OPELIKA CITY COUNCIL
" REGULAR MEETING AGENDA "
204 South 7th Street
February 19, 2019
TIME: 7:00 PM

1. CALL TO ORDER

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

3. INVOCATION
    1. Pastor Isacc Nunn.

4. PLEDGE OF ALLEGIANCE
    1. Dylan Bravo and Caleb Sistrunk from Carver Primary School.

5. READING OF MINUTES
    1. Minutes from the city council meeting on 2-05-19.

6. UNFINISHED BUSINESS

7. REMARKS BY THE MAYOR
    1. January 2019 Monthly Building Detail Report
    2. Recognize Opelika Park & Rec. - three awards at ARPA State Conference.
    3. January 2019 City financial report.

8. CITIZEN COMMUNICATIONS (Limit comments to five minutes or less)

9. REPORT OF DISBURSEMENTS

10. COMMITTEE REPORTS

11. GENERAL BUSINESS

12. AWARDING OF BIDS
    1. City-Wide Asphalt Paving Project-ENG
    2. City-Wide Striping Project-ENG

13. RESOLUTIONS
    1. Expense report(s).
    2. Designate City Personal Property as Surplus & Authorize Disposal
    3. Purchase-In-Car Video Recording System-Sole Source-PD
    4. Authorize grant application to ADEM for recycling.
    5. Authorize grant application with USDOT, INFRA program.
    6. Appropriation contract FY2019, Main Street.

7. Special appropriation to KOB - 2019 Garden in the Park.

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

15. APPOINTMENTS
    1. Reappoint Shirley Lazenby to the Park & Rec. Board. New term expires 3-15-24.
    2. Reappoint Julia Stutts to the Medical Clinic Board. New term expires on 3-02-25.

16. ADJOURN

"*In compliance with the Americans with Disabilities Act, the City of Opelika will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the ADA Coordinator 72 hours prior to the meeting at (334)705-5130."*

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 02/19/19 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:
DOC ID: 3274

CM MINUTES (ID # 3274)

Minutes from the city council meeting on 2-05-19.

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 Montealvo 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.

Attachment: CM 2-19-19, minutes from the 2-05-19 CM (2) (3274 : Minutes from the city council meeting on 2-05-19.)

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 tatoo 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

Attachment: CM 2-19-19, minutes from the 2-05-19 CM (2) (3274 : Minutes from the city council meeting on 2-05-19.)

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:

Attachment: CM 2-19-19, minutes from the 2-05-19 CM (2) (3274 : Minutes from the city council meeting on 2-05-19.)

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 - 1st 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 _____ 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 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

Attachment: CM 2-19-19, minutes from the 2-05-19 CM (2) (3274 : Minutes from the city council meeting on 2-05-19.)

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 02/19/19 07:00 PM
Department: Building Inspection
Category: Building Permit Report.
Prepared By: Tina Mnor
Initiator: Jeff Kappelman
Sponsors:
DOC ID: 3277

MAYOR'S REMARKS (ID # 3277)

January 2019 Monthly Building Detail Report

City of Opelika Building Inspections Department
January 2019 Monthly Building Detail Report

Issue Date	Main Address	Company	Work Class	Valuation
1/2/2019	214 N 13TH ST	STEVE GIITINGER	Accessory Buildings	$ 7,233.00
1/2/2019	801 ANDREWS RD	HOMEPLACE CONSTRUCTION & RESTORATION	Alteration	$ 55,000.00
1/2/2019	1870 COLUMBUS PKWY	SUNSHINE BANNERS & SIGNS	Signs	$ 2,150.00
1/2/2019	2712 WAVERLY PKWY	YAOQI ZHANG	Alteration	$ 30,000.00
1/3/2019	508 WALKER ST	MARSHALL DESIGN BUILD LLC	New	$ 340,419.00
1/4/2019	3723 QUAIL TRCE	CONNER BROTHERS CONSTRUCTION	New Single Family Detached	$ 282,700.00
1/4/2019	3632 EAGLE TRL	CONNER BROTHERS CONSTRUCTION	New Single Family Detached	$ 162,475.00
1/4/2019	2204 QUAIL RDG	CONNER BROTHERS CONSTRUCTION	New Single Family Detached	$ 247,655.00
1/7/2019	707 ANDREWS RD	A&E HOLDINGS LLC	Alteration	$ 5,886.00
1/7/2019	2900 PEPPERELL PKWY	JODY MARTIN INC	Alteration	$ 29,500.00
1/7/2019	205 N 26TH ST	DAWN FLEMING	Roofs	$ 2,000.00
1/7/2019	2400 FREDERICK RD	GEORGIA CERTIFIED LLC	Signs	$ 12,520.00
1/7/2019	2202 STONE ST	A&E HOLDINGS LLC	Alteration	$ 7,726.00
1/7/2019	408 MEGHAN CT	DEREK BROWN	Alteration	$ 8,000.00
1/7/2019	1706 COLUMBUS PKWY	SOUTHEASTERN CANOPIES INC	Signs	$ 10,790.00
1/9/2019	309 2ND AVE	ROTH HOMES LLC	Single Family Demolition	$ 84,000.00
1/9/2019	1800 CORPORATE DR	CYNTHIA JONES	Alteration	$ 5,000.00
1/10/2019	731 MCDONALD DR	TRADEMARK QUALITY HOMES INC	New Single Family Detached	$ 269,967.00
1/10/2019	719 MCDONALD DR	TRADEMARK QUALITY HOMES INC	New Single Family Detached	$ 267,867.00
1/10/2019	1441 GATEWAY DR 2	ANCHOR SIGN INC	Signs	$ 3,383.25
1/10/2019	727 MCDONALD DR	TRADEMARK QUALITY HOMES INC	New Single Family Detached	$ 256,630.00
1/10/2019	723 MCDONALD DR	TRADEMARK QUALITY HOMES INC	New Single Family Detached	$ 275,100.00
1/14/2019	756 TOWNE LAKE PKWY	STONE MARTIN BUILDERS	New Single Family Detached	$ 275,379.10
1/14/2019	692 OWENS WAY	STONE MARTIN BUILDERS	New	$ 100,000.00
1/14/2019	4651 BIRMINGHAM HWY	SOUTHEASTERN CANOPIES INC	Signs	$ 12,111.00
1/15/2019	2701 FREDERICK RD 304	SIGNS INC	Signs	$ 4,900.00
1/15/2019	2203 GREENE WAY	EDGAR HUGHSTON BUILDER INC	New Single Family Detached	$ 279,982.00
1/15/2019	1775 HURST ST 53	STEPHANIE THOMAS	Accessory Buildings	$ 1,536.00

1/16/2019	3100 STONYBROOK CIR	FOUNTAINHEAD	New Single Family Detached	$ 311,959.00
1/16/2019	303 OVERLOOK DR	TRIPLE B CONSTRUCTION LLC	Roofs	$ 14,935.00
1/16/2019	3101 STONYBROOK CIR	FOUNTAINHEAD	New Single Family Detached	$ 288,080.00
1/22/2019	1904 PEPPERELL PKWY B	JESUS SANTILLANES	Alteration	$ 65,000.00
1/22/2019	3215 OLD OPELIKA RD	BILL LYNN CONSTRUCTION INC	Alteration	$ 35,000.00
1/28/2019	211 STEVENS ST	HOSEY-LANCOUR CONSTRUCTION LLC	New Single Family Detached	$ 104,045.00
1/28/2019	900 SHAMROCK ST	MCCRORY CONTRACTING LLC	Roofs	$ 6,000.00
1/30/2019	1998 ROCKY BROOK RD	STONE MARTIN BUILDERS	New Single Family Detached	$ 326,090.90
1/30/2019	3302 TIFTON LN	SUPERIOR ROOFING CO	Roofs	$ 13,660.00
1/30/2019	1506 LEO LN	AJ'S ROOFING	Roofs	$ 2,400.00
1/30/2019	3692 QUAIL TRCE	CONNER BROTHERS CONSTRUCTION	New Single Family Detached	$ 233,304.00
1/31/2019	611 LISMORE DR	JACQUELYN BROWNING	Accessory Buildings	$ 2,900.00
1/31/2019	2402 ROCKY POINT DR	SCF BUILDING A&O LLC	Accessory Buildings	$ 2,298.00
				$ 4,361,581.25

Jeff Kappelman

Jeff Kappelman, Chief Building Official

CITY OF OPELIKA alabama

BUILDING INSPECTIONS
700 Fox Trail
Opelika, AL 36801
(p) 334-705-5420
(f) 334-705-5159
www.opelika-al.gov

Fiscal Year To Date Report - 2019

Building Repairs	Commercial	Residential
Buildings Condemned	0	0
Buildings Demolished	0	0
Building Repairs	7	22
Plumbing Upgrades	1	11
Electrical Upgrades	6	13
Mechanical Upgrades	6	13
Reroofs And Roof Repairs	0	7
Mobile Home Services	0	0
Building Additions/Accessory Structures	1	7

Yearly Totals For Oct. 1st - Sept. 30th	
2010	$96,662,342.00
2011	$45,352,237.00
2012	$178,221,004.00
2013	$61,881,917.00
2014	$79,409,560.00
2015	$192,080,600.00
2016	$127,079,852.00
2017	$166,673,506.00
2018	$111,654,002.74

Total Permits Issued:

8	New Buildings: Commercial	$2,681,492.00
19	Commercial Renovations And Repairs	$1,790,228.33
18	Signs	$199,114.25
69	New Single Family Homes	$16,899,610.30
56	Residential Repairs And Renovations	$1,057,848.30
0	New Apartment Units	$0.00
0	New Duplex Residences	$0.00
0	Total Building Permits Issued	$0.00

170	Permit Total Issued for FY 2019	$22,628,290.18

Jeff Kappelman

JEFF KAPPELMAN
Chief Building Inspector

Attachment: January 2019 Monthly Detail Report (3277 : January 2019 Monthly Building Detail Report)

CITY OF OPELIKA alabama

BUILDING INSPECTIONS
700 Fox Trail
Opelika, AL 36801
(p) 334-705-5420
(f) 334-705-5159
www.opelika-al.gov

Monthly Permits For January, 2019

Work & Repair On Buildings:

Building Repairs	Commercial	Residential
Buildings Condemned	0	0
Buildings Demolished	0	1
Building Repairs	3	6
Plumbing Upgrades	1	6
Electrical Upgrades	2	8
Mechanical Upgrades	2	4
Reroofs And Roof Repairs	0	5
Mobile Home Services	0	4
Building Additions/Accessory Structures	0	3

Monthly Totals For January 2010-2019

2010	$15,454,374.00
2011	$2,746,405.00
2012	$51,311,016.00
2013	$3,666,190.00
2014	$5,525,186.00
2015	$5,632,291.00
2016	$4,650,764.00
2017	$6,360,684.00
2018	$5,863,204.09
2019	$4,361,581.25

Total Permits Issued:

2	New Buildings: Commercial	$440,419.00
3	Commercial Renovations And Repairs	$99,500.00
6	Signs	$45,854.25
14	New Single Family Homes	$3,581,234.00
15	Residential Repairs And Renovations	$194,574.00
0	New Apartment Units	$0.00
0	New Duplex Residences	$0.00
	Total Building Permits Issued	

40	Total Permits Issued For Jan, 2019	**$4,361,581.25**

TAKEN FROM THE RECORDS OF THE
BUILDING INSPECTOR

Jeff Kappelman
Chief Building Inspector

Attachment: January 2019 Monthly Detail Report (3277 : January 2019 Monthly Building Detail Report)

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 024-19

Meeting: 02/19/19 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 3278

City-Wide Asphalt Paving Project-ENG

RESOLUTION NO. _____

WHEREAS, the Purchasing Department opened sealed bids for a contract for the City-Wide Asphalt Paving Project for the Engineering Department; and

WHEREAS, East AL Paving Co., Inc. submitted the lowest bid meeting specifications; and

WHEREAS, funding for the project will come from Capital Outlay;

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

1. That the contract be awarded to East AL Paving Co., Inc. on their low bid meeting specifications.

2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to East AL Paving Co., Inc. in the amount of $889,536.00.

3. That the Controller be authorized to adjust the budget as necessary for this contract.

4. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

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

Council Meeting: 2/19/19

FACT SHEET

SUBJECT: Sealed Bid – Bid #19008 – We are asking the Council to approve a contract for the City-Wide Asphalt Paving Project

FACTS:

- Bid opening date – 2/12/19
- User Department – Engineering
- The bid was mailed to 17 vendors
- 2 bids were received
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to East AL Paving Co., Inc. on their low bid meeting specifications in the amount of $889,536.00.**

Attachment: 2-19-19 - CITY-WIDE ASPHALT PAVING PROJECT 19008 - BID PKT (024-19 : City-Wide Asphalt Paving Project-ENG)

Bid Tab				EAP		Robinson	
ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT COST	EXTENSION	UNIT COST	EXTENSION
405A	Bitiminous Tack Coat	GAL	3800	$ 4.32	$ 16,416.00	$ 4.00	$ 15,200.00
408A	Asphalt Milling (0" to 2")	SY	23000	$ 4.70	$ 108,100.00	$ 4.00	$ 92,000.00
424A-000	Superpave Bituminious Concrete Wearing Surface	TON	3400	$ 83.20	$ 282,880.00	$ 85.00	$ 289,000.00
424A-001	Bituminous Concrete Wearing Surface, Leveling	TON	1200	$ 83.20	$ 99,840.00	$ 85.00	$ 102,000.00
424B-000	Superpave Bituminous Concrete Upper Binder Layer, Patching	TON	3200	$ 112.50	$ 360,000.00	$ 175.00	$ 560,000.00
622A	Raising Manholes	EACH	20	$ 675.00	$ 13,500.00	$ 1,000.00	$ 20,000.00
650A	Granular Shoulder Backfill	CY	200	$ 30.00	$ 6,000.00	$ 40.00	$ 8,000.00
701C-000	Solid Temporary Stripe	MILE	2	$ 500.00	$ 1,000.00	$ 1,200.00	$ 2,400.00
703C	Traffic Control Markings, Class 2, Type A	SF	300	$ 6.00	$ 1,800.00	$ 10.00	$ 3,000.00
				TOTAL	$ 889,536.00	TOTAL	$ 1,091,600.00

Attachment: 2-19-19 - CITY-WIDE ASPHALT PAVING PROJECT 19008 - BID PKT (024-19 : City-Wide

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 025-19

Meeting: 02/19/19 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 3279

City-Wide Striping Project-ENG

RESOLUTION NO. _____

WHEREAS, the Purchasing Department opened sealed bids for a contract for the City-Wide Striping Project for the Engineering Department; and

WHEREAS, Ozark Striping Co., Inc. submitted the sole bid meeting specifications; and

WHEREAS, funding for the project will come from Capital Outlay;

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

1. That the contract be awarded to Ozark Striping Co., Inc. on their sole bid meeting specifications.

2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Ozark Striping Co., Inc. in the amount of $94,875.00.

3. That the Controller be authorized to adjust the budget as necessary for this contract.

4. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

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

Council Meeting: 2/19/19

FACT SHEET

SUBJECT: Sealed Bid – Bid #19006 – We are asking the Council to approve a contract for the City-Wide Striping Project

FACTS:

- Bid opening date – 2/12/19
- User Department – Engineering
- The bid was mailed to 17 vendors
- 1 bid was received
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to Ozark Striping Co., Inc. on their sole bid meeting specifications in the amount of $94,875.00.**

Attachment: 2-19-19 - CITY-WIDE STRIPING PROJECT 19006 - BID PKT (025-19 : City-Wide Striping Project-ENG)

BID TAB

Ozark

ALDOT NO.	DESCRIPTION	UNIT	MIMIMUM APPROXIMATE QUANTITY	UNIT COST	EXTENSION
701B-000	Dotted, Class 2, Type A, Traffic Stripe (5" wide)	LF	2000.00	$ 2.00	$ 4,000.00
701D-007	Removal of Traffic Stripe (PAINT)	LF	500	$ 1.00	$ 500.00
701D-008	Removal of Traffic Stripe (PLASTIC)	LF	500	$ 1.00	$ 500.00
701G-000	Solid White, Class 2, Type A Traffic Stripe, (4" Wide)	MILE	7.00	$ 2,750.00	$ 19,250.00
701G-001	Solid Yellow, Class 2, Type A, Traffic Stripe (4" Wide)	MILE	7.00	$ 2,750.00	$ 19,250.00
701G-002	Broken Yellow, Class 2, Type A, Traffic Stripe (4" Wide)	MILE	5.00	$ 1,725.00	$ 8,625.00
701G-003	Broken White, Class 2, Type A, Traffic Stripe (4" Wide)	MILE	2.00	$ 1,725.00	$ 3,450.00
701G-200	Solid White, Class 2, Type A, Traffic Stripe (5" Wide)	MILE	2.00	$ 2,950.00	$ 5,900.00
701G-301	Solid White, Class W, Type A, Traffic Stripe (4" Wide)	LF	200.00	$ 5.00	$ 1,000.00
701G-300	Solid Yellow, Class W, Type A, Traffic Stripe (4" Wide)	LF	200.00	$ 5.00	$ 1,000.00
703A-000	Traffic Control Markings, Class 2, Type A	SQ FT	1000.00	$ 5.00	$ 5,000.00
703B-000	Traffic Control Ledgends, Class 2, Type A	SQ FT	500.00	$ 5.00	$ 2,500.00
703C-000	Removal of Existing Traffic Control Markings and Legends	SQ FT	500.00	$ 3.00	$ 1,500.00
703H-000	Specialty Traffic Control Markings (Bicycle Lane Symbols)	SQ FT	200.00	$ 37.00	$ 7,400.00
705A-000	Pavement Markers, Class A, ALL Types	EACH	3000.00	$ 5.00	$ 15,000.00
				$ 11,969.00	$ 94,875.00

Attachment: 2-19-19 - CITY-WIDE STRIPING PROJECT 19006 - BID PKT (025-19 : City-Wide Striping

RESOLUTION NO. 026-19

Expense report(s).

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
Carrie Thompson	Fire	28.89

) 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 REP

NAME Carrie Thompson
Name

DEPARTMENT Fire Dept
Department

PERIOD ENDING 1-23-19

DAY	CITY AND STATE	LODGING	TRANSPORTATION: AIR RAIL, ETC	TRANSPORTATION: RENTAL CAR LIMO ETC.	TRANSPORTATION: LOCAL TAXI, TOLLS & PUBLIC TRANSIT	TRANSPORTATION: AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below: BREAKFAST	BUSINESS MEALS Itemize Below: LUNCH	BUSINESS MEALS Itemize Below: DINNER	ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
SUN												0.0
MON												0.0
TUE												0.0
WED	Opelika, AL										28.89	0.0
THU												0.0
FRI												0.0
SAT												0.0
WEEKLY CATEGORY TOTALS $		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	28.8

WEEKLY TOTAL EXPENSES

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

Add to P.O.
Data Verified
Footing Verified DS
Inv. Price Pkg Price
Ok To Pay
A/C # Verified

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
Postage fee for mailing book

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
1-23-18	Postage fee for mailing Fire Book	$28.89

Carrie Ryan
SIGNATURE

P. Thatcher CRD
APPROVED BY

Attachment: CM 2-19-19, expense reports (026-19 : Expense report(s).)

RESOLUTION NO. 027-19

Designate City Personal Property as Surplus & 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.	Ford Ranger VIN 1FTYR10D27PA99312	87002486
2.	2	Ea.	4 Drawer File Cabinets	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

City Clerk - Treasurer

RESOLUTION NO. 028-19

Purchase-In-Car Video Recording System-Sole Source-PD

RESOLUTION NO. _____

WHEREAS, the Opelika Police Department desires to purchase In-Car Video Recording Systems, their related equipment, and warranty; and

WHEREAS, this is a sole source purchase; and

WHEREAS, WatchGuard Video is the sole vendor; and

WHEREAS, 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 WatchGuard Video.

2. That the Purchasing-Revenue Manager be authorized to issue a purchase order to WatchGuard Video as a sole source purchase not to exceed $28,350.00.

3. 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

Attachment: 2-19-19 - IN-CAR VIDEO RECORDING SYSTEMS - SOLE SOURCE - CNCL PKT (028-19 : Purchase-In-Car Video Recording System-

CITY OF OPELIKA
Sole Source Justification

DEPARTMENT Police

REQUISITION NUMBER _____

NAME OF REQUESTING EMPLOYEE Captain Shane D. Healey

VENDOR Watchguard Video

PRODUCT/SERVICE In-car camera systems

Estimated annual expenditure for the commodity or service $ 28,350.00

Initial all entries below that apply to the proposed purchase: Attach a detailed explanation containing complete justification and support documents. (More than one entry will apply to most sole source products/services requested).

1. Sole Source Request is for the original manufacturer or provider of item(s) or services, and there are no regional distributors. (Attach the manufacturer's witness certification that no regional distributors exist. Item no.4 also must be completed). _____
2. Sole Source Request is for the only the vendor who supplies this product/services within the State of Alabama (Franchised Protected Area). _____
3. The Parts/Equipment are not interchangeable with similar parts of another manufacturer. (Explain in separate memorandum) _____
4. This is the only known item or service that will meet the specialized needs of the Police Department or perform the intended function. (Attach memorandum with details of specialized function(s) or application.) _____
5. The Parts/Equipment are required from this sole source to permit standardization. (Attach memorandum describing basis for standardizing request.) _____
6. None of the above apply. A detailed explanation and justification for this sole source request is contained in the attached memorandum. _____

The undersigned requests that the State of Alabama Bid Law Title 41 Article 3 Competitive Bidding Requirements be waived and that the vendor identified as the supplier of the service or material described in this sole source justification be authorized as a sole source for the service or material. I further certify that the item(s) requested is of an indispensable nature, all other viable alternatives have been explored and it has been determined that only this product or service will fulfill the function for which the product is needed.

DEPARTMENT HEAD SIGNATURE _____

DEPARTMENT/DIVISION/DATE Police Department/Patrol Division 02/13/2019

PURCHASING DEPARTMENT USE ONLY

PURCHASING AGENT APPROVAL (SIGNATURE/DATE) _____ 2/13/19

DISAPPROVAL/DATE _____

COMMENTS _____

COUNCIL ACTION/DATE _____

Attachment: 2-19-19 - IN-CAR VIDEO RECORDING SYSTEMS - SOLE SOURCE - CNCL PKT (028-19 : Purchase-In-Car Video Recording System-

WATCH GUARD
DIGITAL IN · CAR VIDEO

19th of August, 2016

Prospective WatchGuard Video Customer

Reference: WatchGuard Video Sole Source Letter

To whom it may concern:

WatchGuard Video is the exclusive and sole manufacturer of the DV-1 Digital In-Car Video System, the 4RE Digital In-Car Video System, the High Fidelity Wireless Microphone System, the VISTA wearable camera system, and the Evidence Library and Evidence Library Express evidence management software applications. With the exception of the following agreements, these products are represented and sold only by WatchGuard Video Regional Sales Managers selling factory direct in protected sales territories. The exceptions to this are agreements allowing resellers to distribute WatchGuard products on a General Services Administration Contract (GSA), and State Contracts in Louisiana and New Jersey.

Additionally, several important and unique features are available only with these products;

DV-1 and 4RE Unique Features

- Record-After-The-Fact provides the ability to retrieve video not previously recorded as an event for up to 60 hours of ignition time for retrieval and downloading.
- Through the automatic media overflow function, a DVD (DV-1) or Removable USB Drive (4RE) can be full and the hard drive buffer stores all video until a new DVD or USB Drive is placed in the system. At that time all of the recorded events are captured without 1 second of loss.

DV-1

- The system records digital video onto rewritable DVD-Video discs that play in consumer DVD players, allowing for the actual evidence recorded in the car to be the exact evidence presented in court. The system records pre and post event as part of the same Title and not separated. The DVD burning process happens in real-time, and while in motion.
- Supervisors can recover up to 6 of the previous DVDs recorded in the event a DVD is damaged. The system creates a mirror image of the original.
- The DVD recorder is isolated from shock and vibration using a silicone-oil dampened suspension system.
- The complete system is offered in a 1-Piece overhead mounted version that mounts conveniently using an overhead mounting bracket.

4RE

415 Century Parkway • Allen, TX • 75013
Toll Free (800) 605-6734 • Main (972) 423-9777 • Fax (972) 423-9778
www.WatchGuardVideo.com

Attachment: 2-19-19 - IN-CAR VIDEO RECORDING SYSTEMS - SOLE SOURCE - CNCL PKT (028-19 : Purchase-In-Car Video Recording System-

WATCH GUARD
DIGITAL IN-CAR VIDEO

- 4RE is the only high-definition digital in-car video system available today that features the Patented multiple resolution encoding. This allows the front camera to record in two different IACP compliant resolutions simultaneously, allowing the most critical events to be saved in 720P high-definition and the routine events to be saved in 480P (864x480) resolution.
- 4RE exclusively offers the Panoramic X2 camera, manufactured only by WatchGuard Video, which is the industry's only dual lens, rotatable turret camera which houses a 68 degree rotatable camera and a 150 degree panoramic camera.

Wireless Microphone

- The Hi-Fi microphone has near CD quality high fidelity sound, a line of sight range of one to two miles, and superior building penetration capabilities.
- Using patent pending intelligent standby and a lithium polymer battery gives the microphone its extraordinary battery life of up to 24 hours of talk time, and up to 30 days of standby time.
- The wireless microphone holsters are manufactured exclusively for WatchGuard and manufactured to WatchGuard transmitter specification.

VISTA

- VISTA is constructed with industrial grade components and is manufactured in the U.S.A. It is capable of recording both High Definition and Standard Definition video, and battery life capable of record up to 9 continuous hours of HD video. VISTA has other unique features, including:
  - The only wearable camera to integrate with the WatchGuard Video Evidence Library and Evidence Library Express video and evidence management applications.
  - Record-After-The-Fact which gives the ability to retrieve video not previously recorded as an event
- VISTA WiFi includes WatchGuard Video's Distributed Multi-Peer Recording technology which allows for integration with the 4RE in-car video system.
  - VISTA WiFi is the only wearable camera that can integrate with the 4RE in-car video system. It also integrates with the WatchGuard Video Evidence Library and Evidence Library Express video and evidence management applications.

Respectfully submitted,

Jason Stuczynski
Vice President of Sales

415 Century Parkway • Allen, TX • 75013
Toll Free (800) 605-6734 • Main (972) 423-9777 • Fax (972) 423-9778
www.WatchGuardVideo.com

Attachment: 2-19-19 - IN-CAR VIDEO RECORDING SYSTEMS - SOLE SOURCE - CNCL PKT (028-19 : Purchase-In-Car Video Recording System-

WATCH GUARD

4RE/VISTA Price Quote

CUSTOMER: Opelika Police Department

Attn: Accounts Payable,
PO Box 390,,
Opelika,AL,United States,
36803-0390

ATTENTION: Capt. Shane Healey

PHONE: 334-705-5200

E-MAIL: shealey@opelika-al.gov

ISSUED: 2/13/2019 11:30 AM

EXPIRATION: 4/1/2019 5:00 AM

TOTAL PROJECT ESTIMATED AT: $28,350.00

SALES CONTACT: DeDe Summerville

DIRECT: (469) 342-8917

E-MAIL: DSummerville@WatchGuardVideo.com

4RE and VISTA Proposal

VISTA HD Cameras and Options

Part Number	Detail	Qty	Direct	Discount	Total Price
HDW-ETH-SWT-005	VISTA HD, 4RE, Smart PoE Switch	5.00	$250.00	$0.00	$1,250.00
VIS-CHG-WIF-KIT	VISTA HD, WiFi Charging Radio Base Kit, incl. Power and Cables	5.00	$250.00	$0.00	$1,250.00

Evidence Library 4 Web Software and Licensing

Part Number	Detail	Qty	Direct	Discount	Total Price
KEY-EL4-DEV-001	Evidence Library 4 Web 4RE In-Car Device License Key	5.00	$150.00	$0.00	$750.00

4RE In-Car System and Options

Part Number	Detail	Qty	Direct	Discount	Total Price
4RE-STD-GPS-RV2	4RE Standard DVR Camera System with integrated 200GB automotive grade hard drive, 16GB USB removable thumb drive, rear facing cabin camera, GPS, hardware, cabling and your choice of mounting bracket.	5.00	$4,795.00	$0.00	$23,975.00
CAM-4RE-ZSL-UWD	Front Camera, 4RE, HD Zero Sightline (ZSL)	5.00	$0.00	$0.00	$0.00

Wireless Video Transfer and Networking Options

Part Number	Detail	Qty	Direct	Discount	Total Price
4RE-WRL-KIT-101	4RE In-Car 802.11n Wireless Kit, 5GHz (2.4 GHz is available by request)	5.00	$200.00	$0.00	$1,000.00

4RE Hardware Warranties

Part Number	Detail	Qty	Direct	Discount	Total Price
WAR-4RE-CAR-1ST	Warranty, 4RE, In-Car, 1st Year (Months 1-12)	5.00	$0.00	$0.00	$0.00

Shipping and Handling

Part Number	Detail	Qty	Direct	Discount	Total Price
Freight	Shipping/Handling and Processing Charges	1.00	$125.00	$0.00	$125.00

415 E. Exchange Parkway • Allen, TX • 75002
Toll Free (800) 605-6734 • Main (972) 423-9777 • Fax (972) 423-9778
www.WatchGuardVideo.com

Attachment: 2-19-19 - IN-CAR VIDEO RECORDING SYSTEMS - SOLE SOURCE - CNCL PKT (028-19 : Purchase-In-Car Video Recording System-

WATCH GUARD

4RE/VISTA Price Quote

$28,350.00

Total Estimated Tax, may vary from State to State	$0.00
Configuration Discounts	$0.00
Additional Quote Discount	$0.00
Total Amount	**$28,350.00**

NOTE: This is only an estimate for 4RE & VISTA related hardware, software and WG Technical Services. Actual costs related to a turn-key operation requires more detailed discussion and analysis, which will define actual back-office costs and any costs associated with configuration, support and installation. Please contact your sales representative for more details.

To accept this quotation, sign, date and return with Purchase Order: _____ DATE: _____

415 E. Exchange Parkway • Allen, TX • 75002
Toll Free (800) 605-6734 • Main (972) 423-9777 • Fax (972) 423-9778
www.WatchGuardVideo.com

Attachment: 2-19-19 - IN-CAR VIDEO RECORDING SYSTEMS - SOLE SOURCE - CNCL PKT (028-19 : Purchase-In-Car Video Recording System-

RESOLUTION NO. 029-19

Authorize grant application to ADEM for recycling.

RESOLUTION

EXPLANATION

PURPOSE: To authorize submission of a Grant Application to the Alabama Department of Environmental Management

PROGRAM: Alabama Recycling Grant Fund Program

FUNDING AGENCY: Alabama Department of Environmental Management (ADEM)

PROJECT: The City of Opelika will partner with Lee County and Auburn University through the "*East Alabama Recycling Partnership*" in applying for recycling program support. This year, Opelika will request assistance on holding a special recycling event for disposal of household hazardous materials.

DEADLINE: March 1, 2019

ESTIMATED GRANT AMOUNT: Each Partner Establishes A Budget

MATCH: Not Mandatory --- Opelika and each of the partners do contribute the in-kind costs of their individual recycling operation budgets

COMMENT:

This Application will be the tenth Application prepared and filed by the EARP Partnership under this program. Together and individually, the partners continue to increase the quantity of recyclables collected and diverted from the landfill each year. The responsibility for administration of the grant program is done on a rotating basis. Lee County has volunteered to administer the grant should it be approved this year.

PREPARED BY: Louise Campbell, L.P. Campbell Company

Resolution No. _____

WHEREAS, the Alabama Department of Environmental Management has the authority to award grants under the Alabama Recycling Fund Grant Program;

WHEREAS, the City of Opelika will partner with Lee County and Auburn University in securing grant funds to further recycling efforts; and

WHEREAS, this grant application will focus on equipment purchases and public outreach/education for each of the three entities.

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

1. Authorization is given for the submission of a Grant Application under said program.

2. Authorization is given to the Mayor to sign any and all documents to secure said grant.

APPROVED AND ADOPTED, this __19th___ day of _February_____, 2019.

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

ATTEST:

_____
R. G. Shuman, CMC
City Clerk - Treasurer

RESOLUTION NO. 030-19

Authorize grant application with USDOT, INFRA program.

RESOLUTION EXPLANATION

PURPOSE: Authorize submission of a Grant Application and commit the local share

PROGRAM: The Nationally Significant Freight and Highway Projects Program (INFRA)

AGENCY: US Department of Transportation

DEADLINE: March 4, 2019

Budget Estimate: (Preliminary Engineering Design and Cost Estimate Not Yet Complete)

GRANT: $ 6,600,000 (60%)

LOCAL: $ 4,400,000 (40%)

TOTAL: $ 11,000,000

PROJECT DESCRIPTION:

The project includes a roadway extension of the recently completed Sportsplex Connector to US Highway 431 and an Industrial Access Road to West Fraser with a bridge rail crossing. Construction of this project will essentially link US Highway 85 Exit 62 with US Highway 431. The project is designed to reduce traffic congestion through Downtown Opelika; on US Highway 431; and at Interstate 85 Exit 62.

COMMENT:

This project has a similar purpose as the BUILD Program submitted to the Department of Transportation last year with emphasis on reducing traffic congestion, supporting industrial development, and improving transportation infrastructure. The INFRA Program, however, does NOT include a component to widen and improve Morris Avenue. The road segment that will link US Interstate Highway 85 Exit 64 and US Highway 431 is being redesigned to intersect with US Highway 431 north of Morris Avenue.

PREPARED BY: Louise Campbell, L.P. Campbell Company

Resolution no. _____

WHEREAS, the US Department of Transportation has the authority to award grants under The Nationally Significant Freight and Highway Projects Program (INFRA); and

WHEREAS, the City of Opelika recognizes the need to improve transportation infrastructure to support economic development and improve safety and efficiency.

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

1. Authorization is given to submit a Grant Application under said program.

2. Authorization is given to the Mayor to sign any and all documents to secure said grants.

3. The City will contribute 40% of the total project cost.

APPROVED AND ADOPTED, this 19th day of February, 2019.

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

ATTEST:

_____
Robert G. Shuman, CMC
City Clerk -Treasurer

RESOLUTION NO. 031-19

Appropriation contract FY2019, Main Street.

RESOLUTION NO. _____

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

) That the proposed CONTRACT FOR SERVICES to be entered into between the City of Opelika and the Opelika Main Street, Inc., a copy of which is hereto attached as Exhibit "A", be and the same is hereby approved, adopted, authorized, ratified and confirmed,

) That Gary Fuller, Mayor of the City of Opelika is hereby authorized and empowered to execute the foregoing agreement in the name and on behalf of the City of Opelika and the City Clerk is hereby authorized to affix the corporate seal of the City of Opelika thereto and to attest the same, and the Mayor shall deliver one copy to the Opelika Main Street, Inc., and retain one copy.

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

_____

C. E. “Eddie” Smith, Jr.

President City Council

City of Opelika, Alabama

Attest:

_____

Robert G. Shuman, CMC

City Clerk - Treasurer

STATE OF ALABAMA – LEE COUNTY

CONTRACT FOR SERVICES

(Fiscal year 2018-2019)

This contract is made and entered into by and between the City of Opelika, Alabama, a municipal corporation, hereinafter referred to as the "City", and Opelika Main Street, Inc., a non-profit corporation, hereinafter referred to as "Main Street", on this the _____ day of _____ 2018.

In consideration of the agreements herein contained, the parties agree as follows:

1. The term of this agreement shall be for a period of one (1) year commencing October 1, 2018 and ending September 30, 2019. At the end of each year this contract may be renewed by agreement between the parties.

2. Main Street agrees to provide the City with the following services:

   a) Promote and maintain an attractive downtown image for Opelika.
   b) Support and maintain active downtown commerce in Opelika.
   c) Promote and maintain the heritage and character of downtown Opelika.
   d) Coordinate and work closely with other agencies to make downtown Opelika easily and safely accessible.
   e) Conduct or assist with special events downtown; On The Tracks: Wine and Cheese Festival (October), An Undetermined Event in the spring, Noon Tunes (May) Think Pink Breast Cancer Walk, Touch-A-Truck (June) Christmas Open House and Christmas in a Railroad Town (December).
   f) Work with the Opelika Historic Preservation Society, Auburn-Opelika Tourism Bureau, the North Opelika Historic Neighborhood Association, and the Museum of East Alabama, to promote and encourage Walking and Driving Tours of Opelika's Historic Districts and package group tours when requested.
   g) Continue working with downtown property and business owners to encourage building improvements using the Main Street Facade program when required.

3. As compensation for the services rendered hereunder, the City agrees to pay Main Street for the one (1) year term beginning on October 1, 2018, the sum of $21,000.00, payable in a lump sum.

4. Notwithstanding any of the provisions of this agreement, it is agreed that the City has no financial interest in the business of Main Street, and shall not be liable for any debts or obligations incurred by Main Street, nor shall the City be deemed or construed to be a partner, joint venture, or otherwise interested in the asset of Main Street, nor shall Main Street at any time use the name or credit of the City in purchasing or attempting to purchase any equipment, supplies or other things whatsoever.

5. Main Street in the performance of its operations and obligations hereunder shall not be deemed to be the agent of the city but shall be deemed to be an independent contractor in every respect and shall take all steps at its own expense. The City does not and will not assume any responsibility for the means by which or manner in which services by Main Street, provided for herein, are performed, but on the contrary, Main Street shall be wholly responsible therefore.

6. Main Street shall not transfer or assign this agreement or license any of the rights or privileges granted herein without prior written consent of the City.

7. Main Street agrees to comply with all local, state and federal laws while performing under the terms of this agreement.

Attachment: CM 2-19-19, 2019 appropriation contract, Main Street (031-19 : Appropriation contract FY2019, Main Street)

8. Main Street agrees that upon violation on any of the covenants and the agreements herein contained, on account of any act of omission or commission of Main Street, the City may, at its option, terminate and cancel this agreement.

9. Main Street agrees that it shall not use any funds received from the City for political activity nor shall it endorse or promote the campaign of any person for political office.

10. This agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this agreement which is not contained herein shall be valid or binding unless in writing signed by both parties.

11. Subject to the provisions regarding assignment, this agreement shall be binding on the successors and assigns of the respective parties.

12. The laws of the State of Alabama hereunder, shall govern the validity of this agreement and of any of its terms, provisions, as well as the rights and duties of the parties.

CITY OF OPELIKA, ALABAMA

By: _____

It's Mayor: Gary Fuller

Attest:

_____

It's City Clerk: R. G. "Bob" Shuman

OPELIKA MAIN STREET, INC.

A Non-Profit Corporation

By: _____

It's Board Representative

Attest: _____

It's Interim Executive Director: Dana W. Gafford

Attachment: CM 2-19-19, 2019 appropriation contract, Main Street (031-19 : Appropriation contract FY2019, Main Street.)

RESOLUTION NO. 032-19

Special appropriation to KOB - 2019 Garden in the Park.

RESOLUTION NO. _____

WHEREAS, the Opelika City Council members and Mayor Gary Fuller appreciates and fully supports Keep Opelika Beautiful (KOB) and their various programs; and

WHEREAS, Keep Opelika Beautiful is in need of additional funding to provide their annual 2019 Garden in the Park event; and

WHEREAS, each City Council member would like to participate in a special appropriation from their discretionary reserve fund to sponsor the KOB - Garden in the Park event.

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 a special appropriation from each City Councilman as detailed below to sponsor the 2019 KOB Garden in the Park event:

Patsy Jones	Ward 1	Reserve fund	$500.00
Tiffany Pitts	Ward 2	Reserve fund	$500.00
Dozier Smith T	Ward 3	Reserve fund	$500.00
Eddie Smith	Ward 4	Reserve fund	$500.00
David Canon	Ward 5	Reserve fund	$500.00

2. The City Council hereby declares and determines that said appropriation of public funds to be utilized by Keep Opelika Beautiful will serve a public purpose.

3. That the Mayor and the Controller is hereby authorized and directed to transfer $2,500.00 as detailed in no. 1 above to the appropriate account.

4. That the City Clerk-Treasurer is hereby authorized to prepare and process the appropriate document(s) so a check for $2,500.00 payable to Keep Opelika Beautiful and earmarked for their 2019 Garden in the Park event.

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

_____

President of the City Council

City of Opelika, Alabama

Attest:

_____

Robert G. Shuman, CMC

City Clerk - Treasurer

ORDINANCE NO. (ID # 3264)

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

Attachment: ORDINANCE TO amend Chapter 4 Animal Control 111518 (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.

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(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.

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(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

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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.

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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.

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(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.

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(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.

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(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.

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(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,

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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 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.

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(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 ($1/8^{th}$) 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.

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(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.

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(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

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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)

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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

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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

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(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.

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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

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(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 (¾) 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 (¾) 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.

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(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

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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.

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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.

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(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.

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(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.

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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 TO amend Chapter 4 Animal Control 111518 (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

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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.

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(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.*

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(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

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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.

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(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.

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(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.

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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

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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.

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(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 (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 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**.

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(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.

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(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

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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.

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(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

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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.

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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

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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 (¾) 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 (¾) of the area of a floor or base constructed as hereinabove specified, with hardwood, provided each piece

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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

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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

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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.

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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:

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(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,

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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:

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(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.

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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

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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

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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.

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(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.*

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(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

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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.

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(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.

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(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.

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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

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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

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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.

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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.

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(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 ($1/8^{th}$) 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

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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.

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(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).

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(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.

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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.

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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 (¾) 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.

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(c) It shall be permissible to cover, not exceeding three-fourths (¾) 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.

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)

(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.

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)

(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:

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(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.

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)

(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

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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

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)

(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.

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)

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)