington D.C Rally		489.60									489.60
TUE												0.00
WED												0.00
THU												0.00
FRI	Sylacauga, AL							7.28				7.28
SAT												0.00
WEEKLY CATEGORY TOTALS \$		0.00	489.60	0.00	0.00	0.00	0.00	7.28	0.00	0.00	0.00	496.88

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

NUMBER OF DAYS AWAY FROM HOME

4 Days

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

ECA Managers Round Table retreat 1.10.19 And
Airfare for Washington D.C Legislative Rally

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL TO

Send Check to Derek S. Lee @ OPS

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	DESCRIPTION	AMOUNT

SIGNATURE

APPROVED BY

EXPENSE REPORT

PERIOD ENDING 1-15-19

NAME

Name

Dorice H Smith T

DEPARTMENT

Department

City Council

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS Itemize Below			ENTERTAIN- MENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC.	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												
MON 3/11	Atlanta Ga to Wash Dc.		342.40									342.40
TUE												
WED												
THU												
FRI												
SAT												
WEEKLY CATEGORY TOTALS \$			342.40									342.40

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

NATURE OR PURPOSE OF TRAVEL

Legislative Dinner in Washington D.
during NLC.

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
1/11	Bus Fare	
1/11	Hotel	
1/11	Ray, Budge, Pils, Pils	
1/11	OK To Pay	
1/11	N/C # Verified	

SIGNATURE

APPROVED BY

EXPENSE REPORT

PERIOD ENDING

NAME

Name

Edie Smith

DEPARTMENT

Department

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC.	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	Itemize Below BREAKFAST	LUNCH	DINNER			
SUN												
MON												
TUE												
WED	<i>Washington DC</i>		<i>410.60</i>									<i>410.60</i>
THU												
FRI												
SAT												
WEEKLY CATEGORY TOTALS \$												<i>410.60</i>

WEEKLY TOTAL EXPENSES *410.60*

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

NUMBER OF DAYS AWAY FROM HOME

1

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

Congressional Dinner
NATURE OR PURPOSE OF TRAVEL

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE

☒ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT

OK To Pay
A/C # V-1234

SIGNATURE

APPROVED BY

RESOLUTION NO. 014-19

Designate City Personal Property Surplus and Authorize Disposal**RESOLUTION NO. _____**

WHEREAS, the City of Opelika, Alabama, has certain items of personal property which are no longer needed for public or municipal purposes; and

WHEREAS, Section 11-43-56 of the Alabama Code of 1975 authorizes the Municipal Governing body to dispose of unneeded personal property;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

SECTION 1. That the following personal property owned by the City of Opelika, Alabama, is no longer needed for public or municipal purposes:

No.	Qty	Unit	Item Description	Fixed Asset #
1.	1	Ea.	Magnetic Locator	87000136
2.	1	Ea.	2009 Dodge Nitro VIN#1D8GT28K09W533663	87002573
3.	9	Ea.	Cardboard Trailers	N/A

SECTION 2. That the Mayor is hereby authorized and directed to dispose of the personal property owned by the City of Opelika, Alabama, described in Section 1 above. If any such property has marketable value, the Mayor shall receive bids or quotations for such property and shall sell the same to the highest bidder. If the property has no marketable value, the Mayor may dispose of such property in the most economical and feasible manner available to him.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

C.E. “Eddie” Smith, Jr.
President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

RESOLUTION NO. 015-19

Purchase - Cisco Equipment - IT

RESOLUTION NO. _____

WHEREAS, the Information Technology Department desires to purchase Cisco equipment utilizing State Contract #T637 for networking equipment for the new Police Department; and

WHEREAS, CDW Government LLC is the State Contract Vendor for the Cisco equipment; and

WHEREAS, funding for this purchase is budgeted;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

1. That the purchase be awarded to CDW Government LLC utilizing the State of Alabama Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to CDW Government LLC in the total amount of \$196,026.57.
3. The Controller is authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

C.E. “Eddie” Smith, Jr.
President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

QUOTE CONFIRMATION



DEAR STEPHEN DAWE,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
KJFD202	1/8/2019	KJFD202	0936449	\$196,026.57

IMPORTANT - PLEASE READ

Special Instructions: TAX: MULTIPLE TAX JURISDICTIONS APPLY
TAX: CONTACT CDW FOR TAX DETAILS

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Cisco Catalyst 9300 - Network Essentials - switch - 48 ports - managed - ra Mfg. Part#: C9300-48U-E UNSPSC: 43222612 TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)	14	4696722	\$6,519.20	\$91,268.80
Cisco SMARTnet Solution Support - extended service agreement Mfg. Part#: CON-SSSNT-C93004UE UNSPSC: 81111812 Electronic distribution - NO MEDIA TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)	14	5321562	\$700.04	\$9,800.56
Cisco Config 1 Secondary Power Supply - power supply - hot-plug / redundant Mfg. Part#: PWR-C1-1100WAC/2 UNSPSC: 39121004 TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)	14	2944946	\$1,121.00	\$15,694.00
Cisco StackWise 480 - stacking cable - 1.6 ft Mfg. Part#: STACK-T1-50CM= UNSPSC: 26121609 TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)	14	2987613	\$59.00	\$826.00
Cisco StackPower - power cable - 1 ft Mfg. Part#: CAB-SPWR-30CM UNSPSC: 26121636 TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)	14	4752739	\$56.53	\$791.42
Cisco Digital Network Architecture Essentials - Term License (3 years) - 48 Mfg. Part#: C9300-DNA-E-48-3Y UNSPSC: 43233204	14	4696735	\$666.40	\$9,329.60

Attachment: 2-5-19 - CISCO EQUIPMENT - NEW PD - STATE CONTRACT T637 - CNCL PKT (015-19 : Purchase - Cisco Equipment - IT)

QUOTE DETAILS (CONT.)				
Electronic distribution - NO MEDIA TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)				
Cisco Catalyst 9300 Series Network Module - expansion module	14	4696719	\$1,602.04	\$22,428.56
Mfg. Part#: C9300-NM-8X UNSPSC: 43201404 TAX: OPELIKA, AL .0000% \$.00 Contract: MARKET				
Cisco Catalyst 9500 - Network Advantage - switch - 40 ports - managed - rac	1	4921024	\$15,499.00	\$15,499.00
Mfg. Part#: C9500-40X-A UNSPSC: 43222612 TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)				
Cisco SMARTnet Solution Support - extended service agreement	1	4875486	\$2,098.00	\$2,098.00
Mfg. Part#: CON-SSSNP-C95004XA UNSPSC: 81111812 Electronic distribution - NO MEDIA TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)				
Cisco ONE Advantage - subscription license (3 years) - 1 switch (24 ports)	1	4727378	\$7,705.25	\$7,705.25
Mfg. Part#: C1A1TCAT95001-3Y UNSPSC: 43232804 Electronic distribution - NO MEDIA TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)				
Cisco Catalyst 9500 Series Network Module - expansion module	1	4921027	\$2,439.50	\$2,439.50
Mfg. Part#: C9500-NM-2Q UNSPSC: 43201404 TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)				
Cisco Config 4 - power supply - hot-plug / redundant - 950 Watt	1	4921033	\$1,249.50	\$1,249.50
Mfg. Part#: PWR-C4-950WAC-R/2 UNSPSC: 39121004 TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)				
Cisco Nexus 93180YC-EX - switch - 48 ports - rack-mountable	1	4199809	\$10,780.74	\$10,780.74
Mfg. Part#: N9K-C93180YC-EX UNSPSC: 43222612 TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)				
Cisco SMARTnet extended service agreement	1	4430460	\$818.72	\$818.72
Mfg. Part#: CON-SNTP-93180YCX UNSPSC: 81111812 Electronic distribution - NO MEDIA TAX: OPELIKA, AL .0000% \$.00 Contract: State of Alabama Networking-T637 (T637-4013346)				
Cisco NX-OS Enhanced Layer 3 - license	1	3221837	\$5,026.44	\$5,026.44
Mfg. Part#: N93-LAN1K9 UNSPSC: 43233004 TAX: OPELIKA, AL .0000% \$.00 Contract: MARKET				

QUOTE DETAILS (CONT.)

Cisco Smart Net Total Care Software Support Service - technical support - f	1	5136190	\$270.48	\$270.48
Mfg. Part#: CON-ECMU-N93LAN				
UNSPSC: 81112201				
Electronic distribution - NO MEDIA				
TAX: OPELIKA, AL .0000% \$.00				
Contract: State of Alabama Networking-T637 (T637-4013346)				

PURCHASER BILLING INFO	SUBTOTAL	\$196,026.57
Billing Address: CITY OF OPELIKA ACCOUNTS PAYABLE PO BOX 390 OPELIKA, AL 36803-0390 Phone: (334) 705-5120 Payment Terms: Net 30 Days-Govt State/Local	SHIPPING	\$0.00
	SALES TAX	\$0.00
	GRAND TOTAL	\$196,026.57
DELIVER TO	Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	
Shipping Address: CITY OF OPELIKA STEPHEN DAWE 204 S 7TH ST OPELIKA, AL 36801 Shipping Method: DROP SHIP-GROUND		

Need Assistance? CDW•G SALES CONTACT INFORMATION



Griffin Curcio

(877) 635-6656

grifcur@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at
<http://www.cdwg.com/content/terms-conditions/product-sales.aspx>
For more information, contact a CDW account manager

© 2019 CDW•G LLC, 200 N. Milwaukee Avenue, Vernon Hills, IL 60061 | 800.808.4239



State of Alabama
Department of Finance
Division of Purchasing
Master Agreement

13.3.a

Modification

CONTRACT INFORMATION

MASTER AGREEMENT NUMBER: MA 999 T6374013346

NOT TO EXCEED AMOUNT:

Begin Date: 09/01/2015

Procurement Folder: 165311

Expiration Date: 08/31/2019

Procurement Type: Master Agreement

Solicitation Number:

Replaces Award Document:

Award Date:

Replaced by Award Document:

Modification Date: 08/16/18

Version Number: 5

CONTACT INFORMATION

REQUESTOR:

Jennifer Loretz

334-242-7370

jennifer.lorenz@purchasing.alabama.gov

ISSUER:

Jennifer Loretz

334-242-7370

jennifer.lorenz@purchasing.alabama.gov

BUYER:

CONTRACT DESCRIPTION

Ship To:

Bill To:

REASON FOR MODIFICATION

Contract Renewed

ENDORSEMENT INFORMATION

Name /Address:

VC000004220: CDW GOVERNMENT INC

75 REMITTANCE DR, SUITE 1515

CHICAGO IL 60675-1515

Contact:

Brittany Logan

877-742-3146 EXT: 1421

britlog@cdwg.com

Attachment: 2-5-19 - CISCO EQUIPMENT - NEW PD - STATE CONTRACT T637 - CNCL PKT (015-19 : Purchase - Cisco Equipment - IT)

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total		13.3.a
1	0		\$0.000000	\$0.00			\$0.00		\$0.00

0540066697CNV - DO NOT USE: To be inactivated.

NETWORKING: CISCO PRODUCTS CATALOG PERCENT OFF

NETWORKING: CISCO PRODUCTS CATALOG PERCENT OFF: 1. SECURITY PRODUCTS: 40.5% (FIREWALLS AND SECURITY DEVICES)

2. NETWORKING PRODUCTS: 40.5% (ROUTERS, SWITCHES, ACCESS POINTS, VARIOUS NETWORK SUPPORT DEVICES) 3.

SMARTNET SERVICES: 14% 4. MISCELLANEOUS CATALOG: 40.5% (CABLES, CONNECTORS, GBICS)

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
3	0		\$0.000000	\$0.00			\$0.00	\$0.00

2555071934CNV - DO NOT USE: Inactivated 3-24-17.

JSE LINE 5

TELEPHONY: CISCO PRODUCTS CATALOG PERCENT OFF 1. COLLABORATION & VOICE PRODUCTS: 40.5% (E.G. PHONES, VIDEO
ENDPOINTS, VOICE GATEWAYS) 2. SOFTWARE & LICENSED PRODUCTS: 40.5% (E.G. LICENSING FOR VARIOUS VOICE PRODUCT

LINES, UCC, UCM, UNITY, AND OTHER SUPPORT OPTIONS) 3. SMARTNET SERVICES: 14% 4. MISCELLANEOUS PARTS: 40.5%

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
4	0		\$0.000000	\$0.00			\$0.00	\$0.00

3900 - TELEPHONE EQUIPMENT, ACCESSORIES AND SUPPLIES

JSE LINE 1

NETWORKING: CISCO PRODUCTS CATALOG PERCENT OFF: 1. SECURITY PRODUCTS: 40.5% (FIREWALLS AND SECURITY DEVICES)

2. NETWORKING PRODUCTS: 40.5% (ROUTERS, SWITCHES, ACCESS POINTS, VARIOUS NETWORK SUPPORT DEVICES) 3.

SMARTNET SERVICES: 14% 4. MISCELLANEOUS CATALOG: 40.5% (CABLES, CONNECTORS, GBICS)

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
5	0		\$0.000000	\$0.00			\$0.00	\$0.00

3900 - TELEPHONE EQUIPMENT, ACCESSORIES AND SUPPLIES

TELEPHONY: CISCO PRODUCTS CATALOG PERCENT OFF

TELEPHONY: CISCO PRODUCTS CATALOG PERCENT OFF 1. COLLABORATION & VOICE PRODUCTS: 40.5% (E.G. PHONES, VIDEO
ENDPOINTS, VOICE GATEWAYS) 2. SOFTWARE & LICENSED PRODUCTS: 40.5% (E.G. LICENSING FOR VARIOUS VOICE PRODUCT

LINES, UCC, UCM, UNITY, AND OTHER SUPPORT OPTIONS) 3. SMARTNET SERVICES: 14% 4. MISCELLANEOUS PARTS: 40.5%

All terms, conditions, and any amendments to solicitation are part of this contract as if fully reproduced herein .

Approved:



Purchasing Director

APPROVALS

Date	Status Before	Status After	Approver

RESOLUTION NO. 016-19

Purchase - 2019 Ford F450 Crew Cab and Chassis - PW**RESOLUTION NO. _____**

WHEREAS, the Public Works Cemetery Department desires to purchase one (1) 2019 Ford F450 Crew Cab and Chassis with certain options utilizing the State of Alabama Contract #T193A; and

WHEREAS, Tallassee Automotive, Inc. is the State Contract Vendor for the 2019 Ford F450 Crew Cab and Chassis; and

WHEREAS, funding for this purchase is budgeted from Capital Outlay;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

1. That the purchase be awarded to Tallassee Automotive, Inc. utilizing the State of Alabama Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Tallassee Automotive, Inc. in the total amount of \$47,682.00.
3. That the Controller be authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

C.E. “Eddie” Smith, Jr.
President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

Lemoria
5126

Cemetery

TO: CITY OF OPELIKA
ATTN: ~~BRUCE BROWN~~

10/18/18

MIKE HILYER

FROM: TALLASSEE AUTOMOTIVE, INC.

BRUCE BROWN @ 1-800-255-5650 or BBROWN@TALLASSEEAUTOMOTIVE.COMSTATE OF ALABAMA - DIVISION OF PURCHASING 08/31/18
REF: VEHICLE CONTRACT # MA 999 T193A 4013268.1 2019* MODEL YEAROPTIONS FOR FORD F-450 CREW CAB & CHASSIS LINE # 31 - 33
EQUIPMENT INCLUDED: 60" CA, 16,500# GVWR, 6.8L V-10 GAS ENGINE
6 SPD AUTOMATIC, AIR COND, AM/FM, 4 WHL DISC & ABS, 40 GAL TANK

COST: \$34,222.00

" ITEMS INDICATED ARE RECOMMENDED FOR YOUR APPLICATION "

SPARE TIRE & WHEEL	#512 \$298
PTO PROVISION	#62R \$243
MOULDED CAB STEPS	#18B \$332
LIMITED SLIP REAR AXLE	#LSA \$336
H.D. FRONT SUSPENSION PKG	#67H \$119
TRACTION TIRES	#THB \$198

* POST PRODUCTION OPTIONS *

9' CONTRACTOR DUMP BODY w THESE FEATURES:	#CDB \$11,889
10 GA HI-TENSILE STEEL CONSTRUCTION, 12" CROSS MEMBER SPACING,	
18' FIXED/BOXED SIDES w 6" BOARD POCKETS & 24" DOUBLE ACTING TAILGATE,	
PTO DRIVEN HYDRAULIC HOIST, CAB HIGH HEADBOARD w 24" CAB SHIELD, BACK UP	
ALARM, MUD FLAPS, PAINTED BLACK & W/O A HITCH.	
DELIVERY TO YOUR LOCATION	#DLV \$45

TOTAL COST: \$47,682.00

OTHER OPTIONS TO CONSIDER:

INTEGRATED ELECTRIC BRAKE CONTROLL eqd w hitch plate	#52B \$253
110 v / 400 watt DASH MTD POWER OUTLET	#43C \$73
POWER WINDOWS - LOCKS - MIRRORS & KEYLESS ENTRY	#90L \$1,046
HD HITCH PLATE w WIRING FOR LIGHTS & BRAKES reqs brake contrl #52B	#HTH \$695
FOLD DOWN SIDES ON DUMP	#FDS \$600
UNDER BODY TOOL BOX	#UBX \$500 ea

AVAILABLE COLORS: #Z1 WHITE / #PQ RACE RED / #N1 BLUE JEAN / #G1 BLACK
/ #UX SILVER / #J7 MAGNETIC TRIM: #AS GRAY VINYL



State of Alabama
Department of Finance
Division of Purchasing
Master Agreement
Modification

13.4.a

CONTRACT INFORMATION

MASTER AGREEMENT NUMBER: MA 999 T193A4013268.1

NOT TO EXCEED AMOUNT:

Begin Date: 05/01/2014

Procurement Folder: 328318

Expiration Date: 08/31/2019

Procurement Type: Master Agreement

Solicitation Number:

Replaces Award Document:

Award Date:

Replaced by Award Document:

Modification Date: 08/31/18

Version Number: 6

CONTACT INFORMATION

REQUESTOR:

Patrick Hemme

334-242-7173

Pat.Hemme@purchasing.alabama.gov

ISSUER:

Patrick Hemme

334-242-7173

Pat.Hemme@purchasing.alabama.gov

BUYER:

CONTRACT DESCRIPTION

Converted STC from SNAP. Original Contract Date 2015/05/29

Open the attached pdf to view complete contract details.

Ship To:

Bill To:

Shipping Instructions: 120 DAYS ARO SNAP Location code is R1-
STATEWIDE

REASON FOR MODIFICATION

VENDOR INFORMATION

Name /Address:

VC000049975: Tallassee Automotive Inc.

1618 Gilmer Avenue

Tallassee AL 36078

Contact:

BRUCE BROWN

3342836815

BBROWN@TALLASSEEAUTOMOTIVE.COM

COMMODITY / SERVICE INFORMATION

13.4.a

TRUCK CHASSIS, 11,000 GVWR, LATEST MODEL
 INCLUDING ALL STANDARD EQUIPMENT
 STANDARD CAB
 WHEEL BASE: 137" MINIMUM
 CAB TO AXLE: 60" MINIMUM
 SINGLE AXLE
 DIESEL ENGINE - 300 HP MINIMUM
 DUAL REAR WHEELS
 4 WHEEL ABS BRAKES
 3 PASSENGER SEATING
 40 GALLON FUEL TANK, DIESEL, ALUMINUM OR
 POLYPROPYLENE
 DUAL AIR BAGS
 FULL HEADLINER W/ INSULATION
 AIR CONDITIONING, FACTORY INSTALLED
 RADIO, AM/FM
 ALTERNATOR, 120 AMP MIN
 MIRROR, EXTERIOR RIGHT & LEFT, TRUCK
 CAMPER OR RECREATIONAL TYPE
 FUEL LINE KIT

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
29	0	LOT	\$0.000000	\$0.00			\$0.00	\$0.00

07202 - Class 2 Trucks (6,001 - 10,000 lb. GVWR)
 TRUCK, OPTIONS FOR GVWR 8600 CHASSIS
 OPTION PACKAGE:TRANSMISSION, AUTOMATIC
 W/PTO PROVISION.....\$228.00
 TUBELESS TIRES, TO MEET GVWR,SET OF 7 W/ DISC RIMS...\$298.00*
 AGENCIES MAY OPT TO LEAVE ONE OR MORE
 OPTIONS OFF FROM THE PACKAGE. THE PO
 WILL REFLECT THE ACTUAL OPTIONS BEING
 PURCHASED.

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
30	0	LOT	\$0.000000	\$0.00			\$0.00	\$0.00

07202 - Class 2 Trucks (6,001 - 10,000 lb. GVWR)
 TRUCK OPTIONS FOR 8600 UP TO 19000 GVWR
 OPTIONS NOT LISTED, T193A:TO BE BILLED AT DEALER INVOICE PRICING

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
31	0	EA	\$34,222.000000	\$0.00			\$0.00	\$0.00

07204 - Class 4 Trucks (14,001 - 16,000 lb. GVWR)
 CHASSIS, TRUCK GVWR 15,000 NEW LATEST
 TRUCK CHASSIS, 15,000 GVWR, LATEST MODEL
 INCLUDING ALL STANDARD EQUIPMENT
 CREW CAB
 CAB TO AXLE: 60"
 SINGLE AXLE
 GAS ENGINE - 300 HP MINIMUM
 DUAL REAR WHEELS
 4 WHEEL ABS BRAKES
 6 PASSENGER SEATING
 40 GALLON FUEL TANK
 DUAL AIR BAGS
 FULL HEADLINER W/ INSULATION
 AIR CONDITIONING, FACTORY INSTALLED
 RADIO, AM/FM
 ALTERNATOR, 120 AMP MIN
 TRANSMISSION, AUTOMATIC 5-SPEED
 MIRROR, EXTERIOR RIGHT & LEFT, TRUCK
 CAMPER OR RECREATIONAL TYPE

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
------	----------	-----	------------	----------------	--------------	------------	----------------	------------

RESOLUTION NO. 017-19

Emergency Repair - Northpark Lift Station Sewer Pump - PW

RESOLUTION NO. _____

WHEREAS, the Northpark lift station sewer pump is in needs of repairs; and

WHEREAS, the repairs are deemed to be an emergency by the Purchasing-Revenue Manager; and

WHEREAS, G. Nelson Electric Motors, Inc. is repairing the sewer pump; and

WHEREAS, the cost of the repairs is estimated to be \$28,700.00; and

WHEREAS, the cost of the repair will come from the Sewer Other Improvements Account;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

1. That the City Council deem the actions of the Purchasing-Revenue Manager to be correct in awarding the emergency purchase order to G. Nelson Electric Motors, Inc. for an estimated amount of \$28,700.00.
2. That the Mayor be authorized to issue a change order for unforeseen repairs not to exceed 10% of the estimated costs.
3. That the Controller be authorized to adjust the budget as necessary for these repairs.

APPROVED AND ADOPTED this the _____ day of _____ 2019.

C. E. "Eddie" Smith, Jr.

President of the City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman

City Clerk - Treasurer



G. Nelson Electric Motors, Inc
PO Box 670
Opelika, AL 36803
UNITED STATES
(334)-749-2929

<< QUOTE >>

13.5.a

PAGE 1

QUOTE DATE 1/10/2018
QUOTE NO 76029

S 005001
O ESG OPERATIONS, INC* (Alabama)
L 700 FOX TRAIL
D OPELIKA, AL 36801
T
O

S 000002
H CITY OF OPELIKA
I WASTE WATER
P
T
O

TOTAL DUE 28,700.00

SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO	ORDER DATE	SHIP NO
006		2/9/2018	1/10/2018	00084110	1/10/2019	

TERMS DESCRIPTION	CUSTOMER PO NO	SHIP VIA	SHIP DATE
-------------------	----------------	----------	-----------

NET 30

ITEM ID	TX CL	UNITS	ORDERED	SHIPPED	UNIT PRICE	EXTENS
AVX644-358/87G/C	1	EA	1.0000	0.0000	28,200.0000	28,200.00
87HP,460VOLT,600GPM 6" SEWAGE PUMP W/LIFTING HANDLE						
	0	EA	1.0000	0.0000	0.0000	
MAXIMUM IS 600 GPM @ 223 FT LIFT						
OP-FRT	1	EA	1.0000	0.0000	500.0000	500.00
OPELIKA INBOUND FREIGHT ESTIMATED						
	0	EA	1.0000	0.0000	0.0000	
PUMP HAS A 5 YEAR PRORATED WARRANTY AND 1 YEAR COMMERCIAL						

Northpark Lift Station
(WALMART)

TAXABLE	NONTAXABLE	FREIGHT	SALES TAX	MISC	TOTAL
0.00	28,700.00	0.00	0.00	0.00	28,700.00

TOTAL D Packet Pg. 52

Attachment: 2-5-19 - EMERGENCY REPAIRS RESOLUTION - CNCL PKT (017-19 : Emergency Repair - Northpark Lift Station Sewer Pump - PW)

RESOLUTION NO. 018-19

Request for a special use permit, T-Mobile at 3460 Hwy 280 East.

RESOLUTION NO. _____

WHEREAS, T-Mobile has requested to modify their equipment at an existing wireless telecommunication facility located at 3460 US Highway 280 East, Opelika, AL to provide improved wireless services essentially within the corporate limits and police jurisdiction of the City of Opelika, and;

WHEREAS, T-Mobile has complied with City's Ordinance No. 102-00 and has demonstrated the need for additional modification of this wireless facility to deliver consistently reliable services in the identified area, and;

WHEREAS, both the City and T-Mobile's customers in Opelika will benefit from improved service, and;

WHEREAS, the City's consultant, The Center for Municipal Solutions (CMS), recommends the granting of a Special Use Permit for the modification of T-Mobile's equipment at this facility located at 3460 US Highway 280 East, which consist of a 249' self-support tower;

THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama that T-Mobile is hereby granted a Special Use Permit to modify their equipment at the wireless telecommunications facility located at 3460 US Highway 280 East. As recommended by CMS, the Special Use Permit is subject to compliance with the following conditions prior to the issuance of said permit and/or a Certificate of Completion:

1. In conjunction with this modification, T-Mobile or the tower owner shall perform the modifications detailed in "Appendix D" of the submitted structural analysis, preformed by Vertical Structures Inc., dated December 31, 2018.
2. The existing base plate grout was considered in the submitted structural analysis, preformed by Vertical Structures Inc., dated December 31, 2018. Per the recommendations of the analysis, the grout must be maintained and inspected periodically and must be replaced if damaged or cracked. Refer to Crown Castle document ENG-STD-10323, Base Plate Grout.
3. To prevent warehousing of permits or authorizations and to assure the best service to the City's residents as expeditiously as possible, the facility must be built, activated and be providing service no later than one hundred eighty (180) days after the issuance of the Special Use Permit or other applicable authorization, subject to commonly accepted force majeure exceptions acceptable to the City. T-Mobile may

petition the City of an extension of this for good cause shown, but the decision whether not to grant the extension shall exclusively be the prerogative of the City.

4. T-Mobile must provide contractor information to CMS and to the City prior to request for issuance of the Building Permit.
5. Once, T-Mobile has met all the conditions of the permit and any other requirements of the City and a building permit is issued, T-Mobile must notify the City's consultant for all inspections.
6. Prior to the issuance of the Certificate of Completion, T-Mobile or the tower owner must remediate the following safety issues identified at the pre-application site visit:
 - a. Repair or replace ground on T-Mobile's generator.
 - b. Repair or replace ground on T-Mobile's ice-bridge supports.
 - c. Replace grounding bar for T-Mobile's feed lines and repair the cut grounds to the feedlines.
 - d. Repair tower lighting system.
7. At the completion of construction, T-Mobile must notify the City's consultant and provide proof that all inspections have been satisfactorily completed and the project is ready for a final on-site inspection. Upon passing the final inspection, a recommendation to issue a Certificate of Occupancy shall be made.
8. T-Mobile shall not be permitted to provide service commercially until the Certificate of Occupancy or its functional equivalent is issued or risk forfeiting its Permit.
9. The Certificate of Occupancy shall not be issued until all fees and costs associated with this Permit, including inspections, have been paid.

ADOPTED and APPROVED this _____ day of _____, 2019.

C.E. "Eddie" Smith, Jr.

President City Council

Opelika, Alabama

ATTEST:

R. G. Shuman, CMC

City Clerk-Treasurer

RESOLUTION NO. 019-19

Project Development Agreement - DAHLCO DT LLC.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING A PROJECT DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF OPELIKA, ALABAMA AND DAHLCO DT, LLC**

BE IT RESOLVED by the City Council of the City of Opelika (the “Council”), as the governing body of the City of Opelika, Alabama (the “City”) as follows:

Section 1. The City Council, upon evidence duly presented to it and considered by it, has found and determined and does hereby find, determine and declare as follows:

(a) Pursuant to the applicable laws of the State of Alabama, the City and Dahlco DT, LLC, a Georgia limited liability company (the “Developer”) have prepared that certain Project Development Agreement to be dated the date of delivery (the “Project Development Agreement”), a copy of which Agreement is attached hereto as Exhibit “A”, for the purposes referenced therein.

(b) The City is authorized to do any of the actions or undertakings referenced in Amendment 642 of the Constitution of Alabama of 1901, as amended (“Amendment 642”).

(c) The Project Area, as defined in the Project Development Agreement, is an economic development within the City consisting of commercial facilities, within the meaning of Amendment 642.

(d) Pursuant to, and for the purposes of, Amendment 642, it is necessary, desirable and in the public interest for the City to provide financial incentives to the Developer of the Project Area.

(e) The expenditure of public funds for the purposes specified in the Project Development Agreement and in Section 1(d) will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(f) The Project, as defined in the Project Development Agreement, will consist of the renovation and rehabilitation of the building and lot located at 501 2nd Avenue in the corporate limits of the City. The Building is occupied and used as a Dollar Tree Store. Pursuant to the Project Development Agreement, the Company will renovate or cause to be renovated the Project for commercial use.

(g) The Project, as defined in the Project Development Agreement, will represent a capital investment by the Developer in the minimum amount of \$505,000.00 to rehabilitate and renovate the Project. The Project will increase the City's current tax base and tax revenues. The operation of the Project will create new business and revenues for vendors, service providers and other persons engaged in business and occupations within the City.

(h) On January 29, 2019, the City caused to be published in The Opelika-Auburn News, which newspaper has the largest circulation in the City, the notice required by Amendment 642, a true and correct copy of which notice is attached hereto as Exhibit "B". The Council certifies:

(1) The information set forth in said notice is true and correct.

(2) The publication of said notice is hereby ratified and confirmed.

(i) On February 5, 2019, the Council conducted a public hearing during the meeting referenced in said notice with respect to the matters therein contained.

(j) The total indebtedness of the City chargeable against the debt limitation for the City prescribed in Section 224 of the Constitution of Alabama of 1901, as amended, is not more than twenty (20%) percent of said assessed valuation of taxable property in the City.

Section 2. The Council does hereby approve, adopt, authorize, direct, ratify and confirm:

(a) the agreements, covenants and undertakings of the City as set forth in the Project Development Agreement.

(b) the terms and provisions of the Project Development Agreement, in substantially the form set forth therein, with such changes thereto (by addition or deletion), as the Mayor shall approve, which approval shall be conclusively evidenced by execution and delivery of the Project Development Agreement.

Section 3. The Mayor is hereby authorized and directed to execute and deliver the Project Development Agreement for and on behalf and in the name of the City. The Clerk is hereby authorized and directed to affix the official seal of the City to the Project Development Agreement and to attest the same.

Section 4. The Mayor and the officers of the City are each hereby authorized and directed to take all such actions, and execute, deliver and perform all such agreements, documents, instruments, notices and petitions and proceedings, with respect to the Project Development Agreement, as the Mayor and such officers shall determine to be necessary or desirable to carry out the provisions of this ordinance or the Project Development Agreement or duly and punctually observe and perform all agreements and obligations of the City under the Project Development Agreement.

Section 5. All prior actions taken, and agreements, documents or notices executed and delivered, by the Mayor or any officer or member of the City Council or other representative of the City, in connection with the agreements, covenants, and undertakings of the City are hereby approved, or in connection with the preparation of the Project Development Agreement and the terms and provisions thereof, are hereby approved, ratified and confirmed.

Section 6. All ordinances, resolutions, orders or parts thereof, of the City Council in conflict, or inconsistent with any provision of this ordinance are, to the extent of such conflict or inconsistency are repealed.

Section 7. This ordinance shall take effect upon adoption and publication as required by law.

ADOPTED AND APPROVED by the City Council of the City of Opelika, Alabama, on this the ____ day of February, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

RESOLUTION NO. 020-19

Support of local control and H.R. 530 or similar legislation.

RESOLUTION NO.

**RESOLUTION IN SUPPORT OF PROTECTING LOCAL CONTROL OVER
PUBLIC STREETS AND PUBLIC ASSETS AND A CALL ON CONGRESS
TO REAFFIRM SUCH LOCAL CONTROL BY REVERSING RECENT FCC
ACTIONS RELATED TO WIRELESS FACILITIES BY ENACTING
H.R. 530 OR SIMILAR LEGISLATION**

WHEREAS, local governments have long been the stewards of local public streets and public assets (such as street lighting) vital to ensure the free flow people and goods and to maintain vibrant communities; and

WHEREAS, local governments have long advocated for universal access to reliable, high-speed broadband services, as these services are critical for the delivery of education, economic development, employment, and a variety of essential services necessary for success and progress in the 21st century; and

WHEREAS, local governments have been leaders in developing innovative solutions for ensuring reliable, high-speed broadband wireline and wireless services are widely available in their communities through their management of public streets and of other public assets in a manner that balances the competing interests and needs of various constituents; and

WHEREAS, by means of orders issued on August 2, 2018 and September 26, 2018, the Federal Communications Commission took unprecedented, sweeping action to prevent local governments from effectively managing public assets and to severely compromise their ability to manage the public streets effectively and equitably, taking into account considerations for public safety, public utility services such as water, sewer, and electricity, the travelling public,

environmental concerns, and economic development; and further effectively requires local taxpayers to subsidize use of public streets and other public assets by the wireless industry; and

WHEREAS, the orders also adversely affect the ability of Opelika Power Services to deliver services safely and cost-effectively; and

WHEREAS Representative Anna Eshoo has introduced H.R. 530, legislation to overturn the FCC's actions of August 2 and September 26, 2018.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Opelika, Alabama, thanks Congresswoman Eshoo for her leadership and calls on Congress to enact, and President Trump to sign H.R. 530, or similar legislation to invalidate the recent actions taken by the Federal Communications Commission.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to Representative Mike Rogers and Senators Richard Shelby and Doug Jones with a request on behalf of the citizens of the City of Opelika that they support H.R. 530 or similar legislation.

ADOPTED AND APPROVED this the _____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL
OF THE CITY OF OPELIKA

ATTEST:

CITY CLERK

RESOLUTION NO. 021-19

Special appropriation to Opelika City Schools - Bicentennial program.**RESOLUTION NO. _____**

WHEREAS, Mayor Fuller and the Opelika City Council appreciates and fully supports the various activities and programs of the Opelika School System, and

WHEREAS, the Carver Primary School and the West Forest Intermediate School has been selected to participate in the Bicentennial School program; and

WHEREAS, President pro-tem Patricia Jones - Ward 1 and Councilman Dozier Smith T - Ward 3 have agreed to appropriate \$2,000.00 each from their discretionary funds.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama, a municipal corporation, as follows:

1. That the City Council approves said request to provide a total of \$4,000.00 to the Opelika School System to assist the Carver Primary School and the West Forest Intermediate School in participating in the Bicentennial School program.
2. That City Council members wish to provide \$2000.00 each from their discretionary funds as detailed below with said funds to be used as explained in No. 1 above:

Patricia Jones	Ward 1	Reserve fund.	\$2000.00
Dozier Smith T	Ward 3	Reserve fund.	\$2000.00

3. That the City Council hereby declares and determines that the expenditure of these public funds will serve a public purpose for the City of Opelika.
4. The Mayor and the Controller is hereby authorized and directed to make a budget adjustment for \$4,000.00 from the various accounts/funds as detailed in No. 2. above to the appropriate account(s).

5. The City Clerk-Treasurer is hereby authorized and directed to prepare the appropriate documents so that a check for \$4,000.00 can be prepared payable to Opelika City Schools and earmarked for the Carver/West Forest Bicentennial School program.

APPROVED and ADOPTED this the ____ day of _____, 2019.

C. E. "Eddie" Smith, Jr.
President of the City Council
City of Opelika, Alabama

Attest:

Robert G. Shuman, CMC
City Clerk - Treasurer

RESOLUTION NO. 022-19

Special appropriation to Opelika City Schools - speaker program.

RESOLUTION NO. _____

WHEREAS, Mayor Fuller and the Opelika City Council appreciates and fully supports the various activities and programs of the Opelika School System, and

WHEREAS, Mike Lutzenkirchen with the Lutzie 43 Foundation on March 26, 2019, will be speaking to the 10th, 11th and 12th grade students about the dangers of drinking and driving; and

WHEREAS, President Eddie Smith Ward 4, Councilwoman Tiffany Pitts Ward 2 and Councilman David Canon Ward 5 have agreed to appropriate \$657.00 each from their discretionary funds.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama, a municipal corporation, as follows:

1. That the City Council approves said request to provide a total of \$1,971.00 to the Opelika School System to assist with the cost associated with providing the speaker, Mike Lutzenkirchen.
2. That City Council members wish to provide \$657.00 each from their discretionary funds as detailed below with said funds to be used as explained in No. 1 above:

Tiffany Pitts	Ward 2	Reserve fund	\$657.00
Eddie Smith	Ward 4	Reserve fund	\$657.00
David Canon	Ward 5	Reserve fund	\$657.00

3. That the City Council hereby declares and determines that the expenditure of these public funds will serve a public purpose for the City of Opelika.
4. The Mayor and the Controller is hereby authorized and directed to make a budget adjustment for \$1,971.00 from the various accounts/funds as detailed in No. 2. above to the appropriate account(s).

5. The City Clerk-Treasurer is hereby authorized and directed to prepare the appropriate documents so that a check for \$1,971.00 can be prepared payable to Opelika City Schools and earmarked for the speaking program by Mike Lutzenkirchen.

APPROVED and ADOPTED this the ____ day of _____, 2019.

C. E. "Eddie" Smith, Jr.

President of the City Council

City of Opelika, Alabama

Attest:

Robert G. Shuman, CMC

City Clerk - Treasurer

RESOLUTION NO. 023-19

Agreement, Police services with EAMC.

RESOLUTION NO. _____

**RESOLUTION APPROVING SUPPLEMENTAL LAW ENFORCEMENT SERVICES
AGREEMENT WITH THE EAST ALABAMA HEALTH CARE AUTHORITY,
D/B/A EAST ALABAMA MEDICAL CENTER**

WHEREAS, The East Alabama Health Care Authority, d/b/a East Alabama Medical Center (hereinafter referred to as the “Hospital”) is desirous of contracting with the City of Opelika (hereinafter referred to as the “City”) for the performance of the supplemental law enforcement services by the Opelika Police Department; and

WHEREAS, a proposed Supplemental Law Enforcement Services Agreement (the “Agreement”) has been prepared and submitted to the City Council for approval and the City Council has determined that it is now in the best interest of the City and its citizens to approve said Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama (the “City”), as follows:

1. That the proposed Supplemental Law Enforcement Services Agreement to be entered into between the City and the Hospital, a copy of which is attached hereto and marked as Exhibit “A”, be and the same is hereby accepted, approved, authorized, ratified and confirmed in the form substantially submitted to the City Council with such changes thereto (by addition, deletion or substitution) as the Mayor shall approve, which approval shall be conclusively evidenced by the execution and delivery of said Agreement.

2. That the Mayor is hereby authorized and directed to execute and deliver said Agreement in the name and on behalf of the City. The City Clerk is hereby authorized and directed to attest said Agreement and affix the seal of the City thereto.

3. That the officers of the City and any person or persons designated and authorized by any officers of the City to act in the name and on behalf of the City, or any one or more of them, are authorized to do or cause to be done or performed in the name and on behalf of the City such other acts and to execute and deliver or cause to be executed and delivered in the name and on behalf of the City such other notices, certificates, assurances or other instruments or other communications under the seal of the City or otherwise, as they, or any of them deem necessary or advisable or appropriate in order to carry into effect the intent of the provisions of this Resolution and the attached Agreement.

4. That this Resolution shall take effect upon its passage and adoption by the City Council.

ADOPTED AND APPROVED this the _____ day of _____, 2019.

 PRESIDENT OF THE CITY COUNCIL OF THE
 CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

SUPPLEMENTAL LAW ENFORCEMENT SERVICES AGREEMENT

THIS SUPPLEMENTAL LAW ENFORCEMENT SERVICES AGREEMENT

(hereinafter referred to as the “Agreement”) is made and entered into this the ____ day of _____, 2019, by and between the City of Opelika, Alabama, a municipal corporation (hereinafter referred to as the “City”) and The East Alabama Health Care Authority, d/b/a East Alabama Medical Center, an Alabama non-profit company (hereinafter referred to as the “Hospital”). The City and the Hospital collectively will hereinafter be referred to as the “Parties”.

RECITALS

WHEREAS, the Hospital is desirous of contracting with the City for the performance of law enforcement services by the Opelika Police Department (hereinafter referred to as “OPD”); and

WHEREAS, the City is agreeable to rendering such law enforcement services on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

Section 1. Scope of Services Provided by City.

1.1 The City agrees through OPD to station at the premises of the Hospital a fully sworn peace officer (hereinafter police officer) for the purpose of providing police-related services during the term of this Agreement. The assigned police officer shall perform these services twenty-four (24) hours per day, 365 days per year. It is contemplated that one (1) police officer will be assigned to the premises of the Hospital at all times during the term of the

Contract. The Chief of Police or another designated scheduling officer will assign the police officer(s) workdays and shifts. Sworn officers shall at all times remain part of OPD, subject to, and in direct relationship with the City's chain of command and under OPD's rules, regulations and standard operating procedures.

1.2 At all times during the term of this Agreement, the City shall provide fully sworn police officers who have been trained and certified with standards mandated by the Alabama Peace Officers Standards and Training Commission ("APOSTC"). The City shall be responsible for maintaining the certification and training of those assigned police officers in compliance with APOSTC standards.

1.3 Assigned police officers will provide law enforcement services in and around the hospital. The assigned police officers will primarily be stationed in the emergency room during the evening hours. During all other times and/or when there is little activity in the emergency room, assigned police officers will patrol the public lobbies, patient care areas, intensive care units, hallways, parking lots and other highly visible areas throughout the facility. The assigned police officers will assist in potential volatile situations at the request of the Security Director of Manager.

1.4 The hours of duty performed by OPD employees under the Agreement shall be twenty-four (24) hours each day of the week, Monday through Sunday. One OPD officer shall work each twelve-hour shift each day from 6 a.m. to 6 p.m. and 6 p.m. to 6 a.m.

1.5 All City employees who work in conjunction with OPD pursuant to this Agreement shall remain employees of the City and shall not have any claim or right to employment, civil service protection, salary or benefits or claims of any kind from the Hospital based on this Agreement. No City employee shall become an employee of the Hospital.

1.6 The Parties agree that the Opelika Police Chief shall have the sole discretion to order police officers and units to another location other than the Hospital should, in the Police Chief's opinion, such re-assignment be necessary to protect the health, safety and welfare of citizens of Opelika.

1.7 The sworn personnel performing such law enforcement services as herein provided shall be in the prescribed uniform of the OPD during the performance of their duties. Similarly, patrol vehicles used by officers assigned under the provision of services of this Agreement shall bear the markings and insignia of the OPD. The City agrees that it will provide assigned police officers with such basic equipment as may be necessary and reasonable in order to carry out the duties anticipated under this Agreement.

1.8 The City agrees that the Hospital will have access to all public information, in conformance with the Alabama Public Records Act, which in any way deals with criminal activity. It is further agreed that the City will provide to the Hospital copies of such incident reports, arrest reports or other public documents which document or substantiate actual or potential criminal activity in, or connected with, the Hospital campus. This information will be provided by the City on a regular basis.

1.9 The City will require all law enforcement officers to complete a daily log provided by the Hospital, at the conclusion of each shift and forward the original report to the Hospital's designee. This report will include, but not be limited to, data as follows:

- a. Hours worked
- b. Calls/requests for service.
- c. Suspicious persons—name and description
- d. Arrest/Citations

- e. Drug paraphernalia confiscated/found
- f. Property recovered/stolen
- g. Conflict resolution; e.g. apparent or actual conflict between two or more persons.
- h. Weapons violations/seized.

1.10 Assigned OPD officers will communicate problems or issues with the charge nurse in emergency room or lead security representative (whichever is more appropriate, based on the situation).

1.11 Assigned OPD officers will be expected to view the New Contract Orientation video, which is modeled after the Forensics Officer Training. This video will include core competencies and HIPAA information. In addition, this video outlines the EAMC customer service expectations, core competencies and emergency codes and will allow police officers to gain a better understanding of the Hospital's patient and family-centered culture and prepare them to appropriately react if they encounter an emergency.

1.12 Assigned OPD officers will not be required to complete safety registry reports due to the lack of access to a computer. Security or emergency room staff (whichever is more appropriate) will complete safety registry reports based on the situation.

1.13 Assigned OPD personnel will oversee presence accountability with the assistance of the EAMC Security Director and Manager. In order for the Security Director and Manager to be able to monitor daily activities, a report, similar to the one used by Security, will be designed with OPD shift report as the title and will require written updates of activities on a daily basis. For EAMC security record-keeping purposes, this form will also require a brief of any situation that requires OPD officers to directly encounter a problematic patient, visitor or employee.

1.14 Except as otherwise specifically set forth in this Agreement, services rendered by assigned police officers shall encompass those duties and functions of the type customarily rendered by Opelika police officers under the statutes of the State of Alabama and under City municipal codes. OPD officers will conduct investigations of theft, trespassing, domestic violence, illegal drug issues, etc., while on duty at the Hospital.

Section 2. Term of Agreement.

2.1 This Agreement shall continue in effect for a period of one (1) year from the Effective Date (the “Initial Term”) unless earlier terminated as provided herein. Thereafter, this Agreement shall automatically renew for additional one (1) year terms (the “Renewal Terms”) at the end of the Initial Term or any Renewal Term, unless earlier terminated as provided herein. The Initial Term and any Renewal Term are collectively referred to herein as the “Term”.

Section 3. Right of Termination.

3.1 Either party may terminate this Agreement with or without cause by giving not less than thirty (30) calendar days’ written notice to the other party.

3.2 Notwithstanding the foregoing, the Opelika Police Chief may cancel the provision of services with only ten (10) calendar days’ advance notice, or less, in the event of exigent circumstances, if the Police Chief concludes that there are insufficient personnel to provide the agreed upon services and still perform other law enforcement duties as required by law.

3.3 In the event of a termination, each Party shall fully discharge all obligations owed to the other Party accruing prior to the date of such termination, and, except as otherwise provided herein, each Party shall be released from all obligations, which would otherwise accrue subsequent to the date of termination.

Section 4. Insurance.

4.1 The City shall have and maintain at all times during the term of this Agreement worker's compensation insurance as required by law, for all City personnel providing law enforcement services to the Hospital.

4.2 The Hospital shall have and maintain, during the term of this Agreement, general commercial liability insurance that provides protection from any and all claims for bodily and personal injury, liability and property damage, which may arise, from operation or performance under this Agreement. The amount of insurance coverage shall not be less than \$2,000,000 per occurrence. Any insurance requirements herein may be satisfied by Hospital's program of self-insurance.

Section 5. Compensation.

For and in consideration of the rendition of the supplemental law enforcement services to be performed by the City for the Hospital under this Agreement, the Hospital shall pay the City for such services the sum of \$250,000 payable in monthly installments of \$20,833.33.

Section 6. Payment Procedures.

6.1 The City shall invoice the Hospital monthly for the required monthly installment as provided in Section 5.

6.2 The Hospital shall pay the City for all undisputed amounts within twenty (20) days after date of said invoice.

Section 7. Duties and Obligations of the Hospital

7.1 The Hospital will make available to assigned City personnel the current "Ebola Hut" as a police office.

7.2 The Director and Manager of Support Services will serve as the Hospital's liaison with assigned police officers.

7.3 The Hospital's Support Services Manager shall be responsible for arranging a basic orientation to the Hospital and for assuring that police officers have access to the Hospital's security office.

7.4 The Hospital will provide all assigned police officers a locker and adequate break room.

7.5 The Hospital will provide training to all assigned police officers regarding response protocols that may involve acts of violence, an active shooter, infant abduction, and/or crimes such as patient/visitor thefts.

Section 8. City's Status As Independent Contractor.

The City shall be considered an independent contractor for all purposes under this Agreement, including performance of services. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership or employer/employee relationship between the Parties. The City retains the sole right and authority to recruit, hire, promote, discharge, determine rates of pay for, establish the terms and conditions of employment of and/or to direct and control the manner in which its employees and police officers discharge their professional and work duties. The City retains the sole right and authority to decide and direct which police officers it shall assign to the premises of the Hospital. The City shall be solely responsible for all employee wages, timesheets, payroll deductions, federal and state taxes, unemployment compensation, Social Security taxes and benefits of its employees and police officers.

Section 9. Entire Agreement.

This Agreement represents the entire understanding between the City and the Hospital as to those matters contained herein. No prior oral or written understanding shall be of any force or

effect with respect to those matters covered hereunder. This Agreement may be modified only by an agreement in writing signed by both the City and the Hospital.

Section 10. Binding on Successors.

This Agreement shall bind and inure to the benefit of the respective successors and assigns of each of the Parties.

Section 11. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

Section 12. Notices.

Any notice which is required or may be given under this Agreement shall be in writing and shall be provided by certified mail, return receipt requested, at the following address:

City of Opelika
Attn: Mayor
P.O. Box 390
Opelika, AL 36803

The East Alabama Health Care Authority
Attn: President
2000 Pepperell Parkway
Opelika, AL 36801

Section 13. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which taken together, shall constitute one instrument.

Section 14. No Presumption Re: Drafter

The Parties acknowledge and agree that the terms of this Agreement have been negotiated and discussed between the Parties and their attorneys, and this Agreement reflects their mutual understanding regarding the same. The cause of the nature of such negotiations and discussions, it would be inappropriate to deem any Party to be the drafter of this Agreement and therefore no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

IN WITNESS WHEREOF, the City and the Hospital have caused this Agreement to be executed on their behalf by their duly authorized representatives.

CITY OF OPELIKA, ALABAMA

By: _____
ITS MAYOR

ATTEST:

CITY CLERK

THE EAST ALABAMA HEALTH
CARE AUTHORITY
d/b/a EAST ALABAMA MEDICAL CENTER

By: _____
EXECUTIVE V.P. / CFO

ATTEST:

ITS SECRETARY

Attachment: Agreement, OPD, police services with EAMC, 1-15-19 (023-19 : Law Enf Agreement W/ EAMC)

ORDINANCE NO. (ID # 3249)

Amend Text Zoning Ordinance Section 7.3 C Use Categories (Matrix Table) - 1st Reading.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE TEXT OF THE ZONING

ORDINANCE OF THE CITY OF OPELIKA

BE IT ORDAINED by the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”) as follows:

Section 1. Amendment. That Ordinance 124-91 entitled “Zoning Ordinance of the City of Opelika, Alabama”, adopted on September 17, 1991, as amended, is further amended in the following respect:

That Section 7.3, “USES”, as amended, is further amended so that the use category of Body Art (Tattoo & Piercing) as shown in the matrix table shall be revised by changing the use in the C-2 zoning district from Not Allowed (N) to Conditional Use (C):

Uses:

Districts:

					R-1	R-1A	R-2	R-3	R-4	R-4M	R-5	R-5M	C-1	C-2	C-3
					M-1	M-2	I-1	GC-P	GC-S						
Body Art (Tattoo & Piercing)					N	N	N	N	N	N	N	N	N	C	C
A	N	N	N	N											

Section 2. Repeal of Conflicting Ordinances. Any ordinance or part thereof in conflict with provisions of this Ordinance be and the same are hereby repealed.

Section 3. Effective Date. This Ordinance shall become effective upon its adoption, approval and publication as required by law.

Section 4. Publication. This Ordinance shall be published in a newspaper of general circulation in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____ day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. (ID # 3264)

Amend City Code, Chapter 4 Animal Control - OES - 2nd Reading.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 4 OF THE CODE OF ORDINANCES OF THE CITY OF OPELIKA, ALABAMA, REPEALING CHAPTER 4 ENTITLED “ANIMALS AND FOWL” AND SUBSTITUTING IN LIEU THEREOF A NEW CHAPTER 4 ENTITLED “ANIMAL CONTROL”; ESTABLISHING A PURPOSE, ADOPTING ANIMAL CONTROL REGULATIONS; PROVIDING PENALTIES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED by the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”) as follows:

Section 1. **Replacement of Chapter 4 of the Code of Ordinances, adopting Sections 4-1 through 4-189.** That current Chapter 4 of the *Code of Ordinances* of the City of Opelika entitled “Animals and Fowl” is hereby repealed in its entirety and replaced with new Chapter 4 entitled “Animal Control”, consisting of Sections 4-1 through 4-189, which chapter shall read as follows:

Section 4 – Animal Control

Article I -- In General.

This chapter shall be known as the City of Opelika Animal Control Ordinance.

Sec. 4-1 Purpose.

The purpose of the purpose of this chapter is to promote the public health, safety and general welfare of the citizens of the City of Opelika and to ensure the humane treatment of animals by regulating the care and control of animals within the City.

Sec. 4-2 Definitions.

The following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

- (a) “*Animal*” means any live creature, both domestic and wild, except humans. “Animal” includes, without limitation, dogs, cats, fowl, livestock, reptiles, pets and all mammals except humans.
- (b) “*Animal Control Officer*” means any employee of the City Public Works Animal Control Division who performs animal control functions or any person

who is employed by an entity under agreement or contract with a county or municipality to perform animal control functions or to enforce this chapter.

(c) “*Animal-at-Large*” means any animal that is not controlled by adequate leash or tether, or otherwise under the owner’s physical control, as defined in this chapter, while the animal is off the owner’s premises. No animal shall be deemed “running-at-large” when said animal is upon the property of the owner.

(d) “*At-Large*” means that the animal is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.

(e) “*Animal Shelter*” means any facility maintained by the City and any facility maintained by a non-profit humane organization or municipal agency as approved by the City Council for the confinement, care, control or disposition of animals that come into its custody.

(f) “*Attack*” means aggressive physical contact by a dog.

(g) “*ACO*” means Animal Control Officer, or any person designated by him.

(h) “*Bite*” means the puncturing or bruising of the skin by teeth of an animal.

(i) “*Bitten*” means seized with the teeth or claws, so that the skin of the person seized or gripped has been wounded or pierced, resulting in physical injury.

(j) “*Cat*” means any member of the domestic feline family.

(k) “*Dangerous Dog*” means a dog, regardless of breed, that has bitten, attacked or caused physical injury, serious physical injury or death to a person, without justification, except a dog that is a police animal as defined by Section 13A-11-260, *Code of Alabama*, used by law enforcement officials for legitimate law enforcement purposes.

The definition of “*Dangerous Animals*” shall not include any animal which acted aggressively if the actual or intended victim has made an unlawful entry into the dwelling of the owner, nor shall such definition include any guard dog, which is properly registered under Section 4-42 of this chapter and maintained in compliance with such section.

(l) “*Division*” means the Animal Control Division of the Environmental Services Department of the City.

(m) “*Dog*” means all members of the canine family, including dog hybrids.

- (n) “*Director*” means the Director of the Environmental Services Department.
- (o) “*Doghouse*” means a structure consisting of a ceiling, three (3) walls and floor, soundly constructed and in cold weather, lined with dry, clean bedding.
- (p) “*Enclosure*” means the entire housed or fenced area where an animal is confined and also an area where an animal is tied, chained or tethered.
- (q) “*Exotic*” means an animal which would ordinarily be confined to a zoo, or one which would ordinarily be found in a wilderness of this or any other country; or a species of animal not indigenous to the United States or to North America or which causes zoonotic diseases or one which otherwise causes a reasonable person to be fearful of significant destruction of property or of bodily harm, the latter including but not limited to raccoons, bobcats, coyotes, wolves, hybrid wolves, Vietnamese pot-bellied pigs, monkeys and other such animals. Wild or exotic animals specifically include all species of reptiles but do not include animals of a species customarily used in the state as ordinary household pets; animals of a species customarily used in the state as domestic farm animals; fish confined in an aquarium, birds or insects.
- (r) “*Fowl*” means a domestic bird used in the market or household for food consumption, such as a chicken, duck, goose, guinea, peafowl, turkey, pheasant, pigeon or other avian species.
- (s) “*Guard Dog*” means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog.
- (t) “*Impounded*” means taken into custody by an animal control officer or law enforcement officer.
- (u) “*Owner*” means a person, firm, corporation or organization having a right of property in an animal, or who keeps or harbors an animal, or who has an animal in his or her care, or acts as the custodian of an animal, or who permits an animal to remain on or about any premises occupied by him or her.
- (v) “*Pen*” means any enclosure for housing and feeding small animals.
- (w) “*Person In Charge*” means any person in whose charge the animal is being kept, and all the responsible adult members of the household in which an animal is kept or allowed or suffered to remain.

(x) “*Physical Control*” means the immediate, continuous, physical control of an animal at all times such as means of a leash, cord or appropriate chain of such strength to restrain the same; or in the case of trained animals, “*Physical Control*” shall also include visual signals or oral commands by the owner of a dog which responds to such signals or commands, if said dog is at all times within unobstructed sight of the dog’s owner.

(y) “*Proper Enclosure of a Dangerous Dog*” means an enclosure for the confinement of a dog that has been declared dangerous that is suitable to prevent the entry of the general public and that does all of the following:

- (1) Is capable of being locked with a key or combination lock when the dog is within the structure.
- (2) Has secure sides and a secure top attached at all sides. All four sides of the fence or pen must be sunk at least two feet into the ground or the fence or pen must be built over a concrete pad to prevent the dog from digging out.
- (3) Provide adequate ventilation and protection from the elements.
- (4) Exhibit a sign conspicuously posted upon the pen or the structure containing the following: “Dangerous Dog—No Trespassing”.
- (5) The enclosure shall be constructed to allow the dog to stand normally and without restriction and shall be not less than four times the length of the dog and two times the width of the dog.
- (6) The enclosure shall be locked at all times while the dog is inside the enclosure.

(z) “*Large Animal*” means any horse, mule, cow, pig, hog, sheep or other animal weighing twenty-five (25) pounds or more, except members of the canine family.

(aa) “*Person In Charge*” means any person in whose charge the animal is being kept, and all responsible adult members of the household in which an animal is kept or allowed or suffered to remain.

(bb) “*Physical Injury*” means an injury defined in Section 13A-1-2(12), *Code of Alabama*.

(cc) “*Public Nuisance Animal*” means any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life

or property. The term “*Public Nuisance Animal*” shall include but not be limited to:

- (1) Any animal that is repeatedly found running at large.
- (2) Any dog or cat in any section of a public or controlled recreation area unless the dog or cat is controlled by a leash or similar physical restraint.
- (3) Any animal that makes disturbing noises, including but not limited to, continued or repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (4) Any animal that causes fouling of the air by obnoxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (5) Any animal that is in heat and that is not confined so as to prevent attraction or contact with other animals.
- (6) Any animal whether or not on the property of its owner, that, without provocation, molests, attacks or otherwise interferes with the freedom of movement of persons in a public right-of-way.
- (7) Any animal that chases motor vehicles in a public right-of-way.
- (8) Any animal that attacks domestic animals.
- (9) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.
- (10) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals contained at a single residence or the inadequacy of facilities.

(dd) “*Serious Physical Injury*” means an injury as defined in Section 13A-1-2, *Code of Alabama*.

(ee) “*Under Restraint*” means that an animal is secured by a leash led under the control of a person physically capable of restraining the animal and obedient to the person’s commands, or securely enclosed within the real property limits of the owner’s premises.

Sec. 4-3 Nuisances.

It shall be unlawful for any person to keep any animal on any property located within the corporate limits of the City when the keeping of such animal constitutes a public nuisance or menace to public health or safety.

Sec. 4-4 Keeping of Exotic Animals.

It shall be unlawful for any person to own, harbor or permit at large any exotic animal without the written permission of an Animal Control Officer. Such permission shall be given only if it is demonstrated to the satisfaction of the Animal Control Officer that the animals will not constitute a threat to public health or safety.

Sec. 4-5 Abandoning Animals Prohibited.

It shall be unlawful for any person to transport any domestic animal or any exotic animal, including reptiles, into the City and subsequently abandon or set loose the animal with intent of avoiding the responsibility for its custody and care. Further, it shall be unlawful for any person to transport any domestic animal or any exotic animal, including reptiles not native to the climate of North America, out of the City limits and subsequently abandon or set loose any animal with the intent of avoiding the responsibility for its custody and care.

Sec. 4-6 Caring For Animals.

- (a) It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with sufficient wholesome and nutritious food, potable water, veterinary care when needed to prevent suffering, humane care and treatment or to unnecessarily expose any animal in hot, stormy, cold or inclement weather.
- (b) No owner or custodian of any animal shall willfully abandon such animal on any road, street or highway or public place or on private property when not in the care of another person.
- (c) It shall be unlawful for the owner or custodian of any animal to fail to provide it with humane shelter from heat, cold and wind or fail to give it food and water adequate to keep the animal in good health and comfort. Doghouses and animal keeps shall consist of a ceiling, three walls and floor; be soundly constructed; and, in cold weather, lined with dry, clean bedding.
- (d) It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with veterinary care when needed to prevent parasites, disease, suffering and to keep the animal in healthy condition.

Sec. 4-7 Sanitation.

- (a) No owner or custodian of any animal shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's or custodian's property or to abutting property of others.
- (b) No owner or custodian of any animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.
- (c) No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk or public way, or public park, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal.

Sec. 4-8 Cruelty to Animals Prohibited.

- (a) It shall be unlawful if a person in charge:
 - (1) Fails or refuses to provide a source of water or source of food which is adequate to keep the animal properly nourished. The source of water must also be of an adequate amount given the size of the animal and the environment in which the animal is kept to prevent the animal from overheating or dehydrating.
 - (2) Overrides, overworks, overloads or overdrives the animal causing physical pain or suffering.
 - (3) Beats, tortures, injures, torments, poisons, deprives of necessary sustenance or mutilates any animal, causing physical pain, suffering or death.
 - (4) Fails to provide adequate medical treatment for any sick, diseased or injured animal or any animal suffering from any type of parasitic infestation.
 - (5) Keeps any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fails to maintain the animal in a condition of good order or cleanliness which increases the probability of the transmission of disease.
 - (6) Teases, molests, baits or harasses any animal.

- (7) Sets any rabbit, raccoon, fox or other animal loose for the purpose of chasing or hunting the animal or conducting a race using such animal.
- (8) Promotes, permits, stages, holds, manages, conducts, carries on or attends any game, exhibition, contest, fight or contest involving one or more animals or involving animals and humans.
- (9) Fails to provide adequate shelter for an animal, wherein the animal can be protected from the extremes of weather (heat, cold, rain, wind, sun, etc.) provided the person is the owner or person in charge of such animal.
- (10) Transports or carries any animal in a motor vehicle unless the animal is safely enclosed within the vehicle or protected by a cab, container, cage, cross-tether or other device to prevent the animal from falling out of or being thrown from the vehicle.
- (11) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or welfare of the animal because of the temperature, lack of food or water or such other conditions as may reasonably be expected to cause suffering, disability or death.
- (12) Restrains an animal with a leash or restraining device that is not less than 10 feet long, unless walking or training such animal and such restraint must be fixed in such a manner to allow the animal free use of the restraint without being tangled. The restraint must also be an appropriate weight for the animal and must be affixed to a proper tethering collar with a swivel attachment. An allowable tethering collar shall be a tethering collar which is a properly fitted to the dog made of suitable material other than metal that does not cause damage to the dog's skin, and affixes the dog to a fixed point, tether or runner.
- (13) Maintains any reptile in a manner that is deleterious to its health and wellbeing. Poor husbandry, poor nutrition and/or lack of proper preventative care are all considered cruel and deleterious welfare of the reptile and are unlawful.
- (14) Sets loose any reptile that is not native to the climate of North America.

(b) Any person who unlawfully or maliciously kills, disables, disfigures or injures any animal shall be guilty of a misdemeanor; but this subsection shall not be construed as prohibiting the dehorning of cattle.

(c) The violation of any provision of this section shall constitute a misdemeanor and shall result in the removal of the animal when the Director or an Animal Control Officer determines that such removal is necessary for the safety of the animal.

Sec. 4-9 Hoarders.

(a) It shall be unlawful for any person to collect animals and fail to provide them with humane/adequate care; to collect dead animals that are not properly disposed of or to collect, house or harbor animals in filthy or unsanitary conditions that constitute a health hazard to the animals being kept and/or animals or residents of adjacent property.

(b) Any animal taken into custody under this section may be taken to a veterinarian for immediate treatment, and any expenses incurred for veterinary treatment shall be the responsibility of the owner or custodian charged with the care, custody and control of said animal.

(c) Any animal taken into custody under this section may be humanely disposed of at the discretion of an Animal Control Officer seven (7) days after the animal is taken into custody. Any person claiming interest in any animal in custody under this section may prevent disposition of the animal by posting a bond or security in an amount sufficient for the animal's care and keeping for at least thirty (30) days, inclusive of the date on which the animal was taken into custody. Even if a bond or security is posted, an Animal Control Officer may humanely dispose of the animal at the end of the time for which expenses of care and keeping are covered by the bond or security, unless there is a court order prohibiting the disposition. The court is authorized to require a bond in the amount necessary to protect an Animal Control Officer from any cost of the care, keeping or disposal of the animal(s). The authority taking custody of an animal(s) under this section shall give notice of this section by posting a copy of it at the place where the animal(s) is taken into custody or by delivering it to a person residing on the property.

(d) The court making a sentencing determination for a person convicted under this section may order the person convicted to surrender custody and forfeit the animals whose treatment was the basis of the conviction. Ownership of the animals shall then be given to an animal shelter or veterinarian. The court may prohibit the person convicted from having custody of any animals for any period of time the court determines to be reasonable or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of animals.

Sec. 4-10 Animals In Vehicles.

(a) No vehicle owner, passenger or operator shall place or confine an animal or allow it to be placed or confined or to remain in an unattended vehicle without sufficient ventilation or under conditions or for such period of time as may reasonably be expected to endanger the health or well-being of such animal due to heat, lack of water or such other circumstances as may be expected to cause suffering, disability or death. When the conditions inside a parked motor vehicle constitute an imminent threat to the animal's health or safety, any animal left in a parked vehicle may be removed from that vehicle by an Animal Control Officer or any law enforcement officer. If forcible entry into a vehicle is necessary to rescue an animal, an ACO or law enforcement officer shall be immune from civil liability for property damage provided such person had a good faith belief that the animal was in imminent danger of suffering bodily harm and used no more force than necessary to remove the animal.

(b) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purposes.

Sec. 4-14 Keeping Noisy Animals and Fowl.

It shall be unlawful within the corporate limits of the City to confine, harbor or keep on a lot, place or premises, any animal or fowl which habitually, continuously or intermittently makes or emits sounds or noises of such volume, nature and extent as to be a public nuisance by reason of being obnoxious or annoying to persons in that neighborhood.

Sec. 4-15 Sanitary Conditions of Enclosures.

All places and premises in the City where horses, mules, cattle, rabbits, dogs or other animals or fowl are kept, harbored or confined shall be kept clean, sanitary and free of obnoxious odors and shall be maintained in such a manner as will effectively prevent the reproduction or promulgation in or about such places or premises of flies; and the presence on or about such places or premises of live larvae of flies under conditions which permit or favor growth or development shall be prima facie evidence of the reproduction or promulgation of flies and of the keeping or maintaining of such places or premises used for such purposes in violation of the provisions hereof.

Sec. 4-16 Humane Traps.

(a) The Director or any Animal Control Officer is authorized, in order to apprehend animals in violation of this chapter, which are otherwise difficult to apprehend, to use traps humanely designed to capture such animals by placing the traps upon any public property of the City, or upon the right-of-way of any public street or highway.

(b) It shall be the duty of the Animal Control Officer to check such traps daily and remove captured animals to an animal shelter or veterinarian where they shall be disposed of as otherwise provided in this chapter.

(c) It shall be unlawful for any person to molest or tamper with any such trap, or to remove any animal captured in any such trap, or to interfere with the Director or Animal Control Officer in setting or servicing any such trap.

(d) Any owner or person in charge of any premises within the City may set his own humane trap on such premises for the purpose of trapping and removing any animals which may have entered the premises. The owner or person in charge must notify the Animal Control Officer before setting his own traps. Use of one's own trap pursuant to this section shall be coordinated with the Animal Control Officer to make sure such trapping is conducted at all times consistent with the operating hours of an animal shelter or veterinarian, it being the intent of this section that no captured animal shall remain trapped for more than twelve (12) hours. The Animal Control Officer shall coordinate with the owner for the removal of captured animals to an animal shelter or veterinarian where they shall be disposed of as otherwise provided in this chapter. It shall be a violation of this chapter for any owner or person in charge of any premises to do any of the following:

- (1) Use any trap on any premises not his own or not under his charge.
- (2) Fail to inspect any trap at least every twelve (12) hours.
- (3) Fail to deliver any animal captured to an animal shelter or veterinarian or to the animal's owner, if known, within twelve (12) hours of its entrapment; and if the animal's owner is unknown, fail to notify an Animal Control Officer within twelve (12) hours of its entrapment.
- (4) Fail to exercise reasonable care and diligence to avoid injury to the trapped animal.
- (5) Use or permit to be used any leghold trap or snare unless authorized by an Animal Control Officer.

(e) Before any person shall be permitted to obtain a humane trap from an Animal Control Officer for use on his own premises or premises over which he is in charge, such person shall sign a statement that he has been advised that the acts or failures to act enumerated in this section constitute a violation of this chapter.

(f) Any owner or person in charge of any dog or cat captured in a humane trap that is off the premises of the owner or person in charge shall be prima facie presumed to have allowed, suffered or permitted such animal to be or run at large. If at any time a dog or cat is captured by use of such trap and the owner or person in charge is known or becomes known to the Director or an Animal Control Officer, such person in charge shall be given a citation to appear in Municipal Court as provided in section 4-189(b).

(g) The owner or person in charge of any premises may obtain humane traps from the Environmental Services Department by completing a trap use form and making a \$150.00 deposit. Traps may only be used for a maximum of five (5) days. The five (5) day limit may be shortened at the discretion of the Environmental Services Department if the traps are needed at other locations. Traps may only be used on private property every ninety (90) days.

Sec. 4-17 Mobile Home Parks.

All pet and animal rules and regulations included in a Mobile Home Park lease or rental agreement shall be enforced by the owner or operator of the mobile home park. The humane trapping provisions set forth in section 4-16 shall apply to all mobile home parks in the City.

Sec. 4-18 Cooperative Services Agreement.

The City may enter into cooperative services agreements with other governmental agencies and entities to provide wildlife management services.

Article II. Dogs and Cats.

Sec. 4-41 Rabies Vaccinations.

(a) Every person who owns, harbors, keeps or maintains a dog or cat over the age of three (3) months shall secure on an annual basis a rabies vaccination for such animal including the proper certificate and tag from a licensed veterinarian as long as the dog or cat is within the city.

(b) Each dog over the age of three (3) months shall wear a substantial, durable collar or harness, to which the vaccination tag shall be attached. It shall be unlawful to attach such tag by wire, rope or any inhumane means. No person shall remove the collar or vaccination tag from any animal without the consent of the owner.

(c) Cats are not required to wear the rabies vaccination tag. If the rabies vaccination tag is not worn, the owner shall be required to produce the evidence of the rabies vaccination tag upon request of the ACO.

(d) It shall be unlawful for any person to permit or allow any dog or cat in his charge or control to wear a rabies vaccination tag issued for a different animal.

Sec. 4-42 Guard Dogs.

(a) Registration.

(1) Guard dog owners or services shall register all dogs used in their business, whether housed or used in the city, with the ACO. The registration shall include name, address and telephone number of the service's manager; the breed, sex,

weight, age, color, tattoo registration number of the guard dog, and other distinguishing physical features of the dog; a city license certificate the rabies vaccination certificate; and a tag that is highly visible and conspicuously different from ordinary dog tags, as approved and supplied by the city.

(2) Guard dogs which are newly acquired by guard dog services shall be vaccinated against rabies and registered with the city within seventy-two (72) hours of acquisition.

(3) The fee for registration of a guard dog with the city shall be established by the city council and shall be a one-time charge for each individual dog.

(4) The fee to register a guard dog with the city shall be a charge of twenty-five dollars (\$25.00).

(5) Such registration shall not constitute a waiver of any other requirements of this chapter.

(b) **Tattoo required.**

(1) Each guard dog shall have a registration number to be obtained from the city and tattooed by the owner on its inside right thigh so as to be clearly visible at all times. The registration number shall be prefixed by the letter "G." Each letter and number shall be at least one-quarter ($\frac{1}{4}$) inch in height.

(2) Owners of guard dogs registered with the American Kennel Club or a similar organization may elect to have the tattoo placed in the dog's ear.

(3) Any guard dog already tattooed by some number system different from that required by this chapter need not be retattooed if the existing tattoo is identifiable and can properly identify that dog.

(c) **Maintenance of guard dog registration record.** The city shall maintain a guard dog registration record which shall contain all data required by this chapter. Upon transfer of ownership, death, disappearance and/or annual rabies vaccination of a guard dog, each guard dog service or owner shall immediately notify the city ACO. Upon receipt of the information, the appropriate entry shall be made in the guard dog registration record. If the dog has disappeared, an entry should be made to reflect the location of such disappearance.

(d) **Inspection.**

(1) As a condition to maintaining registration with the city, each guard service or owner shall allow the ACO to enter and inspect all kennels housing guard dogs and other premises where such dogs are used, for the determination of owner registration compliance.

(2) It shall be unlawful for any person, firm or corporation to own, harbor, keep, maintain, use or otherwise have custody of any guard dog in the city which has not been vaccinated, registered, and tattooed as provided by this section.

(e) **Transportation of guard dog.**

(1) The vehicle of every guard dog service transporting any guard dog must be clearly and conspicuously marked with the words "Dangerous Dog" showing that it is transporting a guard dog. A compartment separate from the driver is required which should be arranged to ensure maximum ventilation for the animal.

(2) No guard dog shall be transported in the trunk of a car or on open-bed trucks.

(f) **Requirements for businesses using guard dogs.**

(1) Each business which hires or uses a guard dog must provide proper fencing to keep the guard from digging or jumping out, or must otherwise properly confine the animal within a secure enclosure.

(2) At each appropriate location and entry point, and at fifty-foot intervals along the fence perimeter, a sign shall be posted including the words "Dangerous Dog."

(3) Entry points shall have a sign posted with the telephone number of the dog's trainer or handler in case of an emergency.

Sec. 4-43 Dogs At Large.

(a) Dogs. It shall be unlawful for the owner or any person having custody or control of any dog to allow such dog to run at large within the City as defined in this chapter. It shall be the duty of every owner or person in charge of a dog to keep the animal under effective restraint, while the dog is within the City, whether or not the dog is upon or away from his premises. It shall be unlawful for any owner or person in charge of any dog to fail to keep the animal under effective restraint. Proof that a dog is not being properly restrained, whether or not on or off the premises of the owner or person in charge, shall be prima facie evidence of a violation. Negligent failure to provide or maintain effective restraint shall not be a defense. Competent evidence that the failure was occasioned by an unforeseeable and independent act of a third person shall shift the burden on the City to prove otherwise.

(b) This section shall not apply to police dogs when such dogs are engaged by a law enforcement agency in an official capacity.

Sec. 4-44 Confinement of Dogs During Estrus (Heat).

(a) Every female dog in estrus (heat) will be confined by the owner or person in charge in a solid-floored building or structure designed so that the dog cannot come into

contact with the ground underneath the floor or with the ground surrounding the structure, so that the scent of such dog will not be transmitted to the neighborhood, or to places where other dogs on the owner's premises are kept. If at any time the scent from a female dog in heat is found to be causing a disturbance to dogs in the neighborhood, it shall be the duty of the owner or person in charge of the dog to confine, immediately, the dog in such manner as to avoid a disturbance.

(b) Every female dog in estrus (heat) shall be confined in a building or structure by the owner or person in charge in such a manner that the female dog cannot come into contact with another dog except for planned breeding.

(c) It shall be unlawful for the owner or person in charge of any dog to fail to comply fully with this section.

Sec. 4-45 Tethering of Dogs.

(a) As used in this chapter, tether means to restrain a dog by tying the dog to any object or structure including, without limitation, to a house, tree, fence post, garage or shed by any means including, without limitation, a chain, rope, cord, lease or running line. Tethering shall not include using a leash to walk a dog.

(b) It shall be unlawful for an owner or a responsible party to tether a dog while outdoors, except when all of the following conditions are met:

(1) The tether is connected to the dog by a buckle-type collar or a body harness made of nylon or leather.

(2) The tether has the following properties: It is at least five (5) times the length of the dog's body, as measured from the tip of the nose to the base of the tail; it terminates at both ends with a swivel; it does not weigh more than one-eighth (1/8th) of the dog's weight; and it is free of tangles.

(3) The dog is tethered in such a manner as to prevent injury, strangulation or entanglement.

(4) The dog is not outside during a period of extreme weather including, without limitation, extreme heat or freezing temperatures, thunderstorms, tornadoes, tropical storms or hurricanes.

(5) The dog has access to water, shelter and dry ground.

(6) The dog is at least six (6) months of age. Puppies shall not be tethered.

(7) The dog is not sick or injured.

(8) Pulley, running line or trolley systems are at least fifteen (15) feet in length and are at least seven (7) feet above the ground.

(9) If there are multiple dogs, each dog is tethered separately.

Sec. 4-46 Keeping of Dangerous Dogs

The keeping of a dangerous dog as defined in section 4-2(k) shall be subject to the requirements of this article. It shall be unlawful and a misdemeanor for any owner of a dangerous dog to fail to comply with the requirements and conditions set forth in this article. A dog found to be in violation of this article shall be subject to immediate seizure and impoundment as set forth in section 4-47.

Sec. 4-47 Sworn Statements; Dangerous Dog Investigations; Hearing; Procedures.

(a) Sworn Statements.

- (1) When a person claims that a dog is dangerous, the person shall make a sworn statement before a city magistrate or law enforcement officer setting forth the name of the dog owner, if known, the location where the dog is being kept in the City, and the reason he or she believes the dog to be dangerous.
- (2) The sworn statement shall be delivered to an animal control officer who shall complete a dangerous dog investigation. When the sworn statement claims that a dog has caused serious physical injury or death to a person, the duties of the animal control officer, including but not limited to the dangerous dog investigation, shall be carried out by a law enforcement officer.

(b) Dangerous dog investigation. An animal control officer or law enforcement officer may initiate a dangerous dog investigation in cases where a complaint has been made pursuant to subsection (a) and a person has been bitten, received physical injury or serious physical injury, or has died.

(c) Hearing, Founded.

- (1) In the event a dangerous dog investigation leads an animal control officer or law enforcement officer to believe the allegation is founded, all of the following shall occur:
 - (a) The animal control officer or law enforcement officer shall file a summons for the owner of the dog, if known, with the municipal court.

- (b) The dog in question shall be impounded at the animal shelter or the City may enter into an agreement with a licensed veterinarian to impound the dog; provided, however, the owner of the dog shall be provided the opportunity to choose a veterinarian of his or her choosing to impound the dog in lieu of the animal shelter. If the dog is impounded with a veterinarian chosen by the owner of the dog, the owner of the dog shall be liable for paying to the veterinarian the cost and expenses incurred in impounding, feeding and providing veterinary care or treatment for the dog. If the City impounds the dog, the owner of the dog shall be liable to the City for the costs and expenses incurred in impounding, feeding and providing veterinary care or treatment for the dog.
 - (c) The animal control officer or law enforcement officer shall send a copy of the investigation report to the municipal attorney, or municipal prosecutor.
- (2) In lieu of the investigation, the owner of the alleged dangerous dog may consent to the dog being humanely euthanized.
- (d) Hearing, Unfounded.
 - (1) In the event the dangerous dog investigation leads the animal control officer or law enforcement officer to believe the allegation is unfounded, the animal control officer shall advise the complainant of his or her findings and the animal control officer or law enforcement officer shall submit the results of the investigation to his or her supervisor.
 - (2) A copy of all investigations made pursuant to this section shall be kept on file in the animal control office.
- (e) Procedures.
 - (1) The municipal attorney, or municipal prosecutor may file a petition in the municipal court to declare dangerous the dog that caused the physical injury, serious physical injury or death to a person in the jurisdiction of the municipality. The owner of the dog, if known, shall be served with a copy of the petition.
 - (2) A dog that is the subject of a dangerous dog investigation may not be relocated and ownership may not be transferred pending the outcome of the investigation and hearing to determine whether to declare the dog to be dangerous.
 - (3) The court hearing shall be held as soon as practicable. At the hearing, the municipal attorney, or municipal prosecutor shall present evidence that the

dog is dangerous. To declare the dog dangerous, the court shall find by reasonable satisfaction that the dog bit, attacked or caused physical injury, serious physical injury or death to a person without justification.

- (a) If the court determines that the dog is dangerous and has caused serious physical injury or death to a person, the court shall order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer.
- (b) If the court determines that the dog is dangerous but has not caused serious physical injury or death to a person, the court shall determine whether the dog has a propensity to cause future serious physical injury or death. If the court determines by reasonable satisfaction that the dog has such a propensity, the court may order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer or the court may order the dog be returned to its owner pursuant to all of the following conditions:
 - (1) The dog shall be held in impound until the owner complies with all orders of the court, but if the owner fails to comply with all orders of the court within thirty (30) days of the court's order, the dog shall be humanely euthanized.
 - (2) The dangerous dog shall be microchipped.
 - (3) The owner of the dangerous dog shall provide a copy of the certificate of the current rabies vaccination of the dog.
 - (4) The dangerous dog shall be spayed or neutered.
 - (5) The owner of the dangerous dog shall be required to pay all expenses involved with the investigation, pickup and impoundment, and any court costs or fees related to the hearing to determine whether the dog is dangerous.
 - (6) The owner of the dangerous dog shall be required to pay an annual dangerous dog registration fee of one hundred dollars (\$100) to the City for a dog deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the City for non-registration within two (2) weeks.
 - (7) Surety Bond.
 - (a) The owner shall be required to obtain a surety bond of at least one hundred thousand dollars (\$100,000)

and shall provide proof to the court or animal control office.

- (b) The surety bond required by subparagraph (7)(a) shall provide coverage for dog bites, injuries or death caused by the dog.
- (c) The owner shall provide proof of the surety bond each time the annual dangerous dog registration fee is paid.
- (8) The owner of the dangerous dog shall provide proof to the court that he or she has constructed a proper enclosure for a dangerous dog pursuant to section 4-2(y).
- (4) The pleading and practice in all cases to petition the court to declare a dog to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure and rules of the courts governing municipal courts in this state unless otherwise specified by this chapter. Any judicial determination in municipal court that a dog is dangerous may be appealed to the circuit court pursuant to the requirements of the Alabama Rules of Civil Procedure and the order of the circuit court shall be final.
- (5) It shall be presumed that a dog is not a dangerous dog pursuant to this chapter if the dog was on property owned by the owner of the dog when the event subject to a claim under the chapter occurred or if the victim was trespassing on any property when the event subject to a claim under the chapter occurred.

Sec. 4-48 Dangerous Dog Violations

- (a) If a dog that has previously been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, the owner of the dog shall be guilty of a Class A misdemeanor.
- (b) If a dog that has not been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, and the owner of the dog had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the dog shall be guilty of a Class B misdemeanor.
- (c) In addition to any fines imposed by the court, a person guilty of violating subsection (a) or (b) shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding and veterinary expenses necessitated by impoundment

of the dog, medical expenses incurred by a victim from an attack by a dangerous dog, and other expenses required for the destruction of the dog.

(d)

- (1) When a dog declared to be dangerous is outside and not contained in the proper enclosure of a dangerous dog pursuant to section 4-2(y) the owner of the dangerous dog shall be present and shall restrain the dangerous dog with a secure collar and leash.
- (2) An owner of a dog declared to be dangerous who violates subdivision (1) shall be guilty of a Class C misdemeanor, except that a second or subsequent adjudication or conviction is a Class B misdemeanor.

(g) An owner of a dog that is the subject of a dangerous dog investigation who refuses to surrender the dog to an animal control officer or law enforcement officer, upon the request of the animal control officer or law enforcement officer, shall be guilty of a Class C misdemeanor.

(h) Any person who knowingly makes a false report to an animal control officer that a dog is dangerous is guilty of a Class C misdemeanor.

Article III. Animals Other than Dogs and Cats, Specifically

Sec. 4-71 Violations of This Article.

Any person violating or aiding or abetting any provision of this article shall be guilty of a misdemeanor and shall be fined or punished in accordance with section 4-189.

Sec. 4-72 Keeping of Hogs.

It shall be unlawful for any person to keep pigs or hogs, including miniature and Vietnamese pot-bellied pigs, in the corporate limits of the City.

Sec. 4-73 Keeping of Chickens.

It shall be unlawful for any person to keep chickens within the City, except as provided in this section. The keeping of chickens is allowed, provided:

- (a) The minimum lot size of the property is 10,000 square feet.
- (b) The principal use of the property is a single-family dwelling.
- (c) The number of chickens does not exceed:
 - (1) Four (4) on lots 10,000 square feet to 19,000 square feet

- (2) Six (6) on lots 20,000 square feet or greater
- (d) The chickens are kept in an enclosure or fenced area, such as a hen house, chicken coop, chicken tractor, etc., at all times.
- (e) The chicken enclosure or fenced area is a minimum of six (6) square feet per chicken.
- (f) The chickens are not kept on any location on the property other than in the backyard (the rear yard of the principal structure).
- (g) The covered enclosure or fenced area is a minimum of ten (10) feet to any property line of an adjacent property and thirty (30) feet from the neighboring dwellings, church, school or place of business.
- (h) The enclosures are kept in a clean, dry, odor-free, neat and sanitary condition at all times.
- (i) The chicken owner takes necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
- (j) The keeping or harboring of male chickens or roosters is prohibited.
- (k) The premises upon which chickens are kept must be the property owner's primary residential dwelling.
- (l) No person who owns, controls, keeps, maintains or harbors chickens shall permit the premises where the chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition, or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. The chicken enclosure or chicken run authorized by this section may be inspected at any reasonable time by the animal control officer.
- (m) The slaughter and breeding of chickens on any premises in the City is prohibited.
- (n) No person shall maintain a chicken enclosure, coop and/or chicken run unless granted a permit by the Director. Prior to the construction of the chicken enclosure, a site plan shall be reviewed and approved by the Director.

Sec. 4-74 Large Animals and Fowl

It shall be unlawful for any person to own, control, keep, maintain or harbor large animals and fowl, except as provided in this section. Large animals, such as mules, cows, sheep, goats, fowl and other such farm animals may only be kept or maintained on lots of three (3) acres or more in the R-1 (Rural) Zoning District. Horses may be maintained only in the R-1 (Rural) District on lots of two (2) acres or more with a limit of one (1) horse per acre. Chickens may be kept or maintained as provided in section 4-73.

Sec. 4-75 Distance of Corrals, Pens or Stables from Dwellings

It shall be unlawful for any owner or person in charge to keep any large animal or fowl in the City in any corral, stable or pen any part of which is within 100 feet of a dwelling of a person other than the owner or person in charge of the animal.

Sec. 4-76 Minimum Size of Corrals

It shall be unlawful for any person to keep any animal in a corral in the City unless such corral has a minimum area of 12,000 square feet per animal and an additional 10,000 square feet for each additional animal kept, to every portion of which each and every animal shall have free and unrestricted access.

Sec. 4-77 Horses Not to Stand in Streets Unless Hitched or Attended

It shall be unlawful for any owner or person in charge to allow a horse to stand in any street within the City unless the owner or person in charge is in attendance or the horse is securely hitched. Any horse not so attended or securely hitched shall be considered to be at-large.

Sec. 4-78 Large Animals Running At Large Prohibited

(a) It shall be unlawful for the owner or person in charge of any large animal to cause, permit or allow such animal to run or to be at-large. The fact that any large animal has been kept on a particular premises, together with its subsequent appearance at-large, shall raise a prima facie presumption that the owner or person in charge of the premises permitted or allowed a violation and the burden of proof shall be upon the owner or person in charge to prove otherwise.

Sec. 4-79 Enclosure of Horses or Cattle—Generally

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any stable, building, structure or shed unless such stable, building, structure or shed is equipped with a watertight floor or base of cement or other impervious material and so laid or arranged and constructed as to prevent refuse, foodstuffs and discharges from animals from falling upon, touching or soiling the ground.

(b) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or in or upon any uncovered, enclosed parcel of land, in a commercial or industrial district as established by zoning regulations, unless such corral or parcel of land shall have a minimum area of one thousand (1,000) square feet for one (1) such animal and two hundred (200) square feet for each additional such animal there kept, harbored or confined.

Sec. 4-80 Same—Minimum Space Requirements

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or in or upon any uncovered, enclosed parcel of land, outside a commercial or industrial district as established by zoning regulations, unless such corral or parcel of land shall have a minimum area of two thousand five hundred (2,500) square feet for one (1) such animal, and one thousand (1,000) square feet for each additional animal there kept, harbored or confined, to every portion of which such animal shall have free and unrestricted access.

(b) The material used in the base or floor may include portions of wood when the aggregate of such portions does not exceed three-fourths ($\frac{3}{4}$) of the total area of such base or floor, and when each piece of wood is embedded in cement or other impervious material, separated from each adjacent piece at least one (1) inch by cement or other impervious material, and is continuous with and forms an integral part of such base or floor.

(c) It shall be permissible to cover, not exceeding three-fourths ($\frac{3}{4}$) of the area of a floor or base constructed as hereinabove specified, with hardwood, provided each piece of such hardwood is separated from each adjacent piece at least one (1) inch and is readily removable.

Sec. 4-81 Collection and Disposal of Manure and Other Materials.

All accumulations of manure and material soiled by excreta in and about every stable, building, structure, shed, corral or pen where any animal of the equine or bovine type is kept, harbored or confined, shall be collected at least once each day and immediately deposited in substantial flyproof containers. All such collections shall be kept stored in substantial flyproof containers for a continuous period of two (2) weeks from the date of collection. Sawdust, shavings, straw and other material used as animal bedding and unsoiled by excreta shall be collected at least once a week and deposited and stored as provided in this section. In lieu of storage, as herein provided, manure and other materials, when collected in accordance with the provisions hereof, being free of live fly larvae, may be disposed of, within twenty-four (24) hours from time of collection, by burial at least six (6) inches underground or by spreading the same thinly upon the surface of the ground at some place distant from any place where animals are kept, harbored or confined, so that such collections shall be and remain fully exposed to sunshine.

Sec. 4-82 Cleaning Floors, Structures Where Certain Animals Are Kept

The base or floor of every stable, building, structure or shed in which any animal of the equine, bovine or rabbit species or type is kept, harbored or confined, together with all appliances used in connection therewith, shall be cleaned at least once each day by the removal of manure and other material soiled by manure and by washing.

Sec. 4-83 Keeping of Horses or Cattle Near Certain Buildings.

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or other uncovered enclosure in the city or its police jurisdiction, any part of which is within one hundred (100) feet of a dwelling, school, church, hospital, public building, public park, public playground or public thoroughfare.

(b) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any stable, building structure or shed in the city, any part of which is within fifty (50) feet of a dwelling, school, church, hospital, public building, public park, public playground or public thoroughfare.

Sec. 4-84 Keeping of Fowl

It shall be unlawful to keep, harbor or confine any ducks, geese, chickens, guineas, peacocks or other fowl in any stable, building, structure, corral, pen or enclosure in the City, any part of which is within fifty (50) feet of a dwelling, church, hospital, school, public building, public park or public thoroughfare.

Sec. 4-85 Impounding of Large Animals Upon Premises of Other Than Owner.

Any large animal which is found at large upon the premises of another person other than the owner or keeper thereof shall be impounded by the animal control officer or other authorized agent of the city. Any large animal which is found at large upon any street, alley, thoroughfare, sidewalk, park, school or other public place of the city shall also be subject to impoundment by the animal control officer or other authorized agent of the city as provided in this chapter.

Sec. 4-86 Bird Sanctuary

(a) The entire area embraced within the corporate limits is hereby designated as a bird sanctuary.

(b) Except as provided in section 14-495, it shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests without the advance written consent and approval of the Environmental Services Department. Such consent and approval shall be given if such activity will not endanger persons or property, and if such birds are congregating in such numbers as to endanger the public health and safety.

(c) No provision of this section shall be construed to prohibit or abrogate the right of the City to protect the health, safety or welfare of the citizens of the community.

Article IV Rabies Control

Sec. 4-101 Rabies Vaccination

(a) Vaccine Required.

- (1) A person commits an offense if a person keeps, harbors, or has custody of a dog or cat over three months of age that has not been immunized against rabies as required by Ala. Code §3-7A-2.
 - (2) The same animal must receive a booster within the twelve-month interval following the animal's initial vaccination.
 - (3) The same animal must be re-vaccinated against rabies annually thereafter.
- (b) Every veterinarian whose office or place of business is located within the City shall keep detailed records of animal rabies vaccinations and shall provide rabies vaccination information to rabies officer and animal control officer upon request.

Sec. 4-102 Domestic Animals that Reasonably Expose Humans to Rabies

- (a) When a domestic dog or cat bites or otherwise creates a condition that could reasonably expose or transmit rabies to any human being, the animal shall be immediately quarantined as provided in Ala. Code §3-7A-9 for a minimum period of ten (10) days from the date that the bite or exposure occurred, or longer as the rabies officer or animal control officer may deem necessary.
- (b) The owner shall submit the subject animal within 24 hours of notification by the rabies officer or animal control officer for quarantine in a facility approved by the rabies officer or animal control officer or a licensed veterinarian's clinic in the City which has the facilities for isolation cages.
- (c) Any animal required to be quarantined under this section which in the determination of the rabies officer or animal control officer cannot be or is not being maintained in a secure quarantine shall be humanely euthanized and a suitable sample submitted to the Alabama Department of Health for rabies diagnosis.
- (d) The owner of any animal that is reported to have rabies or symptoms thereof, or to have been exposed to rabies, or to have bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, or that the owner knows or suspects to be rabid, or to have bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, shall submit such animal for quarantine to the rabies officer or animal control officer or to any police officer.
- (e) It shall be unlawful for the owner of an animal that has rabies or symptoms which could reasonably indicate rabies or that bites, scratches or otherwise creates a condition that may expose or transmit the rabies virus to any human being or other animal, to fail or refuse to comply with the provisions of this article.

(f) It shall be a violation of this article for the owner of such animal to refuse to comply with the lawful order of the rabies officer or animal control officer in any particular case.

(g) It shall be unlawful for the owner to sell, giveaway, transfer to another location or otherwise dispose of any animal known to have bitten or exposed a human being to the rabies virus until it is released from quarantine by the rabies office, duly licensed veterinarian or appropriate health officer.

Article V Impoundment and Destruction

Sec. 4-141 Impoundment.

(a) Animals of the following classes may be captured and impounded in an animal shelter or other suitable place for the care of the animal:

- (1) Dangerous animals, subject to the procedures set forth in section 4-47.
- (2) Animals that are causing nuisances in violation of section 4-3.
- (3) Animals that have been bitten by an animal suspected of having rabies.
- (4) Any dog not wearing a current rabies vaccination tag.
- (5) Any cat whose owner cannot produce evidence of the rabies vaccination tag upon request of the ACO.
- (6) Abandoned animals and animals whose ownership is unknown.
- (7) Any animal running at large in violation of sections 4-43 and 4-85.
- (8) Female dogs and cats in breeding season not confined to the premises of the owners in such manner as to avoid nuisances and prevent access to other animals.

(b) Animal Control Officers, law enforcement officers and officers of state-chartered nonprofit humane organizations shall have authority to pick up, catch, or procure and impound any animal in violation of this chapter or any animal infected or believed to be infected with rabies or other contagious or infectious disease to humane or animals in such a manner as is reasonably necessary to effectuate its capture. Impounded animals shall be confined in a humane manner at an animal shelter.

(c) An impounded animal shall be held for at least seven (7) days including the day of impoundment, except a sick or injured animal which poses a threat to the safety of the personnel responsible for the care of such animal may be euthanized at the discretion of the impounding agency. The depositing of a letter of notification by first class U.S. mail

shall constitute adequate notification of impoundment. The owner shall also be notified by phone, if possible. This section shall not apply to animals surrendered by the owner or an agent of the owner, in which case disposition may be made as provided in this chapter without notification or a holding period. At the expiration of the holding period, during which time a diligent attempt has been made to locate and contact the owner, the animal may be disposed of in a manner provided in this chapter.

(d) A registry shall be maintained by the impounding agency. The registry shall contain identifying characteristics of each animal impounded along with the location, date and reason of each pickup.

(e) For violations of this chapter, an owner may be subject to a written warning or such penalties as prescribed in this chapter, in addition to or in lieu of impoundment.

Sec. 4-142 Redemption and Disposition.

All animals which have been impounded in accordance with the provisions of this chapter may be disposed of as provided below:

- (1) Within the holding period, animals, except dangerous dogs, may be redeemed by the owner or his agent upon the payment of those fees or costs associated with the impoundment, as established by the city council. The owner entitled to possession of an impounded dog or cat which does not have the required rabies inoculation certificate and tag shall have such animal inoculated and shall present proof of the issuance of such certificate and tag to the ACO within ninety-six (96) hours of the release from impoundment.
- (2) If not redeemed within the holding period, animals may be disposed of by humane euthanasia.
- (3) Those animals which would otherwise be disposed of by euthanasia may be offered to state-chartered nonprofit humane organizations or veterinarians for the purpose of providing adoption of such animals. Fees and costs may be waived for the disposition of animals in this manner. All dogs and cats placed with this organization shall be vaccinated and sterilized before said organization offers each animal for adoption. The adopter may enter into a written agreement that sterilization will be performed within thirty (30) days or prior to the age of six (6) months. Written document must be returned to the organization by the adopter of said sterilization. Failure to comply with the requirements of this subsection within the specified time shall constitute a violation of this section, and the ACO shall have the right to impound the animal.
- (4) Dangerous dogs will be disposed of in accordance with the provisions of section 4-47 of this chapter.

Sec. 4-143 Fees and Charges; Administration

(a) Any cat or dog, except a dangerous dog, impounded hereunder may be reclaimed as herein provided upon payment by the owner of the following:

- (1) Boarding fee charged by the City or any other state-chartered nonprofit organization or veterinarian or shelter designated by the city council.
- (2) The amount of vaccination fee, if necessary.

(b) Any large animal impounded hereunder may be reclaimed as herein provided upon payment by the owner to the ACO or his assistants the following:

- (1) The actual costs incurred by the city in seizing, confining and transporting such animal.
- (2) Actual costs incurred by the city for boarding such animal.
- (3) The actual costs incurred by the city for veterinary care, if necessary.

Sec. 4-144 Destruction of Certain Animals

(a) Animal control officers and city police officers are authorized to destroy any animal at large breaching any provisions of this chapter, provided:

- (1) Such officer has made reasonable efforts to capture such animal or to locate the owner of the animal; and,
- (2) Such officer has been unable to capture the animal or is unable to locate the owner of the animal; and,
- (3) In that officer's opinion, the animal constitutes a direct and immediate threat to public health, safety, or welfare.

(b) Animal control officers, city police officers, and agents of the animal shelter are authorized to destroy any animal found within the city limits when:

- (1) Such animal is injured or diseased past recovery; or
- (2) Presents a direct and immediate threat to the public or any person individually.

(c) The animal control officer and law enforcement officers are authorized to destroy any animal which has bitten or fiercely attacked any person causing severe injury, the loss of bodily function or death, when the animal control officer or law enforcement

officer believes such animal constitutes a direct and immediate threat to the public health, safety, or welfare.

(d) Taking into account all the relevant circumstances, animal control officers, city police officers and agents of an animal shelter are to employ the most humane means possible when exercising the authority granted under this section.

Article VI Dead Animals.

Sec. 4-181 Penalties.

If any person that violates or refuses to comply with this article shall, upon conviction, be punished, in addition to such punishment, including a term of community service, as may be provided by the court, by minimum fines and penalties, for first conviction \$100.00 or by imprisonment of not more than ten (10) days, for conviction of a second offense committed within one (1) year of the date of the first offense, such person shall be punished by a fine of \$200.00 or by imprisonment of not more than thirty (30) days or by both such fine and imprisonment; for conviction of a third or subsequent offense committed within one (1) year of the date of the first offense, such person shall be punished by a fine of \$500.00 or by imprisonment of not more than three (3) months or by both such fine and imprisonment.

Sec. 4-182 Disposal Limited

It shall be unlawful for any person to dispose of any dead animal except as provided in this article.

Sec. 4-183 Disposal Generally

The owner or person in charge of animals that die or are killed in his possession or custody, other than such as are slaughtered for food, within 24 hours, shall notify the appropriate City official as set forth in Section 4-184 of such dead animal and request its removal as provided in Sections 4-184 and 4-185 or shall cause the remains of such animal to be buried at least two (2) feet below the surface of the ground in accordance with his article. Animals dying from any communicable disease whatsoever shall be reported to the City in accordance with Section 4-184. No such animal shall be buried near a residence or in such manner as to create a nuisance. In no case shall a dead horse, bull, mule, cow or other large animal be buried within 300 feet of a residence.

Sec. 4-184 Appropriate City Official Notification

- (a) A small dead animal such as a dog or cat shall be reported to the animal control officer.
- (b) A large animal such as a horse, mule, cow or hog shall be reported to the Director.

(c) Animals dying from any communicable disease shall be reported to the health department in addition to being reported to the appropriate City official for removal.

Sec. 4-185 Removal By the City

When a request is made to the Director or an animal control officer for a removal of a small dead animal or when request is made to the Director for the removal of a large dead animal, it shall thereupon be the duty of the official receiving the request to demand of such person his name and address, including street address and house number, and a description of the dead animal. Immediately upon receipt of the information demanded, the official receiving the request shall cause the remains of such dead animal to be removed and buried at least two (2) feet below the surface of the ground or to be burned. If death is due to a communicable disease, the remains shall be burned. However, the Director or an animal control officer may require that the requesting party place the dead animal in a securely fastened plastic bag or similar container and make the container accessible at the curb or at such other place upon the property as he may direct.

Sec. 4-186 Fees For Removal By City

For removal of any dead large animal such as a horse, mule, cow, sheep, goat or hog, the owner or person in charge of such animal requesting its removal by the City shall be charged the fee as established by the Environmental Services Department, and such fee shall bear a direct relationship to the cost of disposal. It shall be unlawful for any person liable for the expenses of such removal to fail to pay such fees.

Article VI. Enforcement, Fines and Penalties

Sec. 4-187 Enforcement

(a) The animal control officers shall be under the general supervision of the Director of Environmental Services. The ACO shall, along with his assistants, enforce the provisions of this chapter. Any provisions of this chapter referring to the Director shall also mean and include any authorized employee acting in his stead and under his supervision.

(b) The ACO, his assistants and members of the City police department shall have the right, for the protection of the public health, welfare and safety, to enter upon any property within the City for the purpose of capturing or impounding any animal which is in violation of this chapter.

(c) Any expense incurred in the handling of any animal under the provision of this chapter shall be borne by the owner or custodian of such animal.

(d) It shall be a violation of this chapter to interfere with any animal control officer while in the lawful performance of his duties or anyone who may be assisting in the performance of such duties.

(e) Any person who lawfully refuses to sign and accept a citation issued by a law enforcement officer or the ACO shall be in violation of this chapter.

(d) The City Council may subcontract with any state-chartered, non-profit humane organization to carry out part or all of the duties of this chapter. Said organization shall carry out the duties pursuant to the provisions prescribed by this chapter

Sec. 4-188 Citations and Warrants

When any animal is found by the Director or by an animal control officer to be in violation of any provision of this chapter, except those listed in section 4-189(b) or as otherwise provided in this chapter and the person responsible becomes known to the Director or to the Animal Control Officer, he may issue a citation to the owner or person in charge for such violation directing him or her to appear in municipal court at a time and a date stated in the citation to answer to charges of violations of this chapter, and such charges shall be stated in the citation. For offenses listed in section 4-189(b), no prosecution shall be commenced and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a judge or magistrate of the municipal court.

Sec. 4-189 Penalties for Violation

(a) Except for the offenses listed in subsection 4-189(b), any person convicted of violating any provision of this chapter within a twelve-month period shall be guilty of a violation and shall be punished as follows:

- (1) *First violation:* A fine of fifty dollars (\$50.00);
- (2) *Second violation:* A fine of one hundred dollars (\$100.00);
- (3) *Third violation:* A fine of two hundred dollars (\$200.00);
- (4) *Fourth or any subsequent violation:* A fine in an amount not exceeding five hundred dollars, (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the municipal judge trying the case.

Any person who has been charged with the violation of any provision of this chapter, except those offenses identified in section 4-189(b), and who desires to waive trial of the question of his guilt or innocence of such alleged offense, may pay the fine prescribed above to the municipal court of the city, and the municipal court magistrate is hereby authorized and instructed to receive such amount. Voluntary settlement shall not be permitted to any person who has been thrice convicted of the same offense prior to the date of the instant alleged offense, and such person shall be required to stand trial in municipal court. Offenses not settled as provided

in this subsection prior to the court appearance date shown on the notice of violation will be disposed of in the same manner as is any case appearing on the regular municipal court docket.

(b) Any person who is alleged to have committed any of the following offenses listed in this chapter shall be required to stand trial in municipal court:

- (1) *Section 4-5: Abandonment of animals.*
- (2) *Section 4-8: Cruelty to animals.*
- (3) *Section 4-10: Animals in vehicles.*
- (4) *Section 4-42: Failing to register and maintain guard dogs.*
- (5) *Section 4-46: Keeping of dangerous dogs.*
- (6) *Section 4-78: Large animals running at large.*
- (7) *Section 4-102(f): Refusal to obey order of rabies officer or ACO.*
- (8) *Sections 4-183, 4-184, 4-185 and 4-186: Disposal of dead animals.*

Any person convicted of any act listed in this subsection (b) shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the municipal judge trying the case.

(c) Each day's violation of any provision of this chapter shall constitute a separate offense.

(d) In addition to the penalties provided in this section, the city council is hereby authorized to institute any appropriate action or proceeding including suit for injunctive relief in order to abate violations of this chapter.

Section 2. **Repealer Clause.** All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are repealed.

Section 3. **Severability.** If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of any competent jurisdiction, said holding shall not affect any other section, clause, provision or portion of this Ordinance which is not in or of itself invalid or unconstitutional.

Section 4. **Effective Date.** This Ordinance and the subsection hereby adopted shall take effect and be enforced on March 1, 2019.

Section 5. **Publication.** The City Clerk of the City of Opelika is hereby authorized and directed to cause a copy of this Ordinance to be published one (1) time in a newspaper of general circulation in the City of Opelika, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR this the ____ day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 4 OF THE CODE OF ORDINANCES OF THE CITY OF OPELIKA, ALABAMA, REPEALING CHAPTER 4 ENTITLED “ANIMALS AND FOWL” AND SUBSTITUTING IN LIEU THEREOF A NEW CHAPTER 4 ENTITLED “ANIMAL CONTROL”; ESTABLISHING A PURPOSE, ADOPTING ANIMAL CONTROL REGULATIONS; PROVIDING PENALTIES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED by the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”) as follows:

Section 1. **Replacement of Chapter 4 of the Code of Ordinances, adopting Sections 4-1 through 4-189.** That current Chapter 4 of the *Code of Ordinances* of the City of Opelika entitled “Animals and Fowl” is hereby repealed in its entirety and replaced with new Chapter 4 entitled “Animal Control”, consisting of Sections 4-1 through 4-189, which chapter shall read as follows:

Section 4 – Animal Control

Article I -- In General.

This chapter shall be known as the City of Opelika Animal Control Ordinance.

Sec. 4-1 Purpose.

The purpose of the purpose of this chapter is to promote the public health, safety and general welfare of the citizens of the City of Opelika and to ensure the humane treatment of animals by regulating the care and control of animals within the City.

Sec. 4-2 Definitions.

The following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

- (a) “*Animal*” means any live creature, both domestic and wild, except humans. “Animal” includes, without limitation, dogs, cats, fowl, livestock, reptiles, pets and all mammals except humans.
- (b) “*Animal Control Officer*” means any employee of the City Public Works Animal Control Division who performs animal control functions or any person who is employed by an entity under agreement or contract with a county or municipality to perform animal control functions or to enforce this chapter.
- (c) “*Animal-at-Large*” means any animal that is not controlled by adequate leash or tether, or otherwise under the owner’s physical control, as defined in this chapter, while the animal is off the owner’s premises. No animal shall be deemed “running-at-large” when said animal is upon the property of the owner.
- (d) “*At-Large*” means that the animal is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.
- (e) “*Animal Shelter*” means any facility maintained by the City and any facility maintained by a non-profit humane organization or municipal agency as

approved by the City Council for the confinement, care, control or disposition of animals that come into its custody.

- (f) “*Attack*” means aggressive physical contact by a dog.
 - (g) “*ACO*” means Animal Control Officer, or any person designated by him.
 - (h) “*Bite*” means the puncturing or bruising of the skin by teeth of an animal.
 - (i) “*Bitten*” means seized with the teeth or claws, so that the skin of the person seized or gripped has been wounded or pierced, resulting in physical injury.
 - (j) “*Cat*” means any member of the domestic feline family.
 - (k) “*Dangerous Dog*” means a dog, regardless of breed, that has bitten, attacked or caused physical injury, serious physical injury or death to a person, without justification, except a dog that is a police animal as defined by Section 13A-11-260, *Code of Alabama*, used by law enforcement officials for legitimate law enforcement purposes.
- The definition of Dangerous Animals” shall not include any animal which acted aggressively if the actual or intended victim has made an unlawful entry into the dwelling of the owner, nor shall such definition include any guard dog, which is properly registered under Section 4-42 of this chapter and maintained in compliance with such section.
- (l) “*Division*” means the Animal Control Division of the Environmental Services Department of the City.
 - (m) “*Dog*” means all members of the canine family, including dog hybrids.
 - (n) “*Director*” means the Director of the Environmental Services Department.
 - (o) “*Doghouse*” means a structure consisting of a ceiling, three (3) walls and floor, soundly constructed and in cold weather, lined with dry, clean bedding.
 - (p) “*Enclosure*” means the entire housed or fenced area where an animal is confined and also an area where an animal is tied, chained or tethered.
 - (q) “*Exotic*” means an animal which would ordinarily be confined to a zoo, or one which would ordinarily be found in a wilderness of this or any other country; or a species of animal not indigenous to the United States or to North America or which causes zoonotic diseases or one which otherwise causes a reasonable person to be fearful of significant destruction of property or of bodily harm, the latter including but not limited to raccoons, bobcats, coyotes, wolves, hybrid wolves, bears, alligators, crocodiles, caimans, non-domesticated species of felines, non-human primates (monkeys), Vietnamese pot-bellied pigs, and other such animals. Wild or exotic animals specifically include all venomous reptiles and constrictor snakes but do not include animals of a species customarily used in the state as ordinary household pets; animals of a species customarily used in the state as domestic farm animals; fish confined in an aquarium, birds or insects.
 - (r) “*Fowl*” means a domestic bird used in the market or household for food consumption, such as a chicken, duck, goose, guinea, peafowl, turkey, pheasant, pigeon or other avian species.

- (s) “*Guard Dog*” means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog.
- (t) “*Impounded*” means taken into custody by an animal control officer or law enforcement officer.
- (u) “*Owner*” means a person, firm, corporation or organization having a right of property in an animal, or who keeps or harbors an animal, or who has an animal in his or her care, or acts as the custodian of an animal, or who permits an animal to remain on or about any premises occupied by him or her.
- (v) “*Pen*” means any enclosure for housing and feeding small animals.
- (w) “*Person In Charge*” means any person in whose charge the animal is being kept, and all the responsible adult members of the household in which an animal is kept or allowed or suffered to remain.
- (x) “*Physical Control*” means the immediate, continuous, physical control of an animal at all times such as means of a leash, cord or appropriate chain of such strength to restrain the same; or in the case of trained animals, “*Physical Control*” shall also include visual signals or oral commands by the owner of a dog which responds to such signals or commands, if said dog is at all times within unobstructed sight of the dog’s owner.
- (y) “*Proper Enclosure of a Dangerous Dog*” means an enclosure for the confinement of a dog that has been declared dangerous that is suitable to prevent the entry of the general public and that does all of the following:
- (1) Is capable of being locked with a key or combination lock when the dog is within the structure.
 - (2) Has secure sides and a secure top attached at all sides. All four sides of the fence or pen must be sunk at least two feet into the ground or the fence or pen must be built over a concrete pad to prevent the dog from digging out.
 - (3) Provide adequate ventilation and protection from the elements.
 - (4) Exhibit a sign conspicuously posted upon the pen or the structure containing the following: “Dangerous Dog—No Trespassing”.
 - (5) The enclosure shall be constructed to allow the dog to stand normally and without restriction and shall be not less than four times the length of the dog and two times the width of the dog.
 - (6) The enclosure shall be locked at all times while the dog is inside the enclosure.
- (z) “*Large Animal*” means any horse, mule, cow, pig, hog, sheep or other animal weighing twenty-five (25) pounds or more, except members of the canine family.
- (aa) “*Person In Charge*” means any person in whose charge the animal is being kept, and all responsible adult members of the household in which an animal is kept or allowed or suffered to remain.
- (bb) “*Physical Injury*” means an injury defined in Section 13A-1-2(12), *Code of Alabama*.

(cc) “*Public Nuisance Animal*” means any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term “*Public Nuisance Animal*” shall include but not be limited to:

- (1) Any animal that is repeatedly found running at large.
- (2) Any dog or cat in any section of a public or controlled recreation area unless the dog or cat is controlled by a leash or similar physical restraint.
- (3) Any animal that makes disturbing noises, including but not limited to, continued or repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (4) Any animal that causes fouling of the air by obnoxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (5) Any animal that is in heat and that is not confined so as to prevent attraction or contact with other animals.
- (6) Any animal whether or not on the property of its owner, that, without provocation, molests, attacks or otherwise interferes with the freedom of movement of persons in a public right-of-way.
- (7) Any animal that chases motor vehicles in a public right-of-way.
- (8) Any animal that attacks, without provocation, domestic animals.
- (9) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.
- (10) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals contained at a single residence or the inadequacy of facilities.

(dd) “*Serious Physical Injury*” means an injury as defined in Section 13A-1-2, *Code of Alabama*.

(ee) “*Under Restraint*” means that an animal is secured by a leash led under the control of a person physically capable of restraining the animal or obedient to the person’s commands, or securely enclosed within the real property limits of the owner’s premises.

Sec. 4-3 Nuisances.

It shall be unlawful for any person to keep any animal on any property located within the corporate limits of the City when the keeping of such animal constitutes a public nuisance or menace to public health or safety.

Sec. 4-4 Keeping of Exotic Animals.

It shall be unlawful for any person to own, harbor or permit at large any exotic animal without the written permission of an Animal Control Officer. Such permission shall be given only if it is demonstrated to the satisfaction of the

Animal Control Officer that the animals will not constitute a threat to public health or safety.

Sec. 4-5 Abandoning Animals Prohibited.

It shall be unlawful for any person to transport any domestic animal or any exotic animal, including reptiles, into the City and subsequently abandon or set loose the animal with intent of avoiding the responsibility for its custody and care. Further, it shall be unlawful for any person to transport any domestic animal or any exotic animal, including reptiles not native to the climate of North America, out of the City limits and subsequently abandon or set loose any animal with the intent of avoiding the responsibility for its custody and care.

Sec. 4-6 Caring For Animals.

(a) It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with sufficient wholesome and nutritious food, potable water, veterinary care when needed to prevent suffering, humane care and treatment or to unnecessarily expose any animal in hot, stormy, cold or inclement weather.

(b) No owner or custodian of any animal shall willfully abandon such animal on any road, street or highway or public place or on private property when not in the care of another person.

(c) It shall be unlawful for the owner or custodian of any animal to fail to provide it with humane shelter from heat, cold and wind or fail to give it food and water adequate to keep the animal in good health and comfort. Doghouses and animal keeps shall consist of a ceiling, three walls and floor; be soundly constructed; and, in cold weather, lined with dry, clean bedding.

(d) It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with veterinary care when needed to prevent suffering and to keep the animal in healthy condition.

Sec. 4-7 Sanitation.

(a) No owner or custodian of any animal shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's or custodian's property or to abutting property of others.

(b) No owner or custodian of any animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.

(c) No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk or public way, or public park, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal.

Sec. 4-8 Cruelty to Animals Prohibited.

(a) It shall be unlawful if a person in charge:

(1) Fails or refuses to provide a source of water or source of food which is adequate to keep the animal properly nourished. The source of water must also be of an adequate amount given the size of the animal and the environment in which the animal is kept to prevent the animal from overheating or dehydrating.

- (2) Overrides, overworks, overloads or overdrives the animal causing physical pain or suffering.
- (3) Beats, tortures, maims, disfigures, kills, injures, torments, poisons, deprives of necessary sustenance or mutilates any animal, causing physical pain, suffering or death. However, nothing in this section shall be construed to apply to activities conducted for lawful veterinary purposes, including but not limited to tail docking, ear clipping and declawing cats.
- (4) Fails to provide adequate medical treatment for any sick, diseased or injured animal or any animal suffering from any type of parasitic infestation.
- (5) Keeps any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fails to maintain the animal in a condition of good order or cleanliness which increases the probability of the transmission of disease.
- (6) Teases, molests, baits or harasses any animal.
- (7) Sets any rabbit, raccoon, fox or other animal loose for the purpose of chasing or hunting the animal or conducting a race using such animal.
- (8) Promotes, permits, stages, holds, manages, conducts, carries on or attends any game, exhibition, event or contest that involves a fight between at least two animals or between an animal and a person or persons.
- (9) Fails to provide adequate shelter for an animal, wherein the animal can be protected from the extremes of weather (heat, cold, rain, wind, sun, etc.) provided the person is the owner or person in charge of such animal.
- (10) Transports or carries any animal in a motor vehicle unless the animal is safely enclosed within the vehicle or protected by a cab, container, cage, cross-tether or other device to prevent the animal from falling out of or being thrown from the vehicle.
- (11) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or welfare of the animal because of the temperature, lack of food or water or such other conditions as may reasonably be expected to cause suffering, disability or death.
- (12) Restrains an animal with a leash or restraining device that is not less than 10 feet long, unless walking or training such animal and such restraint must be fixed in such a manner to allow the animal free use of the restraint without being tangled. The restraint must also be an appropriate weight for the animal and must be affixed to a proper tethering collar with a swivel attachment. An allowable tethering collar shall be a tethering collar which is a properly fitted to the dog made of suitable material other than metal that does not cause damage to the dog's skin, and affixes the dog to a fixed point, tether or runner.
- (13) Maintains any reptile in a manner that is deleterious to its health and wellbeing. Poor husbandry, poor nutrition and/or lack of proper preventative care are all considered cruel and deleterious welfare of the reptile and are unlawful.
- (14) Sets loose any reptile that is not native to the climate of North America.

- (b) Any person who unlawfully or maliciously kills, maims, disables, disfigures or injures any animal shall be guilty of a misdemeanor; but this subsection shall not be construed as prohibiting the dehorning of cattle.
- (c) This section shall not apply to the following activities:
- (1) Activities conducted for lawful veterinary purposes.
 - (2) Activities conducted for purposes of lawful biomedical research or training.
 - (3) The lawful destruction of any animal for the purpose of protecting the public, other animals, property or the public health.
 - (4) The lawful taking of animals under the jurisdiction and regulation of the U.S. Fish and Wildlife Service or the Alabama Department of Conservation and Natural Resources and successor federal and state agencies.
- (d) The violation of any provision of this section shall constitute a misdemeanor and shall result in the removal of the animal when the Director or an Animal Control Officer determines that such removal is necessary for the safety of the animal.

Sec. 4-9 Hoarders.

- (a) It shall be unlawful for any person to collect animals and fail to provide them with humane/adequate care; to collect dead animals that are not properly disposed of or to collect, house or harbor animals in filthy or unsanitary conditions that constitute a health hazard to the animals being kept and/or animals or residents of adjacent property.
- (b) Any animal taken into custody under this section may be taken to a veterinarian for immediate treatment, and any expenses incurred for veterinary treatment shall be the responsibility of the owner or custodian charged with the care, custody and control of said animal.
- (c) Any animal taken into custody under this section may be humanely disposed of at the discretion of an Animal Control Officer seven (7) days after the animal is taken into custody. Any person claiming interest in any animal in custody under this section may prevent disposition of the animal by posting a bond or security in an amount sufficient for the animal's care and keeping for at least thirty (30) days, inclusive of the date on which the animal was taken into custody. Even if a bond or security is posted, an Animal Control Officer may humanely dispose of the animal at the end of the time for which expenses of care and keeping are covered by the bond or security, unless there is a court order prohibiting the disposition. The court is authorized to require a bond in the amount necessary to protect an Animal Control Officer from any cost of the care, keeping or disposal of the animal(s). The authority taking custody of an animal(s) under this section shall give notice of this section by posting a copy of it at the place where the animal(s) is taken into custody or by delivering it to a person residing on the property.
- (d) The court making a sentencing determination for a person convicted under this section may order the person convicted to surrender custody and forfeit the animals whose treatment was the basis of the conviction. Ownership of the animals shall then be given to an animal shelter or veterinarian. The court may prohibit the person convicted from having custody of any animals for any period of time the court determines to be reasonable or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of animals.

Sec. 4-10 Animals In Vehicles.

(a) No vehicle owner, passenger or operator shall place or confine an animal or allow it to be placed or confined or to remain in an unattended vehicle without sufficient ventilation or under conditions or for such period of time as may reasonably be expected to endanger the health or well-being of such animal due to heat, lack of water or such other circumstances as may be expected to cause suffering, disability or death. When the conditions inside a parked motor vehicle constitute an imminent threat to the animal's health or safety, any animal left in a parked vehicle may be removed from that vehicle by an Animal Control Officer or any law enforcement officer. If forcible entry into a vehicle is necessary to rescue an animal, an ACO or law enforcement officer shall be immune from civil liability for property damage provided such person had a good faith belief that the animal was in imminent danger of suffering bodily harm and used no more force than necessary to remove the animal.

(b) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purposes.

Sec. 4-14 Keeping Noisy Animals and Fowl.

It shall be unlawful within the corporate limits of the City to leconfine, harbor or keep on a lot, place or premises, any animal or fowl which habitually, continuously or intermittently makes or emits sounds or noises of such volume, nature and extent as to be a public nuisance by reason of being obnoxious or annoying to persons in that neighborhood.

Sec. 4-15 Sanitary Conditions of Enclosures.

All places and premises in the City where horses, mules, cattle, rabbits, dogs or other animals or fowl are kept, harbored or confined shall be kept clean, sanitary and free of obnoxious odors and shall be maintained in such a manner as will effectively prevent the reproduction or promulgation in or about such places or premises of flies; and the presence on or about such places or premises of live larvae of flies under conditions which permit or favor growth or development shall be prima facie evidence of the reproduction or promulgation of flies and of the keeping or maintaining of such places or premises used for such purposes in violation of the provisions hereof.

Sec. 4-16 Humane Traps.

(a) The Director or any Animal Control Officer is authorized, in order to apprehend animals in violation of this chapter, which are otherwise difficult to apprehend, to use traps humanely designed to capture such animals by placing the traps upon any public property of the City, or upon the right-of-way of any public street or highway.

(b) It shall be the duty of the Animal Control Officer to check such traps daily and remove captured animals to an animal shelter or veterinarian where they shall be disposed of as otherwise provided in this chapter.

(c) It shall be unlawful for any person to molest or tamper with any such trap, or to remove any animal captured in any such trap, or to interfere with the Director or Animal Control Officer in setting or servicing any such trap.

(d) Any owner or person in charge of any premises within the City may set his own humane trap on such premises for the purpose of trapping and removing any animals which may have entered the premises. The owner or person in charge must notify the Animal Control Officer before setting his own traps. Use of one's own trap pursuant to this section shall be coordinated with the Animal Control Officer to make sure such trapping is conducted at all times consistent with the operating hours of an animal shelter or veterinarian, it being the intent of this section that no captured animal shall remain trapped for more than twelve (12) hours. The Animal Control Officer shall coordinate with the owner for the removal of captured animals to an animal shelter or veterinarian

where they shall be disposed of as otherwise provided in this chapter. It shall be a violation of this chapter for any owner or person in charge of any premises to do any of the following:

- (1) Use any trap on any premises not his own or not under his charge.
 - (2) Fail to inspect any trap at least every twelve (12) hours.
 - (3) Fail to deliver any animal captured to an animal shelter or veterinarian or to the animal's owner, if known, within twelve (12) hours of its entrapment; and if the animal's owner is unknown, fail to notify an Animal Control Officer within twelve (12) hours of its entrapment.
 - (4) Fail to exercise reasonable care and diligence to avoid injury to the trapped animal.
 - (5) Use or permit to be used any leghold trap or snare unless authorized by an Animal Control Officer.
- (e) Before any person shall be permitted to obtain a humane trap from an Animal Control Officer for use on his own premises or premises over which he is in charge, such person shall sign a statement that he has been advised that the acts or failures to act enumerated in this section constitute a violation of this chapter.
- (f) Any owner or person in charge of any dog or cat captured in a humane trap that is off the premises of the owner or person in charge shall be prima facie presumed to have allowed, suffered or permitted such animal to be or run at large. If at any time a dog or cat is captured by use of such trap and the owner or person in charge is known or becomes known to the Director or an Animal Control Officer, such person in charge shall be given a citation to appear in Municipal Court as provided in section 4-189(b).
- (g) The owner or person in charge of any premises may obtain humane traps from the Environmental Services Department by completing a trap use form and making a \$150.00 deposit. Traps may only be used for a maximum of five (5) days. The five (5) day limit may be shortened at the discretion of the Environmental Services Department if the traps are needed at other locations. Traps may only be used on private property every ninety (90) days.

Sec. 4-17 Mobile Home Parks.

All pet and animal rules and regulations included in a Mobile Home Park lease or rental agreement shall be enforced by the owner or operator of the mobile home park. The humane trapping provisions set forth in section 4-16 shall apply to all mobile home parks in the City.

Sec. 4-18 Cooperative Services Agreement.

The City may enter into cooperative services agreements with other governmental agencies and entities to provide wildlife management services.

Article II. Dogs and Cats.

Sec. 4-41 Rabies Vaccinations.

(a) Every owner of a dog, cat or ferret over the age of three months shall cause said dog, cat or ferret to be immunized for rabies pursuant to the *Code of Alabama* 1975 §§3-7A-1 through 3-7A-15. Such vaccination shall be evidenced by a tag attached to such dog or documentation of such immunization for such cat or ferret showing that such dog, cat or ferret has been vaccinated for rabies as required by the state within the preceding 36 months.

(b) Each dog over the age of three (3) months when off the premises of the owner shall wear a substantial, durable collar or harness, to which the vaccination tag shall be attached. It shall be unlawful to attach such tag by wire, rope or any inhumane means. No person shall remove the collar or vaccination tag from any animal without the consent of the owner.

(c) Cats are not required to wear the rabies vaccination tag. If the rabies vaccination tag is not worn, the owner shall be required to produce the evidence of the rabies vaccination tag upon request of the ACO.

(d) It shall be unlawful for any person to permit or allow any dog or cat in his charge or control to wear a rabies vaccination tag issued for a different animal.

Sec. 4-42 Guard Dogs.

(a) Registration.

(1) Guard dog owners or services shall register all dogs used in their business, whether housed or used in the city, with the ACO. The registration shall include name, address and telephone number of the service's manager; the breed, sex, weight, age, color, tattoo registration number of the guard dog, and other distinguishing physical features of the dog; a city license certificate the rabies vaccination certificate; and a tag that is highly visible and conspicuously different from ordinary dog tags, as approved and supplied by the city.

(2) Guard dogs which are newly acquired by guard dog services shall be vaccinated against rabies and registered with the city within seventy-two (72) hours of acquisition.

(3) The fee for registration of a guard dog with the city shall be established by the city council and shall be a one-time charge for each individual dog.

(4) The fee to register a guard dog with the city shall be a charge of twenty-five dollars (\$25.00).

(5) Such registration shall not constitute a waiver of any other requirements of this chapter.

(b) Tattoo required.

(1) Each guard dog shall have a registration number to be obtained from the city and tattooed by the owner on its inside right thigh so as to be clearly visible at all times. The registration number shall be prefixed by the letter "G." Each letter and number shall be at least one-quarter ($\frac{1}{4}$) inch in height.

(2) Owners of guard dogs registered with the American Kennel Club or a similar organization may elect to have the tattoo placed in the dog's ear.

(3) Any guard dog already tattooed by some number system different from that required by this chapter need not be retattooed if the existing tattoo is identifiable and can properly identify that dog.

(c) **Maintenance of guard dog registration record.** The city shall maintain a guard dog registration record which shall contain all data required by this chapter. Upon transfer of ownership, death, disappearance and/or annual rabies vaccination of a guard dog, each guard dog service or owner shall immediately notify the city ACO. Upon receipt of the information, the appropriate entry shall be made in the guard dog registration record. If the dog has disappeared, an entry should be made to reflect the location of such disappearance.

(d) Inspection.

(1) As a condition to maintaining registration with the city, each guard service or owner shall allow the ACO to enter and inspect all kennels housing guard dogs and other premises where such dogs are used, for the determination of owner registration compliance.

(2) It shall be unlawful for any person, firm or corporation to own, harbor, keep, maintain, use or otherwise have custody of any guard dog in the city which has not been vaccinated, registered, and tattooed as provided by this section.

(e) Transportation of guard dog.

(1) The vehicle of every guard dog service transporting any guard dog must be clearly and conspicuously marked with the words "Dangerous Dog" showing that it is transporting a guard dog. A compartment separate from the driver is required which should be arranged to ensure maximum ventilation for the animal.

(2) No guard dog shall be transported in the trunk of a car or on open-bed trucks.

(f) Requirements for businesses using guard dogs.

(1) Each business which hires or uses a guard dog must provide proper fencing to keep the guard from digging or jumping out, or must otherwise properly confine the animal within a secure enclosure.

(2) At each appropriate location and entry point, and at fifty-foot intervals along the fence perimeter, a sign shall be posted including the words "Dangerous Dog."

(3) Entry points shall have a sign posted with the telephone number of the dog's trainer or handler in case of an emergency.

Sec. 4-43 Dogs At Large.

(a) Dogs. It shall be unlawful for the owner or any person having custody or control of any dog to allow such dog to run at large within the City as defined in this chapter. It shall be the duty of every owner or person in charge of a dog to keep the animal under effective restraint, while the dog is within the City, whether or not the dog is upon or away from his premises. It shall be unlawful for any owner or person in charge of any dog to fail to keep the animal under effective restraint. Proof that a dog is not being properly restrained, whether or not on or off the premises of the owner or person in charge, shall be prima facie evidence of a violation. Negligent failure to provide or maintain effective restraint shall not be a defense. Competent evidence that the failure was occasioned by an unforeseeable and independent act of a third person shall shift the burden on the City to prove otherwise.

(b) This section shall not apply to police dogs when such dogs are engaged by a law enforcement agency in an official capacity.

Sec. 4-44 Confinement of Dogs During Estrus (Heat).

(a) Any owner or person having charge, care, custody, or control of any female dog in heat shall, in addition to restraining such dog from running at large, cause such dog to be constantly confined in a building or secure enclosure or on a leash under the supervision of the owner or person in charge so as to prevent it from attracting by scent or coming into contact with other dogs and creating a nuisance, except for planned breeding. If at any time the scent from a female dog in heat is found to be causing a disturbance to dogs in the neighborhood, it shall be the duty of the owner or person in charge of the dog to confine, immediately, the dog in such manner as to avoid a disturbance.

(b) It shall be unlawful for the owner or person in charge of any dog to fail to comply fully with this section.

Sec. 4-45 Tethering of Dogs.

(a) As used in this chapter, tether means to restrain a dog by tying the dog to any object or structure including, without limitation, to a house, tree, fence post, garage or shed by any means including, without limitation, a chain, rope, cord, lease or running line. Tethering shall not include using a leash to walk a dog.

(b) It shall be unlawful for an owner or a responsible party to tether a dog while outdoors, except when all of the following conditions are met:

- (1) The tether is connected to the dog by a buckle-type collar or a body harness made of nylon or leather.
- (2) The tether has the following properties: It is at least five (5) times the length of the dog's body, as measured from the tip of the nose to the base of the tail; it terminates at both ends with a swivel; it does not weigh more than one-eighth ($1/8^{\text{th}}$) of the dog's weight; and it is free of tangles.
- (3) The dog is tethered in such a manner as to prevent injury, strangulation or entanglement.
- (4) The dog is not outside during a period of extreme weather including, without limitation, extreme heat or freezing temperatures, thunderstorms, tornadoes, tropical storms or hurricanes.
- (5) The dog has access to water, shelter and dry ground.
- (6) The dog is at least six (6) months of age. Puppies shall not be tethered.
- (7) The dog is not sick or injured.
- (8) Pulley, running line or trolley systems are at least fifteen (15) feet in length and are at least seven (7) feet above the ground.
- (9) If there are multiple dogs, each dog is tethered separately.

Sec. 4-46 Keeping of Dangerous Dogs

The keeping of a dangerous dog as defined in section 4-2(k) shall be subject to the requirements of this article. It shall be unlawful and a misdemeanor for any owner of a dangerous dog to fail to comply with the requirements and conditions set forth in this article. A dog found to be in violation of this article shall be subject to immediate seizure and impoundment as set forth in section 4-47.

Sec. 4-47 Sworn Statements; Dangerous Dog Investigations; Hearing; Procedures.

- (a) Sworn Statements.
 - (1) When a person claims that a dog is dangerous, the person shall make a sworn statement before a city magistrate or law enforcement officer setting forth the name of the dog owner, if known, the location where the dog is being kept in the City, and the reason he or she believes the dog to be dangerous.
 - (2) The sworn statement shall be delivered to an animal control officer who shall complete a dangerous dog investigation. When the sworn statement claims that a dog has caused serious physical injury or death to a person, the duties of the animal control officer, including but not limited to the dangerous dog investigation, shall be carried out by a law enforcement officer.
- (b) Dangerous dog investigation. An animal control officer or law enforcement officer may initiate a dangerous dog investigation in cases where a complaint has been

made pursuant to subsection (a) and a person has been bitten, received physical injury or serious physical injury, or has died.

(c) Hearing, Founded.

- (1) In the event a dangerous dog investigation leads an animal control officer or law enforcement officer to believe the allegation is founded, all of the following shall occur:
 - (a) The animal control officer or law enforcement officer shall file a summons for the owner of the dog, if known, with the municipal court.
 - (b) The dog in question shall be impounded at the animal shelter or the City may enter into an agreement with a licensed veterinarian to impound the dog; provided, however, the owner of the dog shall be provided the opportunity to choose a veterinarian of his or her choosing to impound the dog in lieu of the animal shelter. If the dog is impounded with a veterinarian chosen by the owner of the dog, the owner of the dog shall be liable for paying to the veterinarian the cost and expenses incurred in impounding, feeding and providing veterinary care or treatment for the dog. If the City impounds the dog, the owner of the dog shall be liable to the City for the costs and expenses incurred in impounding, feeding and providing veterinary care or treatment for the dog.
 - (c) The animal control officer or law enforcement officer shall send a copy of the investigation report to the municipal attorney, or municipal prosecutor.
- (2) In lieu of the investigation, the owner of the alleged dangerous dog may consent to the dog being humanely euthanized.

(d) Hearing, Unfounded.

- (1) In the event the dangerous dog investigation leads the animal control officer or law enforcement officer to believe the allegation is unfounded, the animal control officer shall advise the complainant of his or her findings and the animal control officer or law enforcement officer shall submit the results of the investigation to his or her supervisor.
- (2) A copy of all investigations made pursuant to this section shall be kept on file in the animal control office.

(e) Procedures.

- (1) The municipal attorney, or municipal prosecutor may file a petition in the municipal court to declare dangerous the dog that caused the physical injury, serious physical injury or death to a person in the jurisdiction of the municipality. The owner of the dog, if known, shall be served with a copy of the petition.
- (2) A dog that is the subject of a dangerous dog investigation may not be relocated and ownership may not be transferred pending the outcome of the investigation and hearing to determine whether to declare the dog to be dangerous.
- (3) The court hearing shall be held as soon as practicable. At the hearing, the municipal attorney, or municipal prosecutor shall present evidence that the dog is dangerous. To declare the dog dangerous, the court shall find by reasonable satisfaction that the dog bit, attacked or caused physical injury, serious physical injury or death to a person without justification.

- (a) If the court determines that the dog is dangerous and has caused serious physical injury or death to a person, the court shall order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer.
- (b) If the court determines that the dog is dangerous but has not caused serious physical injury or death to a person, the court shall determine whether the dog has a propensity to cause future serious physical injury or death. If the court determines by reasonable satisfaction that the dog has such a propensity, the court may order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer or the court may order the dog be returned to its owner pursuant to all of the following conditions:
 - (1) The dog shall be held in impound until the owner complies with all orders of the court, but if the owner fails to comply with all orders of the court within thirty (30) days of the court's order, the dog shall be humanely euthanized.
 - (2) The dangerous dog shall be microchipped.
 - (3) The owner of the dangerous dog shall provide a copy of the certificate of the current rabies vaccination of the dog.
 - (4) The dangerous dog shall be spayed or neutered.
 - (5) The owner of the dangerous dog shall be required to pay all expenses involved with the investigation, pickup and impoundment, and any court costs or fees related to the hearing to determine whether the dog is dangerous.
 - (6) The owner of the dangerous dog shall be required to pay an annual dangerous dog registration fee of one hundred dollars (\$100) to the City for a dog deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the City for non-registration within two (2) weeks.
 - (7) Surety Bond.
 - (a) The owner shall be required to obtain a surety bond of at least one hundred thousand dollars (\$100,000) and shall provide proof to the court or animal control office.
 - (b) The surety bond required by subparagraph (7)(a) shall provide coverage for dog bites, injuries or death caused by the dog.
 - (c) The owner shall provide proof of the surety bond each time the annual dangerous dog registration fee is paid.
 - (8) The owner of the dangerous dog shall provide proof to the court that he or she has constructed a proper enclosure for a dangerous dog pursuant to section 4-2(y).
- (4) The pleading and practice in all cases to petition the court to declare a dog to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure and rules of the courts governing municipal courts in this state unless otherwise specified by this chapter. Any judicial determination in municipal court that a dog is dangerous may

be appealed to the circuit court pursuant to the requirements of the Alabama Rules of Civil Procedure and the order of the circuit court shall be final.

- (5) It shall be presumed that a dog is not a dangerous dog pursuant to this chapter if the dog was on property owned by the owner of the dog when the event subject to a claim under the chapter occurred or if the victim was trespassing on any property when the event subject to a claim under the chapter occurred.

Sec. 4-48 Dangerous Dog Violations

(a) If a dog that has previously been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, the owner of the dog shall be guilty of a Class A misdemeanor.

(b) If a dog that has not been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, and the owner of the dog had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the dog shall be guilty of a Class B misdemeanor.

(c) In addition to any fines imposed by the court, a person guilty of violating subsection (a) or (b) shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding and veterinary expenses necessitated by impoundment of the dog, medical expenses incurred by a victim from an attack by a dangerous dog, and other expenses required for the destruction of the dog.

(d)

- (1) When a dog declared to be dangerous is outside and not contained in the proper enclosure of a dangerous dog pursuant to section 4-2(y) the owner of the dangerous dog shall be present and shall restrain the dangerous dog with a secure collar and leash.

- (2) An owner of a dog declared to be dangerous who violates subdivision (1) shall be guilty of a Class C misdemeanor, except that a second or subsequent adjudication or conviction is a Class B misdemeanor.

(g) An owner of a dog that is the subject of a dangerous dog investigation who refuses to surrender the dog to an animal control officer or law enforcement officer, upon the request of the animal control officer or law enforcement officer, shall be guilty of a Class C misdemeanor.

(h) Any person who knowingly makes a false report to an animal control officer that a dog is dangerous is guilty of a Class C misdemeanor.

Article III. Animals Other than Dogs and Cats, Specifically

Sec. 4-71 Violations of This Article.

Any person violating or aiding or abetting any provision of this article shall be guilty of a misdemeanor and shall be fined or punished in accordance with section 4-189.

Sec. 4-72 Keeping of Hogs.

It shall be unlawful for any person to keep pigs or hogs, including miniature and Vietnamese pot-bellied pigs, in the corporate limits of the City.

Sec. 4-73 Keeping of Chickens.

It shall be unlawful for any person to keep chickens within the City, except as provided in this section. The keeping of chickens is allowed, provided:

- (a) The minimum lot size of the property is 10,000 square feet.
- (b) The principal use of the property is a single-family dwelling.
- (c) The number of chickens does not exceed:
 - (1) Four (4) on lots 10,000 square feet to 19,000 square feet
 - (2) Six (6) on lots 20,000 square feet or greater
- (d) The chickens are kept in an enclosure or fenced area, such as a hen house, chicken coop, chicken tractor, etc., at all times.
- (e) The chicken enclosure or fenced area is a minimum of six (6) square feet per chicken.
- (f) The chickens are not kept on any location on the property other than in the backyard (the rear yard of the principal structure).
- (g) The covered enclosure or fenced area is a minimum of ten (10) feet to any property line of an adjacent property and thirty (30) feet from the neighboring dwellings, church, school or place of business.
- (h) The enclosures are kept in a clean, dry, odor-free, neat and sanitary condition at all times.
- (i) The chicken owner takes necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
- (j) The keeping or harboring of male chickens or roosters is prohibited.
- (k) The premises upon which chickens are kept must be the property owner's primary residential dwelling.
- (l) No person who owns, controls, keeps, maintains or harbors chickens shall permit the premises where the chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition, or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. The chicken enclosure or chicken run authorized by this section may be inspected at any reasonable time by the animal control officer.
- (m) The slaughter and breeding of chickens on any premises in the City is prohibited.
- (n) No person shall maintain a chicken enclosure, coop and/or chicken run unless granted a permit by the Director. Prior to the construction of the chicken enclosure, a site plan shall be reviewed and approved by the Director.

Sec. 4-74 Large Animals and Fowl

It shall be unlawful for any person to own, control, keep, maintain or harbor large animals and fowl, except as provided in this section. Large animals, such as mules, cows, sheep, goats, fowl and other such farm animals may only be kept or maintained on lots of three (3) acres or more in the R-1 (Rural) Zoning District. Horses may be maintained only in the R-1 (Rural) District on lots of two (2) acres or more with a limit of one (1) horse per acre. Chickens may be kept or maintained as provided in section 4-73.

Sec. 4-75 Distance of Corrals, Pens or Stables from Dwellings

It shall be unlawful for any owner or person in charge to keep any large animal or fowl in the City in any corral, stable or pen any part of which is within 100 feet of a dwelling of a person other than the owner or person in charge of the animal.

Sec. 4-76 Minimum Size of Corrals

It shall be unlawful for any person to keep any animal in a corral in the City unless such corral has a minimum area of 12,000 square feet per animal and an additional 10,000 square feet for each additional animal kept, to every portion of which each and every animal shall have free and unrestricted access.

Sec. 4-77 Horses Not to Stand in Streets Unless Hitched or Attended

It shall be unlawful for any owner or person in charge to allow a horse to stand in any street within the City unless the owner or person in charge is in attendance or the horse is securely hitched. Any horse not so attended or securely hitched shall be considered to be at-large.

Sec. 4-78 Large Animals Running At Large Prohibited

(a) It shall be unlawful for the owner or person in charge of any large animal to cause, permit or allow such animal to run or to be at-large. The fact that any large animal has been kept on a particular premises, together with its subsequent appearance at-large, shall raise a prima facie presumption that the owner or person in charge of the premises permitted or allowed a violation and the burden of proof shall be upon the owner or person in charge to prove otherwise.

Sec. 4-79 Enclosure of Horses or Cattle—Generally

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any stable, building, structure or shed unless such stable, building, structure or shed is equipped with a watertight floor or base of cement or other impervious material and so laid or arranged and constructed as to prevent refuse, foodstuffs and discharges from animals from falling upon, touching or soiling the ground.

(b) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or in or upon any uncovered, enclosed parcel of land, in a commercial or industrial district as established by zoning regulations, unless such corral or parcel of land shall have a minimum area of one thousand (1,000) square feet for one (1) such animal and two hundred (200) square feet for each additional such animal there kept, harbored or confined.

Sec. 4-80 Same—Minimum Space Requirements

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or in or upon any uncovered, enclosed parcel of land, outside a commercial or industrial district as established by zoning regulations, unless such corral or parcel of land shall have a minimum area of two thousand five hundred (2,500) square feet for one (1) such animal, and one thousand (1,000) square feet for each additional animal there kept, harbored or confined, to every portion of which such animal shall have free and unrestricted access.

(b) The material used in the base or floor may include portions of wood when the aggregate of such portions does not exceed three-fourths ($\frac{3}{4}$) of the total area of such base or floor, and when each piece of wood is embedded in cement or other impervious material, separated from each adjacent piece at least one (1) inch by cement or other impervious material, and is continuous with and forms an integral part of such base or floor.

(c) It shall be permissible to cover, not exceeding three-fourths ($\frac{3}{4}$) of the area of a floor or base constructed as hereinabove specified, with hardwood, provided each piece

of such hardwood is separated from each adjacent piece at least one (1) inch and is readily removable.

Sec. 4-81 Collection and Disposal of Manure and Other Materials.

All accumulations of manure and material soiled by excreta in and about every stable, building, structure, shed, corral or pen where any animal of the equine or bovine type is kept, harbored or confined, shall be collected at least once each day and immediately deposited in substantial flyproof containers. All such collections shall be kept stored in substantial flyproof containers for a continuous period of two (2) weeks from the date of collection. Sawdust, shavings, straw and other material used as animal bedding and unsoiled by excreta shall be collected at least once a week and deposited and stored as provided in this section. In lieu of storage, as herein provided, manure and other materials, when collected in accordance with the provisions hereof, being free of live fly larvae, may be disposed of, within twenty-four (24) hours from time of collection, by burial at least six (6) inches underground or by spreading the same thinly upon the surface of the ground at some place distant from any place where animals are kept, harbored or confined, so that such collections shall be and remain fully exposed to sunshine.

Sec. 4-82 Cleaning Floors, Structures Where Certain Animals Are Kept

The base or floor of every stable, building, structure or shed in which any animal of the equine, bovine or rabbit species or type is kept, harbored or confined, together with all appliances used in connection therewith, shall be cleaned at least once each day by the removal of manure and other material soiled by manure and by washing.

Sec. 4-83 Keeping of Horses or Cattle Near Certain Buildings.

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or other uncovered enclosure in the city or its police jurisdiction, any part of which is within one hundred (100) feet of a dwelling, school, church, hospital, public building, public park, public playground or public thoroughfare.

(b) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any stable, building structure or shed in the city, any part of which is within fifty (50) feet of a dwelling, school, church, hospital, public building, public park, public playground or public thoroughfare.

Sec. 4-84 Keeping of Fowl

It shall be unlawful to keep, harbor or confine any ducks, geese, chickens, guineas, peacocks or other fowl in any stable, building, structure, corral, pen or enclosure in the City, any part of which is within fifty (50) feet of a dwelling, church, hospital, school, public building, public park or public thoroughfare.

Sec. 4-85 Impounding of Large Animals Upon Premises of Other Than Owner.

Any large animal which is found at large upon the premises of another person other than the owner or keeper thereof shall be impounded by the animal control officer or other authorized agent of the city. Any large animal which is found at large upon any street, alley, thoroughfare, sidewalk, park, school or other public place of the city shall also be subject to impoundment by the animal control officer or other authorized agent of the city as provided in this chapter.

Sec. 4-86 Bird Sanctuary

(a) The entire area embraced within the corporate limits is hereby designated as a bird sanctuary.

(b) Except as provided in section 14-495, it shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or

wild fowl nests without the advance written consent and approval of the Environmental Services Department. Such consent and approval shall be given if such activity will not endanger persons or property, and if such birds are congregating in such numbers as to endanger the public health and safety.

(c) No provision of this section shall be construed to prohibit or abrogate the right of the City to protect the health, safety or welfare of the citizens of the community.

Article IV Rabies Control

Sec. 4-101 Rabies Vaccination

(a) Vaccine Required.

- (1) A person commits an offense if a person keeps, harbors, or has custody of a dog or cat over three months of age that has not been immunized against rabies as required by Ala. Code §3-7A-2.
- (2) The same animal shall be re-vaccinated at intervals specified in the vaccine's license.

(b) Every veterinarian whose office or place of business is located within the City shall keep detailed records of animal rabies vaccinations and shall provide rabies vaccination information to rabies officer and animal control officer upon request.

Sec. 4-102 Domestic Animals that Reasonably Expose Humans to Rabies

(a) When a domestic dog or cat bites or otherwise creates a condition that could reasonably expose or transmit rabies to any human being, the animal shall be immediately quarantined as provided in Ala. Code §3-7A-9 for a minimum period of ten (10) days from the date that the bite or exposure occurred, or longer as the rabies officer or animal control officer may deem necessary.

(b) The owner shall submit the subject animal within 24 hours of notification by the rabies officer or animal control officer for quarantine in a facility approved by the rabies officer or animal control officer or a licensed veterinarian's clinic in the City which has the facilities for isolation cages.

(c) Any animal required to be quarantined under this section which in the determination of the rabies officer or animal control officer cannot be or is not being maintained in a secure quarantine shall be humanely euthanized and a suitable sample submitted to the Alabama Department of Health for rabies diagnosis.

(d) The owner of any animal that is reported to have rabies or symptoms thereof, or to have been exposed to rabies, or to have bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, or that the owner knows or suspects to be rabid, or to have bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, shall submit such animal for quarantine to the rabies officer or animal control officer or to any police officer.

(e) It shall be unlawful for the owner of an animal that has rabies or symptoms which could reasonably indicate rabies or that bites, scratches or otherwise creates a condition that may expose or transmit the rabies virus to any human being or other animal, to fail or refuse to comply with the provisions of this article.

(f) It shall be a violation of this article for the owner of such animal to refuse to comply with the lawful order of the rabies officer or animal control officer in any particular case.

(g) It shall be unlawful for the owner to sell, giveaway, transfer to another location or otherwise dispose of any animal known to have bitten or exposed a human being to the

rabies virus until it is released from quarantine by the rabies office, duly licensed veterinarian or appropriate health officer.

Article V Impoundment and Destruction

Sec. 4-141 Impoundment.

(a) Animals of the following classes may be captured and impounded in an animal shelter or other suitable place for the care of the animal:

- (1) Dangerous animals, subject to the procedures set forth in section 4-47.
- (2) Animals that are causing nuisances in violation of section 4-3.
- (3) Animals that have been bitten by an animal suspected of having rabies.
- (4) Any dog not wearing a current rabies vaccination tag.
- (5) Any cat whose owner cannot produce evidence of the rabies vaccination tag upon request of the ACO.
- (6) Abandoned animals and animals whose ownership is unknown.
- (7) Any animal running at large in violation of sections 4-43 and 4-85.
- (8) Female dogs and cats in breeding season not confined to the premises of the owners in such manner as to avoid nuisances and prevent access to other animals.

(b) Animal Control Officers, law enforcement officers and officers of state-chartered nonprofit humane organizations shall have authority to pick up, catch, or procure and impound any animal in violation of this chapter or any animal infected or believed to be infected with rabies or other contagious or infectious disease to humans or animals in such a manner as is reasonably necessary to effectuate its capture. Impounded animals shall be confined in a humane manner at an animal shelter.

(c) An impounded animal shall be held for at least seven (7) days including the day of impoundment, except a sick or injured animal which poses a threat to the safety of the personnel responsible for the care of such animal may be euthanized at the discretion of the impounding agency. The depositing of a letter of notification by first class U.S. mail shall constitute adequate notification of impoundment. The owner shall also be notified by phone, if possible. This section shall not apply to animals surrendered by the owner or an agent of the owner, in which case disposition may be made as provided in this chapter without notification or a holding period. At the expiration of the holding period, during which time a diligent attempt has been made to locate and contact the owner, the animal may be disposed of in a manner provided in this chapter.

(d) A registry shall be maintained by the impounding agency. The registry shall contain identifying characteristics of each animal impounded along with the location, date and reason of each pickup.

(e) For violations of this chapter, an owner may be subject to a written warning or such penalties as prescribed in this chapter, in addition to or in lieu of impoundment.

Sec. 4-142 Redemption and Disposition.

All animals which have been impounded in accordance with the provisions of this chapter may be disposed of as provided below:

- (1) Within the holding period, animals, except dangerous dogs, may be redeemed by the owner or his agent upon the payment of those fees or costs associated with the impoundment, as established by the city council.

The owner entitled to possession of an impounded dog or cat which does not have the required rabies inoculation certificate and tag shall have such animal inoculated and shall present proof of the issuance of such certificate and tag to the ACO within ninety-six (96) hours of the release from impoundment.

- (2) If not redeemed within the holding period, animals may be disposed of by humane euthanasia.
- (3) Those animals which would otherwise be disposed of by euthanasia may be offered to state-chartered nonprofit humane organizations, rescue groups approved by the Director or veterinarians for the purpose of providing adoption of such animals. Fees and costs may be waived for the disposition of animals in this manner. All dogs and cats placed with this organization shall be vaccinated and sterilized before said organization offers each animal for adoption. The adopter may enter into a written agreement that sterilization will be performed within thirty (30) days or prior to the age of six (6) months. Written document must be returned to the organization by the adopter of said sterilization. Failure to comply with the requirements of this subsection within the specified time shall constitute a violation of this section, and the ACO shall have the right to impound the animal.
- (4) Dangerous dogs will be disposed of in accordance with the provisions of section 4-47 of this chapter.

Sec. 4-143 Fees and Charges; Administration

(a) Any cat or dog, except a dangerous dog, impounded hereunder may be reclaimed as herein provided upon payment by the owner of the following:

- (1) Boarding fee charged by the City or any other state-chartered nonprofit organization or veterinarian or shelter designated by the city council.
- (2) The amount of vaccination fee, if necessary.

(b) Any large animal impounded hereunder may be reclaimed as herein provided upon payment by the owner to the ACO or his assistants the following:

- (1) The actual costs incurred by the city in seizing, confining and transporting such animal.
- (2) Actual costs incurred by the city for boarding such animal.
- (3) The actual costs incurred by the city for veterinary care, if necessary.

Sec. 4-144 Destruction of Certain Animals

(a) Animal control officers and city police officers are authorized to destroy any animal at large breaching any provisions of this chapter, provided:

- (1) Such officer has made reasonable efforts to capture such animal or to locate the owner of the animal; and,
- (2) Such officer has been unable to capture the animal or is unable to locate the owner of the animal; and,
- (3) In that officer's opinion, the animal constitutes a direct and immediate threat to public health, safety, or welfare.

(b) Animal control officers, city police officers, and agents of the animal shelter are authorized to destroy any animal found within the city limits when:

- (1) Such animal is injured or diseased past recovery; or
- (2) Presents a direct and immediate threat to the public or any person individually.

(c) The animal control officer and law enforcement officers are authorized to destroy any animal which has bitten or fiercely attacked any person causing severe injury, the loss of bodily function or death, when the animal control officer or law enforcement officer believes such animal constitutes a direct and immediate threat to the public health, safety, or welfare.

(d) Taking into account all the relevant circumstances, animal control officers, city police officers and agents of an animal shelter are to employ the most humane means possible when exercising the authority granted under this section.

Article VI Dead Animals.

Sec. 4-181 Penalties.

If any person that violates or refuses to comply with this article shall, upon conviction, be punished, in addition to such punishment, including a term of community service, as may be provided by the court, by minimum fines and penalties, for first conviction \$100.00 or by imprisonment of not more than ten (10) days, for conviction of a second offense committed within one (1) year of the date of the first offense, such person shall be punished by a fine of \$200.00 or by imprisonment of not more than thirty (30) days or by both such fine and imprisonment; for conviction of a third or subsequent offense committed within one (1) year of the date of the first offense, such person shall be punished by a fine of \$500.00 or by imprisonment of not more than three (3) months or by both such fine and imprisonment.

Sec. 4-182 Disposal Limited

It shall be unlawful for any person to dispose of any dead animal except as provided in this article.

Sec. 4-183 Disposal Generally

The owner or person in charge of animals that die or are killed in his possession or custody, other than such as are slaughtered for food, within 24 hours, shall notify the appropriate City official as set forth in Section 4-184 of such dead animal and request its removal as provided in Sections 4-184 and 4-185 or shall cause the remains of such animal to be cremated or buried at least two (2) feet below the surface of the ground in accordance with this article. Animals dying from any communicable disease whatsoever shall be reported to the City in accordance with Section 4-184. No such animal shall be buried near a residence or in such manner as to create a nuisance. In no case shall a dead horse, bull, mule, cow or other large animal be buried within 300 feet of a residence.

Sec. 4-184 Appropriate City Official Notification

- (a) A large animal such as a horse, mule, cow or hog shall be reported to the Director.
- (b) Animals dying from any communicable disease shall be reported to the health department in addition to being reported to the appropriate City official for removal.

Sec. 4-185 Removal By the City

When a request is made to the Director or an animal control officer for a removal of a small dead animal or when request is made to the Director for the removal of a large dead animal, it shall thereupon be the duty of the official receiving the request to demand of such person his name and address, including street address and house number, and a description of the dead animal. Immediately upon receipt of the information demanded,

the official receiving the request shall cause the remains of such dead animal to be removed and buried at least two (2) feet below the surface of the ground or to be burned. If death is due to a communicable disease, the remains shall be burned. However, the Director or an animal control officer may require that the requesting party place the dead animal in a securely fastened plastic bag or similar container and make the container accessible at the curb or at such other place upon the property as he may direct.

Sec. 4-186 Fees For Removal By City

For removal of any dead large animal such as a horse, mule, cow, sheep, goat or hog, the owner or person in charge of such animal requesting its removal by the City shall be charged the fee as established by the Environmental Services Department, and such fee shall bear a direct relationship to the cost of disposal. It shall be unlawful for any person liable for the expenses of such removal to fail to pay such fees.

Article VI. Enforcement, Fines and Penalties

Sec. 4-187 Enforcement

(a) The animal control officers shall be under the general supervision of the Director of Environmental Services. The ACO shall, along with his assistants, enforce the provisions of this chapter. Any provisions of this chapter referring to the Director shall also mean and include any authorized employee acting in his stead and under his supervision.

(b) The ACO, his assistants and members of the City police department shall have the right, for the protection of the public health, welfare and safety, to enter upon any property within the City for the purpose of capturing or impounding any animal which is in violation of this chapter.

(c) Any expense incurred in the handling of any animal under the provision of this chapter shall be borne by the owner or custodian of such animal.

(d) It shall be a violation of this chapter to interfere with any animal control officer while in the lawful performance of his duties or anyone who may be assisting in the performance of such duties.

(e) Any person who lawfully refuses to sign and accept a citation issued by a law enforcement officer or the ACO shall be in violation of this chapter.

(d) The City Council may subcontract with any state-chartered, non-profit humane organization to carry out part or all of the duties of this chapter. Said organization shall carry out the duties pursuant to the provisions prescribed by this chapter

Sec. 4-188 Citations and Warrants

When any animal is found by the Director or by an animal control officer to be in violation of any provision of this chapter, except those listed in section 4-189(b) or as otherwise provided in this chapter and the person responsible becomes known to the Director or to the Animal Control Officer, he may issue a citation to the owner or person in charge for such violation directing him or her to appear in municipal court at a time and a date stated in the citation to answer to charges of violations of this chapter, and such charges shall be stated in the citation. For offenses listed in section 4-189(b), no prosecution shall be commenced and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a judge or magistrate of the municipal court.

Sec. 4-189 Penalties for Violation

(a) Except for the offenses listed in subsection 4-189(b), any person convicted of violating any provision of this chapter within a twelve-month period shall be guilty of a violation and shall be punished as follows:

- (1) *First violation:* A fine of fifty dollars (\$50.00);
- (2) *Second violation:* A fine of one hundred dollars (\$100.00);
- (3) *Third violation:* A fine of two hundred dollars (\$200.00);
- (4) *Fourth or any subsequent violation:* A fine in an amount not exceeding five hundred dollars, (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the municipal judge trying the case.

Any person who has been charged with the violation of any provision of this chapter, except those offenses identified in section 4-189(b), and who desires to waive trial of the question of his guilt or innocence of such alleged offense, may pay the fine prescribed above to the municipal court of the city, and the municipal court magistrate is hereby authorized and instructed to receive such amount. Voluntary settlement shall not be permitted to any person who has been thrice convicted of the same offense prior to the date of the instant alleged offense, and such person shall be required to stand trial in municipal court. Offenses not settled as provided in this subsection prior to the court appearance date shown on the notice of violation will be disposed of in the same manner as is any case appearing on the regular municipal court docket.

(b) Any person who is alleged to have committed any of the following offenses listed in this chapter shall be required to stand trial in municipal court:

- (1) *Section 4-5:* Abandonment of animals.
- (2) *Section 4-8:* Cruelty to animals.
- (3) *Section 4-10:* Animals in vehicles.
- (4) *Section 4-42:* Failing to register and maintain guard dogs.
- (5) *Section 4-46:* Keeping of dangerous dogs.
- (6) *Section 4-78:* Large animals running at large.
- (7) *Section 4-102(f):* Refusal to obey order of rabies officer or ACO.
- (8) *Sections 4-183, 4-184, 4-185 and 4-186:* Disposal of dead animals.

Any person convicted of any act listed in this subsection (b) shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the municipal judge trying the case.

(c) Each day's violation of any provision of this chapter shall constitute a separate offense.

(d) In addition to the penalties provided in this section, the city council is hereby authorized to institute any appropriate action or proceeding including suit for injunctive relief in order to abate violations of this chapter.

Section 2. **Repealer Clause.** All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are repealed.

Section 3. **Severability.** If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of any competent jurisdiction, said holding shall not affect any other section, clause, provision or portion of this Ordinance which is not in or of itself invalid or unconstitutional.

Section 4. **Effective Date.** This Ordinance and the subsection hereby adopted shall take effect and be enforced on March 1, 2019.

Section 5. **Publication.** The City Clerk of the City of Opelika is hereby authorized and directed to cause a copy of this Ordinance to be published one (1) time in a newspaper of general circulation in the City of Opelika, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR this the ____ day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

Attachment: Ordinance, amend city code, Chapter 4, Animal Control replacing chapter 4, 2-14-19 (3264 : Ordinance to Amend Chapter 4 Animal Control - 2nd Reading)

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 4 OF THE CODE OF ORDINANCES OF THE CITY OF OPELIKA, ALABAMA, REPEALING CHAPTER 4 ENTITLED “ANIMALS AND FOWL” AND SUBSTITUTING IN LIEU THEREOF A NEW CHAPTER 4 ENTITLED “ANIMAL CONTROL”; ESTABLISHING A PURPOSE, ADOPTING ANIMAL CONTROL REGULATIONS; PROVIDING PENALTIES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED by the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”) as follows:

Section 1. **Replacement of Chapter 4 of the Code of Ordinances, adopting Sections 4-1 through 4-189.** That current Chapter 4 of the *Code of Ordinances* of the City of Opelika entitled “Animals and Fowl” is hereby repealed in its entirety and replaced with new Chapter 4 entitled “Animal Control”, consisting of Sections 4-1 through 4-189, which chapter shall read as follows:

Section 4 – Animal Control

Article I -- In General.

This chapter shall be known as the City of Opelika Animal Control Ordinance.

Sec. 4-1 Purpose.

The purpose of the purpose of this chapter is to promote the public health, safety and general welfare of the citizens of the City of Opelika and to ensure the humane treatment of animals by regulating the care and control of animals within the City.

Sec. 4-2 Definitions.

The following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

- (a) “*Animal*” means any live creature, both domestic and wild, except humans. “Animal” includes, without limitation, dogs, cats, fowl, livestock, reptiles, pets and all mammals except humans.
- (b) “*Animal Control Officer*” means any employee of the City Public Works Animal Control Division who performs animal control functions or any person who is employed by an entity under agreement or contract with a county or municipality to perform animal control functions or to enforce this chapter.
- (c) “*Animal-at-Large*” means any animal that is not controlled by adequate leash or tether, or otherwise under the owner’s physical control, as defined in this chapter, while the animal is off the owner’s premises. No animal shall be deemed “running-at-large” when said animal is upon the property of the owner.
- (d) “*At-Large*” means that the animal is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.
- (e) “*Animal Shelter*” means any facility maintained by the City and any facility maintained by a non-profit humane organization or municipal agency as

approved by the City Council for the confinement, care, control or disposition of animals that come into its custody.

- (f) “*Attack*” means aggressive physical contact by a dog.
 - (g) “*ACO*” means Animal Control Officer, or any person designated by him.
 - (h) “*Bite*” means the puncturing or bruising of the skin by teeth of an animal.
 - (i) “*Bitten*” means seized with the teeth or claws, so that the skin of the person seized or gripped has been wounded or pierced, resulting in physical injury.
 - (j) “*Cat*” means any member of the domestic feline family.
 - (k) “*Dangerous Dog*” means a dog, regardless of breed, that has bitten, attacked or caused physical injury, serious physical injury or death to a person, without justification, except a dog that is a police animal as defined by Section 13A-11-260, *Code of Alabama*, used by law enforcement officials for legitimate law enforcement purposes.
- The definition of Dangerous Animals” shall not include any animal which acted aggressively if the actual or intended victim has made an unlawful entry into the dwelling of the owner, nor shall such definition include any guard dog, which is properly registered under Section 4-42 of this chapter and maintained in compliance with such section.
- (l) “*Division*” means the Animal Control Division of the Environmental Services Department of the City.
 - (m) “*Dog*” means all members of the canine family, including dog hybrids.
 - (n) “*Director*” means the Director of the Environmental Services Department.
 - (o) “*Doghouse*” means a structure consisting of a ceiling, three (3) walls and floor, soundly constructed and in cold weather, lined with dry, clean bedding.
 - (p) “*Enclosure*” means the entire housed or fenced area where an animal is confined and also an area where an animal is tied, chained or tethered.
 - (q) “*Exotic*” means an animal which would ordinarily be confined to a zoo, or one which would ordinarily be found in a wilderness of this or any other country; or a species of animal not indigenous to the United States or to North America or which causes zoonotic diseases or one which otherwise causes a reasonable person to be fearful of significant destruction of property or of bodily harm, the latter including but not limited to raccoons, bobcats, coyotes, wolves, hybrid wolves, bears, alligators, crocodiles, caimans, non-domesticated species of felines, non-human primates (monkeys), Vietnamese pot-bellied pigs, and other such animals. Wild or exotic animals specifically include all venomous reptiles and constrictor snakes but do not include animals of a species customarily used in the state as ordinary household pets; animals of a species customarily used in the state as domestic farm animals; fish confined in an aquarium, birds or insects.
 - (r) “*Fowl*” means a domestic bird used in the market or household for food consumption, such as a chicken, duck, goose, guinea, peafowl, turkey, pheasant, pigeon or other avian species.

- (s) “*Guard Dog*” means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog.
- (t) “*Impounded*” means taken into custody by an animal control officer or law enforcement officer.
- (u) “*Owner*” means a person, firm, corporation or organization having a right of property in an animal, or who keeps or harbors an animal, or who has an animal in his or her care, or acts as the custodian of an animal, or who permits an animal to remain on or about any premises occupied by him or her.
- (v) “*Pen*” means any enclosure for housing and feeding small animals.
- (w) “*Person In Charge*” means any person in whose charge the animal is being kept, and all the responsible adult members of the household in which an animal is kept or allowed or suffered to remain.
- (x) “*Physical Control*” means the immediate, continuous, physical control of an animal at all times such as means of a leash, cord or appropriate chain of such strength to restrain the same; or in the case of trained animals, “*Physical Control*” shall also include visual signals or oral commands by the owner of a dog which responds to such signals or commands, if said dog is at all times within unobstructed sight of the dog’s owner.
- (y) “*Proper Enclosure of a Dangerous Dog*” means an enclosure for the confinement of a dog that has been declared dangerous that is suitable to prevent the entry of the general public and that does all of the following:
- (1) Is capable of being locked with a key or combination lock when the dog is within the structure.
 - (2) Has secure sides and a secure top attached at all sides. All four sides of the fence or pen must be sunk at least two feet into the ground or the fence or pen must be built over a concrete pad to prevent the dog from digging out.
 - (3) Provide adequate ventilation and protection from the elements.
 - (4) Exhibit a sign conspicuously posted upon the pen or the structure containing the following: “Dangerous Dog—No Trespassing”.
 - (5) The enclosure shall be constructed to allow the dog to stand normally and without restriction and shall be not less than four times the length of the dog and two times the width of the dog.
 - (6) The enclosure shall be locked at all times while the dog is inside the enclosure.
- (z) “*Large Animal*” means any horse, mule, cow, pig, hog, sheep or other animal weighing twenty-five (25) pounds or more, except members of the canine family.
- (aa) “*Person In Charge*” means any person in whose charge the animal is being kept, and all responsible adult members of the household in which an animal is kept or allowed or suffered to remain.
- (bb) “*Physical Injury*” means an injury defined in Section 13A-1-2(12), *Code of Alabama*.

(cc) “*Public Nuisance Animal*” means any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term “*Public Nuisance Animal*” shall include but not be limited to:

- (1) Any animal that is repeatedly found running at large.
- (2) Any dog or cat in any section of a public or controlled recreation area unless the dog or cat is controlled by a leash or similar physical restraint.
- (3) Any animal that makes disturbing noises, including but not limited to, continued or repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (4) Any animal that causes fouling of the air by obnoxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (5) Any animal that is in heat and that is not confined so as to prevent attraction or contact with other animals.
- (6) Any animal whether or not on the property of its owner, that, without provocation, molests, attacks or otherwise interferes with the freedom of movement of persons in a public right-of-way.
- (7) Any animal that chases motor vehicles in a public right-of-way.
- (8) Any animal that attacks, without provocation, domestic animals.
- (9) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.
- (10) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals contained at a single residence or the inadequacy of facilities.

(dd) “*Serious Physical Injury*” means an injury as defined in Section 13A-1-2, *Code of Alabama*.

(ee) “*Under Restraint*” means that an animal is secured by a leash led under the control of a person physically capable of restraining the animal or obedient to the person’s commands, or securely enclosed within the real property limits of the owner’s premises.

Sec. 4-3 Nuisances.

It shall be unlawful for any person to keep any animal on any property located within the corporate limits of the City when the keeping of such animal constitutes a public nuisance or menace to public health or safety.

Sec. 4-4 Keeping of Exotic Animals.

It shall be unlawful for any person to own, harbor or permit at large any exotic animal without the written permission of an Animal Control Officer. Such permission shall be given only if it is demonstrated to the satisfaction of the

Animal Control Officer that the animals will not constitute a threat to public health or safety.

Sec. 4-5 Abandoning Animals Prohibited.

It shall be unlawful for any person to transport any domestic animal or any exotic animal, including reptiles, into the City and subsequently abandon or set loose the animal with intent of avoiding the responsibility for its custody and care. Further, it shall be unlawful for any person to transport any domestic animal or any exotic animal, including reptiles not native to the climate of North America, out of the City limits and subsequently abandon or set loose any animal with the intent of avoiding the responsibility for its custody and care.

Sec. 4-6 Caring For Animals.

(a) It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with sufficient wholesome and nutritious food, potable water, veterinary care when needed to prevent suffering, humane care and treatment or to unnecessarily expose any animal in hot, stormy, cold or inclement weather.

(b) No owner or custodian of any animal shall willfully abandon such animal on any road, street or highway or public place or on private property when not in the care of another person.

(c) It shall be unlawful for the owner or custodian of any animal to fail to provide it with humane shelter from heat, cold and wind or fail to give it food and water adequate to keep the animal in good health and comfort. Doghouses and animal keeps shall consist of a ceiling, three walls and floor; be soundly constructed; and, in cold weather, lined with dry, clean bedding.

(d) It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with veterinary care when needed to prevent suffering and to keep the animal in healthy condition.

Sec. 4-7 Sanitation.

(a) No owner or custodian of any animal shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's or custodian's property or to abutting property of others.

(b) No owner or custodian of any animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.

(c) No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk or public way, or public park, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal.

Sec. 4-8 Cruelty to Animals Prohibited.

(a) It shall be unlawful if a person in charge:

(1) Fails or refuses to provide a source of water or source of food which is adequate to keep the animal properly nourished. The source of water must also be of an adequate amount given the size of the animal and the environment in which the animal is kept to prevent the animal from overheating or dehydrating.

- (2) Overrides, overworks, overloads or overdrives the animal causing physical pain or suffering.
- (3) Beats, tortures, maims, disfigures, kills, injures, torments, poisons, deprives of necessary sustenance or mutilates any animal, causing physical pain, suffering or death. However, nothing in this section shall be construed to apply to activities conducted for lawful veterinary purposes, including but not limited to tail docking, ear clipping and declawing cats.
- (4) Fails to provide adequate medical treatment for any sick, diseased or injured animal or any animal suffering from any type of parasitic infestation.
- (5) Keeps any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fails to maintain the animal in a condition of good order or cleanliness which increases the probability of the transmission of disease.
- (6) Teases, molests, baits or harasses any animal.
- (7) Sets any rabbit, raccoon, fox or other animal loose for the purpose of chasing or hunting the animal or conducting a race using such animal.
- (8) Promotes, permits, stages, holds, manages, conducts, carries on or attends any game, exhibition, event or contest that involves a fight between at least two animals or between an animal and a person or persons.
- (9) Fails to provide adequate shelter for an animal, wherein the animal can be protected from the extremes of weather (heat, cold, rain, wind, sun, etc.) provided the person is the owner or person in charge of such animal.
- (10) Transports or carries any animal in a motor vehicle unless the animal is safely enclosed within the vehicle or protected by a cab, container, cage, cross-tether or other device to prevent the animal from falling out of or being thrown from the vehicle.
- (11) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or welfare of the animal because of the temperature, lack of food or water or such other conditions as may reasonably be expected to cause suffering, disability or death.
- (12) Restrains an animal with a leash or restraining device that is not less than 10 feet long, unless walking or training such animal and such restraint must be fixed in such a manner to allow the animal free use of the restraint without being tangled. The restraint must also be an appropriate weight for the animal and must be affixed to a proper tethering collar with a swivel attachment. An allowable tethering collar shall be a tethering collar which is a properly fitted to the dog made of suitable material other than metal that does not cause damage to the dog's skin, and affixes the dog to a fixed point, tether or runner. (See Sec. 4-45 for tethering of dogs).
- (13) Maintains any reptile in a manner that is deleterious to its health and wellbeing. Poor husbandry, poor nutrition and/or lack of proper preventative care are all considered cruel and deleterious welfare of the reptile and are unlawful.
- (14) Sets loose any reptile that is not native to the climate of North America.

- (b) Any person who unlawfully or maliciously kills, maims, disables, disfigures or injures any animal shall be guilty of a misdemeanor; but this subsection shall not be construed as prohibiting the dehorning of cattle.
- (c) This section shall not apply to the following activities:
- (1) Activities conducted for lawful veterinary purposes.
 - (2) Activities conducted for purposes of lawful biomedical research or training.
 - (3) The lawful destruction of any animal for the purpose of protecting the public, other animals, property or the public health.
 - (4) The lawful taking of animals under the jurisdiction and regulation of the U.S. Fish and Wildlife Service or the Alabama Department of Conservation and Natural Resources and successor federal and state agencies.
- (d) The violation of any provision of this section shall constitute a misdemeanor and shall result in the removal of the animal when the Director or an Animal Control Officer determines that such removal is necessary for the safety of the animal.

Sec. 4-9 Hoarders.

- (a) It shall be unlawful for any person to collect animals and fail to provide them with humane/adequate care; to collect dead animals that are not properly disposed of or to collect, house or harbor animals in filthy or unsanitary conditions that constitute a health hazard to the animals being kept and/or animals or residents of adjacent property.
- (b) Any animal taken into custody under this section may be taken to a veterinarian for immediate treatment, and any expenses incurred for veterinary treatment shall be the responsibility of the owner or custodian charged with the care, custody and control of said animal.
- (c) Any animal taken into custody under this section may be humanely disposed of at the discretion of an Animal Control Officer seven (7) days after the animal is taken into custody. Any person claiming interest in any animal in custody under this section may prevent disposition of the animal by posting a bond or security in an amount sufficient for the animal's care and keeping for at least thirty (30) days, inclusive of the date on which the animal was taken into custody. Even if a bond or security is posted, an Animal Control Officer may humanely dispose of the animal at the end of the time for which expenses of care and keeping are covered by the bond or security, unless there is a court order prohibiting the disposition. The court is authorized to require a bond in the amount necessary to protect an Animal Control Officer from any cost of the care, keeping or disposal of the animal(s). The authority taking custody of an animal(s) under this section shall give notice of this section by posting a copy of it at the place where the animal(s) is taken into custody or by delivering it to a person residing on the property.
- (d) The court making a sentencing determination for a person convicted under this section may order the person convicted to surrender custody and forfeit the animals whose treatment was the basis of the conviction. Ownership of the animals shall then be given to an animal shelter or veterinarian. The court may prohibit the person convicted from having custody of any animals for any period of time the court determines to be reasonable or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of animals.

Sec. 4-10 Animals In Vehicles.

(a) No vehicle owner, passenger or operator shall place or confine an animal or allow it to be placed or confined or to remain in an unattended vehicle without sufficient ventilation or under conditions or for such period of time as may reasonably be expected to endanger the health or well-being of such animal due to heat, lack of water or such other circumstances as may be expected to cause suffering, disability or death. When the conditions inside a parked motor vehicle constitute an imminent threat to the animal's health or safety, any animal left in a parked vehicle may be removed from that vehicle by an Animal Control Officer or any law enforcement officer. If forcible entry into a vehicle is necessary to rescue an animal, an ACO or law enforcement officer shall be immune from civil liability for property damage provided such person had a good faith belief that the animal was in imminent danger of suffering bodily harm and used no more force than necessary to remove the animal.

(b) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purposes.

Sec. 4-14 Keeping Noisy Animals and Fowl.

It shall be unlawful within the corporate limits of the City to confine, harbor or keep on a lot, place or premises, any animal or fowl which habitually, continuously or intermittently makes or emits sounds or noises of such volume, nature and extent as to be a public nuisance by reason of being obnoxious or annoying to persons in that neighborhood.

Sec. 4-15 Sanitary Conditions of Enclosures.

All places and premises in the City where horses, mules, cattle, rabbits, dogs or other animals or fowl are kept, harbored or confined shall be kept clean, sanitary and free of obnoxious odors and shall be maintained in such a manner as will effectively prevent the reproduction or promulgation in or about such places or premises of flies; and the presence on or about such places or premises of live larvae of flies under conditions which permit or favor growth or development shall be prima facie evidence of the reproduction or promulgation of flies and of the keeping or maintaining of such places or premises used for such purposes in violation of the provisions hereof.

Sec. 4-16 Humane Traps.

(a) The Director or any Animal Control Officer is authorized, in order to apprehend animals in violation of this chapter, which are otherwise difficult to apprehend, to use traps humanely designed to capture such animals by placing the traps upon any public property of the City, or upon the right-of-way of any public street or highway.

(b) It shall be the duty of the Animal Control Officer to check such traps daily and remove captured animals to an animal shelter or veterinarian where they shall be disposed of as otherwise provided in this chapter.

(c) It shall be unlawful for any person to molest or tamper with any such trap, or to remove any animal captured in any such trap, or to interfere with the Director or Animal Control Officer in setting or servicing any such trap.

(d) Any owner or person in charge of any premises within the City may set his own humane trap on such premises for the purpose of trapping and removing any animals which may have entered the premises. The owner or person in charge must notify the Animal Control Officer before setting his own traps. Use of one's own trap pursuant to this section shall be coordinated with the Animal Control Officer to make sure such trapping is conducted at all times consistent with the operating hours of an animal shelter or veterinarian, it being the intent of this section that no captured animal shall remain trapped for more than twelve (12) hours. The Animal Control Officer shall coordinate with the owner for the removal of captured animals to an animal shelter or veterinarian.

where they shall be disposed of as otherwise provided in this chapter. It shall be a violation of this chapter for any owner or person in charge of any premises to do any of the following:

- (1) Use any trap on any premises not his own or not under his charge.
 - (2) Fail to inspect any trap at least every twelve (12) hours.
 - (3) Fail to deliver any animal captured to an animal shelter or veterinarian or to the animal's owner, if known, within twelve (12) hours of its entrapment; and if the animal's owner is unknown, fail to notify an Animal Control Officer within twelve (12) hours of its entrapment.
 - (4) Fail to exercise reasonable care and diligence to avoid injury to the trapped animal.
 - (5) Use or permit to be used any leghold trap or snare unless authorized by an Animal Control Officer.
- (e) Before any person shall be permitted to obtain a humane trap from an Animal Control Officer for use on his own premises or premises over which he is in charge, such person shall sign a statement that he has been advised that the acts or failures to act enumerated in this section constitute a violation of this chapter.
- (f) Any owner or person in charge of any dog or cat captured in a humane trap that is off the premises of the owner or person in charge shall be prima facie presumed to have allowed, suffered or permitted such animal to be or run at large. If at any time a dog or cat is captured by use of such trap and the owner or person in charge is known or becomes known to the Director or an Animal Control Officer, such person in charge shall be given a citation to appear in Municipal Court as provided in section 4-189(b).
- (g) The owner or person in charge of any premises may obtain humane traps from the Environmental Services Department by completing a trap use form and making a \$150.00 deposit. Traps may only be used for a maximum of five (5) days. The five (5) day limit may be shortened at the discretion of the Environmental Services Department if the traps are needed at other locations. Traps may only be used on private property every ninety (90) days.

Sec. 4-17 Mobile Home Parks.

All pet and animal rules and regulations included in a Mobile Home Park lease or rental agreement shall be enforced by the owner or operator of the mobile home park. The humane trapping provisions set forth in section 4-16 shall apply to all mobile home parks in the City.

Sec. 4-18 Cooperative Services Agreement.

The City may enter into cooperative services agreements with other governmental agencies and entities to provide wildlife management services.

Article II. Dogs, Cats and Ferrets.

Sec. 4-41 Rabies Vaccinations.

- (a) Every owner of a dog, cat or ferret over the age of three months shall cause said dog, cat or ferret to be immunized for rabies by the rabies officer, his or her authorized representative or any duly licensed veterinarian pursuant to the *Code of Alabama* 1975 §§3-7A-1 through 3-7A-15. The interval between vaccinations shall conform to the vaccine manufacturer's directions. Such vaccination shall be evidenced by a tag attached to such dog as provided in Section 4-41(b) or documentation of such immunization for such cat or ferret showing that such dog, cat or ferret has been vaccinated for rabies as

required by the state within the preceding 36 months. It shall be unlawful for any person to own or have in his or her possession any dog, cat or ferret not so vaccinated.

(b) Each dog over the age of three (3) months while outdoors shall wear a substantial, durable collar or harness, to which the vaccination tag shall be attached. The collar, together with the rabies inoculation tag, shall be worn by the dog if the animal is required to be inoculated against rabies as provide in Section 4-41(a). Failure to comply with this section shall be unlawful. No person shall remove the collar or vaccination tag from any animal without the consent of the owner.

(c) Cats and ferrets are not required to wear the rabies vaccination tag. If the rabies vaccination tag is not worn, the owner shall be required to produce the evidence of the rabies vaccination tag upon request of the ACO.

(d) It shall be unlawful for any person to permit or allow any dog or cat in his charge or control to wear a rabies vaccination tag issued for a different animal.

Sec. 4-42 Guard Dogs.

(a) Registration.

(1) Guard dog owners or services shall register all dogs used in their business, whether housed or used in the city, with the ACO. The registration shall include name, address and telephone number of the service's manager; the breed, sex, weight, age, color, tattoo registration number of the guard dog, and other distinguishing physical features of the dog; a city license certificate the rabies vaccination certificate; and a tag that is highly visible and conspicuously different from ordinary dog tags, as approved and supplied by the city.

(2) Guard dogs which are newly acquired by guard dog services shall be vaccinated against rabies and registered with the city within seventy-two (72) hours of acquisition.

(3) The fee for registration of a guard dog with the city shall be established by the city council and shall be a one-time charge for each individual dog.

(4) The fee to register a guard dog with the city shall be a charge of twenty-five dollars (\$25.00).

(5) Such registration shall not constitute a waiver of any other requirements of this chapter.

(b) Tattoo required.

(1) Each guard dog shall have a registration number to be obtained from the city and tattooed by the owner on its inside right thigh so as to be clearly visible at all times. The registration number shall be prefixed by the letter "G." Each letter and number shall be at least one-quarter (¼) inch in height.

(2) Owners of guard dogs registered with the American Kennel Club or a similar organization may elect to have the tattoo placed in the dog's ear.

(3) Any guard dog already tattooed by some number system different from that required by this chapter need not be retattooed if the existing tattoo is identifiable and can properly identify that dog.

(c) **Maintenance of guard dog registration record.** The city shall maintain a guard dog registration record which shall contain all data required by this chapter. Upon transfer of ownership, death, disappearance and/or rabies vaccination of a guard dog, each guard dog service or owner shall immediately notify the city ACO. Upon receipt of the information, the appropriate entry shall be made in the guard dog registration record.

If the dog has disappeared, an entry should be made to reflect the location of such disappearance.

(d) **Inspection.**

(1) As a condition to maintaining registration with the city, each guard service or owner shall allow the ACO to enter and inspect all kennels housing guard dogs and other premises where such dogs are used, for the determination of owner registration compliance.

(2) It shall be unlawful for any person, firm or corporation to own, harbor, keep, maintain, use or otherwise have custody of any guard dog in the city which has not been vaccinated, registered, and tattooed as provided by this section.

(e) **Transportation of guard dog.**

(1) The vehicle of every guard dog service transporting any guard dog must be clearly and conspicuously marked with the words "Dangerous Dog" showing that it is transporting a guard dog. A compartment separate from the driver is required which should be arranged to ensure maximum ventilation for the animal.

(2) No guard dog shall be transported in the trunk of a car or on open-bed trucks.

(f) **Requirements for businesses using guard dogs.**

(1) Each business which hires or uses a guard dog must provide proper fencing to keep the guard from digging or jumping out, or must otherwise properly confine the animal within a secure enclosure.

(2) At each appropriate location and entry point, and at fifty-foot intervals along the fence perimeter, a sign shall be posted including the words "Dangerous Dog."

(3) Entry points shall have a sign posted with the telephone number of the dog's trainer or handler in case of an emergency.

Sec. 4-43 Dogs At Large.

(a) Dogs. It shall be unlawful for the owner or any person having custody or control of any dog to allow such dog to run at large within the City as defined in this chapter. It shall be the duty of every owner or person in charge of a dog to keep the animal under effective restraint, while the dog is within the City, whether or not the dog is upon or away from his premises. It shall be unlawful for any owner or person in charge of any dog to fail to keep the animal under effective restraint. Proof that a dog is not being properly restrained, whether or not on or off the premises of the owner or person in charge, shall be prima facie evidence of a violation. Negligent failure to provide or maintain effective restraint shall not be a defense. Competent evidence that the failure was occasioned by an unforeseeable and independent act of a third person shall shift the burden on the City to prove otherwise.

(b) This section shall not apply to police dogs when such dogs are engaged by a law enforcement agency in an official capacity.

Sec. 4-44 Confinement of Dogs During Estrus (Heat).

(a) Any owner or person having charge, care, custody, or control of any female dog in heat shall, in addition to restraining such dog from running at large, cause such dog to be constantly confined in a building or secure enclosure or on a leash under the supervision of the owner or person in charge so as to prevent it from attracting by scent or coming into contact with other dogs and creating a nuisance, except for planned breeding. If at any time the scent from a female dog in heat is found to be causing a disturbance to dogs in the neighborhood, it shall be the duty of the owner or person in charge of the dog to confine, immediately, the dog in such manner as to avoid a disturbance.

(b) It shall be unlawful for the owner or person in charge of any dog to fail to comply fully with this section.

Sec. 4-45 Tethering of Dogs.

(a) As used in this chapter, tether means to restrain a dog by tying the dog to any object or structure including, without limitation, to a house, tree, fence post, garage or shed by any means including, without limitation, a chain, rope, cord, strap or running line. Tethering shall not include using a leash to walk a dog.

(b) It shall be unlawful for an owner or a responsible party to tether a dog while outdoors, except when all of the following conditions are met:

- (1) The tether is connected to the dog by a buckle-type collar or a body harness made of nylon or leather.
- (2) The tether has the following properties: It is at least five (5) times the length of the dog's body, as measured from the tip of the nose to the base of the tail; it terminates at both ends with a swivel; it does not weigh more than one-eighth ($1/8^{\text{th}}$) of the dog's weight; and it is free of tangles.
- (3) The dog is tethered in such a manner as to prevent injury, strangulation or entanglement.
- (4) The dog is not outside during a period of extreme weather including, without limitation, extreme heat or freezing temperatures, thunderstorms, tornadoes, tropical storms or hurricanes.
- (5) The dog has access to water, shelter and dry ground.
- (6) The dog is at least six (6) months of age. Puppies shall not be tethered.
- (7) The dog is not sick or injured.
- (8) Pulley, running line or trolley systems are at least fifteen (15) feet in length and are at least seven (7) feet above the ground.
- (9) If there are multiple dogs, each dog is tethered separately.

Sec. 4-46 Keeping of Dangerous Dogs

The keeping of a dangerous dog as defined in section 4-2(k) shall be subject to the requirements of this article. It shall be unlawful and a misdemeanor for any owner of a dangerous dog to fail to comply with the requirements and conditions set forth in this article. A dog found to be in violation of this article shall be subject to immediate seizure and impoundment as set forth in section 4-47.

Sec. 4-47 Sworn Statements; Dangerous Dog Investigations; Hearing; Procedures.

- (a) Sworn Statements.
 - (1) When a person claims that a dog is dangerous, the person shall make a sworn statement before a city magistrate or law enforcement officer setting forth the name of the dog owner, if known, the location where the dog is being kept in the City, and the reason he or she believes the dog to be dangerous.
 - (2) The sworn statement shall be delivered to an animal control officer who shall complete a dangerous dog investigation. When the sworn statement claims that a dog has caused serious physical injury or death to a person, the duties of the animal control officer, including but not limited to the

dangerous dog investigation, shall be carried out by a law enforcement officer.

(b) **Dangerous dog investigation.** An animal control officer or law enforcement officer may initiate a dangerous dog investigation in cases where a complaint has been made pursuant to subsection (a) and a person has been bitten, received physical injury or serious physical injury, or has died.

(c) **Hearing, Founded.**

(1) In the event a dangerous dog investigation leads an animal control officer or law enforcement officer to believe the allegation is founded, all of the following shall occur:

- (a) The animal control officer or law enforcement officer shall file a summons for the owner of the dog, if known, with the municipal court.
- (b) The dog in question shall be impounded at the animal shelter or the City may enter into an agreement with a licensed veterinarian to impound the dog; provided, however, the owner of the dog shall be provided the opportunity to choose a veterinarian of his or her choosing to impound the dog in lieu of the animal shelter. If the dog is impounded with a veterinarian chosen by the owner of the dog, the owner of the dog shall be liable for paying to the veterinarian the cost and expenses incurred in impounding, feeding and providing veterinary care or treatment for the dog. If the City impounds the dog, the owner of the dog shall be liable to the City for the costs and expenses incurred in impounding, feeding and providing veterinary care or treatment for the dog.
- (c) The animal control officer or law enforcement officer shall send a copy of the investigation report to the municipal attorney, or municipal prosecutor.

(2) In lieu of the investigation, the owner of the alleged dangerous dog may consent to the dog being humanely euthanized.

(d) **Hearing, Unfounded.**

- (1) In the event the dangerous dog investigation leads the animal control officer or law enforcement officer to believe the allegation is unfounded, the animal control officer shall advise the complainant of his or her findings and the animal control officer or law enforcement officer shall submit the results of the investigation to his or her supervisor.
- (2) A copy of all investigations made pursuant to this section shall be kept on file in the animal control office.

(e) **Procedures.**

- (1) The municipal attorney, or municipal prosecutor may file a petition in the municipal court to declare dangerous the dog that caused the physical injury, serious physical injury or death to a person in the jurisdiction of the municipality. The owner of the dog, if known, shall be served with a copy of the petition.
- (2) A dog that is the subject of a dangerous dog investigation may not be relocated and ownership may not be transferred pending the outcome of the investigation and hearing to determine whether to declare the dog to be dangerous.

- (3) The court hearing shall be held as soon as practicable. At the hearing, the municipal attorney, or municipal prosecutor shall present evidence that the dog is dangerous. To declare the dog dangerous, the court shall find by reasonable satisfaction that the dog bit, attacked or caused physical injury, serious physical injury or death to a person without justification.
 - (a) If the court determines that the dog is dangerous and has caused serious physical injury or death to a person, the court shall order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer.
 - (b) If the court determines that the dog is dangerous but has not caused serious physical injury or death to a person, the court shall determine whether the dog has a propensity to cause future serious physical injury or death. If the court determines by reasonable satisfaction that the dog has such a propensity, the court may order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer or the court may order the dog be returned to its owner pursuant to all of the following conditions:
 - (1) The dog shall be held in impound until the owner complies with all orders of the court, but if the owner fails to comply with all orders of the court within thirty (30) days of the court's order, the dog shall be humanely euthanized.
 - (2) The dangerous dog shall be microchipped.
 - (3) The owner of the dangerous dog shall provide a copy of the certificate of the current rabies vaccination of the dog.
 - (4) The dangerous dog shall be spayed or neutered.
 - (5) The owner of the dangerous dog shall be required to pay all expenses involved with the investigation, pickup and impoundment, and any court costs or fees related to the hearing to determine whether the dog is dangerous.
 - (6) The owner of the dangerous dog shall be required to pay an annual dangerous dog registration fee of one hundred dollars (\$100) to the City for a dog deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the City for non-registration within two (2) weeks.
 - (7) Surety Bond.
 - (a) The owner shall be required to obtain a surety bond of at least one hundred thousand dollars (\$100,000) and shall provide proof to the court or animal control office.
 - (b) The surety bond required by subparagraph (7)(a) shall provide coverage for dog bites, injuries or death caused by the dog.
 - (c) The owner shall provide proof of the surety bond each time the annual dangerous dog registration fee is paid.
 - (8) The owner of the dangerous dog shall provide proof to the court that he or she has constructed a proper enclosure for a dangerous dog pursuant to section 4-2(y).

- (4) The pleading and practice in all cases to petition the court to declare a dog to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure and rules of the courts governing municipal courts in this state unless otherwise specified by this chapter. Any judicial determination in municipal court that a dog is dangerous may be appealed to the circuit court pursuant to the requirements of the Alabama Rules of Civil Procedure and the order of the circuit court shall be final.
- (5) It shall be presumed that a dog is not a dangerous dog pursuant to this chapter if the dog was on property owned by the owner of the dog when the event subject to a claim under the chapter occurred or if the victim was trespassing on any property when the event subject to a claim under the chapter occurred.

Sec. 4-48 Dangerous Dog Violations

- (a) If a dog that has previously been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, the owner of the dog shall be guilty of a Class A misdemeanor.
- (b) If a dog that has not been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, and the owner of the dog had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the dog shall be guilty of a Class B misdemeanor.
- (c) In addition to any fines imposed by the court, a person guilty of violating subsection (a) or (b) shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding and veterinary expenses necessitated by impoundment of the dog, medical expenses incurred by a victim from an attack by a dangerous dog, and other expenses required for the destruction of the dog.
- (d)
 - (1) When a dog declared to be dangerous is outside and not contained in the proper enclosure of a dangerous dog pursuant to section 4-2(y) the owner of the dangerous dog shall be present and shall restrain the dangerous dog with a secure collar and leash.
 - (2) An owner of a dog declared to be dangerous who violates subdivision (1) shall be guilty of a Class C misdemeanor, except that a second or subsequent adjudication or conviction is a Class B misdemeanor.
- (g) An owner of a dog that is the subject of a dangerous dog investigation who refuses to surrender the dog to an animal control officer or law enforcement officer, upon the request of the animal control officer or law enforcement officer, shall be guilty of a Class C misdemeanor.
- (h) Any person who knowingly makes a false report to an animal control officer that a dog is dangerous is guilty of a Class C misdemeanor.

Article III. Animals Other than Dogs, Cats and Ferrets, Specifically

Sec. 4-71 Violations of This Article.

Any person violating or aiding or abetting any provision of this article shall be guilty of a misdemeanor and shall be fined or punished in accordance with section 4-189.

Sec. 4-72 Keeping of Hogs.

It shall be unlawful for any person to keep pigs or hogs, including miniature and Vietnamese pot-bellied pigs, in the corporate limits of the City.

Sec. 4-73 Keeping of Chickens.

It shall be unlawful for any person to keep chickens within the City, except as provided in this section. The keeping of chickens is allowed, provided:

- (a) The minimum lot size of the property is 10,000 square feet.
- (b) The principal use of the property is a single-family dwelling.
- (c) The number of chickens does not exceed:
 - (1) Four (4) on lots 10,000 square feet to 19,000 square feet
 - (2) Six (6) on lots 20,000 square feet or greater
- (d) The chickens are kept in an enclosure or fenced area, such as a hen house, chicken coop, chicken tractor, etc., at all times.
- (e) The chicken enclosure or fenced area is a minimum of six (6) square feet per chicken.
- (f) The chickens are not kept on any location on the property other than in the backyard (the rear yard of the principal structure).
- (g) The covered enclosure or fenced area is a minimum of ten (10) feet to any property line of an adjacent property and fifty (50) feet from the neighboring dwellings, church, school or place of business.
- (h) The enclosures are kept in a clean, dry, odor-free, neat and sanitary condition at all times.
- (i) The chicken owner takes necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
- (j) The keeping or harboring of male chickens or roosters is prohibited.
- (k) The premises upon which chickens are kept must be the property owner's primary residential dwelling.
- (l) No person who owns, controls, keeps, maintains or harbors chickens shall permit the premises where the chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition, or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. The chicken enclosure or chicken run authorized by this section may be inspected at any reasonable time by the animal control officer.
- (m) The slaughter and breeding of chickens on any premises in the City is prohibited.
- (n) No person shall maintain a chicken enclosure, coop and/or chicken run unless granted a permit by the Director. Prior to the construction of the chicken enclosure, a site plan shall be reviewed and approved by the Director.

Sec. 4-74 Large Animals and Fowl

It shall be unlawful for any person to own, control, keep, maintain or harbor large animals and fowl, except as provided in this section. Large animals, such as mules, cows, sheep, goats, fowl and other such farm animals may only be kept or maintained on lots of three (3) acres or more in the R-1 (Rural) Zoning District. Horses may be maintained only in the R-1 (Rural) District on lots of two (2) acres or more with a limit of one (1) horse per acre. Chickens may be kept or maintained as provided in section 4-73.

Sec. 4-75 Distance of Corrals, Pens or Stables from Dwellings

It shall be unlawful for any owner or person in charge to keep any large animal or fowl in the City in any corral, stable or pen any part of which is within 100 feet of a dwelling of a person other than the owner or person in charge of the animal.

Sec. 4-76 Minimum Size of Corrals

It shall be unlawful for any person to keep any animal in a corral in the City unless such corral has a minimum area of 12,000 square feet per animal and an additional 10,000 square feet for each additional animal kept, to every portion of which each and every animal shall have free and unrestricted access.

Sec. 4-77 Horses Not to Stand in Streets Unless Hitched or Attended

It shall be unlawful for any owner or person in charge to allow a horse to stand in any street within the City unless the owner or person in charge is in attendance or the horse is securely hitched. Any horse not so attended or securely hitched shall be considered to be at-large.

Sec. 4-78 Large Animals Running At Large Prohibited

(a) It shall be unlawful for the owner or person in charge of any large animal to cause, permit or allow such animal to run or to be at-large. The fact that any large animal has been kept on a particular premises, together with its subsequent appearance at-large, shall raise a prima facie presumption that the owner or person in charge of the premises permitted or allowed a violation and the burden of proof shall be upon the owner or person in charge to prove otherwise.

Sec. 4-79 Enclosure of Horses or Cattle—Generally

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any stable, building, structure or shed unless such stable, building, structure or shed is so laid or arranged and constructed as to prevent refuse, foodstuffs and discharges from animals from falling upon, touching or soiling the ground.

(b) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or in or upon any uncovered, enclosed parcel of land, in a commercial or industrial district as established by zoning regulations, unless such corral or parcel of land shall have a minimum area of one thousand (1,000) square feet for one (1) such animal and two hundred (200) square feet for each additional such animal there kept, harbored or confined.

Sec. 4-80 Same—Minimum Space Requirements

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or in or upon any uncovered, enclosed parcel of land, outside a commercial or industrial district as established by zoning regulations, unless such corral or parcel of land shall have a minimum area of two thousand five hundred (2,500) square feet for one (1) such animal, and one thousand (1,000) square feet for each additional animal there kept, harbored or confined, to every portion of which such animal shall have free and unrestricted access.

(b) The material used in the base or floor may include portions of wood when the aggregate of such portions does not exceed three-fourths ($\frac{3}{4}$) of the total area of such base or floor, and when each piece of wood is embedded in cement or other impervious material, separated from each adjacent piece at least one (1) inch by cement or other impervious material, and is continuous with and forms an integral part of such base or floor.

(c) It shall be permissible to cover, not exceeding three-fourths ($\frac{3}{4}$) of the area of a floor or base constructed as hereinabove specified, with hardwood, provided each piece of such hardwood is separated from each adjacent piece at least one (1) inch and is readily removable.

Sec. 4-81 Collection and Disposal of Manure and Other Materials.

All accumulations of manure and material soiled by excreta in and about every stable, building, structure, shed, corral or pen where any animal of the equine or bovine type is kept, harbored or confined, shall be collected at least once each day and immediately deposited in substantial flyproof containers. All such collections shall be kept stored in substantial flyproof containers for a continuous period of two (2) weeks from the date of collection. Sawdust, shavings, straw and other material used as animal bedding and unsoiled by excreta shall be collected at least once a week and deposited and stored as provided in this section. In lieu of storage, as herein provided, manure and other materials, when collected in accordance with the provisions hereof, being free of live fly larvae, may be disposed of, within twenty-four (24) hours from time of collection, by burial at least six (6) inches underground or by spreading the same thinly upon the surface of the ground at some place distant from any place where animals are kept, harbored or confined, so that such collections shall be and remain fully exposed to sunshine.

Sec. 4-82 Cleaning Floors, Structures Where Certain Animals Are Kept

The base or floor of every stable, building, structure or shed in which any animal of the equine, bovine or rabbit species or type is kept, harbored or confined, together with all appliances used in connection therewith, shall be cleaned at least once each day by the removal of manure and other material soiled by manure and by washing.

Sec. 4-83 Keeping of Horses or Cattle Near Certain Buildings.

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or other uncovered enclosure in the city or its police jurisdiction, any part of which is within one hundred (100) feet of a dwelling, school, church, hospital, public building, public park, public playground or public thoroughfare.

(b) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any stable, building structure or shed in the city, any part of which is within fifty (50) feet of a dwelling, school, church, hospital, public building, public park, public playground or public thoroughfare.

Sec. 4-84 Keeping of Fowl

It shall be unlawful to keep, harbor or confine any ducks, geese, chickens, guineas, peacocks or other fowl in any stable, building, structure, corral, pen or enclosure in the City, any part of which is within fifty (50) feet of a dwelling, church, hospital, school, public building, public park or public thoroughfare.

Sec. 4-85 Impounding of Large Animals Upon Premises of Other Than Owner.

Any large animal which is found at large upon the premises of another person other than the owner or keeper thereof shall be impounded by the animal control officer or other authorized agent of the city. Any large animal which is found at large upon any street, alley, thoroughfare, sidewalk, park, school or other public place of the city shall also be subject to impoundment by the animal control officer or other authorized agent of the city as provided in this chapter.

Sec. 4-86 Bird Sanctuary

(a) The entire area embraced within the corporate limits is hereby designated as a bird sanctuary.

(b) Except as provided in section 14-495, it shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests without the advance written consent and approval of the Environmental Services Department. Such consent and approval shall be given if such activity will not endanger persons or property, and if such birds are congregating in such numbers as to endanger the public health and safety.

(c) No provision of this section shall be construed to prohibit or abrogate the right of the City to protect the health, safety or welfare of the citizens of the community.

Article IV Rabies Control

Sec. 4-101 Rabies Vaccination

(a) Vaccine Required.

- (1) A person commits an offense if a person keeps, harbors, or has custody of a dog, cat or ferret over three months of age that has not been immunized against rabies as required by Ala. Code §3-7A-2.
- (2) The same animal shall be re-vaccinated at intervals specified in the vaccine's license.

(b) Every veterinarian whose office or place of business is located within the City shall keep detailed records of animal rabies vaccinations and shall provide rabies vaccination information to rabies officer and animal control officer upon request.

Sec. 4-102 Domestic Animals that Reasonably Expose Humans to Rabies

(a) When a domestic dog or cat bites or otherwise creates a condition that could reasonably expose or transmit rabies to any human being, the animal shall be immediately quarantined as provided in Ala. Code §3-7A-9 for a minimum period of ten (10) days from the date that the bite or exposure occurred, or longer as the rabies officer or animal control officer may deem necessary. (A home quarantine may be granted by the rabies officer, if certain criteria are met as defined by the Alabama Code.)

(b) The owner shall submit the subject animal within 24 hours of notification by the rabies officer or animal control officer for quarantine in a facility approved by the rabies officer or animal control officer or a licensed veterinarian's clinic in the City which has the facilities for isolation cages.

(c) Any animal required to be quarantined under this section which in the determination of the rabies officer or animal control officer cannot be or is not being maintained in a secure quarantine may be humanely euthanized and a suitable sample submitted to the Alabama Department of Health for rabies diagnosis.

(d) The owner of any animal that is reported to have rabies or symptoms thereof, or to have been exposed to rabies, or to have bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, or that the owner knows or suspects to be rabid, or to have bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, shall submit such animal for quarantine to the rabies officer or animal control officer or to any police officer.

(e) It shall be unlawful for the owner of an animal that has rabies or symptoms which could reasonably indicate rabies or that bites, scratches or otherwise creates a condition that may expose or transmit the rabies virus to any human being or other animal, to fail or refuse to comply with the provisions of this article.

(f) It shall be a violation of this article for the owner of such animal to refuse to comply with the lawful order of the rabies officer or animal control officer in any particular case.

(g) It shall be unlawful for the owner to sell, giveaway, transfer to another location or otherwise dispose of any animal known to have bitten or exposed a human being to the rabies virus until it is released from quarantine by the rabies office, duly licensed veterinarian or appropriate health officer.

Article V Impoundment and Destruction

Sec. 4-141 Impoundment.

(a) Animals of the following classes may be captured and impounded in an animal shelter or other suitable place for the care of the animal:

- (1) Dangerous animals, subject to the procedures set forth in section 4-47.
- (2) Animals that are causing nuisances in violation of section 4-3.
- (3) Animals that have been bitten by an animal suspected of having rabies.
- (4) Any dog not wearing a current rabies vaccination tag.
- (5) Any cat whose owner cannot produce evidence of the rabies vaccination tag upon request of the ACO.
- (6) Abandoned animals and animals whose ownership is unknown.
- (7) Any animal running at large in violation of sections 4-43 and 4-85.
- (8) Female dogs and cats in breeding season not confined to the premises of the owners in such manner as to avoid nuisances and prevent access to other animals.

(b) Animal Control Officers, law enforcement officers and officers of state-chartered nonprofit humane organizations shall have authority to pick up, catch, or procure and impound any animal in violation of this chapter or any animal infected or believed to be infected with rabies or other contagious or infectious disease to humans or animals in such a manner as is reasonably necessary to effectuate its capture. Impounded animals shall be confined in a humane manner at an animal shelter.

(c) An impounded animal shall be held for at least seven (7) days including the day of impoundment, except a sick or injured animal which poses a threat to the safety of the personnel responsible for the care of such animal may be euthanized at the discretion of the impounding agency. The depositing of a letter of notification by first class U.S. mail shall constitute adequate notification of impoundment. The owner shall also be notified by phone, if possible. This section shall not apply to animals surrendered by the owner or an agent of the owner, in which case disposition may be made as provided in this chapter without notification or a holding period. At the expiration of the holding period, during which time a diligent attempt has been made to locate and contact the owner, the animal may be disposed of in a manner provided in this chapter.

(d) A registry shall be maintained by the impounding agency. The registry shall contain identifying characteristics of each animal impounded along with the location, date and reason of each pickup.

(e) For violations of this chapter, an owner may be subject to a written warning or such penalties as prescribed in this chapter, in addition to or in lieu of impoundment.

Sec. 4-142 Redemption and Disposition.

All animals which have been impounded in accordance with the provisions of this chapter may be disposed of as provided below:

- (1) Within the holding period, animals, except dangerous dogs, may be redeemed by the owner or his agent upon the payment of those fees or costs associated with the impoundment, as established by the city council. The owner entitled to possession of an impounded dog or cat which does not have the required rabies inoculation certificate and tag shall have such animal inoculated and shall present proof of the issuance of such certificate and tag to the ACO within ninety-six (96) hours of the release from impoundment.
- (2) If not redeemed within the holding period, animals may be disposed of by humane euthanasia.
- (3) Those animals which would otherwise be disposed of by euthanasia may be offered to state-chartered nonprofit humane organizations, rescue groups approved by the Director or veterinarians for the purpose of providing adoption of such animals. Fees and costs may be waived for the disposition of animals in this manner. All dogs and cats placed with this organization shall be vaccinated and sterilized before said organization offers each animal for adoption. The adopter may enter into a written agreement that sterilization will be performed within thirty (30) days or prior to the age of six (6) months. Written document must be returned to the organization by the adopter of said sterilization. Failure to comply with the requirements of this subsection within the specified time shall constitute a violation of this section, and the ACO shall have the right to impound the animal.
- (4) Dangerous dogs will be disposed of in accordance with the provisions of section 4-47 of this chapter.

Sec. 4-143 Fees and Charges; Administration

(a) Any cat or dog, except a dangerous dog, impounded hereunder may be reclaimed as herein provided upon payment by the owner of the following:

- (1) Boarding fee charged by the City or any other state-chartered nonprofit organization or veterinarian or shelter designated by the city council.
- (2) The amount of vaccination fee, if necessary.

(b) Any large animal impounded hereunder may be reclaimed as herein provided upon payment by the owner to the ACO or his assistants the following:

- (1) The actual costs incurred by the city in seizing, confining and transporting such animal.
- (2) Actual costs incurred by the city for boarding such animal.
- (3) The actual costs incurred by the city for veterinary care, if necessary.

Sec. 4-144 Destruction of Certain Animals

(a) Animal control officers and city police officers are authorized to destroy any animal at large breaching any provisions of this chapter, provided:

- (1) Such officer has made reasonable efforts to capture such animal or to locate the owner of the animal; and,
- (2) Such officer has been unable to capture the animal or is unable to locate the owner of the animal; and,
- (3) In that officer's opinion, the animal constitutes a direct and immediate threat to public health, safety, or welfare.

(b) Animal control officers, city police officers, and agents of the animal shelter are authorized to destroy any animal found within the city limits when:

- (1) Such animal is injured or diseased past recovery; or
- (2) Presents a direct and immediate threat to the public or any person individually.

(c) The animal control officer and law enforcement officers are authorized to destroy any animal which has bitten or fiercely attacked any person causing severe injury, the loss of bodily function or death, when the animal control officer or law enforcement officer believes such animal constitutes a direct and immediate threat to the public health, safety, or welfare.

(d) Taking into account all the relevant circumstances, animal control officers, city police officers and agents of an animal shelter are to employ the most humane means possible when exercising the authority granted under this section.

Article VI Dead Animals.

Sec. 4-181 Penalties.

If any person that violates or refuses to comply with this article shall, upon conviction, be punished, in addition to such punishment, including a term of community service, as may be provided by the court, by minimum fines and penalties, for first conviction \$100.00 or by imprisonment of not more than ten (10) days, for conviction of a second offense committed within one (1) year of the date of the first offense, such person shall be punished by a fine of \$200.00 or by imprisonment of not more than thirty (30) days or by both such fine and imprisonment; for conviction of a third or subsequent offense committed within one (1) year of the date of the first offense, such person shall be punished by a fine of \$500.00 or by imprisonment of not more than three (3) months or by both such fine and imprisonment.

Sec. 4-182 Disposal Limited

It shall be unlawful for any person to dispose of any dead animal except as provided in this article.

Sec. 4-183 Disposal Generally

The owner or person in charge of animals that die or are killed in his possession or custody, other than such as are slaughtered for food, within 24 hours, shall notify the appropriate City official as set forth in Section 4-184 of such dead animal and request its removal as provided in Sections 4-184 and 4-185 or shall cause the remains of such animal to be cremated or buried at least two (2) feet below the surface of the ground in accordance with this article. Animals dying from any communicable disease whatsoever shall be reported to the City in accordance with Section 4-184. No such animal shall be buried near a residence or in such manner as to create a nuisance. In no case shall a dead horse, bull, mule, cow or other large animal be buried within 300 feet of a residence.

Sec. 4-184 Appropriate City Official Notification

- (a) A large animal such as a horse, mule, cow or hog shall be reported to the Director.
- (b) Animals dying from any communicable disease shall be reported to the health department in addition to being reported to the appropriate City official for removal.

Sec. 4-185 Removal By the City

When a request is made to the Director or an animal control officer for a removal of a small dead animal or when request is made to the Director for the removal of a large dead

animal, it shall thereupon be the duty of the official receiving the request to demand of such person his name and address, including street address and house number, and a description of the dead animal. Immediately upon receipt of the information demanded, the official receiving the request shall cause the remains of such dead animal to be removed and buried at least two (2) feet below the surface of the ground or to be burned. If death is due to a communicable disease, the remains shall be burned. However, the Director or an animal control officer may require that the requesting party place the dead animal in a securely fastened plastic bag or similar container and make the container accessible at the curb or at such other place upon the property as he may direct.

Sec. 4-186 Fees For Removal By City

For removal of any dead large animal such as a horse, mule, cow, sheep, goat or hog, the owner or person in charge of such animal or the person on whose property the dead animal is situated, requesting its removal by the City shall be charged the fee as established by the Environmental Services Department, and such fee shall bear a direct relationship to the cost of disposal. It shall be unlawful for any person liable for the expenses of such removal to fail to pay such fees.

Article VI. Enforcement, Fines and Penalties

Sec. 4-187 Enforcement

(a) The animal control officers shall be under the general supervision of the Director of Environmental Services. The ACO shall, along with his assistants, enforce the provisions of this chapter. Any provisions of this chapter referring to the Director shall also mean and include any authorized employee acting in his stead and under his supervision.

(b) The ACO, his assistants and members of the City police department shall have the right, for the protection of the public health, welfare and safety, to enter upon any property within the City for the purpose of capturing or impounding any animal which is in violation of this chapter.

(c) Any expense incurred in the handling of any animal under the provision of this chapter shall be borne by the owner or custodian of such animal.

(d) It shall be a violation of this chapter to interfere with any animal control officer while in the lawful performance of his duties or anyone who may be assisting in the performance of such duties.

(e) Any person who lawfully refuses to sign and accept a citation issued by a law enforcement officer or the ACO shall be in violation of this chapter.

(f) The City Council may subcontract with any state-chartered, non-profit humane organization or veterinarian to carry out part or all of the duties of this chapter. Said organization shall carry out the duties pursuant to the provisions prescribed by this chapter

Sec. 4-188 Citations and Warrants

When any animal is found by the Director or by an animal control officer to be in violation of any provision of this chapter, except those listed in section 4-189(b) or as otherwise provided in this chapter and the person responsible becomes known to the Director or to the Animal Control Officer, he may issue a citation to the owner or person in charge for such violation directing him or her to appear in municipal court at a time and a date stated in the citation to answer to charges of violations of this chapter, and such charges shall be stated in the citation. For offenses listed in section 4-189(b), no prosecution shall be commenced and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a judge or magistrate of the municipal court.

Sec. 4-189 Penalties for Violation

(a) Except for the offenses listed in subsection 4-189(b), any person convicted of violating any provision of this chapter within a twelve-month period shall be guilty of a violation and shall be punished as follows:

- (1) *First violation:* A fine of fifty dollars (\$50.00);
- (2) *Second violation:* A fine of one hundred dollars (\$100.00);
- (3) *Third violation:* A fine of two hundred dollars (\$200.00);
- (4) *Fourth or any subsequent violation:* A fine in an amount not exceeding five hundred dollars, (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the municipal judge trying the case.

Any person who has been charged with the violation of any provision of this chapter, except those offenses identified in section 4-189(b), and who desires to waive trial of the question of his guilt or innocence of such alleged offense, may pay the fine prescribed above to the municipal court of the city, and the municipal court magistrate is hereby authorized and instructed to receive such amount. Voluntary settlement shall not be permitted to any person who has been thrice convicted of the same offense prior to the date of the instant alleged offense, and such person shall be required to stand trial in municipal court. Offenses not settled as provided in this subsection prior to the court appearance date shown on the notice of violation will be disposed of in the same manner as is any case appearing on the regular municipal court docket.

(b) Any person who is alleged to have committed any of the following offenses listed in this chapter shall be required to stand trial in municipal court:

- (1) *Section 4-5:* Abandonment of animals.
- (2) *Section 4-8:* Cruelty to animals.
- (3) *Section 4-10:* Animals in vehicles.
- (4) *Section 4-42:* Failing to register and maintain guard dogs.
- (5) *Section 4-46:* Keeping of dangerous dogs.
- (6) *Section 4-78:* Large animals running at large.
- (7) *Section 4-102(f):* Refusal to obey order of rabies officer or ACO.
- (8) *Sections 4-183, 4-184, 4-185 and 4-186:* Disposal of dead animals.

Any person convicted of any act listed in this subsection (b) shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the municipal judge trying the case.

(c) Each day's violation of any provision of this chapter shall constitute a separate offense.

(d) In addition to the penalties provided in this section, the city council is hereby authorized to institute any appropriate action or proceeding including suit for injunctive relief in order to abate violations of this chapter.

Section 2. Repealer Clause. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are repealed.

Section 3. **Severability.** If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of any competent jurisdiction, said holding shall not affect any other section, clause, provision or portion of this Ordinance which is not in or of itself invalid or unconstitutional.

Section 4. **Effective Date.** This Ordinance and the subsection hereby adopted shall take effect and be enforced on March 1, 2019.

Section 5. **Publication.** The City Clerk of the City of Opelika is hereby authorized and directed to cause a copy of this Ordinance to be published one (1) time in a newspaper of general circulation in the City of Opelika, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR this the ____ day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

Attachment: Ordinance, amend city code, Chapter 4, Animal Control replacing chapter 4, 2-19-19 (3264 : Ordinance to Amend Chapter 4 Animal Control - 2nd Reading)