



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

1. Call to Order

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

2. Roll Call

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

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

3. Invocation

President Smith asked everyone present to stand for a moment of silence for the families of those who did not survive and those injured during the tornado this past Sunday. Mr. Barrett then provided the invocation.

1. Kane Barrett with the New Birth Ministry.

4. Pledge of Allegiance

All students listed below were present and led the Pledge of Allegiance.

1. Marley Golden, Taylor Morgan, Xavier Dowdell, Henry Evans, Zane Sexton and Tyler Ellis from the Opelika Middle School.

5. Reading of Minutes

1. Minutes from the 2-19-19 city council meeting.

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

6. Unfinished Business

7. Remarks By the Mayor

Mayor Fuller stated our thoughts and prays continue to be with the families in Beauregard and Smiths Station who lost loved ones or were injured by the tornado last Sunday.

Mayor Fuller announced that Yongsan Automotive will be opening a new plant in Opelika and will be creating 150 new jobs over the next three years.

1. Recognize the Opelika Middle School 6th grade Quiz Bowl Team for winning the State Championship and Henry Evans for being selected as the State MVP.

Mayor Fuller recognized all the members of the Quiz Bowl Team that recently won the State Championship and Henry Evans for being selected as the State MVP.

8. Citizen Communications

(Limit comments to five minutes or less)

No one came forward to speak.

9. Report of Disbursements

10. Committee Reports

11. General Business

1. ALDI Inc Alabama request a Retail Beer and Wine Off Premise License.

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: Dozier Smith T, Council Member

AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

ABSENT: Patricia Jones

2. Request by Main Street, street closure for St. Patrick's Day.

RESULT: **APPROVED [UNANIMOUS]**

MOVER: David Canon, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

ABSENT: Patricia Jones

3. Request for annual Unity Stampede Walk/5K.

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Dozier Smith T, Council Member

SECONDER: David Canon, Council Member

AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

ABSENT: Patricia Jones

4. Public hearing, project agreement with Yongsan Automotive.

President Smith opened the public hearing and asked if there was anyone present that would like to speak for or against said project agreement. No one came forward to speak. President Smith closed the public hearing.

12. Awarding of Bids

1. Bids 033-19 Two (2) 15 Ft Folding Rotary Cutters - PW

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Dozier Smith T, Council Member

SECONDER: David Canon, Council Member

AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

ABSENT: Patricia Jones

13. Resolutions

1. Resolution 034-19 Expense reports from various departments.

- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith
ABSENT: Patricia Jones
2. Resolution 035-19 Purchase-(624) Toter 96 Gal EVR II Universal/Nestable Carts-OES
RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith
ABSENT: Patricia Jones
3. Resolution 036-19 Refund request Steve Decker, occupational license fees.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith
ABSENT: Patricia Jones
4. Resolution 037-19 Refund request from William Jackson, occupational license fees.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith
ABSENT: Patricia Jones
5. Resolution 038-19 Project agreement with Yongsan Automotive.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith
ABSENT: Patricia Jones
6. Resolution 039-19 Tax abatement agreement, Yongsan Automotive.
RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: David Canon, Council Member
AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith
ABSENT: Patricia Jones
7. Resolution 040-19 Special Appropriation to Lee County Commission.

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

8. Resolution 041-19 Support Alabama legislation for additional motor fuel taxes.

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

9. Resolution 042-19 Contract Extension Agreement with Point Broadband (OPS)

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

10. Resolution 043-19 Purchase furniture for OPD - HQ.

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

14. Ordinances

1. Ordinance Amend City Code, Chapter 4 Animal Control - OES - Tabled
This ordinance remained Tabled.

15. Appointments

1. Appoint Steve Chapman to Industrial Development Authority. Term expires 3-08-20.

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

2. Re-appoint David Hudmon to the Property Maint. Board of Appeals. Term expires 3-16-22.

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

3. Re-appoint Auzzie Comer to the Property Maint. Board of Appeals. Term expires 3-16-22.

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

16. Adjourn

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

/s/ Eddie Smith

President of City Council

City of Opelika, Alabama

ATTEST:

/s/ R. G. Shuman

R. G. "Bob" Shuman, CMC

City Clerk - Treasurer

1. Motion to adjourn.
The council meeting ended at 7:29 pm.

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



City Council
204 South 7Th Street
Opelika, AL

ADOPTED

CM MINUTES (ID # 3291)

Meeting: 03/05/19 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

DOC ID: 3291

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

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



OPELIKA CITY COUNCIL “ REGULAR MEETING MINUTES “

204 South 7th Street

February 19, 2019

TIME: 7:00 PM

1. Call to Order

President Smith called the 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 city council members were present.

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

3. Invocation

Pastor Isacc Nunn provided the invocation.

1. Pastor Isacc Nunn.

4. Pledge of Allegiance

Dylan and Caleb lead the 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.

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Tiffany Gibson-Pitts, Council Member

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

6. Unfinished Business

7. Remarks By the Mayor

Mayor Fuller reminder everyone present that the City's severe weather tax free holiday is this coming weekend.

1. January 2019 City financial report.

Mayor Fuller passed out copies of the City's January 2019 financial report to all the city council members.

2. January 2019 Monthly Building Detail Report

Mayor Fuller called on Joey Motley, City Administrator, to give a summary of the January 2019 Building permit report.

3. Recognize Rosanna McGinnis, Library Director.

Mayor Fuller recognized Rosanna McGinnis, Library Director, for it being her birthday and also presented her a performance award for her outstanding job performance.

4. Recognize Opelika Park & Rec. - three awards at ARPA State Conference.

Mayor Fuller asked John Huling and Mandy Johnson to come forward as representatives of the Park & Recreation (P&R) department. The P&R department recently won three (3) awards at the State conference. Mayor Fuller recognized the 2nd annual Shine Prom event for winning the Innovative program award along with several individuals that attended the Shine Prom.

8. Citizen Communications

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

9. Report of Disbursements

10. Committee Reports

11. General Business

12. Awarding of Bids

1. Bids 024-19 City-Wide Asphalt Paving Project-ENG

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Dozier Smith T, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

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

2. Bids 025-19 City-Wide Striping Project-ENG

RESULT: **APPROVED [UNANIMOUS]**

MOVER: David Canon, Council Member

SECONDER: Patricia Jones, President Pro-Tem

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

13. Resolutions

1. Resolution 026-19 Expense report(s).

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: Patricia Jones, President Pro-Tem

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

2. Resolution 027-19 Designate City Personal Property as Surplus & Authorize Disposal

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Dozier Smith T, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

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

3. Resolution 028-19 Purchase-In-Car Video Recording System-Sole Source-PD

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: David Canon, Council Member

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

4. Resolution 029-19 Authorize grant application to ADEM for recycling.

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 030-19 Authorize grant application with USDOT, INFRA program.

RESULT: **APPROVED [UNANIMOUS]**

MOVER: David Canon, Council Member

SECONDER: Dozier Smith T, Council Member

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

6. Resolution 031-19 Appropriation contract FY2019, Main Street.

Attachment: CM 3-05-19, minutes from the 2-19-19 CM (3291 : Minutes from the 2-19-19 city council meeting.)

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

7. Resolution 032-19 Special appropriation to KOB - 2019 Garden in the Park.

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

14. Ordinances

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

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

15. Appointments

1. Reappoint Shirley Lazenby to the Park & Rec. Board. New term expires 3-15-24.

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

2. Reappoint Julia Stutts to the Medical Clinic Board. New term expires on 3-02-25.

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

16. Adjourn

The City Council meeting minutes of February 19, 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 7:24 pm.

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



City Council
204 South 7Th Street
Opelika, AL

ADOPTED

Meeting: 03/05/19 07:00 PM
Department: Purchasing and Revenue
Category: Business & Alcohol License
Prepared By: Martha Wright

Initiator: Lillie Finley

Sponsors:

GENERAL BUSINESS (ID # 3290)

DOC ID: 3290

ALDI Inc Alabama request a Retail Beer and Wine Off Premise License.

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

**City Council**

204 South 7Th Street
Opelika, AL

ADOPTED**GENERAL BUSINESS (ID # 3286)**

Meeting: 03/05/19 07:00 PM

Department: City Clerk

Category: Request / Temp Street Closure

Prepared By: Robert Shuman

Initiator: Robert Shuman

Sponsors:

DOC ID: 3286

Request by Main Street, street closure for St. Patrick's Day.

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



February 18, 2019

R. G. 'Bob' Shuman, CMC
City Clerk
City of Opelika, Alabama

Dear Bob,

Opelika Main Street would like to request a street closure on behalf of Irish Bred Pub. This is for their 2nd annual St. Patrick's Day event. Last year's event was a big success for Irish Bred Pub, as well as many of the surrounding businesses in the downtown area. We would like to request street closure of 9th Street, between South Railroad Avenue and Avenue A, Saturday, March 16th from 10 am through 7 pm.

Thank you so much for your consideration

Dana

Dana Gafford
Interim Director
Opelika Main Street



City Council
204 South 7Th Street
Opelika, AL

ADOPTED

GENERAL BUSINESS (ID # 3287)

Meeting: 03/05/19 07:00 PM
Department: City Clerk
Category: Request / Temp Street Closure
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:
DOC ID: 3287

Request for annual Unity Stampede Walk/5K.

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

Last Name: _____ First Name: _____ Age: _____ Sex: _____
 Address: _____ City, State & Zip _____
 Date of Birth: _____ Phone: _____ () _____ Email: _____
 I am a : _____ SU Student _____ SU Faculty/Staff _____ Member of the Community _____ K-12 Student _____ Sponsor (name) _____
 Event: _____ 5K _____ 1 Mile Fun Run/Walk _____ 1 Mile Wheel _____ T-shirt Size: Youth: _____ S _____ M _____ L _____ XL _____ XXL _____ XXXL _____

I know that running a road race is a potentially hazardous activity that could cause injury or death. I should not enter and run unless I am medically able and properly trained, and by my signature I certify that I am medically able to perform this event, am in good health and am properly trained. I agree to abide by any decision of a race official relative to any aspect of my participation in this event, including the right of any official to deny or suspend my participation for any reason whatsoever. I am assume all risks associated with running, walking and wheeling this event, including but not limited to: falls, contact with other participants, the effects of the weather, including high heat and/or humidity, traffic and the conditions of the road, all such risks being known and appreciated by me. I understand that bicycles, skateboards, roller skates or blades and animals are not allowed in the race and I will abide by these guidelines. I understand that my picture may be taken during the event and used in marketing materials and through social media. Having read this waiver and knowing these facts and in consideration of your accepting my entry, I, for myself and anyone entitled to act on my behalf, waive and release Southern Union State Community College, Envision Opelika Foundation, Opelika Sportsplex, all sponsors, their representatives and successors from all claims and liabilities of any kind arising out of my participation in this event on April 27, 2019.

Signature of Participant: _____ Date: _____
 (Parent/Guardian must sign for participants under 19)

Race Entry Fee: \$ _____
 Additional Donation: \$ _____ Envision Opelika Foundation \$ _____ Southern Union Foundation
 Total Enclosed: \$ _____

Make checks payable to: Southern Union Foundation (Both the SU and Envision Opelika Foundations are a 501©3 organization, and exists to assist, support and foster in education.)
 Mail completed applications and fees to: Southern Union State Community College,
 Attention: Shondae Brown
 750 Roberts Street
 Wadley, AL 36276



MAIN RACE SPONSOR:



UNITY STAMPEDE 5K

April 27, 2019

Opelika Sportsplex

Late Registration Begins @4:00pm

Festivities Begin @4:30pm

Races Begin @5:30pm

Live Music: Jeremy McCall

A Unique Run with a Great Mission: To strengthen relationships among citizens of all cultures in our community.

Proceeds will be used to fund Character Education through the Community Foundation of East Alabama, provide Scholarships for students to Southern Union State Community College and to promote wellness and healthy lifestyles in the community.

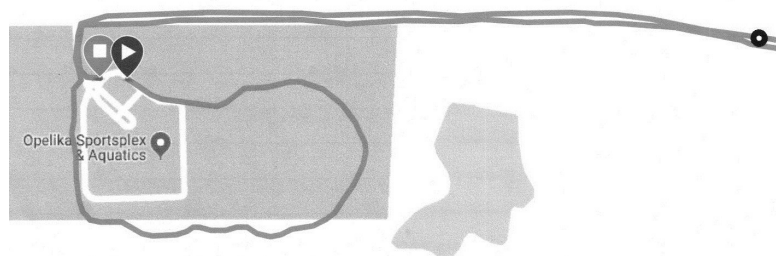
RACE FEATURES

1 Mile Fun Run/Walk/Wheel

Closed loop starts and ends on paved 1 mile track at Sportsplex.

5K Run/Walk

Will begin at Sportsplex reach to Joe's Grocery via the newly constructed road that runs behind the Sportsplex and end by completing a loop on the 1 mile paved track.



Stampede

It is a stampede, so show us your unique outfits!

Live Music, Food Vendors and Door Prizes

There will be live music before and after the races. There will be food vendors. You are encouraged to bring blankets and chairs to partake in the festivities.



JOIN OUR **UNITY STAMPEDE 5K**
FACEBOOK PAGE TO STAY UPDATED
ON THE EVENT.

RACE INFORMATION

Entry Fees: Registered by March 31, 2019

5K - \$25 Individual,

1 Mile Fun Run/Walk - \$16 Individual

1 Mile Fun Wheel - No Charge - Thanks to our Sponsors

Registered April 1, 2019 and after

5K - \$30 Individual

1 Mile Fun Run/Walk - \$18 Individual,

1 Mile Fun Wheel - No Charge - Thanks to our Sponsors

T-Shirts: Guaranteed if registration received by Saturday, March 31, 2019. If registered after March 31, 2019 you will receive T-shirts as supplies last, in available sizes.

Refund Policy: Refunds and transfers are not allowed.

Day of Race registration: Begins @ 4:00pm under "Registration Tent" at Opelika Sportsplex. Pre-registration is highly encouraged.

Packet Pick-ups: You may pick up your packets at Southern Union in the Health Sciences parking lot on the corner of Fox Run and Bulldog Parkway (formerly Lafayette Parkway) on Friday, April 26th from 4:00pm to 6:00pm or the day of the race beginning at 4:00pm on Saturday, April 27th under the "Packet Pick Up Tent" at the Sportsplex.

All race entry participants are eligible to win door prizes throughout the event, but they must be present to win.

AWARDS

5K - Overall male and female runner and top 2 male and female finishers in each age group:

<10, 10-14, 15-19, 20-29, 30-39, 40-49, 50-59, 60+

**REGISTER AT RUNSIGNUP.COM
OR MAIL IN YOUR REGISTRATION.**



City Council

204 South 7th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3283)

Meeting: 03/05/19 07:00 PM
Department: Economic Development
Category: Public Hearing
Prepared By: Kathryn Daugherty
Initiator: Lori Huguley
Sponsors:
DOC ID: 3283

Public hearing, project agreement with Yongsan Automotive.

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

NOTICE is hereby given that the City Council (the “Council”) of the City of Opelika, Alabama, (the “City”) will meet in public session at 7:00 p.m. on Tuesday, March 5, 2019, in the City Council Chambers of the Municipal Building, 204 South 7th Street in the City of Opelika, Alabama, for the purpose of considering the transaction of business that may properly come before the Council, such business to include, but not be limited to, the authorization by the Council, pursuant to Amendment No. 642 to the Constitution of Alabama of 1901, as amended, of a resolution (the “Resolution”) approving the execution and delivery of a Project Agreement (the “Agreement”) by and between the City and Yongsan Automotive U.S.A., Inc., an Alabama corporation, (the “Company”) to be dated the date of delivery with respect to a proposed new manufacturing facility to be located in the City (the “Project”).

Pursuant to the Agreement, the Company will agree to establish an automobile parts manufacturing facility at 1100 Jeter Avenue in the corporate limits, requiring an initial capital investment of approximately five million, five hundred thousand dollars (\$5,500,000.00). The Company estimates that it will initially employ 35 full-time employees and that employment will expand to approximately 160 full-time jobs. In consideration for the obligations of the Company under the Agreement, the City will agree, among other things, to provide financial incentives to the Company described more particularly in the Agreement, including cash incentives, job performance incentives and tax abatements. In addition, the City will agree, at no cost to the

company, to waive any and all City site plan review fees and building and construction permit fees.

The City seeks to achieve, by undertaking its obligations pursuant to the Agreement and the Resolution, to promote the local economic and industrial development of the City by facilitating the acquisition and development of the Project for the benefit of the general public and to increase employment in the City and to increase the tax and revenue base of the City.

The business entity to whom or for whose benefit the City proposes to lend its credit or grant of public funds or thing of value is Yongsan Automotive U.S.A., Inc.

All interested persons may examine and review the Project Agreement and Resolution at the offices of the City Clerk during normal business hours, before and after the meeting referenced herein.

Further information concerning the information of this Notice can be obtained at the office of the City Clerk during normal business hours.

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

DATED this the 26th day of February, 2019.

R.G. Shuman
CITY CLERK OF THE CITY OF OPELIKA, ALABAMA

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

Please publish the foregoing Notice one (1) time in the February 26, 2019, issue of your paper.

CITY CLERK

COMMENTS - Current Meeting:

President Smith opened the public hearing and asked if there was anyone present that would like to speak for or against said project agreement. No one came forward to speak. President Smith closed the public hearing.



City Council

204 South 7Th Street
Opelika, AL

ADOPTED

BIDS 033-19

Meeting: 03/05/19 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 3297

Two (2) 15 Ft Folding Rotary Cutters - PW

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited sealed bids for two (2) 15 ft. Folding Rotary Cutters for the Public Works Department; and

WHEREAS, Hall Manufacturing, Inc. is the lowest bidder meeting specifications; and

WHEREAS, funds are budgeted for this purchase;

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

1. That the purchase be awarded to Hall Manufacturing, Inc. on their low bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Hall Manufacturing, Inc. in the amount of \$19,990.00.
3. The Controller is authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

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

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

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

FACT SHEET

SUBJECT: Sealed Bids – Bid #19011 – We are asking the Council to approve a purchase for two (2) 15 ft. Folding Rotary Cutters

FACTS:

- Bid opening date – 2/18/19
- User Department – Public Works/ESG
- The bid was mailed to 18 vendors
- 5 bids were received
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend award bid to Hall Manufacturing, Inc. on their low bid meeting specifications in the total amount of \$19,990.00.**

BID# 19011 DATE: 2/18/19 DEPT: PUBLIC WORKS			18 VENDORS INVITED	
DESCRIPTION: TWO (2) 15 FT FOLDING ROTARY CUTTERS			5 BIDS RECEIVED	
VENDOR	TOTAL PRICE	DEL	TERMS	DISC
A&A MAINTENANCE CONTRACTORS				
BESHEARS TRACTOR & EQUIPMENT CO INC				
CAPITAL TRACTOR INC	\$ 32,691.20	45 days	--	--
CENTRAL ALABAMA RENTAL CENTER				
COBLENTZ EQUIPMENT & PARTS CO				
E O & G FARM EQUIPMENT CENTER				
HALL MANUFACTURING INC	\$ 19,990.00	60 days	Net 30	--
HUMPHRIES FARM & TURF SUPPLY				
JOE MONEY MACHINERY CO INC				
JOHN DEERE				
MORIDGE MANUFACTURING INC				
NORTHERN TOOLS AND EQUIPMENT				
RENTAL INC				
SANSOM EQUIPMENT CO INC				
SOUTHLAND MACHINERY CO				
SUNSOUTH LLC				
THE GRASSHOPPER CO				
THOMPSON TRACTOR CO INC				
Technology International, Inc.	\$ 60,900.00	8 weeks	--	25% Net 10
H & E Equipment Services	\$ 35,750.00	35 days	--	--
Flint Equipment Co.	\$ 50,200.00	60 days	--	--

RESOLUTION NO. 034-19

Expense reports from various departments.

RESOLUTION NO. _____

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

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

	Employee	Department	\$ Amount
	-----	-----	-----
	Heather Middleton-High	H/R	61.48
100.92	Leigh Krehling	Community Relations	
150.80	Leigh Krehling	Community Relations	

-) 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

NAME

DEPARTMENT

PERIOD ENDING

Heather Middleton-High

HR

2/23/2019

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAIN- MENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOT.
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	Itemize Below					
							BREAKFAST	LUNCH	DINNER			
SUN												0
MON												0
TUE												0
WED												0
THU												0
FRI	Montgomery, AL					61.48						61
SAT												0
WEEKLY CATEGORY TOTALS \$		0.00	0.00	0.00	0.00	61.48	0.00	0.00	0.00	0.00	0.00	61

WEEKLY TOTAL EXPENSES

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

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
2/22/19	106 miles	61.48

ITEMIZED MISCELLANEOUS EXPENSES

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

NUMBER OF DAYS AWAY FROM HOME

0

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

AAPPA Class for Risk Management

NATURE OR PURPOSE OF TRAVEL

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL: TO

HR

Heather Middleton-High

HR

SIGNATURE

APPROVED BY

EXPENSE REPORT

13.1.a

NAME Leigh Krehling DEPARTMENT Community Relations PERIOD ENDING February 8, 2019 REIMBURSEMENT

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

DATE	DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS Itemize Below			ENTERTAINMENT Itemize Below	MISC EXPENSES Itemize Below
				AIR, RAIL, ETC.	RENTAL CAR, LIMO, ETC.	LOCAL TAXI, TOLLS, & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER		
	SUN											
	MON											
	TUE											
	WED											
	THU	Opelika to Prattville										\$ 56.84
	FRI	Prattville to Opelika										\$ 44.08
	SAT											
WEEKLY CATEGORY TOTALS \$			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100.92

WEEKLY TOTAL OF

ITEMIZED ENTERTAINMENT AND BUSINESS MEALS					
DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	ALLOCATED TO BUSINESS

NUMBER OR DAYS AWAY FROM HOME

2

NUMBER OF DAYS AWAY ON PERSON

% OF TOTAL DAYS AWAY FOR PERSON

NATURE OR PURPOSE OF TRAVEL

ACCMA Class

METHOD OF REIMBURSEMENT Check

MAIL TO:

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING, REPAIRS, ETC	AMOUNT
7-Feb	Opelika to Prattville - 76 miles	\$ 44.08
Feb. 8, 20	Prattville to Opelika - 76 miles	\$ 44.08
Feb. 7, 20	In Prattville Proper - 22 miles	\$ 12.76

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT

Leigh Krehling

Community Relations Office

SIGNATURE

APPROVED BY

Agreed to P.O.

Exp. Verified

Footing Verified

Inv. Price Bio Price

Ok To Pay

A/C # Verified

13.1.a

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

WEEKLY TOTAL OFMAIL TO:

APPROVED BY

RESOLUTION NO. 035-19

Purchase-(624) Toter 96 Gal EVR II Universal/Nestable Carts-OES

RESOLUTION NO. _____

WHEREAS, Opelika Environmental Services desires to purchase six hundred twenty-four (624) Toter 96 Gallon EVR II Universal/Nestable Carts utilizing the Sourcewell Contract; and

WHEREAS, Wastequip is the Contract Vendor for the six hundred twenty-four (624) Toter 96 Gallon EVR II Universal/Nestable Carts; and

WHEREAS, budgeted funds will come from the appropriate account;

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

1. That the purchase be awarded to Wastequip utilizing the Sourcewell Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Wastequip in the amount of \$31,751.76.
3. The Controller is authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

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

C.E. “Eddie” Smith, Jr.

President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer



841 Meacham Rd, Statesville, NC, 28677

13.2.a

PHONE: 800-424-0422 FAX: 704-878-0734

WQ-10104909



Contract # 041217-WQI

Sell To:

Contact Name David Turner
Bill To Name City of Opelika
Bill To 700 Fox Trl
Opelika, AL 36801
USA
Email dturner@opelika-al.gov
Phone (334) 705-5156

Ship To Name City of Opelika
Ship To 700 Fox Trl
Opelika, AL 36801
USA
Customer Job NJPA Contract No. 060612-WQI
Reference

Quote Information

Salesperson Pascual Ramos
Salesperson Email pramos@wastequip.com
Salesperson Phone (629) 702-0074

Created Date 2/15/2019
Expiration Date 3/9/2019
Quote Number WQ-10104909
Please Reference Quote Number on all
Purchase Orders

Model	Product Description	Selected Option	Description	Quantity	Sales Price	Total Price
79296	Model 79296 - Toter 96 Gallon EVR II Universal/Nestable Cart	--Body Color - (968) Greenstone --Lid Color - (200) Black --Body Hot Stamp on Both Sides (Existing) in White --Wheels - 10in Sunburst --Toter Serial Number Hot Stamped on Front of Cart Body in White --2/3 Assembled with Lid (down), Stop Bar and Axle Factory Installed --Warranty - 12 Yrs Cart Body, All other components 10 Yrs	Body: S5904	624.00	\$48.50	\$30,264.00

Payment Terms Net 30 Days
Shipping Terms FOB Origin

Subtotal \$30,264.00
Shipping \$1,487.76
Grand Total \$31,751.76

Additional Information

Additional Terms Our Quote is a good faith estimate, based on our understanding of your needs. Subject to our acceptance, your Order is an offer to purchase our Products and services in accordance with the Wastequip Terms & Conditions of Sale ("WQ T&C") located at: <https://www.wastequip.com/terms-conditions-of-sale>, as of the date set forth in Section 1(b) of the WQ T&C, which are made a part of this Quote. These WQ T&Cs may be updated from time to time and are available by hard copy upon request.

Additional Pricing is based on your anticipated Order prior to the expiration of this Quote, including product specifications, quantities

Packet Pg. 31

Attachment: 3-5-19 - (624) TOTER 96 GAL EVR II CARTS - SOURCEWELL CONTR - CNCL PKT (035-19 : Purchase-(624) Toter 96 Gal EVR II



841 Meacham Rd, Statesville, NC, 28677

13.2.a

PHONE: 800-424-0422 FAX: 704-878-0734

WQ-10104909



Contract # 041217-WQI

Information

and timing, accepted delivery within 45 days of Order acceptance by Toter. Any differences to your Order may result in different pricing, freight or other costs. Due to volatility in petrochemical, steel and related Product material markets, actual prices and freight, are subject to change. We reserve the right, by providing notice to you at any time before beginning Product manufacturing, to increase the price of the Product(s) to reflect any increase in the cost to us which is due to any factor beyond our control (such as, without limitation, any increase in the costs of labor, materials, or other costs of manufacture or supply). Unless otherwise stated, materials and container sizes indicated on sales literature, invoices, price lists, quotations and delivery tickets are nominal sizes and representations – actual volume, Products and materials are subject to manufacturing and commercial variation and Wastequip's practices, and may vary from nominal sizes and materials. All prices are in US dollars; this Quote may not include all applicable taxes, brokerage fees or duties. If customer is not tax exempt, final tax calculations are subject to change.

Special Contract Information

Sourcewell-Pricing & Product offerings are based on the Sourcewell Co-Operative Contract with Wastequip, LLC (#041217, eff. 7/7/17), and such Contract terms & conditions are incorporated herein by reference. Pricing & Product (& related) changes may occur at any time with proper documentation, & subject to Sourcewell approval; therefore, offerings may change without written prior notice. Wastequip Product Limited Warranties, Disclaimers, Limitation of Liability & Remedies, & Limited Warranty Provisions apply to all purchases thereunder.

Signatures

Accepted By: _____

Company Name: _____

Date: _____

Purchase Order: _____

Please Reference Quote Number on all Purchase Orders

Attachment: 3-5-19 - (624) TOTER 96 GAL EVR II CARTS - SOURCEWELL CONTR - CNCL PKT (035-19 : Purchase-(624) Toter 96 Gal EVR II



Cooperative Purchasing ▾ Services & Programs ▾



Join

News



Wastequip

Waste & Recycling Equipment & Containers

#041217-WQI

Maturity Date: 07/07/2021

Products & Services

Contract Documents

Pricing

Contact Information

Products & Services

Sourcewell contract 041217-WQI gives access to the following types of goods and services:

- Galbreath® Cable Hoists
- Galbreath® Hook Hoists
- Galbreath® Trailers & Container Handlers
- Pioneer® & Mountain Tarp® tarping systems
- Wastequip® containers, dumpsters & roll-offs
- Wastequip® compactors & balers
- Toter® Pro & Toter® Residential carts

Additional information can be found on the vendor-provided, nongovernment website at:

www.wastequip.com

Attachment: 3-5-19 - (624) TOTER 96 GAL EVR II CARTS - SOURCEWELL CONTR - CNCL PKT (035-19 : Purchase-(624) Toter 96 Gal EVR II

RESOLUTION NO. 036-19

Refund request Steve Decker, occupational license fees.

Resolution No. _____

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

- 1) That Lillie Finley, Purchasing- Revenue Manager, has investigated and confirmed that said refund request is valid and recommends approval.
- 2) That the Purchasing-Revenue Manager is hereby authorized to prepare and process the appropriate documents so a refund check in the amount of \$1,101.92 can be printed payable to Steve Decker, 210 Morris Avenue, Opelika, AL 36801 for the refund of occupational license fees withheld in error.
- 3) That the City Clerk is hereby authorized to sign, and mail said check to the address as detailed in number 2 above.
- 4) That a copy of the Purchasing-Revenue Manager's recommendation is hereto attached as Exhibit "A".

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

C.E. "Eddie" Smith, Jr.

President of the City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

RESOLUTION NO. 037-19

Refund request from William Jackson, occupational license fees.

Resolution No. _____

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

- 1) That Lillie Finley, Purchasing- Revenue Manager, has investigated and confirmed that said refund request is valid and recommends approval.
- 2) That the Purchasing-Revenue Manager is hereby authorized to prepare and process the appropriate documents so a refund check in the amount of \$2,077.69 can be printed payable to William A. Jackson, 29 Carrie-Marie Drive, Dadeville, AL 36853 for the refund of occupational license fees withheld in error.
- 3) That the City Clerk is hereby authorized to sign, and mail said check to the address as detailed in number 2 above.
- 4) That a copy of the Purchasing-Revenue Manager's recommendation is hereto attached as Exhibit "A".

APPROVED and ADOPTED this the _____ day of _____ 2019.

C.E. "Eddie" Smith, Jr.

President of the City Council of the

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

RESOLUTION NO. 038-19

Project agreement with Yongsan Automotive.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING PROJECT AGREEMENT BY AND BETWEEN
THE CITY OF OPELIKA, ALABAMA AND YONGSAN AUTOMOTIVE U.S.A., INC.**

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

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

(a) Pursuant to the applicable laws of the State of Alabama, the City and Yongsan Automotive U.S.A., Inc., an Alabama corporation, (the “Company”) have prepared and presented to the Council that certain Project Agreement by and between the City and the Company to be dated the date of delivery, as well as all Exhibits attached thereto (collectively, the “Project Agreement”) for the purposes referenced therein.

(b) The City is authorized to do any of the actions or undertakings referenced in Amendment No. 642 to the Constitution of Alabama of 1901, as amended (“Amendment 642”).

(c) Pursuant to the Project Agreement, the Company will agree to establish within the City an automobile parts manufacturing facility located at 1100 Jeter Avenue (the “Project”), requiring an initial capital investment of approximately five million five hundred thousand dollars (\$5,500,000.00).

(d) In consideration for the obligations of the Company under the Project Agreement, the City will agree, among other things, to provide financial incentives to the Company described more particularly in the Project Agreement, including cash incentives, job performance incentives and tax abatements. In addition, the City will agree, at no cost to the Company, to waive any and all site plan review fees and building and construction permit fees.

(e) The expenditure of public funds for the purposes specified in the Project Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities, because it will facilitate the acquisition and construction of the Project for the benefit of the general public, will increase employment opportunities in the City and will increase the tax and revenue base of the City.

(f) On February 26, 2019, the City caused to be published in *The Opelika-Auburn News*, which newspaper has the largest circulation in the City, the Notice required by Amendment 642, a true and correct copy of which Notice is attached hereto. The information set forth in said Notice is true and correct, and the publication of said Notice is hereby ratified and confirmed.

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

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

(b) the terms and provisions of the Project Agreement, with such changes thereto (by addition or deletion) as the Mayor shall approve (other than an increase in the amount of the City's financial commitment which must be approved by this Council), which approval shall be conclusively evidenced by execution and delivery of the Project Agreement as hereinafter

provided.

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

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

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

Section 6. This Resolution shall take effect immediately.

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

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

ATTEST:

CITY CLERK

I, the undersigned qualified and acting City Clerk of the City of Opelika, Alabama, do hereby certify that the above and foregoing is a true and correct copy of a resolution lawfully passed and adopted by the City Council of the City of Opelika at a regular meeting held on the 5th day of March, 2019, and that such resolution is on file in the office of the City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Opelika on this the ____ day of March, 2019.

CITY CLERK
CITY OF OPELIKA, ALABAMA

RESOLUTION NO. 039-19

Tax abatement agreement, Yongsan Automotive.

RESOLUTION NO. _____

**RESOLUTION APPROVING CERTAIN TAX ABATEMENTS AND
EXEMPTIONS FOR YONGSAN AUTOMOTIVE U.S.A., INC.**

WHEREAS, Yongsan Automotive U.S.A., Inc., an Alabama corporation, (the “Company”) proposes to lease the building located at 1100 Jeter Avenue (the “Facility” or “Project”) presently owned by Industrial Partners, LLC; and

WHEREAS, the Company proposes to produce interior automotive parts at its Facility in Opelika; and

WHEREAS, the Company will be required to make certain building improvements and physical modifications to the Facility to accommodate the production and manufacturing needs of the Company; and

WHEREAS, the Project will require capital contributions by the Company to install new manufacturing equipment and other personal property at the Facility; and

WHEREAS, the Project will consist of building improvements to the existing building and the acquisition and installation of new manufacturing machinery and other personal property at the Facility; and

WHEREAS, the Project will involve a capital investment by the Company of approximately five million, five hundred thousand dollars (\$5,500,000.00) and is expected to

result in the creation of approximately one hundred and sixty (160) new full-time jobs at the Facility; and

WHEREAS, the Project is estimated to be placed in service by June 30, 2019; and

WHEREAS, the Project will be operated by the Company as an “industrial or research enterprise” as defined under Alabama Code §40-9B-3(a)(10); and

WHEREAS, the Company’s NAICS Code 336360 meets the qualifications of an industrial or research enterprise in accordance with §40-9B-3(6), *Code of Alabama*, as amended; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1, et seq, *Code of Alabama*, 1975) (the “Act”), the Company has requested from the City the abatement of (a) all state and local non-education ad valorem taxes (property taxes); (b) all construction related transaction taxes (sales and use taxes), except those construction related transaction taxes levied for educational purposes or for capital improvements for education, and (c) all mortgage and recording taxes; and

WHEREAS, the City has considered the request of the Company and completed form CO:CAA Application to Granting Authority for Abatement of Taxes, submitted by the Company; and

WHEREAS, the City has found the information contained in the Company’s application to be sufficient to permit the City to make a reasonable cost/benefit analysis of the proposed Project and to determine the economic benefits to the community; and

WHEREAS, the City Council has been furnished a copy of a Tax Abatement Agreement between the City and the Company and the City Council has determined that the general terms of such agreement are acceptable to the City in principle; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama and has power to enter into and to perform and observe the agreements and covenants on its part contained in the Tax Abatement Agreement; and

WHEREAS, the City represents and covenants to the Company that it has the power under the Constitution and the laws of the State of Alabama (including particularly the provisions of the Act) to carry out the provisions of the Tax Abatement Agreement; and

WHEREAS, the City wishes to secure the numerous and significant benefits to the City, its business community and residents that will likely result from the development and operation of the Facility.

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

1. Approval is hereby given to application of the Company and abatement is hereby authorized of (1) all state and local non-educational property taxes for a period of ten (10) years from the date on which the Facility is placed in service; (2) all construction related transaction (sales and use) taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education and (3) all taxes imposed by Chapter 22 of Title 40 of the *Code of Alabama*, 1975, relating to mortgages, deeds, leases and other documents relating to issuing or securing obligations and conveying title or leasehold interest with respect to the Project.

2. The abatements and exemptions granted herein do not include any ad valorem taxes earmarked for city and county schools and school district purposes. The tax abatements and exemptions for ad valorem taxes under paragraph 1 shall not exceed the maximum abatement allowed by state law.

3. The Mayor and the City Clerk are hereby authorized and directed to execute the Tax Abatement Agreement with the Company and such other ancillary documents and agreements as may be necessary to provide the abatements and exemptions granted in paragraph 1 above.

4. A certified copy of this resolution, with the application and abatement agreement, shall be forwarded to the Company to deliver to the appropriate local taxing authorities and to the Alabama Department of Revenue in accordance with the Act.

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

6. This resolution shall take effect upon passage and adoption by the City Council.

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

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

ATTEST:

CITY CLERK

RESOLUTION NO. 040-19

Special Appropriation to Lee County Commission.

RESOLUTION NO. _____

**RESOLUTION APPROVING SPECIAL APPROPRIATION TO LEE COUNTY
COMMISSION FOR DECORATION OF ENTRANCE, FOYER AND INTERACTIVE
AREA OF THE C.S.M. BENNIE C. ADKINS MEETING CENTER**

WHEREAS, the Lee County Meeting Center (the “Center”) located at 215 South 9th Street in Downtown Opelika is owned, operated and maintained by Lee County, Alabama; and

WHEREAS, the Center is a spacious building consisting of office space, two (2) conference rooms, two (2) training classrooms and a large banquet meeting room; and

WHEREAS, the Center can accommodate a variety of training/event needs from as few as ten (10) people to as many as 350 people; and

WHEREAS, space at the Center is available for rental by governmental agencies and select 501(c)(3) non-profit organizations; and

WHEREAS, in May 2016, the Lee County Commission voted to name the Center in honor and recognition of Bennie C. Adkins; and

WHEREAS, Bennie C. Adkins, a resident of Opelika, is the recipient of the U.S. military’s highest decoration, the Congressional Medal of Honor for uncommon valor in the service of our nation during the Vietnam War; and

WHEREAS, the Lee County Commission has employed a design professional to design the entrance, foyer and interactive areas of the C.S.M. Bennie C. Adkins Meeting Center to recognized Command Sgt. Major Adkins’ service to our nation and to reflect his unique story

and values; and

WHEREAS, the interior design plan approved by the Lee County Commission includes a mural featuring silhouettes and the message “We can all serve our community”; and

WHEREAS, a donated fiberglass tiger statue will be painted and placed in the lobby of the Center and a collection of artifacts from Command Sgt. Major Adkins and his family including photographs, honorary diplomas and degrees, will be presented in a wall-mounted gallery display; and

WHEREAS, the Lee County Commission has requested a donation from the City of Opelika in the amount of \$10,000 to complete this community project; and

WHEREAS, the City Council desires to approve a special appropriation in the amount of \$10,000 from the Unassigned Fund Balance to the Lee County Commission to defray expenses associated with the design, furnishing and decoration of the C.S.M. Bennie C. Adkins Meeting Center.

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

1. That there is hereby approved from the Unassigned Fund Balance a special appropriation in the amount of \$10,000 to the Lee County Commission.
2. That said appropriation shall be used exclusively to defray expenses incurred to design, furnish and decorate the interior spaces of the C.S.M. Bennie C. Adkins Meeting Center in Downtown Opelika.

3. That the Mayor and the Controller are hereby authorized and directed to make all necessary accounting and budgetary entries to carry into effect the intent of this Resolution.

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

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

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

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

ATTEST:

CITY CLERK

RESOLUTION NO. 041-19

Support Alabama legislation for additional motor fuel taxes.

RESOLUTION NO. _____

**RESOLUTION IN SUPPORT OF THE ALABAMA LEAGUE OF MUNICIPALITIES,
GOVERNOR IVEY AND THE ALABAMA LEGISLATURE'S EFFORTS TO ENACT
ADDITIONAL MOTOR FUEL TAXES TO ALLEVIATE THE SHORTFALL IN
INFRASTRUCTURE FUNDING FOR MUNICIPALITIES**

WHEREAS, the state's motor fuel tax hasn't been raised since 1992; and

WHEREAS, over the past three decades, vehicles have become more fuel-efficient, translating to a significant drop in the amount of revenue that can be collected; and

WHEREAS, the annual potential shortfall of State revenue for transportation infrastructure is estimated at \$350 million; and

WHEREAS, a report prepared by the University of Alabama's Transportation Institute and Alabama Transportation Policy Research Center warns that the state needs to make major investments in infrastructure just to maintain its current needs and, to be competitive in the future, estimates Alabama will need to invest at least \$600 million over the next 20 years; and

WHEREAS, the City of Opelika, Alabama, has infrastructure needs that could be addressed by an appropriate and equitable share of increased state transportation infrastructure funds; and

WHEREAS, the City of Opelika, Alabama, fully supports the efforts of the Alabama League of Municipalities, Governor Ivey and the Alabama Legislature to enact additional motor fuel taxes that will be used solely to alleviate the shortfall in transportation infrastructure funding and provide for a more equitable share of statewide infrastructure funding for municipalities.

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

1. That the City does fully support and stand with the Alabama League of Municipalities, Governor Ivey and the Alabama Legislature in their efforts to enact funding mechanisms that will be used solely to protect Alabama's transportation infrastructure so long as those efforts do not in any way preempt or exempt, or restrict in any way, existing municipal authority and that those efforts provide for an equitable share of statewide funding for local government.

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

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

PRESIDENT OF THE CITY COUNCIL
OF THE CITY OF OPELIKA

ATTEST:

CITY CLERK

RESOLUTION NO. 042-19

Contract Extension Agreement with Point Broadband (OPS)

RESOLUTION NO. _____

RESOLUTION AUTHORIZING CONTRACT EXTENSION AGREEMENT BY AND BETWEEN THE CITY OF OPELIKA AND POINT BROADBAND OF OPELIKA, LLC

WHEREAS, on November 8, 2018, the City of Opelika, Alabama (the “City”) and Point Broadband of Opelika, LLC entered into that certain Transition Services Agreement (the “Contract”) to which the City agreed to provide transition services to Point Broadband, LLC for a period of one hundred twenty (120) days from the Effective Date; and

WHEREAS, the original term of the Contract will expire on March 8, 2019; and

WHEREAS, Point Broadband, LLC transferred and assigned to Point Broadband of Opelika, LLC (the “Company”) all of its rights, interests and obligations under the Contract; and

WHEREAS, the parties desire to extend the term of the Transition Services Agreement with the same terms and conditions as stated in the original Contract; and

WHEREAS, a proposed Contract Extension Agreement has been prepared and submitted to the City Council for approval and the City Council has determined that it is now in the best interest of the City and its citizens to approve said Agreement.

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

1. That the attached Contract Extension Agreement to be entered into between the

City and Point Broadband of Opelika, LLC, a copy of which is attached hereto and marked “Exhibit “A”, be and the same is approved, authorized, ratified and confirmed.

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

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

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

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

ATTEST:

 CITY CLERK

CONTRACT EXTENSION AGREEMENT

This **CONTRACT EXTENSION AGREEMENT** (“Extension”) is dated as of March ____, 2019 by and between the City of Opelika, Alabama, d/b/a Opelika Power Services, an Alabama municipal corporation (the “City”) and Point Broadband of Opelika, LLC, a Delaware limited liability company (the “Company”).

WHEREAS, on November 8, 2018, the City and Point Broadband, LLC, entered into that certain Transition Services Agreement (the “Contract”) to which the City agreed to provide transition services to Point Broadband, LLC for a period of one hundred twenty (120) days from the Effective Date; and

WHEREAS, the original term of the Contract will expire on March 8, 2019; and

WHEREAS, Point Broadband, LLC, transferred and assigned to the Company all of its rights, interests or obligations under the Contract; and

WHEREAS, the parties have agreed to extend the term of the Transition Services Agreement with the same terms and conditions as stated in the original Contract.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Company do hereby agree as follows:

1. The term of the Transition Services Agreement is extended to May 7, 2019.
2. Except as expressly modified above, the Contract shall remain unchanged and in full force and effect, and this extension shall be on the same terms and conditions as stated in the original Contract.

IN WITNESS WHEREOF, the parties have hereunto caused this Contract Extension Agreement to be executed on the day and year first above written.

**CITY OF OPELIKA, ALABAMA
D/B/A OPELIKA POWER SERVICES**

By: _____
ITS MAYOR

ATTEST:

CITY CLERK

**POINT BROADBAND OF
OPELIKA, LLC**

By: _____

Attachment: Contract Extension Agreement 022719 (042-19 : Contract Extension Agreement - Point Broadband)

RESOLUTION NO. 043-19

Purchase furniture for OPD - HQ.

RESOLUTION NO. _____

WHEREAS, Opelika Police Department desires to purchase dispatch furniture for the new police department building utilizing the National Cooperative Purchasing Alliance (NCPA); and

WHEREAS, Alabama Office Supply is the Contract Vendor for the dispatch furniture; and

WHEREAS, funds will come from the appropriate account;

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

1. That the purchase be awarded to Alabama Office Supply utilizing the NCPA Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Alabama Office Supply in the amount of \$70,280.40.
3. The Controller is authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

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

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

00012836 Quote Summary

Opelika Public Safety

watsonconsoles

360.394.1300

www.watsonconsoles.com

Watson Factory Rep MERLI LLC**Address Line 1:** 342 West Magnolia Street**Specified For:** ALABAMA OFFICE SUPPLY CO.,**Address Line 1:** 201 S. 8TH STREET**City:** Ponchatoula**State:** LA**Sales Person:** Randall Lejeune**Phone Number:** 5044160277**City:** OPELIKA**State:** AL**Contact Name:** Wake Asbury**Phone Number:** 334-749-3456**Email Address:** wakea@alaoffice.com**Project Summary:** OPELIKA POLICE DEPARTMENT / ARCHITECT: JEFF BAZZELL****NCPA CONTRACT PRICING - CONTRACT # 07-48** SHIPPING IS INCLUDED IN CONTRACT****(6) SYNERGY PRO LINEAR CONSOLES - 66" WIDE PRIMARIES WITH 42" HIGH PANELS**

Each Console Includes:

Depth Adjustment Array - Accommodates 1 over 3 LCD's - as per drawings

Front and Rear Access To CPU Cavities

Pencil/Box/File Mobile Storage Pedestal

Techlink (Includes 10 technology ports - types to be determined)

Radiant Heat Panel

(2) Shared Peninsulas with Rotating Resource

Lateral File / Open Storage with Counter Top

(10) Zone Split Lockers- 78" High******City of Opelika Purchase Order To Be Issued to Alabama Office Supply********Installation based on empty room, one trip, 1st floor with no prevailing wage or union requirements.**

1. State and Local Taxes will apply unless proof of exemption is provided with the Purchase Order.
2. Deposit may be required with order; Net 30 days of Shipment of Product.
3. Chairs are for representational purposes only.
4. Lead time average 60 days after receipt of Purchase Order.
5. Completed Order consists of a signed Contract or Purchase Order, Signed Drawings, Signed Color Selection Sheet, and Deposit.
6. Change Order Fee (minimum \$500) may be applicable for changes after 5 business days of submission.
7. Pricing will be valid for four (4) months after receipt of Purchase Order. Any orders that have not been manufactured within this time frame may be subject to a price change.

Quote Date 3/4/2019	Expiration Date 6/4/2019	Watson Account Manager: Lisa Dotterweich
Console Plan 01		Watson Factory Rep Firm: MERLI LLC
This Document is Confidential & Proprietary (C) 2017 Watson Furniture Group, Inc. All Rights Reserved		Prepared By:
		File Name: OpelikaPS.04.cmdrw

F01 Option - Dispatch Room

Project: Opelika Public Safety

watsonconsoles

Sold to

Company name: ALABAMA OFFICE SUPPLY CO., LLP
 Contact Person: Wake Asbury
 Contact Phone: 334-749-3456
 Contact Fax:

Distributor

Company name: MERLI LLC
 Salesman: Randall Lejeune
 Salesman Phone: 5044160277
 Salesman Fax:

#	Qty	Part Number	Description	Sell	Ext. Sell
1	2	DADL	DUAL LOCK - SET OF THREE	\$4.50	\$9.00
2	6	QDAA3	SYNERGY DEPTH ADJUSTMENT ARRAY 3 ea. UP TO 21" MONITORS	\$849.60	\$5,097.60
3	4	QELBRS4224T42	SYNERGY PRO LINEAR BRIDGE (POWER PRIMARY), SINGLE, 42" DEEP x 24" WIDE, TACKABLE PANEL, 42" HIGH	\$841.60	\$3,366.40
4	6	QELPPS4266T42	SYNERGY PRO LINEAR POWER PRIMARY, SINGLE, 42" DEEP x 66" WIDE, TACKABLE PANEL, 42" HIGH	\$4,282.20	\$25,693.20
5	2	QELXTS4218T42L	SYNERGY PRO LINEAR EXTENSION (POWER PRIMARY), SINGLE, 42" DEEP x 18" WIDE, TACKABLE PANEL, 42" HIGH, LEFT HAND	\$1,137.60	\$2,275.20
6	2	QELXTS4218T42R	SYNERGY PRO LINEAR EXTENSION (POWER PRIMARY), SINGLE, 42" DEEP x 18" WIDE, TACKABLE PANEL, 42" HIGH, RIGHT HAND	\$1,137.60	\$2,275.20
7	16	QOD16	SYNERGY OUTSIDE DOOR, 16" WIDE	\$77.85	\$1,245.60
8	4	QOD24	SYNERGY OUTSIDE DOOR, 24" WIDE	\$90.00	\$360.00
9	6	QOD30	SYNERGY OUTSIDE DOOR, 30" WIDE	\$93.60	\$561.60
10	2	QPER3036	SYNERGY PENINSULA WITH ROTATING RESOURCE AND GROMMET, 30" DEEP, 36" WIDE	\$896.85	\$1,793.70
11	1	TOPO2072	TOP ONLY, 20"D x 72"W, EXACT SIZE	\$139.50	\$139.50
12	6	TXXICMHPNL	HEATER, PANEL - TOTAL COMFORT SYSTEM HEATER PANEL FOR TOTAL COMFORT SYSTEM	\$150.30	\$901.80
13	6	TXXTECHLNK	SYNERGY TECH LINK - POWDER: Black	\$303.30	\$1,819.80
14	6	TXXVARRAY20	20" VERT. ARRAY EXTENSION BKT	\$120.15	\$720.90
15	10	WZSPLT201578R	ZONE SPLIT STORAGE LOCKER, 20"D x 15"W x 78"H, RIGHT HAND	\$803.25	\$8,032.50
16	2	ZS2LF203626	ZO STORAGE, 2 LATERAL, 20"D x 36"W x 26"H	\$720.45	\$1,440.90
17	6	ZSPEPBF201526M	ZO STORAGE PEDESTAL, PENCIL, BOX, FILE, 20"D x 15"W x 26"H, MOBILE	\$492.75	\$2,956.50

Subtotal Product \$58,689.40
 Installation \$11,591.00
 Grand Total \$70,280.40

Attachment: CM 3-05-19, quote, purchase furniture OPD HQ (043-19 : Purchase furniture for OPD - HQ.)

ORDINANCE NO. (ID # 3264)

Amend City Code, Chapter 4 Animal Control - OES - Tabled

ORDINANCE NO. _____

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

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

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

Section 4 – Animal Control

Article I -- In General.

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

Sec. 4-1 Purpose.

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

Sec. 4-2 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Any animal that is repeatedly found running at large.
 - (2) Any dog or cat in any section of a public or controlled recreation area unless the dog or cat is controlled by a leash or similar physical restraint.
 - (3) Any animal that makes disturbing noises, including but not limited to, continued or repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
 - (4) Any animal that causes fouling of the air by obnoxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
 - (5) Any animal that is in heat and that is not confined so as to prevent attraction or contact with other animals.
 - (6) Any animal whether or not on the property of its owner, that, without provocation, molests, attacks or otherwise interferes with the freedom of movement of persons in a public right-of-way.
 - (7) Any animal that chases motor vehicles in a public right-of-way.
 - (8) Any animal that attacks domestic animals.
 - (9) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.
 - (10) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals contained at a single residence or the inadequacy of facilities.
- (dd) “*Serious Physical Injury*” means an injury as defined in Section 13A-1-2, *Code of Alabama*.
- (ee) “*Under Restraint*” means that an animal is secured by a leash led under the control of a person physically capable of restraining the animal and obedient to the person’s commands, or securely enclosed within the real property limits of the owner’s premises.

Sec. 4-3 Nuisances.

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

Sec. 4-4 Keeping of Exotic Animals.

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

Sec. 4-5 Abandoning Animals Prohibited.

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

Sec. 4-6 Caring For Animals.

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

Sec. 4-7 Sanitation.

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

Sec. 4-8 Cruelty to Animals Prohibited.

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

(7) Sets any rabbit, raccoon, fox or other animal loose for the purpose of chasing or hunting the animal or conducting a race using such animal.

(8) Promotes, permits, stages, holds, manages, conducts, carries on or attends any game, exhibition, contest, fight or contest involving one or more animals or involving animals and humans.

(9) Fails to provide adequate shelter for an animal, wherein the animal can be protected from the extremes of weather (heat, cold, rain, wind, sun, etc.) provided the person is the owner or person in charge of such animal.

(10) Transports or carries any animal in a motor vehicle unless the animal is safely enclosed within the vehicle or protected by a cab, container, cage, cross-tether or other device to prevent the animal from falling out of or being thrown from the vehicle.

(11) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or welfare of the animal because of the temperature, lack of food or water or such other conditions as may reasonably be expected to cause suffering, disability or death.

(12) Restrains an animal with a leash or restraining device that is not less than 10 feet long, unless walking or training such animal and such restraint must be fixed in such a manner to allow the animal free use of the restraint without being tangled. The restraint must also be an appropriate weight for the animal and must be affixed to a proper tethering collar with a swivel attachment. An allowable tethering collar shall be a tethering collar which is a properly fitted to the dog made of suitable material other than metal that does not cause damage to the dog's skin, and affixes the dog to a fixed point, tether or runner.

(13) Maintains any reptile in a manner that is deleterious to its health and wellbeing. Poor husbandry, poor nutrition and/or lack of proper preventative care are all considered cruel and deleterious welfare of the reptile and are unlawful.

(14) Sets loose any reptile that is not native to the climate of North America.

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

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

Sec. 4-9 Hoarders.

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

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

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

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

Sec. 4-10 Animals In Vehicles.

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

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

Sec. 4-14 Keeping Noisy Animals and Fowl.

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

Sec. 4-15 Sanitary Conditions of Enclosures.

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

Sec. 4-16 Humane Traps.

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

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

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

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

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

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

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

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

Sec. 4-17 Mobile Home Parks.

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

Sec. 4-18 Cooperative Services Agreement.

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

Article II. Dogs and Cats.

Sec. 4-41 Rabies Vaccinations.

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

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

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

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

Sec. 4-42 Guard Dogs.

(a) Registration.

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

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

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

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

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

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

(b) **Tattoo required.**

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

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

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

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

(d) **Inspection.**

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

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

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

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

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

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

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

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

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

Sec. 4-43 Dogs At Large.

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

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

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

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

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

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

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

Sec. 4-45 Tethering of Dogs.

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

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

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

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

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

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

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

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

(7) The dog is not sick or injured.

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

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

Sec. 4-46 Keeping of Dangerous Dogs

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

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

(a) Sworn Statements.

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

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

(c) Hearing, Founded.

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

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

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

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

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

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

Sec. 4-48 Dangerous Dog Violations

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

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

(d)

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

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

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

Article III. Animals Other than Dogs and Cats, Specifically

Sec. 4-71 Violations of This Article.

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

Sec. 4-72 Keeping of Hogs.

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

Sec. 4-73 Keeping of Chickens.

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

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

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

Sec. 4-74 Large Animals and Fowl

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

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

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

Sec. 4-76 Minimum Size of Corrals

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

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

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

Sec. 4-78 Large Animals Running At Large Prohibited

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

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

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

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

Sec. 4-80 Same—Minimum Space Requirements

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

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

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

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

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

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

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

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

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

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

Sec. 4-84 Keeping of Fowl

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

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

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

Sec. 4-86 Bird Sanctuary

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

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

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

Article IV Rabies Control

Sec. 4-101 Rabies Vaccination

(a) Vaccine Required.

- (1) A person commits an offense if a person keeps, harbors, or has custody of a dog or cat over three months of age that has not been immunized against rabies as required by Ala. Code §3-7A-2.
- (2) The same animal must receive a booster within the twelve-month interval following the animal's initial vaccination.
- (3) The same animal must be re-vaccinated against rabies annually thereafter.

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

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

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

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

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

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

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

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

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

Article V Impoundment and Destruction

Sec. 4-141 Impoundment.

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

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

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

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

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

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

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

Sec. 4-142 Redemption and Disposition.

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

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

Sec. 4-143 Fees and Charges; Administration

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

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

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

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

Sec. 4-144 Destruction of Certain Animals

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

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

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

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

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

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

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

Article VI Dead Animals.

Sec. 4-181 Penalties.

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

Sec. 4-182 Disposal Limited

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

Sec. 4-183 Disposal Generally

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

Sec. 4-184 Appropriate City Official Notification

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

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

Sec. 4-185 Removal By the City

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

Sec. 4-186 Fees For Removal By City

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

Article VI. Enforcement, Fines and Penalties

Sec. 4-187 Enforcement

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

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

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

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

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

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

Sec. 4-188 Citations and Warrants

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

Sec. 4-189 Penalties for Violation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTEST:

CITY CLERK

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

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. _____

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

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

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

Section 4 – Animal Control

Article I -- In General.

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

Sec. 4-1 Purpose.

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

Sec. 4-2 Definitions.

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

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

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

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

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

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

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

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

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

Sec. 4-3 Nuisances.

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

Sec. 4-4 Keeping of Exotic Animals.

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

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

Sec. 4-5 Abandoning Animals Prohibited.

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

Sec. 4-6 Caring For Animals.

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

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

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

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

Sec. 4-7 Sanitation.

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

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

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

Sec. 4-8 Cruelty to Animals Prohibited.

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

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

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

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

Sec. 4-9 Hoarders.

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

Sec. 4-10 Animals In Vehicles.

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

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

Sec. 4-14 Keeping Noisy Animals and Fowl.

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

Sec. 4-15 Sanitary Conditions of Enclosures.

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

Sec. 4-16 Humane Traps.

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

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

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

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

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

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

Sec. 4-17 Mobile Home Parks.

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

Sec. 4-18 Cooperative Services Agreement.

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

Article II. Dogs and Cats.

Sec. 4-41 Rabies Vaccinations.

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

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

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

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

Sec. 4-42 Guard Dogs.

(a) Registration.

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

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

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

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

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

(b) Tattoo required.

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

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

(e) Transportation of guard dog.

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

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

(f) Requirements for businesses using guard dogs.

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

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

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

Sec. 4-43 Dogs At Large.

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

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

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

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

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

Sec. 4-45 Tethering of Dogs.

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

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

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

Sec. 4-46 Keeping of Dangerous Dogs

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

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

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

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

(c) Hearing, Founded.

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

(d) Hearing, Unfounded.

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

(e) Procedures.

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

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

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

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

Sec. 4-48 Dangerous Dog Violations

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

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

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

(d)

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

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

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

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

Article III. Animals Other than Dogs and Cats, Specifically

Sec. 4-71 Violations of This Article.

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

Sec. 4-72 Keeping of Hogs.

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

Sec. 4-73 Keeping of Chickens.

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

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

Sec. 4-74 Large Animals and Fowl

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

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

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

Sec. 4-76 Minimum Size of Corrals

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

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

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

Sec. 4-78 Large Animals Running At Large Prohibited

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

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

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

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

Sec. 4-80 Same—Minimum Space Requirements

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

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

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

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

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

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

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

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

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

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

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

Sec. 4-84 Keeping of Fowl

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

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

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

Sec. 4-86 Bird Sanctuary

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

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

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

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

Article IV Rabies Control

Sec. 4-101 Rabies Vaccination

(a) Vaccine Required.

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

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

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

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

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

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

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

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

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

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

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

Article V Impoundment and Destruction

Sec. 4-141 Impoundment.

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

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

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

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

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

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

Sec. 4-142 Redemption and Disposition.

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

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

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

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

Sec. 4-143 Fees and Charges; Administration

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

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

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

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

Sec. 4-144 Destruction of Certain Animals

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

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

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

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

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

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

Article VI Dead Animals.

Sec. 4-181 Penalties.

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

Sec. 4-182 Disposal Limited

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

Sec. 4-183 Disposal Generally

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

Sec. 4-184 Appropriate City Official Notification

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

Sec. 4-185 Removal By the City

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

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

Sec. 4-186 Fees For Removal By City

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

Article VI. Enforcement, Fines and Penalties

Sec. 4-187 Enforcement

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

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

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

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

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

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

Sec. 4-188 Citations and Warrants

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

Sec. 4-189 Penalties for Violation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTEST:

CITY CLERK

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

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

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

ORDINANCE NO. _____

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

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

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

Section 4 – Animal Control

Article I -- In General.

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

Sec. 4-1 Purpose.

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

Sec. 4-2 Definitions.

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

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

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

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

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

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

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

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

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

Sec. 4-3 Nuisances.

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

Sec. 4-4 Keeping of Exotic Animals.

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

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

Sec. 4-5 Abandoning Animals Prohibited.

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

Sec. 4-6 Caring For Animals.

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

Sec. 4-7 Sanitation.

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

Sec. 4-8 Cruelty to Animals Prohibited.

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

- (2) Overrides, overworks, overloads or overdrives the animal causing physical pain or suffering.
- (3) Beats, tortures, maims, disfigures, kills, injures, torments, poisons, deprives of necessary sustenance or mutilates any animal, causing physical pain, suffering or death. However, nothing in this section shall be construed to apply to activities conducted for lawful veterinary purposes, including but not limited to tail docking, ear clipping and declawing cats.
- (4) Fails to provide adequate medical treatment for any sick, diseased or injured animal or any animal suffering from any type of parasitic infestation.
- (5) Keeps any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fails to maintain the animal in a condition of good order or cleanliness which increases the probability of the transmission of disease.
- (6) Teases, molests, baits or harasses any animal.
- (7) Sets any rabbit, raccoon, fox or other animal loose for the purpose of chasing or hunting the animal or conducting a race using such animal.
- (8) Promotes, permits, stages, holds, manages, conducts, carries on or attends any game, exhibition, event or contest that involves a fight between at least two animals or between an animal and a person or persons.
- (9) Fails to provide adequate shelter for an animal, wherein the animal can be protected from the extremes of weather (heat, cold, rain, wind, sun, etc.) provided the person is the owner or person in charge of such animal.
- (10) Transports or carries any animal in a motor vehicle unless the animal is safely enclosed within the vehicle or protected by a cab, container, cage, cross-tether or other device to prevent the animal from falling out of or being thrown from the vehicle.
- (11) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or welfare of the animal because of the temperature, lack of food or water or such other conditions as may reasonably be expected to cause suffering, disability or death.
- (12) Restrains an animal with a leash or restraining device that is not less than 10 feet long, unless walking or training such animal and such restraint must be fixed in such a manner to allow the animal free use of the restraint without being tangled. The restraint must also be an appropriate weight for the animal and must be affixed to a proper tethering collar with a swivel attachment. An allowable tethering collar shall be a tethering collar which is a properly fitted to the dog made of suitable material other than metal that does not cause damage to the dog's skin, and affixes the dog to a fixed point, tether or runner. (See Sec. 4-45 for tethering of dogs).
- (13) Maintains any reptile in a manner that is deleterious to its health and wellbeing. Poor husbandry, poor nutrition and/or lack of proper preventative care are all considered cruel and deleterious welfare of the reptile and are unlawful.
- (14) Sets loose any reptile that is not native to the climate of North America.

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

Sec. 4-9 Hoarders.

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

Sec. 4-10 Animals In Vehicles.

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

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

Sec. 4-14 Keeping Noisy Animals and Fowl.

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

Sec. 4-15 Sanitary Conditions of Enclosures.

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

Sec. 4-16 Humane Traps.

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

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

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

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

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

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

Sec. 4-17 Mobile Home Parks.

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

Sec. 4-18 Cooperative Services Agreement.

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

Article II. Dogs, Cats and Ferrets.

Sec. 4-41 Rabies Vaccinations.

- (a) Every owner of a dog, cat or ferret over the age of three months shall cause said dog, cat or ferret to be immunized for rabies by the rabies officer, his or her authorized representative or any duly licensed veterinarian pursuant to the *Code of Alabama* 1975 §§3-7A-1 through 3-7A-15. The interval between vaccinations shall conform to the vaccine manufacturer's directions. Such vaccination shall be evidenced by a tag attached to such dog as provided in Section 4-41(b) or documentation of such immunization for such cat or ferret showing that such dog, cat or ferret has been vaccinated for rabies as

required by the state within the preceding 36 months. It shall be unlawful for any person to own or have in his or her possession any dog, cat or ferret not so vaccinated.

(b) Each dog over the age of three (3) months while outdoors shall wear a substantial, durable collar or harness, to which the vaccination tag shall be attached. The collar, together with the rabies inoculation tag, shall be worn by the dog if the animal is required to be inoculated against rabies as provide in Section 4-41(a). Failure to comply with this section shall be unlawful. No person shall remove the collar or vaccination tag from any animal without the consent of the owner.

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

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

Sec. 4-42 Guard Dogs.

(a) Registration.

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

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

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

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

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

(b) Tattoo required.

(1) Each guard dog shall have a registration number to be obtained from the city and tattooed by the owner on its inside right thigh so as to be clearly visible at all times. The registration number shall be prefixed by the letter "G." Each letter and number shall be at least one-quarter (¼) inch in height.

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

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

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

If the dog has disappeared, an entry should be made to reflect the location of such disappearance.

(d) **Inspection.**

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

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

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

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

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

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

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

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

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

Sec. 4-43 Dogs At Large.

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

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

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

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

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

Sec. 4-45 Tethering of Dogs.

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

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

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

Sec. 4-46 Keeping of Dangerous Dogs

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

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

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

dangerous dog investigation, shall be carried out by a law enforcement officer.

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

(c) **Hearing, Founded.**

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

(d) **Hearing, Unfounded.**

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

(e) **Procedures.**

- (1) The municipal attorney, or municipal prosecutor may file a petition in the municipal court to declare dangerous the dog that caused the physical injury, serious physical injury or death to a person in the jurisdiction of the municipality. The owner of the dog, if known, shall be served with a copy of the petition.
- (2) A dog that is the subject of a dangerous dog investigation may not be relocated and ownership may not be transferred pending the outcome of the investigation and hearing to determine whether to declare the dog to be dangerous.

- (3) The court hearing shall be held as soon as practicable. At the hearing, the municipal attorney, or municipal prosecutor shall present evidence that the dog is dangerous. To declare the dog dangerous, the court shall find by reasonable satisfaction that the dog bit, attacked or caused physical injury, serious physical injury or death to a person without justification.
 - (a) If the court determines that the dog is dangerous and has caused serious physical injury or death to a person, the court shall order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer.
 - (b) If the court determines that the dog is dangerous but has not caused serious physical injury or death to a person, the court shall determine whether the dog has a propensity to cause future serious physical injury or death. If the court determines by reasonable satisfaction that the dog has such a propensity, the court may order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer or the court may order the dog be returned to its owner pursuant to all of the following conditions:
 - (1) The dog shall be held in impound until the owner complies with all orders of the court, but if the owner fails to comply with all orders of the court within thirty (30) days of the court's order, the dog shall be humanely euthanized.
 - (2) The dangerous dog shall be microchipped.
 - (3) The owner of the dangerous dog shall provide a copy of the certificate of the current rabies vaccination of the dog.
 - (4) The dangerous dog shall be spayed or neutered.
 - (5) The owner of the dangerous dog shall be required to pay all expenses involved with the investigation, pickup and impoundment, and any court costs or fees related to the hearing to determine whether the dog is dangerous.
 - (6) The owner of the dangerous dog shall be required to pay an annual dangerous dog registration fee of one hundred dollars (\$100) to the City for a dog deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the City for non-registration within two (2) weeks.
 - (7) Surety Bond.
 - (a) The owner shall be required to obtain a surety bond of at least one hundred thousand dollars (\$100,000) and shall provide proof to the court or animal control office.
 - (b) The surety bond required by subparagraph (7)(a) shall provide coverage for dog bites, injuries or death caused by the dog.
 - (c) The owner shall provide proof of the surety bond each time the annual dangerous dog registration fee is paid.
 - (8) The owner of the dangerous dog shall provide proof to the court that he or she has constructed a proper enclosure for a dangerous dog pursuant to section 4-2(y).

- (4) The pleading and practice in all cases to petition the court to declare a dog to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure and rules of the courts governing municipal courts in this state unless otherwise specified by this chapter. Any judicial determination in municipal court that a dog is dangerous may be appealed to the circuit court pursuant to the requirements of the Alabama Rules of Civil Procedure and the order of the circuit court shall be final.
- (5) It shall be presumed that a dog is not a dangerous dog pursuant to this chapter if the dog was on property owned by the owner of the dog when the event subject to a claim under the chapter occurred or if the victim was trespassing on any property when the event subject to a claim under the chapter occurred.

Sec. 4-48 Dangerous Dog Violations

- (a) If a dog that has previously been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, the owner of the dog shall be guilty of a Class A misdemeanor.
- (b) If a dog that has not been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, and the owner of the dog had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the dog shall be guilty of a Class B misdemeanor.
- (c) In addition to any fines imposed by the court, a person guilty of violating subsection (a) or (b) shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding and veterinary expenses necessitated by impoundment of the dog, medical expenses incurred by a victim from an attack by a dangerous dog, and other expenses required for the destruction of the dog.
- (d)
 - (1) When a dog declared to be dangerous is outside and not contained in the proper enclosure of a dangerous dog pursuant to section 4-2(y) the owner of the dangerous dog shall be present and shall restrain the dangerous dog with a secure collar and leash.
 - (2) An owner of a dog declared to be dangerous who violates subdivision (1) shall be guilty of a Class C misdemeanor, except that a second or subsequent adjudication or conviction is a Class B misdemeanor.
- (g) An owner of a dog that is the subject of a dangerous dog investigation who refuses to surrender the dog to an animal control officer or law enforcement officer, upon the request of the animal control officer or law enforcement officer, shall be guilty of a Class C misdemeanor.
- (h) Any person who knowingly makes a false report to an animal control officer that a dog is dangerous is guilty of a Class C misdemeanor.

Article III. Animals Other than Dogs, Cats and Ferrets, Specifically

Sec. 4-71 Violations of This Article.

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

Sec. 4-72 Keeping of Hogs.

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

Sec. 4-73 Keeping of Chickens.

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

- (a) The minimum lot size of the property is 10,000 square feet.
- (b) The principal use of the property is a single-family dwelling.
- (c) The number of chickens does not exceed:
 - (1) Four (4) on lots 10,000 square feet to 19,000 square feet
 - (2) Six (6) on lots 20,000 square feet or greater
- (d) The chickens are kept in an enclosure or fenced area, such as a hen house, chicken coop, chicken tractor, etc., at all times.
- (e) The chicken enclosure or fenced area is a minimum of six (6) square feet per chicken.
- (f) The chickens are not kept on any location on the property other than in the backyard (the rear yard of the principal structure).
- (g) The covered enclosure or fenced area is a minimum of ten (10) feet to any property line of an adjacent property and fifty (50) feet from the neighboring dwellings, church, school or place of business.
- (h) The enclosures are kept in a clean, dry, odor-free, neat and sanitary condition at all times.
- (i) The chicken owner takes necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
- (j) The keeping or harboring of male chickens or roosters is prohibited.
- (k) The premises upon which chickens are kept must be the property owner's primary residential dwelling.
- (l) No person who owns, controls, keeps, maintains or harbors chickens shall permit the premises where the chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition, or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. The chicken enclosure or chicken run authorized by this section may be inspected at any reasonable time by the animal control officer.
- (m) The slaughter and breeding of chickens on any premises in the City is prohibited.
- (n) No person shall maintain a chicken enclosure, coop and/or chicken run unless granted a permit by the Director. Prior to the construction of the chicken enclosure, a site plan shall be reviewed and approved by the Director.

Sec. 4-74 Large Animals and Fowl

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

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

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

Sec. 4-76 Minimum Size of Corrals

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

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

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

Sec. 4-78 Large Animals Running At Large Prohibited

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

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

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

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

Sec. 4-80 Same—Minimum Space Requirements

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

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

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

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

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

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

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

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

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

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

Sec. 4-84 Keeping of Fowl

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

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

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

Sec. 4-86 Bird Sanctuary

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

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

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

Article IV Rabies Control

Sec. 4-101 Rabies Vaccination

(a) Vaccine Required.

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

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

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

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

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

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

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

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

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

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

Article V Impoundment and Destruction

Sec. 4-141 Impoundment.

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

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

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

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

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

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

Sec. 4-142 Redemption and Disposition.

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

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

Sec. 4-143 Fees and Charges; Administration

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

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

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

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

Sec. 4-144 Destruction of Certain Animals

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

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

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

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

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

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

Article VI Dead Animals.

Sec. 4-181 Penalties.

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

Sec. 4-182 Disposal Limited

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

Sec. 4-183 Disposal Generally

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

Sec. 4-184 Appropriate City Official Notification

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

Sec. 4-185 Removal By the City

When a request is made to the Director or an animal control officer for a removal of a small dead animal or when request is made to the Director for the removal of a large dead

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

Sec. 4-186 Fees For Removal By City

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

Article VI. Enforcement, Fines and Penalties

Sec. 4-187 Enforcement

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

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

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

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

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

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

Sec. 4-188 Citations and Warrants

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

Sec. 4-189 Penalties for Violation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTEST:

CITY CLERK

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

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

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

ORDINANCE NO. _____

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

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

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

Section 4 – Animal Control

Article I -- In General.

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

Sec. 4-1 Purpose.

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

Sec. 4-2 Definitions.

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

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

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

- (f) “*Attack*” means aggressive physical contact by a dog.
- (g) “*ACO*” means Animal Control Officer, or any person designated by him.
- (h) “*Bite*” means the puncturing or bruising of the skin by teeth of an animal.
- (i) “*Bitten*” means seized with the teeth or claws, so that the skin of the person seized or gripped has been wounded or pierced, resulting in physical injury.
- (j) “*Cat*” means any member of the domestic feline family.
- (k) “*Dangerous Dog*” means a dog, regardless of breed, that has bitten, attacked or caused physical injury, serious physical injury or death to a person, without justification, except a dog that is a police animal as defined by Section 13A-11-260, *Code of Alabama*, used by law enforcement officials for legitimate law enforcement purposes.

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

- (l) “*Division*” means the Animal Control Division of the Environmental Services Department of the City.
- (m) “*Dog*” means all members of the canine family, including dog hybrids.
- (n) “*Director*” means the Director of the Environmental Services Department.
- (o) “*Doghouse*” means a structure consisting of a ceiling, three (3) walls and floor, soundly constructed and in cold weather, lined with dry, clean bedding.
- (p) “*Enclosure*” means the entire housed or fenced area where an animal is confined and also an area where an animal is tied, chained or tethered.
- (q) “*Exotic Animal*” 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. Exotic animals specifically include
 - (1) Any nonhuman primate (live monkey, gorilla etc.), raccoon, skunk, wolf, coyote, fox, leopard, tiger, lion, lynx or serval cat;
 - (2) Any venomous or constricting snake (such as Boidae family) that will grow to an adult size greater than three (3) feet;
 - (3) Any tarantula which can normally be found in the wild state;

- (4) Any member of crocodilian including, but not limited to alligators, crocodiles, caimans and gharials;
- (5) Any exotic animal hybrid.

Exotic animals 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. Ferrets, nonvenomous snakes (other than constricting snakes that will grow to an adult size larger than three (3) feet), rabbits, box or aquatic turtles, laboratory, pocket pets or pet rodents including, but not limited to, hamsters, gerbils, guinea pigs, chinchillas, sugar gliders or hedgehogs shall be excluded from this definition.

- (r) “*Feral Animal*” means any wild cat or dog, whether it was born in the wild or reverted to a wild state due to abandonment or lack of domestication.
- (s) “*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.
- (t) “*Guard Dog*” means a dog trained or used in a commercial or industrial business to provide security protection for employees, employers, property, goods and/or equipment. It does not include any dog which resides at a private residence. These dogs are further regulated under Section 4-42.
- (u) “*Impounded*” means taken into custody by an animal control officer or law enforcement officer.
- (v) “*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.
- (w) “*Pen*” means any enclosure for housing and feeding small animals.
- (x) “*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.
- (y) “*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.
- (z) “*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.

(aa) “*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.

(bb) “*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.

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

(dd) “*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.

(ee) “*Reptile*” means and includes turtles, terrapins, tortoises, lizards, worm lizards, snakes, crocodiles, alligators, caimans, gharials, gavials and tuataras.

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

(gg) “*Trap*” means any mechanical device used to capture any animal that otherwise would not be captured.

(hh) “*Trapping*” means a method of setting or otherwise laying a mechanical device to catch or snare or otherwise restrain the free movement of any animal.

(ii) “*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.

(jj) “*Venomous Snake*” means any species formerly or currently placed within the family of Elapidae, Viperidae or Atractaspididae. Also included are species formerly or currently found in the Dispholidus (boomslangs) in family Colubridae. This includes, but is not limited to rattlesnakes, cobras, vipers, mambas, boomslangs, coral snakes, asps, stiletto snakes, sea snakes, copperheads and cottonmouths.

(kk) “*Veterinarian*” means a person licensed in the State of Alabama or another state of the United States to practice veterinary medicine.

Sec. 4-3 Nuisances.

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

Sec. 4-4 Keeping of Exotic Animals.

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

Sec. 4-5 Abandoning Animals Prohibited.

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

Sec. 4-6 Caring For Animals.

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

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

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

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

Sec. 4-7 Sanitation.

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

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

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

Sec. 4-8 Cruelty to Animals Prohibited.

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

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

(2) Overrides, overworks, overloads or overdrives the animal causing physical pain or suffering.

(3) Beats, tortures, maims, disfigures, kills, injures, torments, poisons, deprives of necessary sustenance or mutilates any animal, causing physical pain, suffering or death. However, nothing in this section shall be construed to apply to activities conducted for lawful veterinary purposes, including but not limited to tail docking, ear clipping and declawing cats.

(4) Fails to provide adequate medical treatment for any sick, diseased or injured animal or any animal suffering from any type of parasitic infestation.

(5) Keeps any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fails to maintain the animal in a condition of good order or cleanliness which increases the probability of the transmission of disease.

(6) Teases, molests, baits or harasses any animal.

- (7) Sets any rabbit, raccoon, fox or other animal loose for the purpose of chasing or hunting the animal or conducting a race using such animal.
 - (8) Promotes, permits, stages, holds, manages, conducts, carries on or attends any game, exhibition, event or contest that involves a fight between at least two animals or between an animal and a person or persons.
 - (9) Fails to provide adequate shelter for an animal, wherein the animal can be protected from the extremes of weather (heat, cold, rain, wind, sun, etc.) provided the person is the owner or person in charge of such animal.
 - (10) Transports or carries any animal in a motor vehicle unless the animal is safely enclosed within the vehicle or protected by a cab, container, cage, cross-tether or other device to prevent the animal from falling out of or being thrown from the vehicle.
 - (11) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or welfare of the animal because of the temperature, lack of food or water or such other conditions as may reasonably be expected to cause suffering, disability or death.
 - (12) Restrains an animal with a leash or restraining device that is not less than 10 feet long, unless walking or training such animal and such restraint must be fixed in such a manner to allow the animal free use of the restraint without being tangled. The restraint must also be an appropriate weight for the animal and must be affixed to a proper tethering collar with a swivel attachment. An allowable tethering collar shall be a tethering collar which is a properly fitted to the dog made of suitable material other than metal that does not cause damage to the dog's skin, and affixes the dog to a fixed point, tether or runner. (See Sec. 4-45 for tethering of dogs).
 - (13) Maintains any reptile in a manner that is deleterious to its health and wellbeing. Poor husbandry, poor nutrition and/or lack of proper preventative care are all considered cruel and deleterious welfare of the reptile and are unlawful.
 - (14) Sets loose any reptile that is not native to the climate of North America.
- (b) Any person who unlawfully or maliciously kills, maims, disables, disfigures or injures any animal shall be guilty of a misdemeanor; but this subsection shall not be construed as prohibiting the dehorning of cattle.
 - (c) This section shall not apply to the following activities:
 - (1) Activities conducted for lawful veterinary purposes.
 - (2) Activities conducted for purposes of lawful biomedical research or training.
 - (3) The lawful destruction of any animal for the purpose of protecting the public, other animals, property or the public health.
 - (4) The lawful taking of animals under the jurisdiction and regulation of the U.S. Fish and Wildlife Service or the Alabama Department of Conservation and Natural Resources and successor federal and state agencies.

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

Sec. 4-9 Hoarders.

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

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

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

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

Sec. 4-10 Animals In Vehicles.

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

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

Sec. 4-14 Keeping Noisy Animals and Fowl.

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

Sec. 4-15 Sanitary Conditions of Enclosures.

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

Sec. 4-16 Humane Traps.

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

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

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

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

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

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

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

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

Sec. 4-17 Feeding of Feral Animals.

Any person providing care and substance to any feral animal shall be deemed to be the owner of said animal and shall be subject to all of the regulations of this chapter. No person shall feed or provide substance to any animal on public property or on the private property of others, except with the permission of the property owner.

Sec. 4-18 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. 4-19 Cooperative Services Agreement.

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

Article II. Dogs, Cats and Ferrets.

Sec. 4-41 Rabies Vaccinations.

(a) Every owner of a dog, cat or ferret over the age of three months shall cause said dog, cat or ferret to be immunized for rabies by the rabies officer, his or her authorized representative or any duly licensed veterinarian pursuant to the *Code of Alabama* 1975 §§3-7A-1 through 3-7A-15. The interval between vaccinations shall conform to the vaccine manufacturer's directions. Such vaccination shall be evidenced by a tag attached to such dog as provided in Section 4-41(b) or documentation of such immunization for such cat or ferret showing that such dog, cat or ferret has been vaccinated for rabies as required by the state within the preceding 36 months. It shall be unlawful for any person to own or have in his or her possession any dog, cat or ferret not so vaccinated.

(b) Each dog over the age of three (3) months while outdoors shall wear a substantial, durable collar or harness, to which the vaccination tag shall be attached. The collar, together with the rabies inoculation tag, shall be worn by the dog if the animal is required to be inoculated against rabies as provide in Section 4-41(a). Failure to comply with this section shall be unlawful. No person shall remove the collar or vaccination tag from any animal without the consent of the owner.

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

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

Sec. 4-42 Guard Dogs.

(a) Registration.

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

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

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

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

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

(b) Tattoo required.

(1) Each guard dog shall have a registration number to be obtained from the city and tattooed by the owner on its inside right thigh so as to be clearly visible at all times. The registration number shall be prefixed by the letter "G." Each letter and number shall be at least one-quarter (¼) inch in height.

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

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

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

(d) Inspection.

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

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

(e) Transportation of guard dog.

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

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

(f) Requirements for businesses using guard dogs.

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

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

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

Sec. 4-43 Dogs At Large.

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

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

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

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

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

Sec. 4-45 Tethering of Dogs.

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

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

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

Sec. 4-46 Keeping of Dangerous Dogs

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

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

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

- (a) The animal control officer or law enforcement officer shall file a summons for the owner of the dog, if known, with the municipal court.
 - (b) The dog in question shall be impounded at the animal shelter or the City may enter into an agreement with a licensed veterinarian to impound the dog; provided, however, the owner of the dog shall be provided the opportunity to choose a veterinarian of his or her choosing to impound the dog in lieu of the animal shelter. If the dog is impounded with a veterinarian chosen by the owner of the dog, the owner of the dog shall be liable for paying to the veterinarian the cost and expenses incurred in impounding, feeding and providing veterinary care or treatment for the dog. If the City impounds the dog, the owner of the dog shall be liable to the City for the costs and expenses incurred in impounding, feeding and providing veterinary care or treatment for the dog.
 - (c) The animal control officer or law enforcement officer shall send a copy of the investigation report to the municipal attorney, or municipal prosecutor.
- (2) In lieu of the investigation, the owner of the alleged dangerous dog may consent to the dog being humanely euthanized.
- (d) Hearing, Unfounded.
 - (1) In the event the dangerous dog investigation leads the animal control officer or law enforcement officer to believe the allegation is unfounded, the animal control officer shall advise the complainant of his or her findings and the animal control officer or law enforcement officer shall submit the results of the investigation to his or her supervisor.
 - (2) A copy of all investigations made pursuant to this section shall be kept on file in the animal control office.
- (e) Procedures.
 - (1) The municipal attorney, or municipal prosecutor may file a petition in the municipal court to declare dangerous the dog that caused the physical injury, serious physical injury or death to a person in the jurisdiction of the municipality. The owner of the dog, if known, shall be served with a copy of the petition.
 - (2) A dog that is the subject of a dangerous dog investigation may not be relocated and ownership may not be transferred pending the outcome of the investigation and hearing to determine whether to declare the dog to be dangerous.
 - (3) The court hearing shall be held as soon as practicable. At the hearing, the municipal attorney, or municipal prosecutor shall present evidence that the dog is dangerous. To declare the dog dangerous, the court shall find by reasonable satisfaction that the dog bit, attacked or caused physical injury, serious physical injury or death to a person without justification.
 - (a) If the court determines that the dog is dangerous and has caused serious physical injury or death to a person, the court shall order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer.
 - (b) If the court determines that the dog is dangerous but has not caused serious physical injury or death to a person, the court shall determine whether the dog has a propensity to cause future serious

physical injury or death. If the court determines by reasonable satisfaction that the dog has such a propensity, the court may order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer or the court may order the dog be returned to its owner pursuant to all of the following conditions:

- (1) The dog shall be held in impound until the owner complies with all orders of the court, but if the owner fails to comply with all orders of the court within thirty (30) days of the court's order, the dog shall be humanely euthanized.
- (2) The dangerous dog shall be microchipped.
- (3) The owner of the dangerous dog shall provide a copy of the certificate of the current rabies vaccination of the dog.
- (4) The dangerous dog shall be spayed or neutered.
- (5) The owner of the dangerous dog shall be required to pay all expenses involved with the investigation, pickup and impoundment, and any court costs or fees related to the hearing to determine whether the dog is dangerous.
- (6) The owner of the dangerous dog shall be required to pay an annual dangerous dog registration fee of one hundred dollars (\$100) to the City for a dog deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the City for non-registration within two (2) weeks.
- (7) Surety Bond.
 - (a) The owner shall be required to obtain a surety bond of at least one hundred thousand dollars (\$100,000) and shall provide proof to the court or animal control office.
 - (b) The surety bond required by subparagraph (7)(a) shall provide coverage for dog bites, injuries or death caused by the dog.
 - (c) The owner shall provide proof of the surety bond each time the annual dangerous dog registration fee is paid.
- (8) The owner of the dangerous dog shall provide proof to the court that he or she has constructed a proper enclosure for a dangerous dog pursuant to section 4-2(y).
- (4) The pleading and practice in all cases to petition the court to declare a dog to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure and rules of the courts governing municipal courts in this state unless otherwise specified by this chapter. Any judicial determination in municipal court that a dog is dangerous may be appealed to the circuit court pursuant to the requirements of the Alabama Rules of Civil Procedure and the order of the circuit court shall be final.
- (5) It shall be presumed that a dog is not a dangerous dog pursuant to this chapter if the dog was on property owned by the owner of the dog when the event subject to a claim under the chapter occurred or if the victim was trespassing on any property when the event subject to a claim under the chapter occurred.

Sec. 4-48 Dangerous Dog Violations

- (a) If a dog that has previously been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, the owner of the dog shall be guilty of a Class A misdemeanor.
- (b) If a dog that has not been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, and the owner of the dog had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the dog shall be guilty of a Class B misdemeanor.
- (c) In addition to any fines imposed by the court, a person guilty of violating subsection (a) or (b) shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding and veterinary expenses necessitated by impoundment of the dog, medical expenses incurred by a victim from an attack by a dangerous dog, and other expenses required for the destruction of the dog.
- (d)
- (1) When a dog declared to be dangerous is outside and not contained in the proper enclosure of a dangerous dog pursuant to section 4-2(y) the owner of the dangerous dog shall be present and shall restrain the dangerous dog with a secure collar and leash.
 - (2) An owner of a dog declared to be dangerous who violates subdivision (1) shall be guilty of a Class C misdemeanor, except that a second or subsequent adjudication or conviction is a Class B misdemeanor.
- (g) An owner of a dog that is the subject of a dangerous dog investigation who refuses to surrender the dog to an animal control officer or law enforcement officer, upon the request of the animal control officer or law enforcement officer, shall be guilty of a Class C misdemeanor.
- (h) Any person who knowingly makes a false report to an animal control officer that a dog is dangerous is guilty of a Class C misdemeanor.

Sec. 4-49 Off-Lease Dog Parks.

The City may choose to operate and maintain designated areas, or parks, within the city where responsible owners can allow their dogs to exercise and socialize off-leash. All users of City off-leash dog parks must adhere to the rules and regulations posted at the entrance to the dog park area. Violators of posted rules are subject to ejection and forfeiture of off-leash dog park privileges. It shall be assumed that there is an inherent risk in allowing dogs to interact without direct control so that all participants who choose to use off-leash dog parks do so at their own risk of injury to selves and dogs. Persons making use of off-leash dog parks shall be responsible for injuries caused by their dogs to other persons and dogs. Persons responsible for any such injuries or property damage shall hold the City harmless for the same.

Article III. Animals Other than Dogs, Cats and Ferrets, Specifically

Sec. 4-71 Violations of This Article.

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

Sec. 4-72 Keeping of Hogs.

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

Sec. 4-73 Keeping of Chickens.

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

- (a) The minimum lot size of the property is 10,000 square feet.
- (b) The principal use of the property is a single-family dwelling.
- (c) The number of chickens does not exceed:
 - (1) Four (4) on lots 10,000 square feet to 19,999 square feet
 - (2) Six (6) on lots 20,000 square feet or greater
- (d) The chickens are kept in an enclosure or fenced area, such as a hen house, chicken coop, chicken tractor, etc., at all times.
- (e) The chicken enclosure or fenced area is a minimum of six (6) square feet per chicken.
- (f) The chickens are not kept on any location on the property other than in the backyard (the rear yard of the principal structure).
- (g) The covered enclosure or fenced area is a minimum of ten (10) feet to any property line of an adjacent property and fifty (50) feet from the neighboring dwellings, church, school or place of business.
- (h) The enclosures are kept in a clean, dry, odor-free, neat and sanitary condition at all times.
- (i) The chicken owner takes necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
- (j) The keeping or harboring of male chickens or roosters is prohibited.
- (k) The premises upon which chickens are kept must be the property owner's primary residential dwelling.
- (l) No person who owns, controls, keeps, maintains or harbors chickens shall permit the premises where the chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition, or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. The chicken enclosure or chicken run authorized by this section may be inspected at any reasonable time by the animal control officer.
- (m) The slaughter and breeding of chickens on any premises in the City is prohibited.
- (n) No person shall maintain a chicken enclosure, coop and/or chicken run unless granted a permit by the Director. Prior to the construction of the chicken enclosure, a site plan shall be reviewed and approved by the Director.

Sec. 4-74 Large Animals and Fowl

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

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

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

Sec. 4-76 Minimum Size of Corrals

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

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

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

Sec. 4-78 Large Animals Running At Large Prohibited

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

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

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

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

Sec. 4-80 Same—Minimum Space Requirements

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

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

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

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

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

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

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

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

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

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

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

Sec. 4-84 Keeping of Fowl

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

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

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

Sec. 4-86 Bird Sanctuary

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

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

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

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

Article IV Rabies Control

Sec. 4-101 Rabies Vaccination

(a) Vaccine Required.

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

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

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

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

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

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

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

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

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

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

Article V Impoundment and Destruction

Sec. 4-141 Impoundment.

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

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

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

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

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

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

Sec. 4-142 Redemption and Disposition.

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

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

Sec. 4-143 Fees and Charges; Administration

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

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

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

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

Sec. 4-144 Destruction of Certain Animals

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

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

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

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

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

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

Article VI Dead Animals.

Sec. 4-181 Penalties.

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

Sec. 4-182 Disposal Limited

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

Sec. 4-183 Disposal Generally

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

Sec. 4-184 Appropriate City Official Notification

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

Sec. 4-185 Removal By the City

When a request is made to the Director or an animal control officer for a removal of a small dead animal or when request is made to the Director for the removal of a large dead

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

Sec. 4-186 Fees For Removal By City

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

Article VI. Enforcement, Fines and Penalties

Sec. 4-187 Enforcement

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

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

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

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

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

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

Sec. 4-188 Citations and Warrants

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

Sec. 4-189 Penalties for Violation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTEST:

CITY CLERK

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

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

Attachment: Ordinance, amend city code, Chapter 4, Animal Control replacing chapter 4, 2-28-19 (4th draft) (3264 : Ordinance to Amend Chapter 4 Animal Control - Tabled)

ORDINANCE NO. _____

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

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

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

Section 4 – Animal Control

Article I -- In General.

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

Sec. 4-1 Purpose.

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

Sec. 4-2 Definitions.

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

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

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

- (f) “*Attack*” means aggressive physical contact by a dog.
- (g) “*ACO*” means Animal Control Officer, or any person designated by him.
- (h) “*Bite*” means the puncturing or bruising of the skin by teeth of an animal.
- (i) “*Bitten*” means seized with the teeth or claws, so that the skin of the person seized or gripped has been wounded or pierced, resulting in physical injury.
- (j) “*Cat*” means any member of the domestic feline family.
- (k) “*Dangerous Dog*” means a dog, regardless of breed, that has bitten, attacked or caused physical injury, serious physical injury or death to a person, without justification, except a dog that is a police animal as defined by Section 13A-11-260, *Code of Alabama*, used by law enforcement officials for legitimate law enforcement purposes.

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

- (l) “*Division*” means the Animal Control Division of the Environmental Services Department of the City.
- (m) “*Dog*” means all members of the canine family, including dog hybrids.
- (n) “*Director*” means the Director of the Environmental Services Department.
- (o) “*Doghouse*” means a structure consisting of a ceiling, three (3) walls and floor, soundly constructed and in cold weather, lined with dry, clean bedding.
- (p) “*Enclosure*” means the entire housed or fenced area where an animal is confined and also an area where an animal is tied, chained or tethered.
- (q) “*Exotic Animal*” 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. Exotic animals specifically include
 - (1) Any nonhuman primate (live monkey, gorilla etc.), raccoon, skunk, wolf, coyote, fox, leopard, tiger, lion, lynx or serval cat;
 - (2) Any venomous or constricting snake (such as Boidae family) that will grow to an adult size greater than three (3) feet;
 - (3) Any tarantula which can normally be found in the wild state;

- (4) Any member of crocodilian including, but not limited to alligators, crocodiles, caimans and gharials;
- (5) Any exotic animal hybrid.

Exotic animals 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. Ferrets, nonvenomous snakes (other than constricting snakes that will grow to an adult size larger than three (3) feet), rabbits, box or aquatic turtles, laboratory, pocket pets or pet rodents including, but not limited to, hamsters, gerbils, guinea pigs, chinchillas, sugar gliders or hedgehogs shall be excluded from this definition.

- (r) “*Feral Animal*” means any wild cat or dog, whether it was born in the wild or reverted to a wild state due to abandonment or lack of domestication.
- (s) “*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.
- (t) “*Guard Dog*” means a dog trained or used in a commercial or industrial business to provide security protection for employees, employers, property, goods and/or equipment. It does not include any dog which resides at a private residence. These dogs are further regulated under Section 4-42.
- (u) “*Impounded*” means taken into custody by an animal control officer or law enforcement officer.
- (v) “*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.
- (w) “*Pen*” means any enclosure for housing and feeding small animals.
- (x) “*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.
- (y) “*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.
- (z) “*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.

(aa) “*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.

(bb) “*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.

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

(dd) “*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.

(ee) “*Reptile*” means and includes turtles, terrapins, tortoises, lizards, worm lizards, snakes, crocodiles, alligators, caimans, gharials, gavials and tuataras.

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

(gg) “*Trap*” means any mechanical device used to capture any animal that otherwise would not be captured.

(hh) “*Trapping*” means a method of setting or otherwise laying a mechanical device to catch or snare or otherwise restrain the free movement of any animal.

(ii) “*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.

(jj) “*Venomous Snake*” means any species formerly or currently placed within the family of Elapidae, Viperidae or Atractaspididae. Also included are species formerly or currently found in the Dispholidus (boomslangs) in family Colubridae. This includes, but is not limited to rattlesnakes, cobras, vipers, mambas, boomslangs, coral snakes, asps, stiletto snakes, sea snakes, copperheads and cottonmouths.

(kk) “*Veterinarian*” means a person licensed in the State of Alabama or another state of the United States to practice veterinary medicine.

Sec. 4-3 Nuisances.

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

Sec. 4-4 Keeping of Exotic Animals.

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

Sec. 4-5 Abandoning Animals Prohibited.

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

Sec. 4-6 Caring For Animals.

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

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

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

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

Sec. 4-7 Sanitation.

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

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

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

Sec. 4-8 Cruelty to Animals Prohibited.

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

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

(2) Overrides, overworks, overloads or overdrives the animal causing physical pain or suffering.

(3) Beats, tortures, maims, disfigures, kills, injures, torments, poisons, deprives of necessary sustenance or mutilates any animal, causing physical pain, suffering or death. However, nothing in this section shall be construed to apply to activities conducted for lawful veterinary purposes, including but not limited to tail docking, ear clipping and declawing cats.

(4) Fails to provide adequate medical treatment for any sick, diseased or injured animal or any animal suffering from any type of parasitic infestation.

(5) Keeps any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fails to maintain the animal in a condition of good order or cleanliness which increases the probability of the transmission of disease.

(6) Teases, molests, baits or harasses any animal.

- (7) Sets any rabbit, raccoon, fox or other animal loose for the purpose of chasing or hunting the animal or conducting a race using such animal.
 - (8) Promotes, permits, stages, holds, manages, conducts, carries on or attends any game, exhibition, event or contest that involves a fight between at least two animals or between an animal and a person or persons.
 - (9) Fails to provide adequate shelter for an animal, wherein the animal can be protected from the extremes of weather (heat, cold, rain, wind, sun, etc.) provided the person is the owner or person in charge of such animal.
 - (10) Transports or carries any animal in a motor vehicle unless the animal is safely enclosed within the vehicle or protected by a cab, container, cage, cross-tether or other device to prevent the animal from falling out of or being thrown from the vehicle.
 - (11) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or welfare of the animal because of the temperature, lack of food or water or such other conditions as may reasonably be expected to cause suffering, disability or death.
 - (12) Restrains an animal with a leash or restraining device that is not less than 10 feet long, unless walking or training such animal and such restraint must be fixed in such a manner to allow the animal free use of the restraint without being tangled. The restraint must also be an appropriate weight for the animal and must be affixed to a proper tethering collar with a swivel attachment. An allowable tethering collar shall be a tethering collar which is a properly fitted to the dog made of suitable material other than metal that does not cause damage to the dog's skin, and affixes the dog to a fixed point, tether or runner. (See Sec. 4-45 for tethering of dogs).
 - (13) Maintains any reptile in a manner that is deleterious to its health and wellbeing. Poor husbandry, poor nutrition and/or lack of proper preventative care are all considered cruel and deleterious welfare of the reptile and are unlawful.
 - (14) Sets loose any reptile that is not native to the climate of North America.
- (b) Any person who unlawfully or maliciously kills, maims, disables, disfigures or injures any animal shall be guilty of a misdemeanor; but this subsection shall not be construed as prohibiting the dehorning of cattle.
 - (c) This section shall not apply to the following activities:
 - (1) Activities conducted for lawful veterinary purposes.
 - (2) Activities conducted for purposes of lawful biomedical research or training.
 - (3) The lawful destruction of any animal for the purpose of protecting the public, other animals, property or the public health.
 - (4) The lawful taking of animals under the jurisdiction and regulation of the U.S. Fish and Wildlife Service or the Alabama Department of Conservation and Natural Resources and successor federal and state agencies.

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

Sec. 4-9 Hoarders.

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

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

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

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

Sec. 4-10 Animals In Vehicles.

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

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

Sec. 4-14 Keeping Noisy Animals and Fowl.

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

Sec. 4-15 Sanitary Conditions of Enclosures.

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

Sec. 4-16 Humane Traps.

(a) The Director or any Animal Control Officer is authorized, in order to apprehend animals in violation of this chapter, which are otherwise difficult to apprehend, to use traps humanely designed to capture such animals by placing the traps upon any public property of the City, or upon the right-of-way of any public street or highway.

(b) It shall be the duty of the Animal Control Officer to check such traps daily and remove captured animals to an animal shelter or veterinarian where they shall be disposed of as otherwise provided in this chapter.

(c) It shall be unlawful for any person to molest or tamper with any such trap, or to remove any animal captured in any such trap, or to interfere with the Director or Animal Control Officer in setting or servicing any such trap.

(d) Any owner or person in charge of any premises within the City may set his own humane trap on such premises for the purpose of trapping and removing any animals which may have entered the premises. The owner or person in charge must notify the Animal Control Officer before setting his own traps. Use of one's own trap pursuant to this section shall be coordinated with the Animal Control Officer to make sure such trapping is conducted at all times consistent with the operating hours of an animal shelter or veterinarian, it being the intent of this section that no captured animal shall remain trapped for more than twelve (12) hours. The Animal Control Officer shall coordinate with the owner for the removal of captured animals to an animal shelter or veterinarian where they shall be disposed of as otherwise provided in this chapter. It shall be a violation of this chapter for any owner or person in charge of any premises to do any of the following:

- (1) Use any trap on any premises not his own or not under his charge.
- (2) Fail to inspect any trap at least every twelve (12) hours.
- (3) Fail to deliver any animal captured to an animal shelter or veterinarian or to the animal's owner, if known, within twelve (12) hours of its entrapment; and if the animal's owner is unknown, fail to notify an Animal Control Officer within twelve (12) hours of its entrapment.
- (4) Fail to exercise reasonable care and diligence to avoid injury to the trapped animal.
- (5) Use or permit to be used any leghold trap or snare unless authorized by an Animal Control Officer.

(e) Before any person shall be permitted to obtain a humane trap from an Animal Control Officer for use on his own premises or premises over which he is in charge, such person shall sign a statement that he has been advised that the acts or failures to act enumerated in this section constitute a violation of this chapter.

(f) Any owner or person in charge of any dog or cat captured in a humane trap that is off the premises of the owner or person in charge shall be prima facie presumed to have allowed, suffered or permitted such animal to be or run at large. If at any time a dog or cat is captured by use of such trap and the owner or person in charge is known or becomes known to the Director or an Animal Control Officer, such person in charge shall be given a citation to appear in Municipal Court as provided in section 4-189(b).

(g) The owner or person in charge of any premises may obtain humane traps from the Environmental Services Department by completing a trap use form and making a \$150.00 deposit. Traps may only be used for a maximum of five (5) days. The five (5) day limit may be shortened at the discretion of the Environmental Services Department if the traps are needed at other locations. Traps may only be used on private property every ninety (90) days.

Sec. 4-17 Feeding of Feral Animals.

Any person providing care and substance to any feral animal shall be deemed to be the owner of said animal and shall be subject to all of the regulations of this chapter. No person shall feed or provide substance to any animal on public property or on the private property of others, except with the permission of the property owner.

Sec. 4-18 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. 4-19 Cooperative Services Agreement.

The City may enter into cooperative services agreements with other governmental agencies and entities to provide wildlife management services.

Article II. Dogs, Cats and Ferrets.

Sec. 4-41 Rabies Vaccinations.

(a) Every owner of a dog, cat or ferret over the age of three months shall cause said dog, cat or ferret to be immunized for rabies by the rabies officer, his or her authorized representative or any duly licensed veterinarian pursuant to the *Code of Alabama* 1975 §§3-7A-1 through 3-7A-15. The interval between vaccinations shall conform to the vaccine manufacturer's directions. Such vaccination shall be evidenced by a tag attached to such dog as provided in Section 4-41(b) or documentation of such immunization for such cat or ferret showing that such dog, cat or ferret has been vaccinated for rabies as required by the state within the preceding 36 months. It shall be unlawful for any person to own or have in his or her possession any dog, cat or ferret not so vaccinated.

(b) Each dog over the age of three (3) months while outdoors shall wear a substantial, durable collar or harness, to which the vaccination tag shall be attached. The collar, together with the rabies inoculation tag, shall be worn by the dog if the animal is required to be inoculated against rabies as provide in Section 4-41(a). Failure to comply with this section shall be unlawful. No person shall remove the collar or vaccination tag from any animal without the consent of the owner.

(c) Cats and ferrets are not required to wear the rabies vaccination tag. If the rabies vaccination tag is not worn, the owner shall be required to produce the evidence of the rabies vaccination tag upon request of the ACO.

- (d) It shall be unlawful for any person to permit or allow any dog or cat in his charge or control to wear a rabies vaccination tag issued for a different animal.

Sec. 4-42 Guard Dogs.

(a) Registration.

(1) Guard dog owners or services shall register all dogs used in their business, whether housed or used in the city, with the ACO. The registration shall include name, address and telephone number of the service's manager; the breed, sex, weight, age, color, tattoo registration number of the guard dog, and other distinguishing physical features of the dog; a city license certificate the rabies vaccination certificate; and a tag that is highly visible and conspicuously different from ordinary dog tags, as approved and supplied by the city.

(2) Guard dogs which are newly acquired by guard dog services shall be vaccinated against rabies and registered with the city within seventy-two (72) hours of acquisition.

(3) The fee for registration of a guard dog with the city shall be established by the city council and shall be a one-time charge for each individual dog.

(4) The fee to register a guard dog with the city shall be a charge of twenty-five dollars (\$25.00).

(5) Such registration shall not constitute a waiver of any other requirements of this chapter.

(b) Tattoo required.

(1) Each guard dog shall have a registration number to be obtained from the city and tattooed by the owner on its inside right thigh so as to be clearly visible at all times. The registration number shall be prefixed by the letter "G." Each letter and number shall be at least one-quarter ($\frac{1}{4}$) inch in height.

(2) Owners of guard dogs registered with the American Kennel Club or a similar organization may elect to have the tattoo placed in the dog's ear.

(3) Any guard dog already tattooed by some number system different from that required by this chapter need not be retattooed if the existing tattoo is identifiable and can properly identify that dog.

(c) Maintenance of guard dog registration record. The city shall maintain a guard dog registration record which shall contain all data required by this chapter. Upon transfer of ownership, death, disappearance and/or rabies vaccination of a guard dog, each guard dog service or owner shall immediately notify the city ACO. Upon receipt of the information, the appropriate entry shall be made in the guard dog registration record. If the dog has disappeared, an entry should be made to reflect the location of such disappearance.

(d) Inspection.

(1) As a condition to maintaining registration with the city, each guard service or owner shall allow the ACO to enter and inspect all kennels housing guard dogs and other premises where such dogs are used, for the determination of owner registration compliance.

(2) It shall be unlawful for any person, firm or corporation to own, harbor, keep, maintain, use or otherwise have custody of any guard dog in the city which has not been vaccinated, registered, and tattooed as provided by this section.

(e) Transportation of guard dog.

(1) The vehicle of every guard dog service transporting any guard dog must be clearly and conspicuously marked with the words "Dangerous Dog" showing that it is transporting a guard dog. A compartment separate from the driver is required which should be arranged to ensure maximum ventilation for the animal.

(2) No guard dog shall be transported in the trunk of a car or on open-bed trucks.

(f) Requirements for businesses using guard dogs.

(1) Each business which hires or uses a guard dog must provide proper fencing to keep the guard from digging or jumping out, or must otherwise properly confine the animal within a secure enclosure.

(2) At each appropriate location and entry point, and at fifty-foot intervals along the fence perimeter, a sign shall be posted including the words "Dangerous Dog."

(3) Entry points shall have a sign posted with the telephone number of the dog's trainer or handler in case of an emergency.

Sec. 4-43 Dogs At Large.

(a) Dogs. It shall be unlawful for the owner or any person having custody or control of any dog to allow such dog to run at large within the City as defined in this chapter. It shall be the duty of every owner or person in charge of a dog to keep the animal under effective restraint, while the dog is within the City, whether or not the dog is upon or away from his premises. It shall be unlawful for any owner or person in charge of any dog to fail to keep the animal under effective restraint. Proof that a dog is not being properly restrained, whether or not on or off the premises of the owner or person in charge, shall be prima facie evidence of a violation. Negligent failure to provide or maintain effective restraint shall not be a defense. Competent evidence that the failure was occasioned by an unforeseeable and independent act of a third person shall shift the burden on the City to prove otherwise.

(b) This section shall not apply to police dogs when such dogs are engaged by a law enforcement agency in an official capacity.

Sec. 4-44 Confinement of Dogs During Estrus (Heat).

(a) Any owner or person having charge, care, custody, or control of any female dog in heat shall, in addition to restraining such dog from running at large, cause such dog to be constantly confined in a building or secure enclosure or on a leash under the supervision of the owner or person in charge so as to prevent it from attracting by scent or coming into contact with other dogs and creating a nuisance, except for planned breeding. If at any time the scent from a female dog in heat is found to be causing a disturbance to dogs in the neighborhood, it shall be the duty of the owner or person in charge of the dog to confine, immediately, the dog in such manner as to avoid a disturbance.

(b) It shall be unlawful for the owner or person in charge of any dog to fail to comply fully with this section.

Sec. 4-45 Tethering of Dogs.

(a) As used in this chapter, tether means to restrain a dog by tying the dog to any object or structure including, without limitation, to a house, tree, fence post, garage or shed by any means including, without limitation, a chain, rope, cord, strap or running line. Tethering shall not include using a leash to walk a dog.

(b) It shall be unlawful for an owner or a responsible party to tether a dog while outdoors, except when all of the following conditions are met:

- (1) The tether is connected to the dog by a buckle-type collar or a body harness made of nylon or leather.
- (2) The tether has the following properties: It is at least five (5) times the length of the dog's body, as measured from the tip of the nose to the base of the tail; it terminates at both ends with a swivel; it does not weigh more than one-eighth (1/8th) of the dog's weight; and it is free of tangles.
- (3) The dog is tethered in such a manner as to prevent injury, strangulation or entanglement.
- (4) The dog is not outside during a period of extreme weather including, without limitation, extreme heat or freezing temperatures, thunderstorms, tornadoes, tropical storms or hurricanes.
- (5) The dog has access to water, shelter and dry ground.
- (6) The dog is at least six (6) months of age. Puppies shall not be tethered.
- (7) The dog is not sick or injured.
- (8) Pulley, running line or trolley systems are at least fifteen (15) feet in length and are at least seven (7) feet above the ground.
- (9) If there are multiple dogs, each dog is tethered separately.

Sec. 4-46 Keeping of Dangerous Dogs

The keeping of a dangerous dog as defined in section 4-2(k) shall be subject to the requirements of this article. It shall be unlawful and a misdemeanor for any owner of a dangerous dog to fail to comply with the requirements and conditions set forth in this article. A dog found to be in violation of this article shall be subject to immediate seizure and impoundment as set forth in section 4-47.

Sec. 4-47 Sworn Statements; Dangerous Dog Investigations; Hearing; Procedures.

- (a) Sworn Statements.
 - (1) When a person claims that a dog is dangerous, the person shall make a sworn statement before a city magistrate or law enforcement officer setting forth the name of the dog owner, if known, the location where the dog is being kept in the City, and the reason he or she believes the dog to be dangerous.
 - (2) The sworn statement shall be delivered to an animal control officer who shall complete a dangerous dog investigation. When the sworn statement claims that a dog has caused serious physical injury or death to a person, the duties of the animal control officer, including but not limited to the dangerous dog investigation, shall be carried out by a law enforcement officer.
- (b) Dangerous dog investigation. An animal control officer or law enforcement officer may initiate a dangerous dog investigation in cases where a complaint has been made pursuant to subsection (a) and a person has been bitten, received physical injury or serious physical injury, or has died.
- (c) Hearing, Founded.
 - (1) In the event a dangerous dog investigation leads an animal control officer or law enforcement officer to believe the allegation is founded, all of the following shall occur:

- (a) The animal control officer or law enforcement officer shall file a summons for the owner of the dog, if known, with the municipal court.
 - (b) The dog in question shall be impounded at the animal shelter or the City may enter into an agreement with a licensed veterinarian to impound the dog; provided, however, the owner of the dog shall be provided the opportunity to choose a veterinarian of his or her choosing to impound the dog in lieu of the animal shelter. If the dog is impounded with a veterinarian chosen by the owner of the dog, the owner of the dog shall be liable for paying to the veterinarian the cost and expenses incurred in impounding, feeding and providing veterinary care or treatment for the dog. If the City impounds the dog, the owner of the dog shall be liable to the City for the costs and expenses incurred in impounding, feeding and providing veterinary care or treatment for the dog.
 - (c) The animal control officer or law enforcement officer shall send a copy of the investigation report to the municipal attorney, or municipal prosecutor.
- (2) In lieu of the investigation, the owner of the alleged dangerous dog may consent to the dog being humanely euthanized.
- (d) Hearing, Unfounded.
 - (1) In the event the dangerous dog investigation leads the animal control officer or law enforcement officer to believe the allegation is unfounded, the animal control officer shall advise the complainant of his or her findings and the animal control officer or law enforcement officer shall submit the results of the investigation to his or her supervisor.
 - (2) A copy of all investigations made pursuant to this section shall be kept on file in the animal control office.
- (e) Procedures.
 - (1) The municipal attorney, or municipal prosecutor may file a petition in the municipal court to declare dangerous the dog that caused the physical injury, serious physical injury or death to a person in the jurisdiction of the municipality. The owner of the dog, if known, shall be served with a copy of the petition.
 - (2) A dog that is the subject of a dangerous dog investigation may not be relocated and ownership may not be transferred pending the outcome of the investigation and hearing to determine whether to declare the dog to be dangerous.
 - (3) The court hearing shall be held as soon as practicable. At the hearing, the municipal attorney, or municipal prosecutor shall present evidence that the dog is dangerous. To declare the dog dangerous, the court shall find by reasonable satisfaction that the dog bit, attacked or caused physical injury, serious physical injury or death to a person without justification.
 - (a) If the court determines that the dog is dangerous and has caused serious physical injury or death to a person, the court shall order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer.
 - (b) If the court determines that the dog is dangerous but has not caused serious physical injury or death to a person, the court shall determine whether the dog has a propensity to cause future serious

physical injury or death. If the court determines by reasonable satisfaction that the dog has such a propensity, the court may order the dog to be humanely euthanized by a licensed veterinarian or an authorized animal control officer or the court may order the dog be returned to its owner pursuant to all of the following conditions:

- (1) The dog shall be held in impound until the owner complies with all orders of the court, but if the owner fails to comply with all orders of the court within thirty (30) days of the court's order, the dog shall be humanely euthanized.
- (2) The dangerous dog shall be microchipped.
- (3) The owner of the dangerous dog shall provide a copy of the certificate of the current rabies vaccination of the dog.
- (4) The dangerous dog shall be spayed or neutered.
- (5) The owner of the dangerous dog shall be required to pay all expenses involved with the investigation, pickup and impoundment, and any court costs or fees related to the hearing to determine whether the dog is dangerous.
- (6) The owner of the dangerous dog shall be required to pay an annual dangerous dog registration fee of one hundred dollars (\$100) to the City for a dog deemed dangerous by a court or pay a penalty of one hundred dollars (\$100) to the City for non-registration within two (2) weeks.
- (7) Surety Bond.
 - (a) The owner shall be required to obtain a surety bond of at least one hundred thousand dollars (\$100,000) and shall provide proof to the court or animal control office.
 - (b) The surety bond required by subparagraph (7)(a) shall provide coverage for dog bites, injuries or death caused by the dog.
 - (c) The owner shall provide proof of the surety bond each time the annual dangerous dog registration fee is paid.
- (8) The owner of the dangerous dog shall provide proof to the court that he or she has constructed a proper enclosure for a dangerous dog pursuant to section 4-2(y).
- (4) The pleading and practice in all cases to petition the court to declare a dog to be dangerous under this section shall be in accordance with the Alabama Rules of Civil Procedure and rules of the courts governing municipal courts in this state unless otherwise specified by this chapter. Any judicial determination in municipal court that a dog is dangerous may be appealed to the circuit court pursuant to the requirements of the Alabama Rules of Civil Procedure and the order of the circuit court shall be final.
- (5) It shall be presumed that a dog is not a dangerous dog pursuant to this chapter if the dog was on property owned by the owner of the dog when the event subject to a claim under the chapter occurred or if the victim was trespassing on any property when the event subject to a claim under the chapter occurred.

Sec. 4-48 Dangerous Dog Violations

(a) If a dog that has previously been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, the owner of the dog shall be guilty of a Class A misdemeanor.

(b) If a dog that has not been declared by a court to be dangerous, when unjustified, attacks and causes physical injury to a person, and the owner of the dog had prior knowledge of the dangerous propensities of the dog, yet demonstrated a reckless disregard of the propensities under the circumstances, the owner of the dog shall be guilty of a Class B misdemeanor.

(c) In addition to any fines imposed by the court, a person guilty of violating subsection (a) or (b) shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding and veterinary expenses necessitated by impoundment of the dog, medical expenses incurred by a victim from an attack by a dangerous dog, and other expenses required for the destruction of the dog.

(d)

(1) When a dog declared to be dangerous is outside and not contained in the proper enclosure of a dangerous dog pursuant to section 4-2(y) the owner of the dangerous dog shall be present and shall restrain the dangerous dog with a secure collar and leash.

(2) An owner of a dog declared to be dangerous who violates subdivision (1) shall be guilty of a Class C misdemeanor, except that a second or subsequent adjudication or conviction is a Class B misdemeanor.

(g) An owner of a dog that is the subject of a dangerous dog investigation who refuses to surrender the dog to an animal control officer or law enforcement officer, upon the request of the animal control officer or law enforcement officer, shall be guilty of a Class C misdemeanor.

(h) Any person who knowingly makes a false report to an animal control officer that a dog is dangerous is guilty of a Class C misdemeanor.

Sec. 4-49 Off-Lease Dog Parks.

The City may choose to operate and maintain designated areas, or parks, within the city where responsible owners can allow their dogs to exercise and socialize off-leash. All users of City off-leash dog parks must adhere to the rules and regulations posted at the entrance to the dog park area. Violators of posted rules are subject to ejection and forfeiture of off-leash dog park privileges. It shall be assumed that there is an inherent risk in allowing dogs to interact without direct control so that all participants who choose to use off-leash dog parks do so at their own risk of injury to selves and dogs. Persons making use of off-leash dog parks shall be responsible for injuries caused by their dogs to other persons and dogs. Persons responsible for any such injuries or property damage shall hold the City harmless for the same.

Article III. Animals Other than Dogs, Cats and Ferrets, Specifically

Sec. 4-71 Violations of This Article.

Any person violating or aiding or abetting any provision of this article shall be guilty of a misdemeanor and shall be fined or punished in accordance with section 4-189.

Sec. 4-72 Keeping of Hogs.

It shall be unlawful for any person to keep pigs or hogs, including miniature and Vietnamese pot-bellied pigs, in the corporate limits of the City.

Sec. 4-73 Keeping of Chickens.

It shall be unlawful for any person to keep chickens within the City, except as provided in this section. The keeping of chickens is allowed, provided:

- (a) The minimum lot size of the property is 10,000 square feet.
- (b) The principal use of the property is a single-family dwelling.
- (c) The number of chickens does not exceed:
 - (1) Four (4) on lots 10,000 square feet to 19,999 square feet
 - (2) Six (6) on lots 20,000 square feet to 29,999 square feet
 - (3) Ten (10) on lots 30,000 square feet or greater
- (d) The chickens are kept in an enclosure or fenced area, such as a hen house, chicken coop, chicken tractor, etc., at all times.
- (e) The chicken enclosure or fenced area is a minimum of six (6) square feet per chicken.
- (f) The chickens are not kept on any location on the property other than in the backyard (the rear yard of the principal structure).
- (g) The covered enclosure or fenced area is a minimum of ten (10) feet to any property line of an adjacent property and fifty (50) feet from the neighboring dwellings, church, school or place of business.
- (h) The enclosures are kept in a clean, dry, odor-free, neat and sanitary condition at all times.
- (i) The chicken owner takes necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
- (j) The keeping or harboring of male chickens or roosters is prohibited.
- (k) The premises upon which chickens are kept must be the property owner's primary residential dwelling.
- (l) No person who owns, controls, keeps, maintains or harbors chickens shall permit the premises where the chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition, or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. The chicken enclosure or chicken run authorized by this section may be inspected at any reasonable time by the animal control officer.
- (m) The slaughter and breeding of chickens on any premises in the City is prohibited.
- (n) No person shall maintain a chicken enclosure, coop and/or chicken run unless granted a permit by the Director. Prior to the construction of the chicken enclosure, a site plan shall be reviewed and approved by the Director.

Sec. 4-74 Large Animals and Fowl

It shall be unlawful for any person to own, control, keep, maintain or harbor large animals and fowl, except as provided in this section. Large animals, such as mules, cows, sheep, goats, fowl and other such farm animals may only be kept or maintained on lots of three (3) acres or more in the R-1 (Rural) Zoning District. Horses may be maintained only in the R-1 (Rural) District on lots of two (2) acres or more with a limit of one (1) horse per acre. Chickens may be kept or maintained as provided in section 4-73.

Sec. 4-75 Distance of Corrals, Pens or Stables from Dwellings

It shall be unlawful for any owner or person in charge to keep any large animal or fowl in the City in any corral, stable or pen any part of which is within 100 feet of a dwelling of a person other than the owner or person in charge of the animal.

Sec. 4-76 Minimum Size of Corrals

It shall be unlawful for any person to keep any animal in a corral in the City unless such corral has a minimum area of 12,000 square feet per animal and an additional 10,000 square feet for each additional animal kept, to every portion of which each and every animal shall have free and unrestricted access.

Sec. 4-77 Horses Not to Stand in Streets Unless Hitched or Attended

It shall be unlawful for any owner or person in charge to allow a horse to stand in any street within the City unless the owner or person in charge is in attendance or the horse is securely hitched. Any horse not so attended or securely hitched shall be considered to be at-large.

Sec. 4-78 Large Animals Running At Large Prohibited

(a) It shall be unlawful for the owner or person in charge of any large animal to cause, permit or allow such animal to run or to be at-large. The fact that any large animal has been kept on a particular premises, together with its subsequent appearance at-large, shall raise a prima facie presumption that the owner or person in charge of the premises permitted or allowed a violation and the burden of proof shall be upon the owner or person in charge to prove otherwise.

Sec. 4-79 Enclosure of Horses or Cattle—Generally

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any stable, building, structure or shed unless such stable, building, structure or shed is so laid or arranged and constructed as to prevent refuse, foodstuffs and discharges from animals from falling upon, touching or soiling the ground.

(b) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or in or upon any uncovered, enclosed parcel of land, in a commercial or industrial district as established by zoning regulations, unless such corral or parcel of land shall have a minimum area of one thousand (1,000) square feet for one (1) such animal and two hundred (200) square feet for each additional such animal there kept, harbored or confined.

Sec. 4-80 Same—Minimum Space Requirements

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or in or upon any uncovered, enclosed parcel of land, outside a commercial or industrial district as established by zoning regulations, unless such corral or parcel of land shall have a minimum area of two thousand five hundred (2,500) square feet for one (1) such animal, and one thousand (1,000) square feet for each additional animal there kept, harbored or confined, to every portion of which such animal shall have free and unrestricted access.

(b) The material used in the base or floor may include portions of wood when the aggregate of such portions does not exceed three-fourths ($\frac{3}{4}$) of the total area of such base or floor, and when each piece of wood is embedded in cement or other impervious material, separated from each adjacent piece at least one (1) inch by cement or other impervious material, and is continuous with and forms an integral part of such base or floor.

(c) It shall be permissible to cover, not exceeding three-fourths ($\frac{3}{4}$) of the area of a floor or base constructed as hereinabove specified, with hardwood, provided each piece

of such hardwood is separated from each adjacent piece at least one (1) inch and is readily removable.

Sec. 4-81 Collection and Disposal of Manure and Other Materials.

All accumulations of manure and material soiled by excreta in and about every stable, building, structure, shed, corral or pen where any animal of the equine or bovine type is kept, harbored or confined, shall be collected at least once each day and immediately deposited in substantial flyproof containers. All such collections shall be kept stored in substantial flyproof containers for a continuous period of two (2) weeks from the date of collection. Sawdust, shavings, straw and other material used as animal bedding and unsoiled by excreta shall be collected at least once a week and deposited and stored as provided in this section. In lieu of storage, as herein provided, manure and other materials, when collected in accordance with the provisions hereof, being free of live fly larvae, may be disposed of, within twenty-four (24) hours from time of collection, by burial at least six (6) inches underground or by spreading the same thinly upon the surface of the ground at some place distant from any place where animals are kept, harbored or confined, so that such collections shall be and remain fully exposed to sunshine.

Sec. 4-82 Cleaning Floors, Structures Where Certain Animals Are Kept

The base or floor of every stable, building, structure or shed in which any animal of the equine, bovine or rabbit species or type is kept, harbored or confined, together with all appliances used in connection therewith, shall be cleaned at least once each day by the removal of manure and other material soiled by manure and by washing.

Sec. 4-83 Keeping of Horses or Cattle Near Certain Buildings.

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or other uncovered enclosure in the city or its police jurisdiction, any part of which is within one hundred (100) feet of a dwelling, school, church, hospital, public building, public park, public playground or public thoroughfare.

(b) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any stable, building structure or shed in the city, any part of which is within fifty (50) feet of a dwelling, school, church, hospital, public building, public park, public playground or public thoroughfare.

Sec. 4-84 Keeping of Fowl

It shall be unlawful to keep, harbor or confine any ducks, geese, chickens, guineas, peacocks or other fowl in any stable, building, structure, corral, pen or enclosure in the City, any part of which is within fifty (50) feet of a dwelling, church, hospital, school, public building, public park or public thoroughfare.

Sec. 4-85 Impounding of Large Animals Upon Premises of Other Than Owner.

Any large animal which is found at large upon the premises of another person other than the owner or keeper thereof shall be impounded by the animal control officer or other authorized agent of the city. Any large animal which is found at large upon any street, alley, thoroughfare, sidewalk, park, school or other public place of the city shall also be subject to impoundment by the animal control officer or other authorized agent of the city as provided in this chapter.

Sec. 4-86 Bird Sanctuary

(a) The entire area embraced within the corporate limits is hereby designated as a bird sanctuary.

(b) Except as provided in section 14-495, it shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or

wild fowl nests without the advance written consent and approval of the Environmental Services Department. Such consent and approval shall be given if such activity will not endanger persons or property, and if such birds are congregating in such numbers as to endanger the public health and safety.

(c) No provision of this section shall be construed to prohibit or abrogate the right of the City to protect the health, safety or welfare of the citizens of the community.

Article IV Rabies Control

Sec. 4-101 Rabies Vaccination

(a) Vaccine Required.

- (1) A person commits an offense if a person keeps, harbors, or has custody of a dog, cat or ferret over three months of age that has not been immunized against rabies as required by Ala. Code §3-7A-2.
- (2) The same animal shall be re-vaccinated at intervals specified in the vaccine's license.

(b) Every veterinarian whose office or place of business is located within the City shall keep detailed records of animal rabies vaccinations and shall provide rabies vaccination information to rabies officer and animal control officer upon request.

Sec. 4-102 Domestic Animals that Reasonably Expose Humans to Rabies

(a) When a domestic dog or cat bites or otherwise creates a condition that could reasonably expose or transmit rabies to any human being, the animal shall be immediately quarantined as provided in Ala. Code §3-7A-9 for a minimum period of ten (10) days from the date that the bite or exposure occurred, or longer as the rabies officer or animal control officer may deem necessary. (A home quarantine may be granted by the rabies officer, if certain criteria are met as defined by the Alabama Code.)

(b) The owner shall submit the subject animal within 24 hours of notification by the rabies officer or animal control officer for quarantine in a facility approved by the rabies officer or animal control officer or a licensed veterinarian's clinic in the City which has the facilities for isolation cages.

(c) Any animal required to be quarantined under this section which in the determination of the rabies officer or animal control officer cannot be or is not being maintained in a secure quarantine may be humanely euthanized and a suitable sample submitted to the Alabama Department of Health for rabies diagnosis.

(d) The owner of any animal that is reported to have rabies or symptoms thereof, or to have been exposed to rabies, or to have bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, or that the owner knows or suspects to be rabid, or to have bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, shall submit such animal for quarantine to the rabies officer or animal control officer or to any police officer.

(e) It shall be unlawful for the owner of an animal that has rabies or symptoms which could reasonably indicate rabies or that bites, scratches or otherwise creates a condition that may expose or transmit the rabies virus to any human being or other animal, to fail or refuse to comply with the provisions of this article.

(f) It shall be a violation of this article for the owner of such animal to refuse to comply with the lawful order of the rabies officer or animal control officer in any particular case.

(g) It shall be unlawful for the owner to sell, giveaway, transfer to another location or otherwise dispose of any animal known to have bitten or exposed a human being to the rabies virus until it is released from quarantine by the rabies office, duly licensed veterinarian or appropriate health officer.

Article V Impoundment and Destruction

Sec. 4-141 Impoundment.

(a) Animals of the following classes may be captured and impounded in an animal shelter or other suitable place for the care of the animal:

- (1) Dangerous animals, subject to the procedures set forth in section 4-47.
- (2) Animals that are causing nuisances in violation of section 4-3.
- (3) Animals that have been bitten by an animal suspected of having rabies.
- (4) Any dog not wearing a current rabies vaccination tag.
- (5) Any cat whose owner cannot produce evidence of the rabies vaccination tag upon request of the ACO.
- (6) Abandoned animals and animals whose ownership is unknown.
- (7) Any animal running at large in violation of sections 4-43 and 4-85.
- (8) Female dogs and cats in breeding season not confined to the premises of the owners in such manner as to avoid nuisances and prevent access to other animals.

(b) Animal Control Officers, law enforcement officers and officers of state-chartered nonprofit humane organizations shall have authority to pick up, catch, or procure and impound any animal in violation of this chapter or any animal infected or believed to be infected with rabies or other contagious or infectious disease to humans or animals in such a manner as is reasonably necessary to effectuate its capture. Impounded animals shall be confined in a humane manner at an animal shelter.

(c) An impounded animal shall be held for at least seven (7) days including the day of impoundment, except a sick or injured animal which poses a threat to the safety of the personnel responsible for the care of such animal may be euthanized at the discretion of the impounding agency. The depositing of a letter of notification by first class U.S. mail shall constitute adequate notification of impoundment. The owner shall also be notified by phone, if possible. This section shall not apply to animals surrendered by the owner or an agent of the owner, in which case disposition may be made as provided in this chapter without notification or a holding period. At the expiration of the holding period, during which time a diligent attempt has been made to locate and contact the owner, the animal may be disposed of in a manner provided in this chapter.

(d) A registry shall be maintained by the impounding agency. The registry shall contain identifying characteristics of each animal impounded along with the location, date and reason of each pickup.

(e) For violations of this chapter, an owner may be subject to a written warning or such penalties as prescribed in this chapter, in addition to or in lieu of impoundment.

Sec. 4-142 Redemption and Disposition.

All animals which have been impounded in accordance with the provisions of this chapter may be disposed of as provided below:

- (1) Within the holding period, animals, except dangerous dogs, may be redeemed by the owner or his agent upon the payment of those fees or costs associated with the impoundment, as established by the city council. The owner entitled to possession of an impounded dog or cat which does not have the required rabies inoculation certificate and tag shall have such animal inoculated and shall present proof of the issuance of such certificate and tag to the ACO within ninety-six (96) hours of the release from impoundment.
- (2) If not redeemed within the holding period, animals may be disposed of by humane euthanasia.
- (3) Those animals which would otherwise be disposed of by euthanasia may be offered to state-chartered nonprofit humane organizations, rescue groups approved by the Director or veterinarians for the purpose of providing adoption of such animals. Fees and costs may be waived for the disposition of animals in this manner. All dogs and cats placed with this organization shall be vaccinated and sterilized before said organization offers each animal for adoption. The adopter may enter into a written agreement that sterilization will be performed within thirty (30) days or prior to the age of six (6) months. Written document must be returned to the organization by the adopter of said sterilization. Failure to comply with the requirements of this subsection within the specified time shall constitute a violation of this section, and the ACO shall have the right to impound the animal.
- (4) Dangerous dogs will be disposed of in accordance with the provisions of section 4-47 of this chapter.

Sec. 4-143 Fees and Charges; Administration

(a) Any cat or dog, except a dangerous dog, impounded hereunder may be reclaimed as herein provided upon payment by the owner of the following:

- (1) Boarding fee charged by the City or any other state-chartered nonprofit organization or veterinarian or shelter designated by the city council.
- (2) The amount of vaccination fee, if necessary.

(b) Any large animal impounded hereunder may be reclaimed as herein provided upon payment by the owner to the ACO or his assistants the following:

- (1) The actual costs incurred by the city in seizing, confining and transporting such animal.
- (2) Actual costs incurred by the city for boarding such animal.
- (3) The actual costs incurred by the city for veterinary care, if necessary.

Sec. 4-144 Destruction of Certain Animals

(a) Animal control officers and city police officers are authorized to destroy any animal at large breaching any provisions of this chapter, provided:

- (1) Such officer has made reasonable efforts to capture such animal or to locate the owner of the animal; and,
- (2) Such officer has been unable to capture the animal or is unable to locate the owner of the animal; and,
- (3) In that officer's opinion, the animal constitutes a direct and immediate threat to public health, safety, or welfare.

(b) Animal control officers, city police officers, and agents of the animal shelter are authorized to destroy any animal found within the city limits when:

- (1) Such animal is injured or diseased past recovery; or
- (2) Presents a direct and immediate threat to the public or any person individually.

(c) The animal control officer and law enforcement officers are authorized to destroy any animal which has bitten or fiercely attacked any person causing severe injury, the loss of bodily function or death, when the animal control officer or law enforcement officer believes such animal constitutes a direct and immediate threat to the public health, safety, or welfare.

(d) Taking into account all the relevant circumstances, animal control officers, city police officers and agents of an animal shelter are to employ the most humane means possible when exercising the authority granted under this section.

Article VI Dead Animals.

Sec. 4-181 Penalties.

If any person that violates or refuses to comply with this article shall, upon conviction, be punished, in addition to such punishment, including a term of community service, as may be provided by the court, by minimum fines and penalties, for first conviction \$100.00 or by imprisonment of not more than ten (10) days, for conviction of a second offense committed within one (1) year of the date of the first offense, such person shall be punished by a fine of \$200.00 or by imprisonment of not more than thirty (30) days or by both such fine and imprisonment; for conviction of a third or subsequent offense committed within one (1) year of the date of the first offense, such person shall be punished by a fine of \$500.00 or by imprisonment of not more than three (3) months or by both such fine and imprisonment.

Sec. 4-182 Disposal Limited

It shall be unlawful for any person to dispose of any dead animal except as provided in this article.

Sec. 4-183 Disposal Generally

The owner or person in charge of animals that die or are killed in his possession or custody, other than such as are slaughtered for food, within 24 hours, shall notify the appropriate City official as set forth in Section 4-184 of such dead animal and request its removal as provided in Sections 4-184 and 4-185 or shall cause the remains of such animal to be cremated or buried at least two (2) feet below the surface of the ground in accordance with this article. Animals dying from any communicable disease whatsoever shall be reported to the City in accordance with Section 4-184. No such animal shall be buried near a residence or in such manner as to create a nuisance. In no case shall a dead horse, bull, mule, cow or other large animal be buried within 300 feet of a residence.

Sec. 4-184 Appropriate City Official Notification

- (a) A large animal such as a horse, mule, cow or hog shall be reported to the Director.
- (b) Animals dying from any communicable disease shall be reported to the health department in addition to being reported to the appropriate City official for removal.

Sec. 4-185 Removal By the City

When a request is made to the Director or an animal control officer for a removal of a small dead animal or when request is made to the Director for the removal of a large dead

animal, it shall thereupon be the duty of the official receiving the request to demand of such person his name and address, including street address and house number, and a description of the dead animal. Immediately upon receipt of the information demanded, the official receiving the request shall cause the remains of such dead animal to be removed and buried at least two (2) feet below the surface of the ground or to be burned. If death is due to a communicable disease, the remains shall be burned. However, the Director or an animal control officer may require that the requesting party place the dead animal in a securely fastened plastic bag or similar container and make the container accessible at the curb or at such other place upon the property as he may direct.

Sec. 4-186 Fees For Removal By City

For removal of any dead large animal such as a horse, mule, cow, sheep, goat or hog, the owner or person in charge of such animal or the person on whose property the dead animal is situated, requesting its removal by the City shall be charged the fee as established by the Environmental Services Department, and such fee shall bear a direct relationship to the cost of disposal. It shall be unlawful for any person liable for the expenses of such removal to fail to pay such fees.

Article VI. Enforcement, Fines and Penalties

Sec. 4-187 Enforcement

(a) The animal control officers shall be under the general supervision of the Director of Environmental Services. The ACO shall, along with his assistants, enforce the provisions of this chapter. Any provisions of this chapter referring to the Director shall also mean and include any authorized employee acting in his stead and under his supervision.

(b) The ACO, his assistants and members of the City police department shall have the right, for the protection of the public health, welfare and safety, to enter upon any property within the City for the purpose of capturing or impounding any animal which is in violation of this chapter.

(c) Any expense incurred in the handling of any animal under the provision of this chapter shall be borne by the owner or custodian of such animal.

(d) It shall be a violation of this chapter to interfere with any animal control officer while in the lawful performance of his duties or anyone who may be assisting in the performance of such duties.

(e) Any person who lawfully refuses to sign and accept a citation issued by a law enforcement officer or the ACO shall be in violation of this chapter.

(f) The City Council may subcontract with any state-chartered, non-profit humane organization or veterinarian to carry out part or all of the duties of this chapter. Said organization shall carry out the duties pursuant to the provisions prescribed by this chapter

Sec. 4-188 Citations and Warrants

When any animal is found by the Director or by an animal control officer to be in violation of any provision of this chapter, except those listed in section 4-189(b) or as otherwise provided in this chapter and the person responsible becomes known to the Director or to the Animal Control Officer, he may issue a citation to the owner or person in charge for such violation directing him or her to appear in municipal court at a time and a date stated in the citation to answer to charges of violations of this chapter, and such charges shall be stated in the citation. For offenses listed in section 4-189(b), no prosecution shall be commenced and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a judge or magistrate of the municipal court.

Sec. 4-189 Penalties for Violation

(a) Except for the offenses listed in subsection 4-189(b), any person convicted of violating any provision of this chapter within a twelve-month period shall be guilty of a violation and shall be punished as follows:

- (1) *First violation:* A fine of fifty dollars (\$50.00);
- (2) *Second violation:* A fine of one hundred dollars (\$100.00);
- (3) *Third violation:* A fine of two hundred dollars (\$200.00);
- (4) *Fourth or any subsequent violation:* A fine in an amount not exceeding five hundred dollars, (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the municipal judge trying the case.

Any person who has been charged with the violation of any provision of this chapter, except those offenses identified in section 4-189(b), and who desires to waive trial of the question of his guilt or innocence of such alleged offense, may pay the fine prescribed above to the municipal court of the city, and the municipal court magistrate is hereby authorized and instructed to receive such amount. Voluntary settlement shall not be permitted to any person who has been thrice convicted of the same offense prior to the date of the instant alleged offense, and such person shall be required to stand trial in municipal court. Offenses not settled as provided in this subsection prior to the court appearance date shown on the notice of violation will be disposed of in the same manner as is any case appearing on the regular municipal court docket.

(b) Any person who is alleged to have committed any of the following offenses listed in this chapter shall be required to stand trial in municipal court:

- (1) *Section 4-5:* Abandonment of animals.
- (2) *Section 4-8:* Cruelty to animals.
- (3) *Section 4-10:* Animals in vehicles.
- (4) *Section 4-42:* Failing to register and maintain guard dogs.
- (5) *Section 4-46:* Keeping of dangerous dogs.
- (6) *Section 4-78:* Large animals running at large.
- (7) *Section 4-102(f):* Refusal to obey order of rabies officer or ACO.
- (8) *Sections 4-183, 4-184, 4-185 and 4-186:* Disposal of dead animals.

Any person convicted of any act listed in this subsection (b) shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the municipal judge trying the case.

(c) Each day's violation of any provision of this chapter shall constitute a separate offense.

(d) In addition to the penalties provided in this section, the city council is hereby authorized to institute any appropriate action or proceeding including suit for injunctive relief in order to abate violations of this chapter.

Section 2. Repealer Clause. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are repealed.

Section 3. **Severability.** If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of any competent jurisdiction, said holding shall not affect any other section, clause, provision or portion of this Ordinance which is not in or of itself invalid or unconstitutional.

Section 4. **Effective Date.** This Ordinance and the subsection hereby adopted shall take effect and be enforced on April 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, 2-28-19 (5th draft) (3264 : Ordinance to Amend Chapter 4 Animal Control - Tabled)