



OPELIKA CITY COUNCIL
“ REGULAR MEETING MINUTES “
204 South 7th Street
March 19, 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 were present.

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

3. Invocation

Dr. Rod Herring provided the invocation.

1. Dr. Rod Herring will provide the invocation.

4. Pledge of Allegiance

Dr. Rod Herring lead the Pledge of Allegiance.

1. Dr, Rod Herring lead the Pledge of Allegiance

5. Reading of Minutes

1. Minutes from the 3-05-19 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

6. Unfinished Business

7. Remarks By the Mayor

Mayor Fuller advised everyone present that Pharmavite was investing an additonal \$8.9 million and Mando was investing an additonal \$9.6 million to expand their operations in Opelika and add many new high paying jobs.

1. February Monthly Building Report

Mayor Fuller called on Joey Motley, City Administrator, to provide a summary of the February building permit report.

8. Citizen Communications

(Limit comments to five minutes or less)

Julie Garrett with the US Small Business Association explained the assistance that is available to the local residents effected by the Tornado on March 3, 2019.

Lacarris Jackson, 2011 Cobblestone Drive, asked for help with his Home Owners Association (HOA) in his subdivision. He said the town-home owners are being charged more than the regular home owners and the HOA is not providing all the services they are supposed too. Guy Gunter, City Attorney, explained the City has no jurisdiction and legal authority over the HOA

and their private contracts. Mr. Jackson thanked the Mayor and Council for their time and looking into this matter.

9. Report of Disbursements

10. Committee Reports

11. General Business

1. Request for annual Going Blue for Autism on 4-02-19.

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: Dozier Smith T, Council Member

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

2. Request for the Pride on the Plains parade on 5-31-19.

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: Dozier Smith T, Council Member

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

3. Request ACS Relay for Life on 4-26-19.

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: David Canon, Council Member

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

4. Request for the Rehab Works Walk-Run on 5-18-19 / Tabled.

RESULT: TABLED [UNANIMOUS]

MOVER: David Canon, Council Member

SECONDER: Patricia Jones, President Pro-Tem

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

5. Public Hearing for Demolition - 808 Donald Avenue

President Smith open the public hearing for said demolition and asked if there was anyone present that would like to speak for or against said public hearing. Do one came forward to speak. President Smith closed the public hearing.

6. Public Hearing, Vacate Right-Of-Way - Portion of West Point Pkwy & Anderson Rd

President Smith open the public hearing for said vacating of property and asked if there was anyone present that would like to speak for or against said public hearing. Do one came forward to speak. President Smith closed the public hearing.

7. Public Hearing, Vacate Right-Of-Way - Portion of Sportsplex Pkwy & West Point Pkwy - Awesome LLC

President Smith open the public hearing for said vacating of property and asked if there was anyone present that would like to speak for or against said public hearing. Do one came forward to speak. President Smith closed the public hearing.

8. Public Hearing, Vacate Right-Of-Way - Portion of Sportsplex Parkway & Anderson Rd, Inwoo Paek

President Smith open the public hearing for said vacating of property and asked if there was anyone present that would like to speak for or against said public hearing. Do one came forward to speak. President Smith closed the public hearing.

9. Public Hearing, Vacate ROW- Portion of Sportsplex Pkwy & West Point Pkwy, Morgan & Boothe

President Smith open the public hearing for said vacating of property and asked if there was anyone present that would like to speak for or against said public hearing. Do one came forward to speak. President Smith closed the public hearing.

12. Awarding of Bids

13. Resolutions

1. Resolution 044-19 Expense reports from various departments.

RESULT: APPROVED [4 TO 0]

MOVER: David Canon, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

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

ABSTAIN: Patricia Jones

2. Resolution 045-19 Purchase - Ford F450 - HGAC Contract - FD

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Patricia Jones, President Pro-Tem

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

3. Resolution 046-19 Purchase-VMware Licensing and Maintenance-New PD-IT

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: David Canon, Council Member

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

4. Resolution 047-19 Purchase-Backup Solution-New PD-IT

RESULT: APPROVED [UNANIMOUS]

MOVER: David Canon, Council Member

SECONDER: Patricia Jones, President Pro-Tem

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

5. Resolution 048-19 Purchase-Server Hardware with Backup Support-New PD-IT

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

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

6. Resolution 049-19 Refund Request-Christina Cox, Occupational License Fees.

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: Patricia Jones, President Pro-Tem

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

7. Resolution 050-19 Resolution for Demolition - 808 Donald Avenue

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: David Canon, Council Member

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

8. Resolution 051-19 Vacate Right-Of-Way - Portion of West Point Pkwy & Anderson Rd

- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
9. Resolution Vacate ROW, Portion of Sportsplex Parkway & West Point Pkwy, Awesome LLC - Tabled.
- RESULT:** **TABLED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
10. Resolution Vacate ROW, Portion of Sportsplex Parkway & Anderson Rd, Inwoo Paek - Tabled.
- RESULT:** **TABLED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
11. Resolution Vacate ROW, Portion of Sportsplex Parkway & West Point Pkwy, Morgan & Boothe - Tabled.
- RESULT:** **TABLED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
12. Resolution 052-19 Tax abatement, Pharmavite LLC.
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
13. Resolution 053-19 Tax abatement, Mando America Corp.
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
14. Resolution 054-19 Tax abatement extension, Golden State Foods & Wells Fargo EF.
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
15. Resolution 055-19 Appropriation contract with the Lee Co. Water Festival.
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
16. Resolution 056-19 Special appropriation to the Arts Assoc. of East Alabama.

- | | |
|--|---|
| | RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith |
|--|---|
17. Resolution 057-19 Special appropriation to the American Cancer Society - Relay for Life.
- | | |
|--|--|
| | RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith |
|--|--|
18. Resolution 058-19 Roundabout Project Agreement with Lee Co
- | | |
|--|--|
| | RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith |
|--|--|
19. Resolution 059-19 Design Services Agreement for Society Hill Roundabout
- | | |
|--|---|
| | RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith |
|--|---|
20. Resolution 060-19 Design Services Agreement for 1St Ave Streetscape
- | | |
|--|---|
| | RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith |
|--|---|
21. Resolution 061-19 Accepting Pinehurst Drive as a Public Street.
- | | |
|--|--|
| | RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith |
|--|--|
22. Resolution 062-19 Agreement, pump station replacement with Delta Development Group, LLC.
- | | |
|--|--|
| | RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith |
|--|--|
23. Resolution 063-19 Inducement agreement, water supply and sewer services, with Opelika Utilities Board, City of Auburn & Auburn Waterworks Board.
- | | |
|--|--|
| | RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith |
|--|--|
24. Resolution 064-19 Agreement, settlement with Emanuel’s Trailer Park, Vincent Lamar Kindred.

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

14. Ordinances

1. Ordinance 003-19-ORD Amend City Code, Chapter 4 Animal Control - OES - Tabled
Guy Gunter, City Attorney, prepared a step by step protocol for the city council to adopt this ordinance. Said protocol detailed all the amendments made to the initial draft. Said protocol is hereby made a part of and will be attached to the minutes of this council meeting.

Mr. Smith T made the motion to remove this ordinance from the Table and was seconded by Mr. Canon. The following vote was recorded:

Aye Jones, Pitts, Smith T, Canon, Smith.

Nay None.

Then Mr. Smith T moved to adopt this ordinance on second reading. Mr. Canon seconded said motion.

Then Mr. Canon moved to amend this ordinance and read in detail, all the amendments included in the protocol, that were made since the initial draft of this ordinance. Then Mr. Smith T seconded said motion to amend. The following vote was recorded:

Aye Jones, Pitts, Smith T, Canon, Smith.

Nay None.

Then Ms. Jones made the motion to adopt said ordinance as amended and Ms. Pitts seconded said motion. The following vote as recorded:

Aye Jones, Pitts, Smith T, Canon, Smith

Nay None.

President Smith declared this ordinance was adopted as amended.

RESULT: **SECOND READING AND APPROVED [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 Chuck Beams to the Opelika School Board. New term ends 4-01-24.

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 Farrell Seymore to the Mental Health Center Board. New term ends 4-01-25.

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 March 19, 2019 are hereby adopted and approved this the 3rd day of April, 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 8:01pm.

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Tiffany Gibson-Pitts, Council Member

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



City Council
204 South 7Th Street
Opelika, AL

ADOPTED

CM MINUTES (ID # 3311)

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

DOC ID: 3311

Minutes from the 3-05-19 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



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 prayers 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.

Attachment: CM 3-19-19, minutes from 3-05-19 CM (3311 : Minutes from the 3-05-19 city council meeting.)

- 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.

Attachment: CM 3-19-19, minutes from 3-05-19 CM (3311 : Minutes from the 3-05-19 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

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 _____ 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 7:29 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

SCHEDULED**MAYOR'S REMARKS (ID # 3329)**

Meeting: 03/19/19 07:00 PM
Department: Building Inspection
Category: Building Permit Report.
Prepared By: BJ Lowery
Initiator: Jeff Kappelman
Sponsors:

DOC ID: 3329

February Monthly Building Report

COMMENTS - Current Meeting:

Mayor Fuller called on Joey Motley, City Administrator, to provide a summary of the February building permit report.

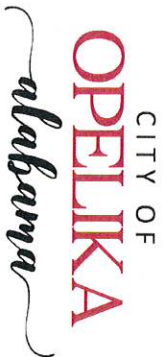
City of Opelika Building Inspections Department

February 2019 Monthly Building Permit Detail Report

Issue Date	Main Address	Company	Work Class	Valuation
2/1/2019	2740 ENTERPRISE DR	STEWART/PERRY CO INC, THE	New	\$ 270,033.20
2/5/2019	2805 SUTTON WAY	Greg Mann	Accessory Buildings	\$ 3,500.00
2/5/2019	3303 EDDINGTON CT	GRAYHAWK HOMES INC	New Single Family Detached	\$ 286,733.00
2/6/2019	2702 COLUMBUS PKWY	A&E HOLDINGS LLC	Alteration	\$ 5,522.00
2/6/2019	3182 EAGLE TRL	CONNER BROTHERS CONSTRUCTION	New Single Family Detached	\$ 190,847.00
2/8/2019	811 N 8TH ST	GOLD HILL CONSTRUCTION	Alteration	\$ 9,885.00
2/8/2019	3782 PEPPERELL PKWY	Lowery Claim Services, Inc. dba Sign & L	Signs	\$ 3,200.00
2/8/2019	2352 PEPPERELL PKWY	Lowery Claim Services, Inc. dba Sign & L	Signs	\$ 3,200.00
2/12/2019	1953 CALCUTTA DR	MOORES CONSTRUCTION	New Single Family Detached	\$ 264,396.00
2/12/2019	1945 CALCUTTA DR	MOORES CONSTRUCTION	New Single Family Detached	\$ 268,124.00
2/14/2019	1404 BLACKHAWK DR	COLVIN EVANS CONSTRUCTION	New Single Family Detached	\$ 292,900.00
2/15/2019	545 NORTHBROOK DR	EDGAR HUGHSTON BUILDER INC	New Single Family Detached	\$ 264,269.00
2/18/2019	4304 PEBBLE SHORE DR	EILAND POOLS	Swimming Pool	\$ 35,000.00
2/18/2019	1905 HIGHPOINT DR	HOME RENOVATION & REPAIR	Alteration	\$ 12,000.00
2/19/2019	1100 JETER AVE	PATTILLO CONSTRUCTION CORP	Alteration	\$ 337,700.00
2/20/2019	3362 EAGLE TRL	CONNER BROTHERS CONSTRUCTION	New Single Family Detached	\$ 176,999.00
2/20/2019	1405 COLUMBUS PKWY	PRESCO PETROLEUM INC	Service Stations & Repair Garage	\$ 950,000.00
2/21/2019	3855 ACADEMY DR 104	HOLLAND COMMERCIAL	New Single Family Attached	\$ 106,279.00
2/21/2019	3855 ACADEMY DR 205	HOLLAND COMMERCIAL	New Single Family Attached	\$ 106,279.00
2/21/2019	3855 ACADEMY DR 107	HOLLAND COMMERCIAL	New Single Family Attached	\$ 91,556.00
2/21/2019	3855 ACADEMY DR 201	HOLLAND COMMERCIAL	New Single Family Attached	\$ 91,556.00
2/21/2019	3855 ACADEMY DR 203	HOLLAND COMMERCIAL	New Single Family Attached	\$ 106,279.00
2/21/2019	3855 ACADEMY DR 101	HOLLAND COMMERCIAL	New Single Family Attached	\$ 91,556.00
2/21/2019	3855 ACADEMY DR 105	HOLLAND COMMERCIAL	New Single Family Attached	\$ 106,279.00
2/21/2019	3855 ACADEMY DR 106	HOLLAND COMMERCIAL	New Single Family Attached	\$ 130,560.00
2/21/2019	3855 ACADEMY DR 204	HOLLAND COMMERCIAL	New Single Family Attached	\$ 106,279.00

2/21/2019	3855 ACADEMY DR 103	HOLLAND COMMERCIAL	New Single Family Attached	\$ 106,279.00
2/21/2019	3855 ACADEMY DR 102	HOLLAND COMMERCIAL	New Single Family Attached	\$ 130,560.00
2/21/2019	3855 ACADEMY DR 207	HOLLAND COMMERCIAL	New Single Family Attached	\$ 91,556.00
2/21/2019	3855 ACADEMY DR 206	HOLLAND COMMERCIAL	New Single Family Attached	\$ 130,560.00
2/22/2019	737 OWENS WAY	STONE MARTIN BUILDERS	New Single Family Detached	\$ 257,253.00
2/22/2019	723 OWENS WAY	STONE MARTIN BUILDERS	New Single Family Detached	\$ 251,814.10
2/25/2019	311 N 24TH ST	Keisha Echols	Alteration	\$ 25,000.00
2/25/2019	300 N 2ND ST	SUPERIOR ROOFING CO	Roofs	\$ 14,850.00
2/26/2019	585 NORTHBROOK DR	EDGAR HUGHSTON BUILDER INC	New Single Family Detached	\$ 247,785.00
2/26/2019	565 NORTHBROOK DR	EDGAR HUGHSTON BUILDER INC	New Single Family Detached	\$ 223,754.00
2/26/2019	555 NORTHBROOK DR	EDGAR HUGHSTON BUILDER INC	New Single Family Detached	\$ 246,300.00
2/26/2019	575 NORTHBROOK DR	EDGAR HUGHSTON BUILDER INC	New Single Family Detached	\$ 237,162.00
2/26/2019	595 NORTHBROOK DR	EDGAR HUGHSTON BUILDER INC	New Single Family Detached	\$ 253,128.00
2/26/2019	415 N 5TH ST	BEN HILL BUILDERS INC	Addition	\$ 400,000.00
2/27/2019	700 TOWNE LAKE PKWY	STONE MARTIN BUILDERS	New Single Family Detached	\$ 265,569.00
2/27/2019	2607 OLD COLUMBUS RD	RLP HOMES	New Single Family Detached	\$ 76,000.00
2/27/2019	753 TOWNE LAKE PKWY	STONE MARTIN BUILDERS	New Single Family Detached	\$ 293,569.00
2/27/2019	3051 FREDERICK RD 5	LEWIS A CHERRY GENERAL CONTRAC	Alteration	\$ 20,000.00
2/27/2019	667 OWENS WAY	STONE MARTIN BUILDERS	New Single Family Detached	\$ 249,629.00
2/27/2019	739 TOWNE LAKE PKWY	STONE MARTIN BUILDERS	New Single Family Detached	\$ 244,036.00
2/28/2019	4701 NORTHPARK DR	WHATLEY CONSTRUCTION LLC	Alteration	\$ 457,653.00
2/28/2019	2776 ENTERPRISE DR	STEWART/PERRY CO INC, THE	New	\$ 270,033.20
				\$ 8,803,421.50


 Chief Building Official, Jeff Kappelman



BUILDING INSPECTIONS

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

Monthly Permits For February, 2019

Work & Repair On Buildings:

Building Repairs	Commercial	Residential
Buildings Condemned	0	0
Buildings Demolished	0	0
Building Repairs	4	9
Plumbing Upgrades	3	6
Electrical Upgrades	1	8
Mechanical Upgrades	3	2
Reroofs And Roof Repairs	1	0
Mobile Home Services	0	3
Building Additions/Accessory Structures	0	1

Monthly Totals For February 2010-2019

2010	\$2,499,524.00
2011	\$2,609,912.00
2012	\$6,527,779.00
2013	\$4,398,357.00
2014	\$4,076,908.00
2015	\$82,365,514.00
2016	\$11,684,949.00
2017	\$7,091,724.00
2018	\$7,467,928.63
2019	\$ 8,803,421.50

Total Permits Issued:

3	New Buildings: Commercial	\$1,490,066.40
5	Commercial Renovations And Repairs	\$855,203.00
2	Signs	\$6,400.00
19	New Single Family Homes	\$4,590,267.10
6	Residential Repairs And Renovations	\$465,907.00
	New Apartment Units	
13	New Townhome Residences	\$1,395,578.00
	Total Building Permits Issued	

48

Total Permits Issued For February, 2019

\$8,803,421.50

TAKEN FROM THE RECORDS OF THE
BUILDING INSPECTOR

Jeff Kappelman
Jeff Kappelman
Chief Building Inspector





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

Fiscal Year To Date Report - 2019

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

11	New Buildings: Commercial	\$4,171,568.40
24	Commercial Renovations And Repairs	\$2,645,431.33
20	Signs	\$614,514.25
88	New Single Family Homes	\$21,489,877.40
62	Residential Repairs And Renovations	\$1,523,752.30
0	New Apartment Units	\$0.00
13	New Duplex Residences	\$1,395,578.00
0	Total Building Permits Issued	\$0.00

\$31,431,711.68


JEFF KAPPELMAN
Chief Building Inspector



**City Council**

204 South 7Th Street
Opelika, AL

ADOPTED**GENERAL BUSINESS (ID # 3306)**

Meeting: 03/19/19 07:00 PM

Department: City Clerk

Category: Request / Temp Street Closure

Prepared By: Robert Shuman

Initiator: Robert Shuman

Sponsors:

DOC ID: 3306

Request for annual Going Blue for Autism on 4-02-19.

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

Shuman, Robert

From: luanne helms <helmslu@gmail.com>
Sent: Friday, March 1, 2019 2:14 PM
To: Shuman, Robert
Subject: 8th Annual going blue for Autism and safety event

Hi there Mr. Shuman,

My name is Luanne Helms and I am the area coordinator for the Autism society of Alabama. We host a yearly event at the Lee County Courthouse Fountain on April 2 5:15-7:15. I've spoken with Matthew Battles and he gave me your email to get in touch about needing the parking lot on the back side of the fountain closed for the event. We are having a safety event with meet and greet and touch a truck with OPD, OFD and LCSO, and we really need that space closed off for space and safety purposes! Is this doable for us??

Thank you in advance!

Thanks so much!
Luanne

Attachment: CM 3-19-19, Request for Autism safety event on 4-02-19 (3306 : Request for annual Going Blue for Autism on 4-02-19.)



City Council
204 South 7Th Street
Opelika, AL

ADOPTED

GENERAL BUSINESS (ID # 3307)

Meeting: 03/19/19 07:00 PM
Department: City Clerk
Category: Request / Temp Street Closure
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:
DOC ID: 3307

Request for the Pride on the Plains parade on 5-31-19.

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

Shuman, Robert

From: Chad Peacock <president.potp@gmail.com>
Sent: Tuesday, March 5, 2019 8:53 AM
To: Shuman, Robert
Subject: Fwd: Pride On The Plains parade request / Friday 5-31-19
Attachments: 20190305084035187.pdf

Mr. Shuman,

Attached is three different potential parade routes, one of which is the route from last year's parade. The parade would be held Friday, May 31st, 2019. Like last year it would be from 6:00pm-8:00pm, giving participants time for lineup and disbursement. We don't expect it to be much larger from last year so 25-30 participants. It will consist of floats, and walking groups. Please let me know if you need any further information.

Chad Peacock
334-329-4824

Sent from my iPhone

Attachment: CM 3-19-19, Request for Pride on the Plains parade on 5-31-19 (3307 : Request for the Pride on the Plains parade on 5-31-19.)



**City Council**

204 South 7Th Street
Opelika, AL

ADOPTED**GENERAL BUSINESS (ID # 3308)**

Meeting: 03/19/19 07:00 PM

Department: City Clerk

Category: Request / Temp Street Closure

Prepared By: Robert Shuman

Initiator: Robert Shuman

Sponsors:

DOC ID: 3308

Request ACS Relay for Life on 4-26-19.

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

Shuman, Robert

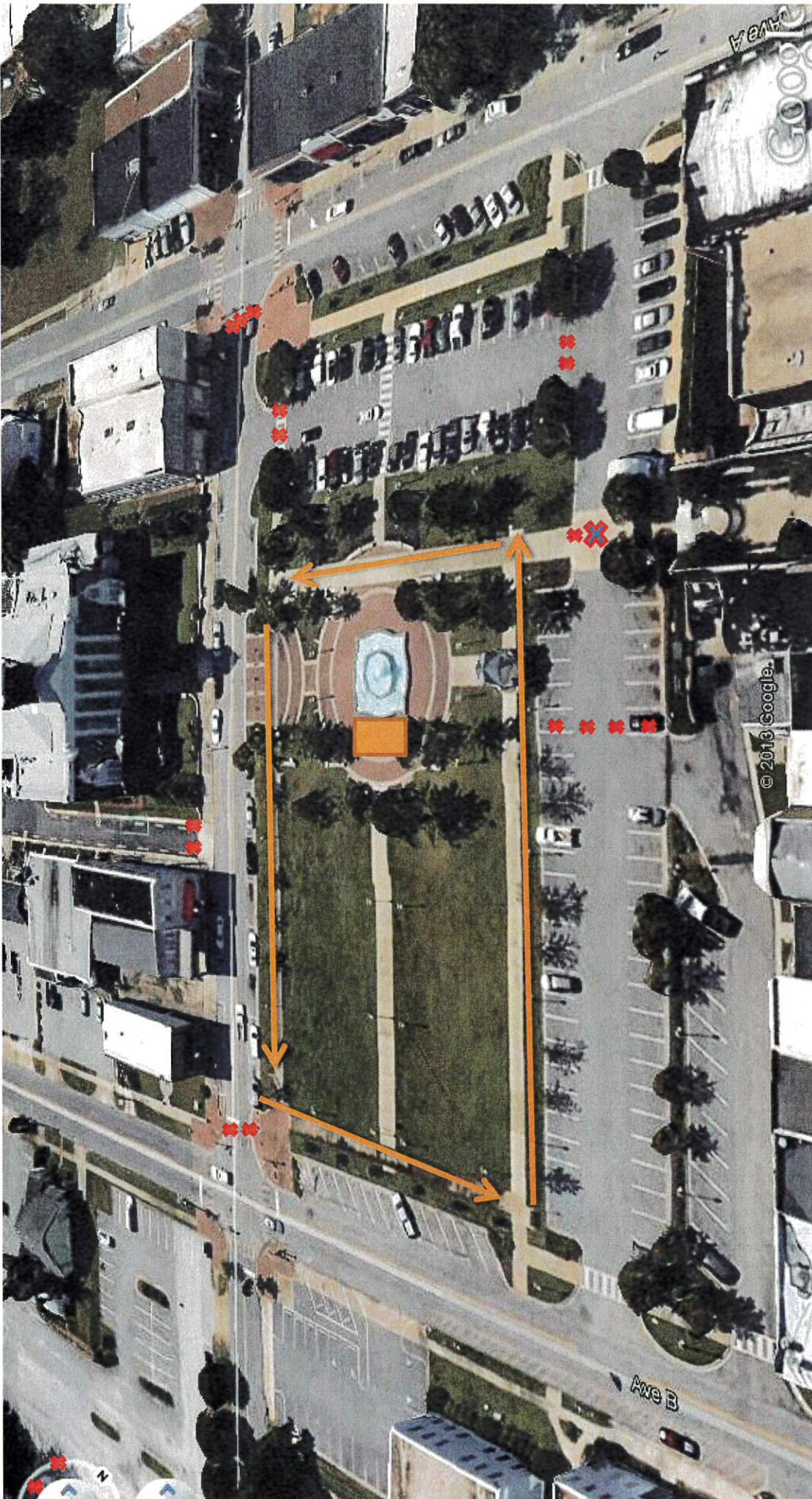
From: Randy Causey <randy.causey@eamc.org>
Sent: Tuesday, March 5, 2019 1:57 PM
To: Shuman, Robert
Cc: White, Valeri; Kimberly Myers
Subject: RE: City of Opelika - American Cancer Society / Relay for Life

Bob I have attached a map with red marking the streets we need blocked off for the April 26, 2019 Relay for Life. In the past the barricades are dropped off by the city and we put them in place just before we start the event. There are usually around 2,000 people here throughout the 12 hour period. The kick off is at 6:00 p.m. and the event ends at midnight.

Randy Causey
Director of Support Services/Emergency Planner
East Alabama Medical Center
2000 Pepperell Parkway
Opelika, AL 36801

334-528-1345 (office)
334-528-1347 (fax)
334-703-6621 (cell)

Attachment: CM 3-19-19, Request for ACS Relay for Life on 4-26-19 (3308 : Request ACS Relay for Life on 4-26-19.)



✖
Barricade

➡
Route

**City Council**

204 South 7Th Street
Opelika, AL

TABLED**GENERAL BUSINESS (ID # 3309)**

Meeting: 03/19/19 07:00 PM

Department: City Clerk

Category: Request / Temp Street Closure

Prepared By: Robert Shuman

Initiator: Robert Shuman

Sponsors:

DOC ID: 3309

Request for the Rehab Works Walk-Run on 5-18-19 / Tabled.

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

Shuman, Robert

From: Elizabeth Kisor <Beth.Kisor@eamc.org>
Sent: Tuesday, March 5, 2019 3:16 PM
To: Shuman, Robert
Cc: Argelia Lincoln-Velez; Mary Johnson
Subject: FW: City of Opelika / Rehab Works Walk/Run on Sat. 5/18
Attachments: 2017 RehabWorks 1-Mile.pdf; 2017 RehabWorks 5K.pdf

From: Elizabeth Kisor
Sent: Tuesday, March 05, 2019 3:08 PM
To: Marcus Atkins <marcus.atkins@eamc.org>
Subject: RE: City of Opelika / Rehab Works Walk/Run on Sat. 5/18

Request for Permission to host RehabWorks 5K and 1 mile fun run:

Name: Rehabworks 5K and 1 mile fun run

Sponsor: RehabWorks

Date: May 18, 2019

Start and end time: pre race registration 7:30, 1 mile 8:00 am, 5K 8:30 am, cut off time 9:30 am

Estimated number of participants 75

Route Map:



2017 RehabWorks Finish Line Layout



Picture states 2017 , but it is the same set up for our 2019 race.

Race will start and end at RehabWorks _ 2450 Village Professional Drive .

See attached PDF files for courses. We will provide 2 people at each turn (10 volunteer stations) for the 5K course who will be wearing safety vests and have stop signs . We appreciate police/safety officers along Dunlop Drive but do not feel streets need to be barricaded.

Bob, thank you for consideration. I look forward to hearing from you.

Beth Kisor, PT
RehabWorks Opelika

From: Shuman, Robert <RShuman@opelika-al.gov>
Sent: Monday, March 04, 2019 3:39 PM
To: Elizabeth Kisor <Beth.Kisor@eamc.org>
Subject: City of Opelika / Rehab Works Walk/Run on Sat. 5/18

Ms. Kisor - good afternoon, sorry I missed your call. Please email to me your formal request for said event, providing the following:

1. Name of event.
2. Name of sponsor organization.
3. Date of event.
4. Start and end time.
5. Estimated number of participants.
6. Route map (or detail in email) and also provide where street barricades will be needed.

Once I get your formal email request for this event, I will forward to Mayor Fuller and his safety staff to make sure they can support your request. Once I get their OK, I can then schedule on a city council meeting for consideration and approval by the city council. The city council only meets twice a month, on the 1st and 3rd Tuesday of each month. Should there be concerns with your request and/or when approved by the city council, I will let you know by email.

R. G. 'Bob' Shuman, CMC
City Clerk – Treasurer
City of Opelika, Alabama
334-705-5110

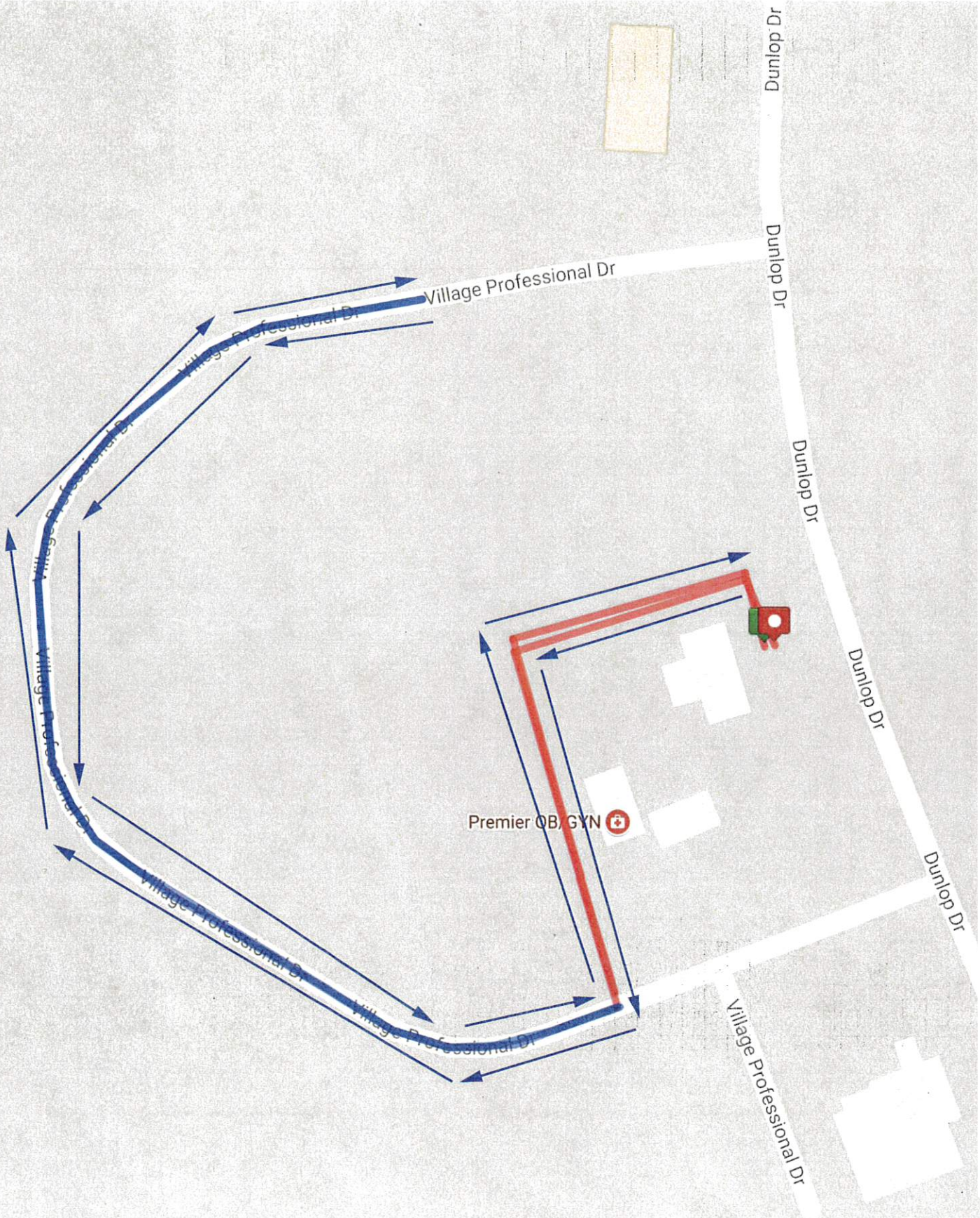


2017 RehabWorks 1-Mile

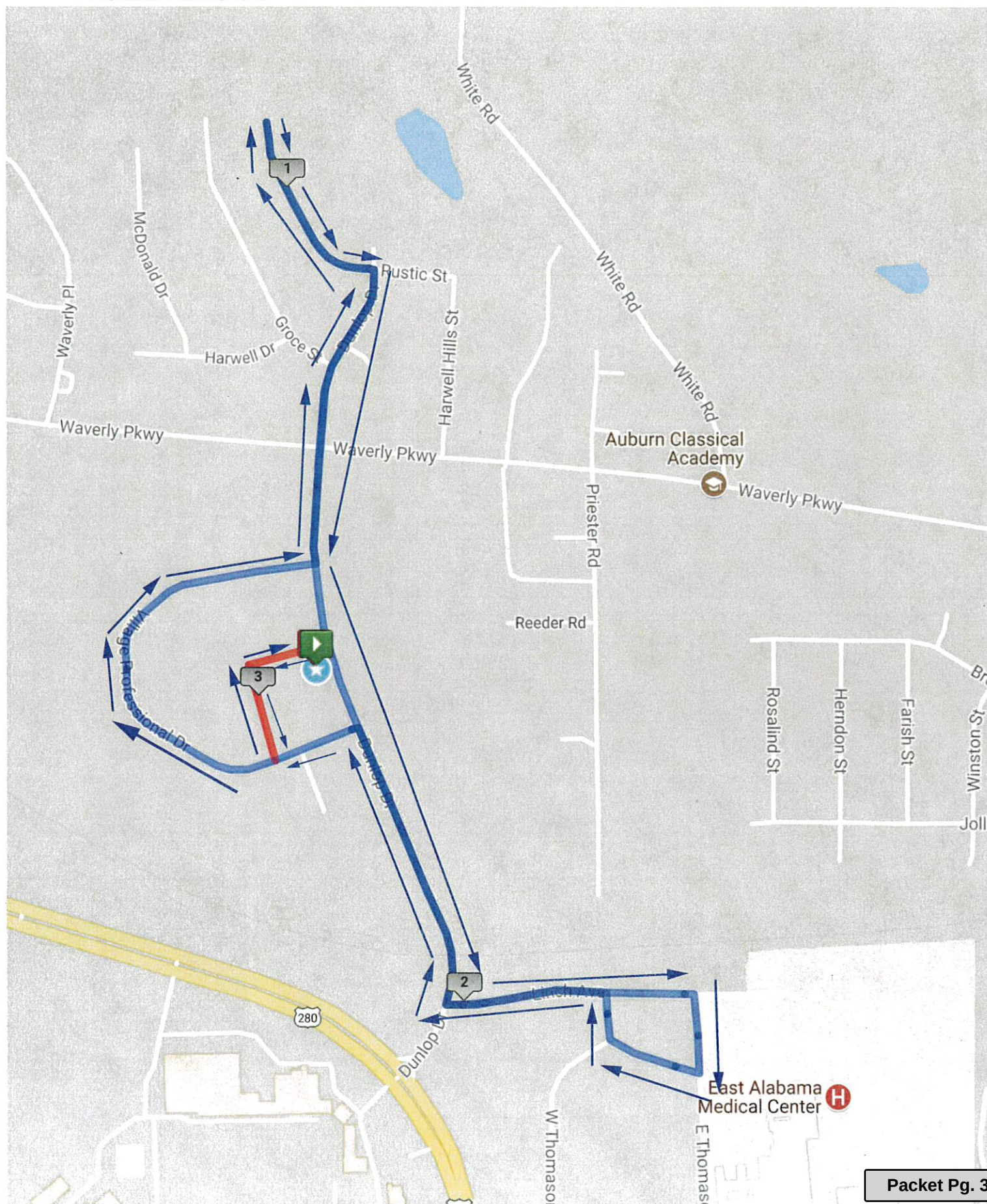
Distance: 1.01 mi

Elevation Gain: 40 ft

Elevation Max: 843 ft



Distance: 3.08 mi
Elevation Gain: 132 ft
Elevation Max: 843 ft





City Council

204 South 7th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3254)

Meeting: 03/19/19 07:00 PM
Department: Building Inspection
Category: Public Hearing
Prepared By: David Chapman
Initiator: Jeff Kappelman
Sponsors:

DOC ID: 3254

Public Hearing for Demolition - 808 Donald Avenue

January 17, 2019

TO:

Robert Calloway, Jr.
1801 Century Boulevard, Apt. 701
Opelika, AL 36801

NOTICE OF DANGEROUS BUILDING, FINDING OF PUBLIC NUISANCE AND ORDER TO REMEDY

This notice, finding and order is given pursuant to Ordinance No. 116-15 and Section 5-226 of the *Code of Ordinances* of the City of Opelika, Alabama, informing you that a building located within the City of Opelika, Alabama (the "City") is unsafe to the extent that it is a public nuisance and subject to demolition. According to the real property records of Lee County, Alabama, Robert Calloway, Jr., is the owner of the real property described in this notice. The building is located on the following described real property, to-wit, which is described hereinafter as the "Subject Property":

Street Address: 808 Donald Avenue, Opelika, AL 36801

Legal Description: Commence at the certain point in the City of Opelika, Alabama, where the westerly margin of South Johnson Street intersects with the northerly margin of East Street; thence run in a northwesterly distance, along the northerly margin of East Street, for 200 feet to the point of beginning of the lot or parcel of land here to be described and conveyed; from said point of beginning thence run northwesterly, along the northerly margin of East Street, for 50 feet; thence run northeasterly, parallel with South Johnson Street, for 150 feet; thence run southeasterly, parallel with East Street, for 50 feet; thence run southwesterly, parallel with South Johnson Street, for 150 feet to the said point of beginning; together with all appurtenances thereunto appertaining.

Parcel Identification Number: 43-10-04-18-2-002-147.000

As the Building Official of the City of Opelika, the undersigned inspected the building on the Subject Property on August 28, 2018. Based upon said inspection, the building located on the Subject Property is deemed to be a "dangerous building" within the meaning of Ordinance No. 116-15 because of the following conditions and/or defects:
(Check all that apply)

- ☐ (1) The interior walls or other vertical structure members of the building list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- ☐ (2) Exclusive of foundation, the building shows thirty-three (33) percent or more of damage or deterioration of one (1) or more supporting members or fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- X (3) The building has improperly distributed loads upon the floors or roofs, or, in which the same are overloaded or which has insufficient strength to be reasonably safe for the purpose used.
- X (4) The building has been damaged by fire, wind, earthquake, flood, sinkhole, deterioration, neglect, abandonment, vandalism or other cause so as to become dangerous to life, health, property, morals, safety or general welfare of the public or the occupants.
- X (5) The building has become or is so damaged, dilapidated, decayed, unsafe, unsanitary, lacking in maintenance, vermin or rat-infested, containing filth or contamination, lacking proper ventilation, lacking sufficient illumination, or which so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness or disease, so as to work injury to the life, health, property, morals, safety or general welfare of the public or the occupants.
- X (6) The building has light, air, heating, cooling and sanitation facilities which are inadequate to protect the life, health, property, morals, safety or general welfare of the public or the occupants.
- ☐ (7) The building has inadequate facilities for egress in case of fire or panic, or has insufficient stairways, elevators, fire escapes or other means of ingress and egress to and from said building.
- ☐ (8) The building does not provide minimum safeguards to protect or warn occupants in the event of fire.

- ☐ (9) The building contains unsafe equipment, including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment on the premises, or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property, morals, safety or general welfare of the public or the occupants.
- X (10) The building is so damaged, decayed, dilapidated, structurally unsafe, or is of such faulty construction or unstable foundation that partial or complete collapse is possible.
- X (11) The building has parts thereof which are so attached that they may fall and damage property or injure the public or the occupants.
- X (12) The building, or any portion thereof, is clearly unsafe for its use or occupancy.
- X (13) The building is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children who might play in or on the building, structure, part of building or structure, party wall, or foundation to their danger, has become a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building, structure, part of building or structure, party wall, or foundation for committing a nuisance or an unlawful act.
- ☐ (14) The building has any portion remaining on a site after the demolition or destruction of the same or whenever the building, structure, part of building or structure, party wall, or foundation is abandoned so as to constitute such building, structure, part of building or structure, party wall, or foundation as an attractive nuisance or hazard to the public.
- X (15) The building is, because of its condition, unsafe, unsanitary, or dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants.

Attached hereto is a report which outlines the findings from said inspection and identifies specific code violations.

The Building Official further finds and determines that the building on the Subject Property is substantially damaged or decayed, or deteriorated from its original value or structure (not including the value of the land). The Building Official further finds and determines that the building on the Subject Property cannot be reasonably repaired so that it will no longer exist in

violation of the terms of Ordinance No. 116-15 governing unsafe structures and dangerous buildings. The Building Official further finds that the building on the Subject Property is a fire hazard existing in violation of the terms of Ordinance No. 116-15, governing unsafe structures and dangerous buildings. The Building Official further finds that the building on the Subject Property is unsafe to the extent that it is a public nuisance.

NOTICE is hereby given to remedy the unsafe or dangerous condition by demolition of the building on the Subject Property within forty-five (45) days of this Notice to the Building Official's satisfaction. In the event that the owner does not comply within the time specified herein to the Building Official's satisfaction, the demolition shall be accomplished by the City and the cost thereof assessed against the Subject Property and such cost shall constitute a lien against the Subject Property.

The Building Official finds that the building on the Subject Property is in such condition as to make it dangerous to the life, health, property, morals, safety or general welfare of the public or the occupants. Therefore, the undersigned Building Official orders that the building on the Subject Property shall be and remain vacant until demolished.

Notice is hereby given that the City Council of the City of Opelika, Alabama, will hold a public hearing on Tuesday, March 19, 2019, at 7:00 p.m. in the City Council Chambers of the municipal building, 204 South 7th Street, Opelika, Lee County, Alabama, to discuss the findings of the Building Official. At that time, the City Council will consider the adoption of a resolution ordering the demolition of the building located on the Subject Property. At the public hearing, the City Council will receive any objections to the finding by the Building Official that the building or structure is unsafe to the extent of becoming a public nuisance. A written request for a public hearing is not necessary. At the public hearing, the City Council shall also receive any written objections to the findings by the Building Official. Any such written objection must be submitted to the City Clerk prior to the meeting of the City Council. All interested persons are invited to appear before the City Council in person or through his or her representative to show cause, if any, why his or her objection to the demolition of the building or structure should be sustained. No action shall be taken on the finding of the Building Official until determination is made thereon by the City Council. Upon the holding of the hearing, the City Council shall determine whether or not the building or structure is unsafe to the extent that it is a public nuisance. If it is determined by the City Council that the building or structure is unsafe to the extent that it is a public nuisance, the City Council shall order the demolition of the building or structure at the expense of the City and assess the expenses of the demolition against the land on which the building or structure stands or to which it is attached. Any person aggrieved by the decision of the City Council may, within ten (10) days thereafter, appeal to the Circuit Court of Lee County, Alabama, upon the filing with the Clerk of the Circuit Court of Lee County, Alabama, notice of appeal and bond for security of costs in the form and amount to be approved by the Circuit Court. For further particulars, see Ordinance No. 116-15 and Section 5-227 of the *Code of Ordinances*. Anyone interested in the status of these proceedings may inquire with the Opelika City Clerk at 334-705-5110 or in person at the City Clerk's office located on the second floor of City Hall, 204 South 7th Street, Opelika, Alabama.

You will further take note that:

(1) It is unlawful for any person, or for any agent, servant or employee of such person, to obstruct or interfere with the Building Official in carrying out the purposes of Ordinance No. 116-15.

(2) It is unlawful for any person, or for any agent, servant or employee of such person, to mutilate, destroy, or tamper with this “Notice of Dangerous Building, Finding of Public Nuisance and Order to Remedy”.

(3) It is unlawful for any person, or for any agent, servant or employee of such person, to enter, access or be upon any building that the Building Official has ordered to be vacated pursuant to this “Notice of Dangerous Building, Finding of Public Nuisance and Order to Remedy”.

(4) It is unlawful for any person who has received this “Notice of Dangerous Building, Finding of Public Nuisance and Order to Remedy” to sell, transfer, mortgage, lease, encumber or otherwise dispose of the building on the Subject Property to another until such person shall first furnish the grantee, transferee, mortgagee or lessee a true copy of this “Notice of Dangerous Building, Finding of Public Nuisance and Order to Remedy” and shall furnish to the Building Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee acknowledging the receipt of this “Notice of Dangerous Building, Finding of Public Nuisance and Order to Remedy” and fully accepting the responsibility without condition for making the corrections, repairs or demolitions required by this “Notice of Dangerous Building, Finding of Public Nuisance and Order to Remedy”.

(5) It is unlawful for any person, owner or occupant of any building to refuse to permit entry into any building, structure or premises, or onto any property by the Building Official or his authorized representative after proper credentials are displayed at a reasonable hour for the purpose of inspection pursuant to Ordinance No. 116-15.

This office seeks and anticipates your cooperation and compliance in this matter. Positive efforts by citizens like yourself help make Opelika a better community.

If there is any other way this office can assist you in resolving this matter, please immediately call David Chapman, the Building Inspector assigned to your case at 334-705-5420.

Thank you in advance for your attention to this Notice and your prompt response.

DATED this the ____ day of January, 2019.

Sincerely,

Jeff Kappelman
 Building Official of the City of Opelika, Alabama
 700 Fox Trail
 Opelika, AL 36801
 334-705-5420

NOTICE OF REQUIRED REPAIRS

To:

Robert Calloway, Jr.
1801 Century Boulevard, Apt. 701
Opelika, AL 36801

Parcel #: 10-04-18-2-002-147.000
Property Address: 808 Donald Avenue
 Opelika, AL 36801

Date of Notice: January 17, 2019

This is to notify you of the repairs required to satisfy the minimum code requirements for the City of Opelika. It would appear that this structure is not cost effective to repair. However, in the event of a repair, the items listed below but not limited to the following would be required:

Exterior:

- Replace all missing and deteriorated siding, trim, soffit and fascia boards.
- Replace all damaged roof boards and rafters.
- Replace roof with new.
- Provide proper support for the floor system.
- Replace all damaged and missing foundation blocks.
- Replace all exterior doors.
- Replace all windows with new. Each bedroom must have at least one window with 5.7 sq feet of openable area.
- **Stairways:** Rebuild front entry stairs with a min width of 36", max rise of 7 ³/₄", min tread depth of 10", Handrail 34" to 38" above tread nosing. Guardrail placed at open sides of stairs 36" min height with balusters spaced such that a sphere 4" in diameter cannot penetrate. The open side of a stairway can have a guardrail no less than 34" in height and not more than 36".

- Add handrails at front steps and need to be a graspable type.
- Replace all damaged walls, ceilings, and floors throughout.
- Water heater: Install an expansion tank and a ¾" discharge pipe piped directly to the exterior. Plumbing permit required.
- Replace all plumbing waste/vent with new. Plumbing permit required.

Electrical: Have a licensed electrical contractor install a new electric service and re-wire the entire house. Install smoke detectors inside each bedroom and outside each bedroom. If any gas appliances exist, then CO detectors need to be installed outside the bedrooms. Install 2 separate 20 amp circuits in the kitchen, 20 amp laundry circuit, 220 V circuit for electric range if gas is not provided. Install 2 exterior outlets at grade. One at each entrance.

There must be a central source of heat, a water heater, plumbing fixtures and waste/vent must be in proper working order. The bathroom and kitchen must be completed and fully functional in order to occupy.

Please contact David Chapman of the Building Inspections Division office at (334) 705-5420 to answer any questions.

Dated this the 17th Day of January, 2019.

Sincerely,

David R. Chapman
Building Inspector

COMMENTS - Current Meeting:

President Smith open the public hearing for said demolition and asked if there was anyone present that would like to speak for or against said public hearing. Do one came forward to speak. President Smith closed the public hearing.

808 Donald Avenue



Attachment: Photos of 808 Donald Avenue (3254 : Public Hearing for Demolition - 808 Donald Avenue)





Attachment: Photos of 808 Donald Avenue (3254 : Public Hearing for Demolition - 808 Donald Avenue)



Attachment: Photos of 808 Donald Avenue (3254 : Public Hearing for Demolition - 808 Donald Avenue)





City Council

204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3313)

Meeting: 03/19/19 07:00 PM

Department: Planning

Category: Vacate Property

Prepared By: Marty Ogren

Initiator: Charles Mosley

Sponsors:

DOC ID: 3313

Public Hearing, Vacate Right-Of-Way - Portion of West Point Pkwy & Anderson Rd

The Petitioner is requesting to vacate a 75-foot-wide portion of right-of-way located on the north side of West Point Parkway between Anderson Road and Exit 64. The right-of-way (ROW) was originally acquired by the Alabama Department of Transportation, but the City now maintains the ROW. A hotel was approved adjacent to the ROW and the 75 foot portion would be beneficial in the hotel development. The Engineering Department has no concerns with the proposed vacation because the remaining ROW (225 feet wide) will be sufficient for any growth or roadway expansion that could occur at this location. At the October 24th meeting, the Planning Commission (PC) voted 6 to 0 (one abstain) to send a positive recommendation to City Council to vacate a portion of the West Point Parkway right-of-way; a PC report and map are attached. At the November 17, 2017 CC WS meeting, the CC approved a public hearing for the vacation request.

COMMENTS - Current Meeting:

President Smith open the public hearing for said vacating of property and asked if there was anyone present that would like to speak for or against said public hearing. Do one came forward to speak. President Smith closed the public hearing.

City of Opelika

Planning Commission Report

Action Requested:	Vacation of Right-of-Way, northeast boundary of West Point Parkway and Anderson Road
Adjacent	Exit 64, LLC.
Location of Property:	Northeast corner of West Point Parkway and Anderson Road adjacent to Exit 64
Adjacent Land Use:	vacant (proposed hotel)
Current Zoning:	C2, GC
Surrounding Zoning Districts And Land Uses:	North: C-2, GC/Vacant South: C-2, GC/Vacant East: C-2, GC/Vacant West: C-2, GC/Vacant

Proposal:

The applicant is requesting the City of Opelika vacate a portion of the northern right-of-way located on West Point Parkway between Anderson Road and Exit 64. The right-of-way was originally acquired by the Alabama Department of Transportation. They typically acquire large swaths around interstate interchanges to allow for access control and future improvements. When the City of Opelika took over maintenance of West Point Parkway, the right-of-way came under the City's purview.

The applicant who previously was approved for a hotel located at this site is requesting that 75 feet of the right-of-way on the north side be vacated. This would leave 225 feet of right-of-way and 65 feet of from the edge of road to the property line on this side. The Engineering Department does not feel that vacating this right-of-way will diminish future City projects or utility of the road. The City would request ALDOT concur with the vacation of the right-of-way.

Staff recommends the Planning Commission send a positive recommendation to City Council to approve the vacation 75 feet on the northern side of West Point Parkway between Anderson Road and Exit 64.

At the October 24th meeting, the Planning Commission voted 6 to 0 (one abstain) to send a positive recommendation to City Council to vacate a

portion of the northern ROW of West Point Parkway subject to a 20-foot easement for Opelika Utilities (10 feet each way from the centerline of the water main) for a ten-inch water main in the subject area, and no structures, parking lots, or hardscape features shall be placed on this easement. A minimum of 36" of pipe cover shall remain over this pipeline.

Engineer's Report

D6. Petition to vacate northeast boundary of West Point Parkway and Anderson Road

The Engineering Department has no concerns with the proposed vacation of ROW because the remaining ROW will be sufficient for any growth or roadway expansion that could occur at this location. It is being requested that the applicant review the proposals with ALDOT because of the proximity to ALDOT maintained ROW to make sure there is no conflicts or concerns.

The Engineering Department recommends a positive recommendation to City Council for consideration of this R.O.W. vacation.

OPELIKA UTILITIES

D6. Petition to vacate northeast boundary of West Point Parkway and Anderson Road

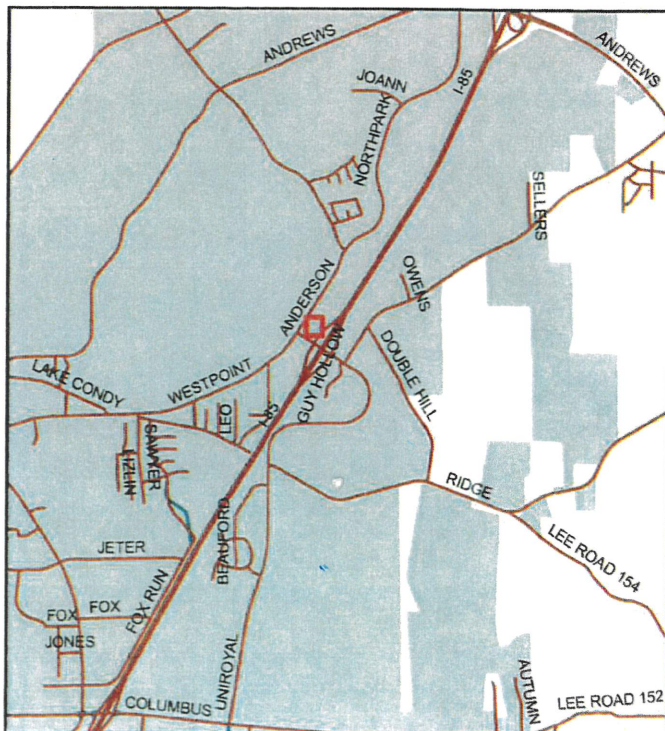
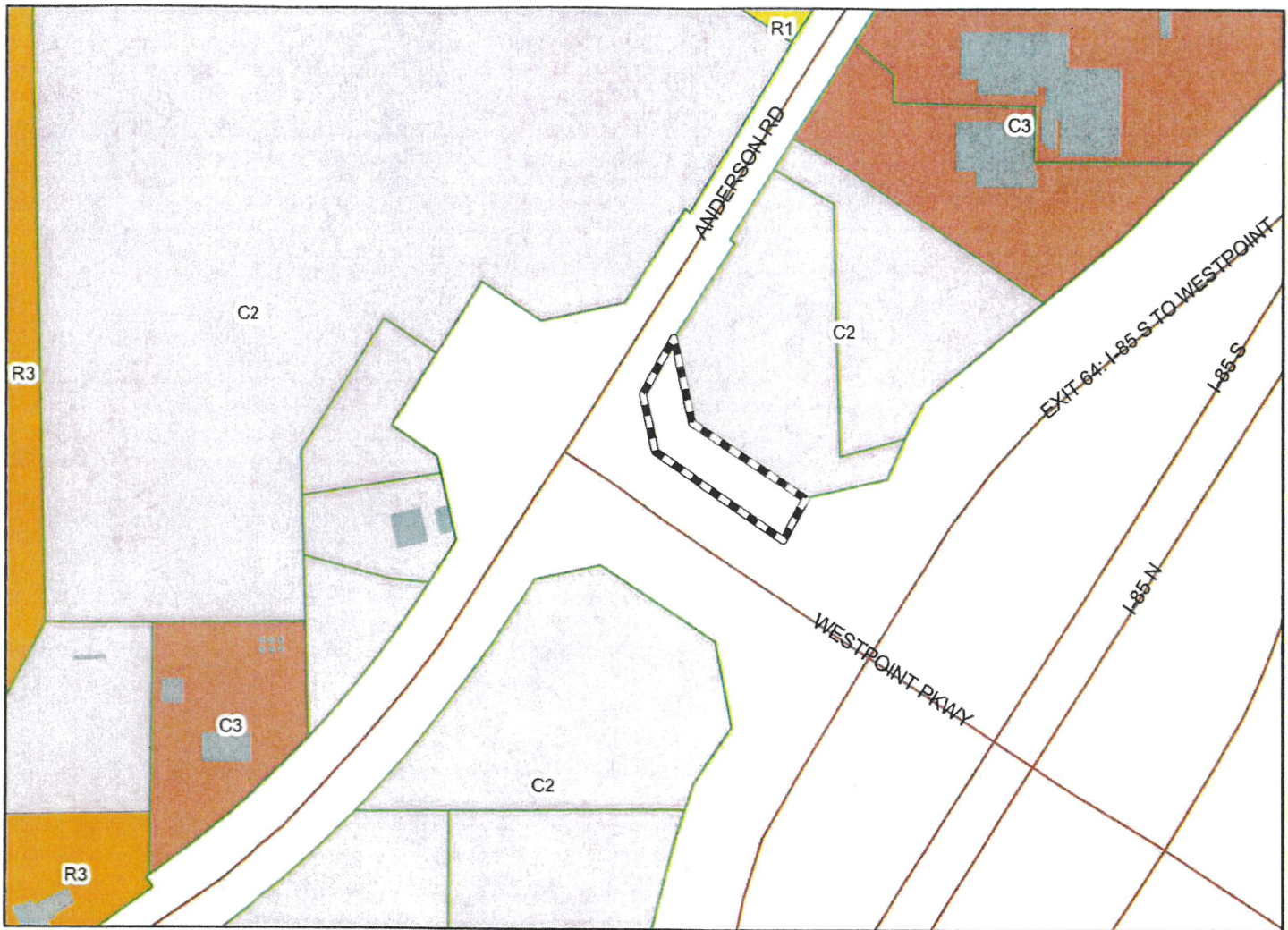
Opelika Utilities currently, has in place a 16" water main in the subject location. Opelika Utilities will need a 20' easement, 10' each way from center line of water main. No structures, parking lots, or hardscape features shall be placed on this easement. A minimum of 36" of pipe cover shall remain over this pipeline.

Opelika Power Services

D6. Petition to vacate northeast boundary of West Point Parkway and Anderson Road

Opelika Power Services has no objections.

**VACATION OF RIGHT-OF-WAY
WEST POINT PARKWAY & ANDERSON ROAD,
at EXIT 64 ON INTERSTATE 85, D-6**

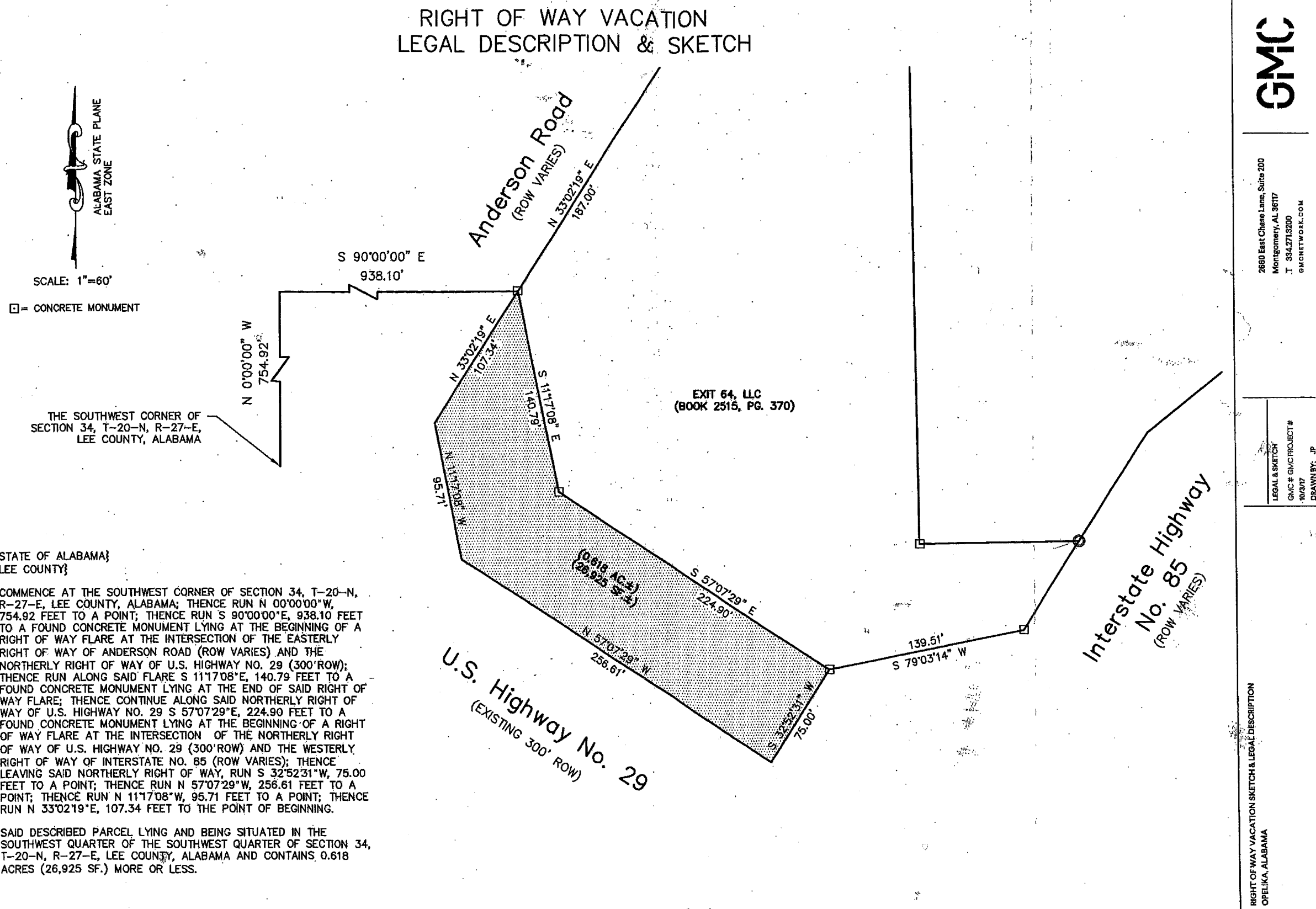


The applicant is requesting to vacate right-of-way, 26,925 square foot area. The Planning Commission will make a recommendation to City Council.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without



NOTICE OF PUBLIC HEARING
OPELIKA CITY COUNCIL
March 19, 2019 7:00 P.M.

NOTICE IS HEREBY GIVEN in accordance with §23-4-2, *Code of Alabama*, 1975, that the City Council of the City of Opelika will conduct a Public Hearing during the regularly scheduled City Council meeting on Tuesday, March 19, 2019, beginning at 7:00 p.m. in the Opelika City Council Chambers of the Municipal Building, 204 S. 7th Street, Opelika, Lee County, Alabama, to receive the benefit of public input concerning a proposal to vacate a portion of the easterly right-of-way of Anderson Road and a portion of the northerly right-of-way of U.S. Highway 29 (West Point Parkway). All persons interested in the proposed vacation are invited to appear at the public hearing and express their views. Written statements or objections may be submitted to the City Clerk prior to the time of the hearing.

The portions of the rights-of-way of Anderson Road and U.S. Highway 29 (West Point Parkway) proposed to be vacated are more particularly described as follows:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 34, T-20-N, R-27-E, LEE COUNTY, ALABAMA; THENCE RUN N 00°00'00" W, 754.92 FEET TO A POINT; THENCE RUN S 90°00'00" E, 938.10 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE BEGINNING OF A RIGHT OF WAY FLARE AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF ANDERSON ROAD (ROW VARIES) AND THE NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 (300' ROW); THENCE RUN ALONG SAID FLARE S 11°17'08" E, 140.79 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE END OF SAID RIGHT OF WAY FLARE; THENCE CONTINUE ALONG SAID NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 S 57°07'29" E, 224.90 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE BEGINNING OF A RIGHT OF WAY FLARE AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 (300' ROW) AND THE WESTERLY RIGHT OF WAY OF INTERSTATE NO. 85 (ROW VARIES); THENCE LEAVING SAID NORTHERLY RIGHT OF WAY, RUN S 32°52'31" W, 75.00 FEET TO A POINT; THENCE RUN N 57°07'29" W, 256.61 FEET TO A POINT; THENCE RUN N 11°17'08" W, 95.71 FEET TO A POINT; THENCE RUN N 33°02'19" E, 107.34 FEET TO THE POINT OF BEGINNING.

SAID DESCRIBED PARCEL LYING AND BEING SITUATED IN THE
SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION
34, T-20-N, R-27-E, LEE COUNTY, ALABAMA AND CONTAINS 0.618
ACRES (26,925 SF.) MORE OR LESS

A copy of the Petition to Vacate and the proposed resolution approving the vacation will
be available upon request at the office of the City Clerk, 2nd Floor of City Hall, 204 South 7th
Street, Opelika, Alabama.

Please contact Lisa McLeod, the City's ADA Coordinator, at 334-705-5131 at least two
(2) working days prior to the meeting if you require special accommodations due to a disability.

DATED this the ____ day of _____, 2019.

ROBERT G. SHUMAN, CITY CLERK

TO: PUBLISHER
{Name of Newspaper}
{Address}
Opelika, Alabama 36801

Please publish the foregoing Notice once a week for four (4) consecutive weeks in the
[Name of Newspaper].

ROBERT G. SHUMAN, CITY CLERK



City Council

204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3315)

Meeting: 03/19/19 07:00 PM

Department: Planning

Category: Vacate Property

Prepared By: Marty Ogren

Initiator: Charles Mosley

Sponsors:

DOC ID: 3315

Public Hearing, Vacate Right-Of-Way - Portion of Sportsplex Pkwy & West Point Pkwy - Awesome LLC

The City of Opelika has completed construction of Sportsplex Parkway. The City is requesting the vacation of a portion of the right-of-way for Sportsplex Parkway and West Point Parkway. This right-of-way was originally secured by the Alabama Department of Transportation for the construction of the interstate exit. The width of the right-of-way greatly exceeds what is necessary for the road. Three adjoining property owners to the right-of-way are involved in the vacation: Inwoo Paek, William M. Morgan & Robert D. Boothe, and Awesome LLC. At the January 22nd meeting, the Planning Commission voted 7 to 0 (and one abstain) to send a positive recommendation to City Council to vacate a portion of the right-of-way. At the Feb 5th CC WS, CC approved advertisement for a public hearing.

COMMENTS - Current Meeting:

President Smith open the public hearing for said vacating of property and asked if there was anyone present that would like to speak for or against said public hearing. Do one came forward to speak. President Smith closed the public hearing.

City of Opelika Planning Commission Report

Action Requested: Vacate Three Portions of Sportsplex Parkway:

1. Vacate a northwest portion of Sportsplex Parkway right-of-way (ROW) at the corner of West Point Parkway & Anderson Road for Inwoo Paek, adjacent property owner.
2. Vacate a southwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway for William M. Morgan & Robert D. Boothe, adjacent property owners
3. Vacate a southwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway for Awesome LLC, adjacent property owner.

Location of Property: Northwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway (see maps attached)

Adjacent Land Use: vacant property and commercial (gas station)

Current Zoning: C-2, GC-P

**Surrounding Zoning Districts
And Land Uses:**

North	C2, GC-P	vacant
South	C2, GC-P	Gas Station
East	C2, GC-P	vacant
West	C2, GC-P	vacant

Proposal:

The City of Opelika has completed the Sportsplex Parkway. The City of Opelika is requesting the vacation of a portion of the right-of-way for Sportsplex Parkway and West Point Parkway. This right-of-way was originally secured by the Alabama Department of Transportation for the construction of the interstate exit. The width of the right-of-way greatly exceeds what is necessary for the road. The #1 vacated ROW area (listed at top of page) is about 0.56 acres located next to vacant property. The #2 vacated area is about 0.20 acres. This property is adjacent to vacant property and includes a 20-foot sanitary sewer easement. The #3 vacated ROW area is adjacent to an existing gas station. The vacated area is a large portion of the gas station parking lot.

Staff recommends the Planning Commission send a positive recommendation to City Council to approve the vacation of the Northwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway.

At the January 22nd meeting, the Planning Commission voted 7 to 0 (one abstain) to send a positive recommendation to City Council to vacate the three portions of Sportsplex Parkway.

Engineer's Report

The Engineering Department initiated this ROW vacation as part of the ROW negotiations for the Sportsplex Parkway construction. This vacation is supported by the Engineering Department and a positive recommendation to City Council is supported.

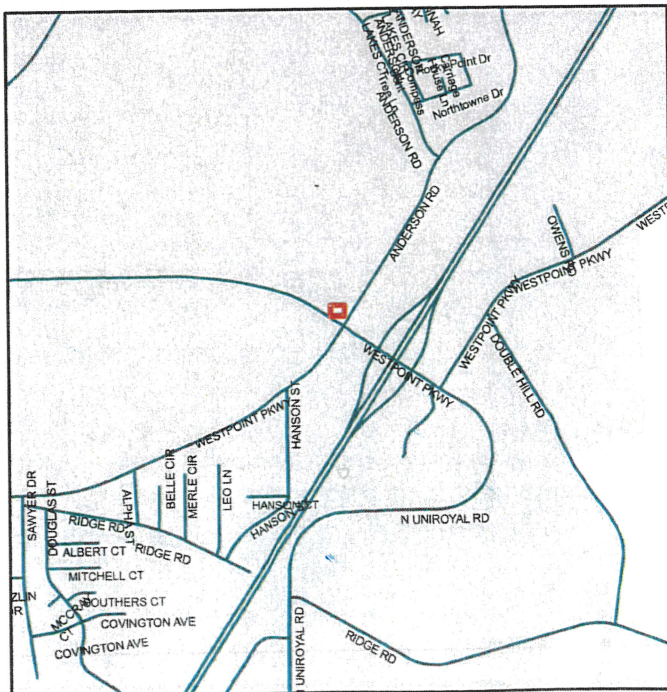
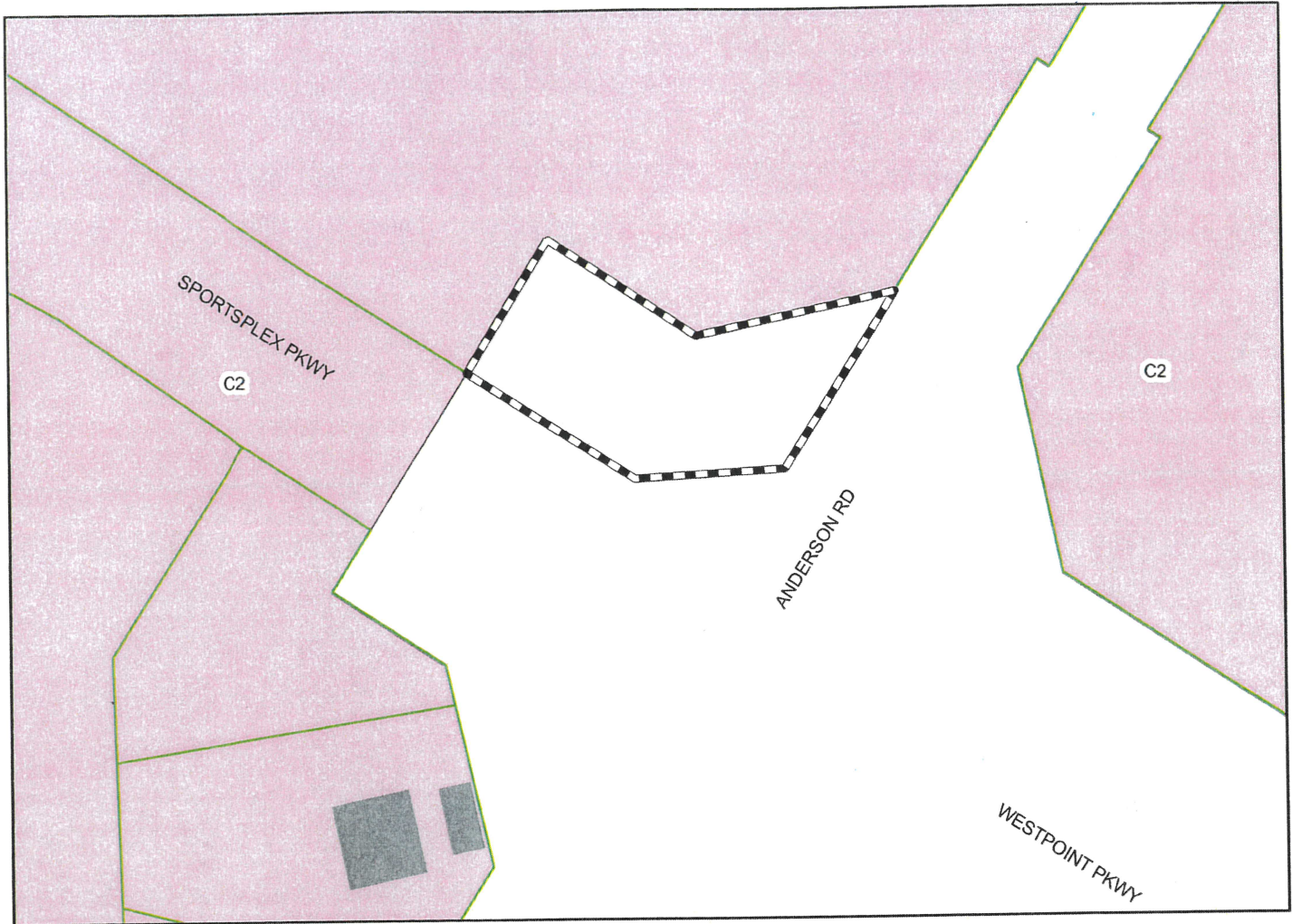
OPELIKA UTILITIES

No report.

Opelika Power Services

Opelika Power Services does not have Electrical Utilities within the above-mentioned right-of-way.

PETITION TO VACATE RIGHT-OF-WAY FOR PAEK INWOO
NORTHWEST PORTION SPORTSPLEX PARKWAY
VACATION OF ROW, #1



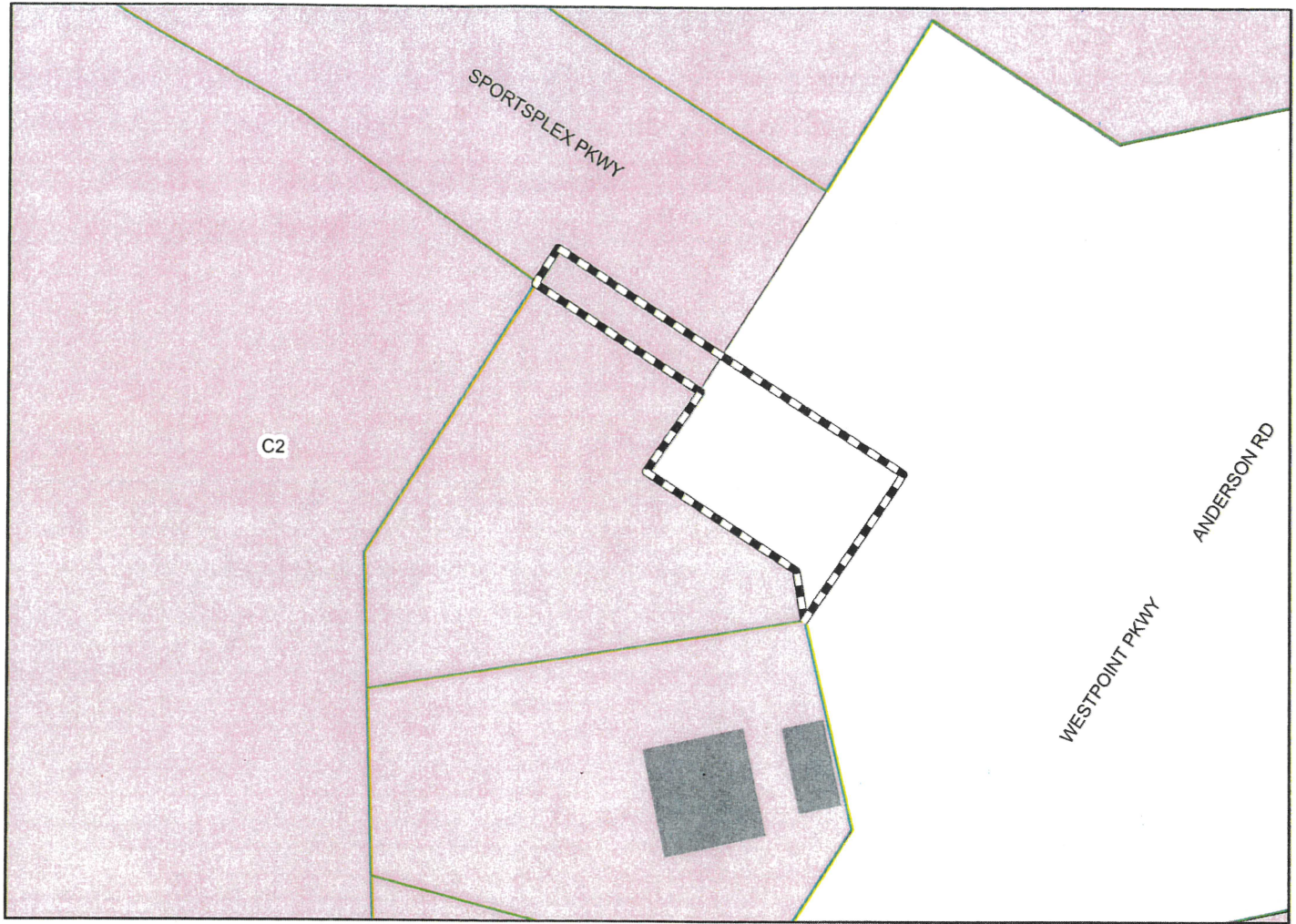
Paek Inwoo, petitioner & adjacent property owner, is requesting to vacate a northwest portion of Sportsplex Parkway.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without

**PETITION TO VACATE RIGHT-OF-WAY FOR MORGAN & BOOTHE
SOUTHWEST PORTION SPORTSPLEX PARKWAY
VACATION OF ROW, #2**



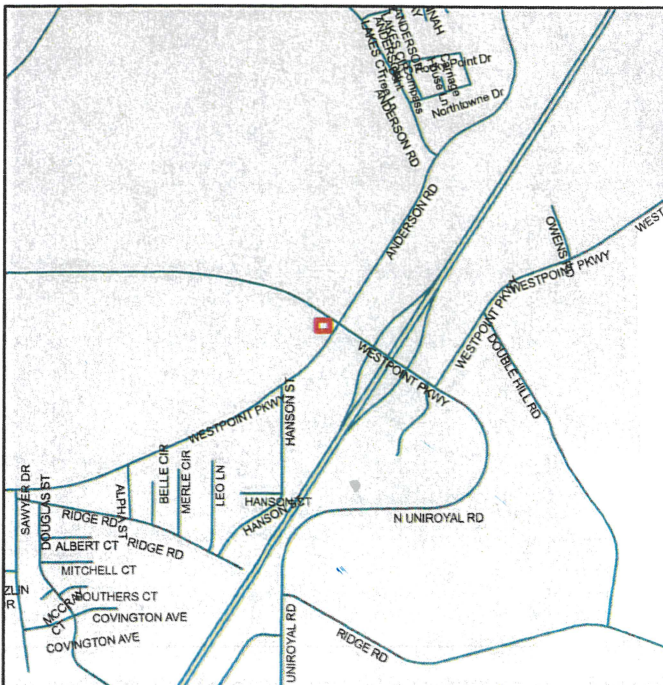
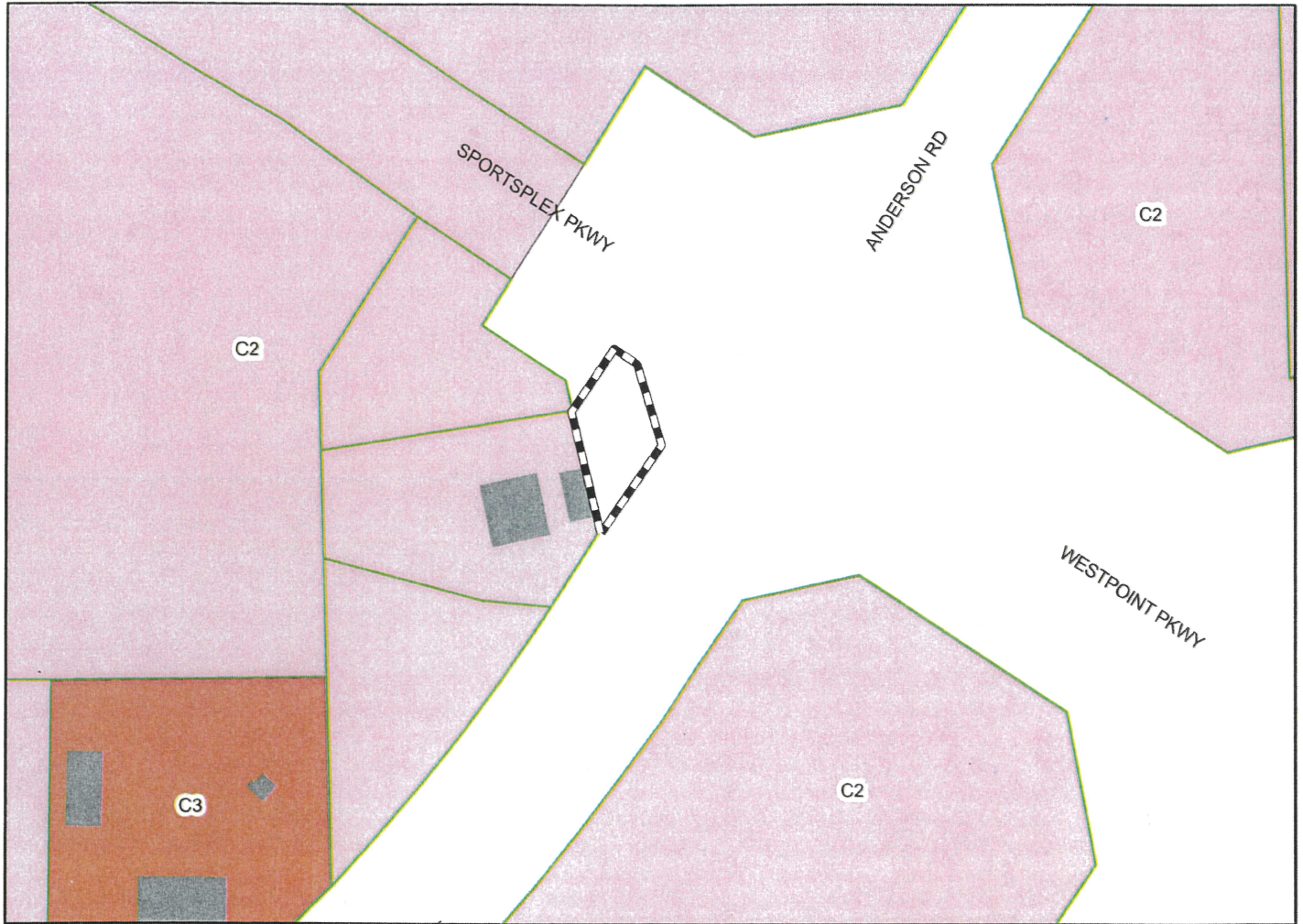
William M. Morgan & Robert D. Boothe, petitioners & adjacent property owners, are requesting to vacate a southwest portion of Sportsplex Parkway.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without

**PETITION TO VACATE RIGHT-OF-WAY FOR AWESOME LLC
SOUTHWEST PORTION SPORTSPLEX PARKWAY
VACATION OF ROW, #3**



Awesome LLC, petitioner & adjacent property owner, is requesting to vacate a southwest portion of Sportsplex Parkway.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without

NOTICE OF PUBLIC HEARING
OPELIKA CITY COUNCIL
March 19, 2019 7:00 P.M.

NOTICE IS HEREBY GIVEN in accordance with §23-4-2, *Code of Alabama*, 1975, that the City Council of the City of Opelika will conduct a Public Hearing during the regularly scheduled City Council meeting on Tuesday, March 19, 2019, beginning at 7:00 p.m. in the Opelika City Council Chambers of the Municipal Building, 204 S. 7th Street, Opelika, Lee County, Alabama, to receive the benefit of public input concerning a proposal to vacate a portion of the southwesterly right-of-way of West Point Parkway (formerly U.S. Highway 29) located at the corner of West Point Parkway and Sportsplex Parkway. All persons interested in the proposed vacation are invited to appear at the public hearing and express their views. Written statements or objections may be submitted to the City Clerk prior to the time of the hearing.

The portion of the right-of-way of West Point Parkway (formerly U.S. Highway 29) proposed to be vacated are more particularly described as follows:

A tract or parcel of land containing 0.18 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N83°23'32"E 5950.38 feet to a point on an old highway right-of-way limit, the point of beginning; thence leaving said right-of-way limit N33°02'34"E 74.48 feet to the southwest right-of-way limit of Sportsplex Road; thence along said southwest right-of-way limit S56°57'26"E 23.15 feet; thence continue along said southwest right-of-way limit S13°11'19"E 79.37 feet to the northwest right-of-way limit of West Point Parkway; thence along said northwest right-of-way limit S33°00'10"W 100.00 feet to point on old highway right-of-way limit; thence along said old highway right-of-way limit N11°59'50"W 113.81 feet to the point of beginning.

A copy of the Petition to Vacate and the proposed resolution approving the vacation will be available upon request at the office of the City Clerk, 2nd Floor of City Hall, 204 South 7th Street, Opelika, Alabama.

Please contact Lisa McLeod, the City's ADA Coordinator, at 334-705-5131 at least two (2) working days prior to the meeting if you require special accommodations due to a disability.

DATED this the _____ day of _____, 2019.

ROBERT G. SHUMAN, CITY CLERK

TO: PUBLISHER
{Name of Newspaper}
{Address}
Opelika, Alabama 36801

Please publish the foregoing Notice once a week for four (4) consecutive weeks in the [Name of Newspaper].

ROBERT G. SHUMAN, CITY CLERK



City Council

204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3317)

Meeting: 03/19/19 07:00 PM

Department: Planning

Category: Vacate Property

Prepared By: Marty Ogren

Initiator: Charles Mosley

Sponsors:

DOC ID: 3317

Public Hearing, Vacate Right-Of-Way - Portion of Sportsplex Parkway & Anderson Rd, Inwoo Paek

The City of Opelika has completed construction of Sportsplex Parkway. The City is requesting the vacation of a portion of the right-of-way for Sportsplex Parkway and West Point Parkway. This right-of-way was originally secured by the Alabama Department of Transportation for the construction of the interstate exit. The width of the right-of-way greatly exceeds what is necessary for the road. Three adjoining property owners to the right-of-way are involved in the vacation: Inwoo Paek, William M. Morgan & Robert D. Boothe, and Awesome LLC. At the January 22nd meeting, the Planning Commission voted 7 to 0 (and one abstain) to send a positive recommendation to City Council to vacate a portion of the right-of-way. At the Feb 5th CC WS, CC approved advertisement for a public hearing.

COMMENTS - Current Meeting:

President Smith open the public hearing for said vacating of property and asked if there was anyone present that would like to speak for or against said public hearing. Do one came forward to speak. President Smith closed the public hearing.

City of Opelika Planning Commission Report

Action Requested: Vacate Three Portions of Sportsplex Parkway:

1. Vacate a northwest portion of Sportsplex Parkway right-of-way (ROW) at the corner of West Point Parkway & Anderson Road for Inwoo Paek, adjacent property owner.
2. Vacate a southwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway for William M. Morgan & Robert D. Boothe, adjacent property owners
3. Vacate a southwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway for Awesome LLC, adjacent property owner.

Location of Property: Northwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway (see maps attached)

Adjacent Land Use: vacant property and commercial (gas station)

Current Zoning: C-2, GC-P

**Surrounding Zoning Districts
And Land Uses:**

North	C2, GC-P	vacant
South	C2, GC-P	Gas Station
East	C2, GC-P	vacant
West	C2, GC-P	vacant

Proposal:

The City of Opelika has completed the Sportsplex Parkway. The City of Opelika is requesting the vacation of a portion of the right-of-way for Sportsplex Parkway and West Point Parkway. This right-of-way was originally secured by the Alabama Department of Transportation for the construction of the interstate exit. The width of the right-of-way greatly exceeds what is necessary for the road. The #1 vacated ROW area (listed at top of page) is about 0.56 acres located next to vacant property. The #2 vacated area is about 0.20 acres. This property is adjacent to vacant property and includes a 20-foot sanitary sewer easement. The #3 vacated ROW area is adjacent to an existing gas station. The vacated area is a large portion of the gas station parking lot.

Staff recommends the Planning Commission send a positive recommendation to City Council to approve the vacation of the Northwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway.

At the January 22nd meeting, the Planning Commission voted 7 to 0 (one abstain) to send a positive recommendation to City Council to vacate the three portions of Sportsplex Parkway.

Engineer's Report

The Engineering Department initiated this ROW vacation as part of the ROW negotiations for the Sportsplex Parkway construction. This vacation is supported by the Engineering Department and a positive recommendation to City Council is supported.

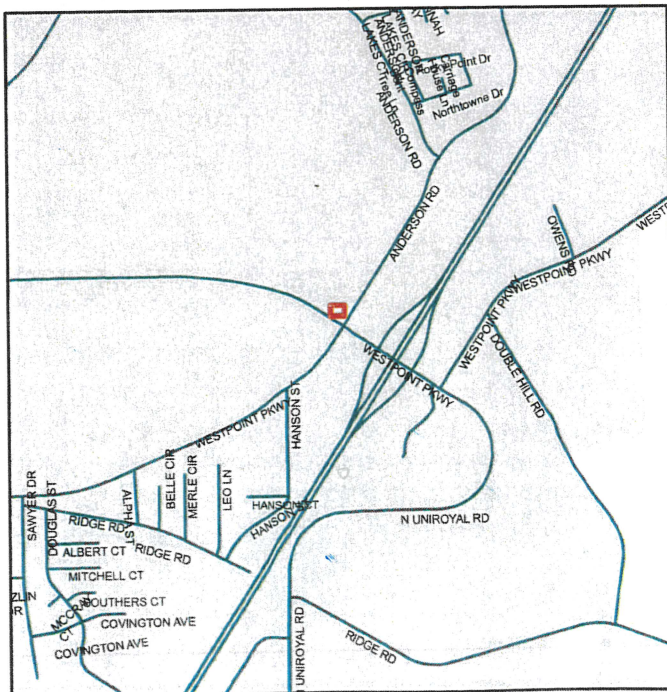
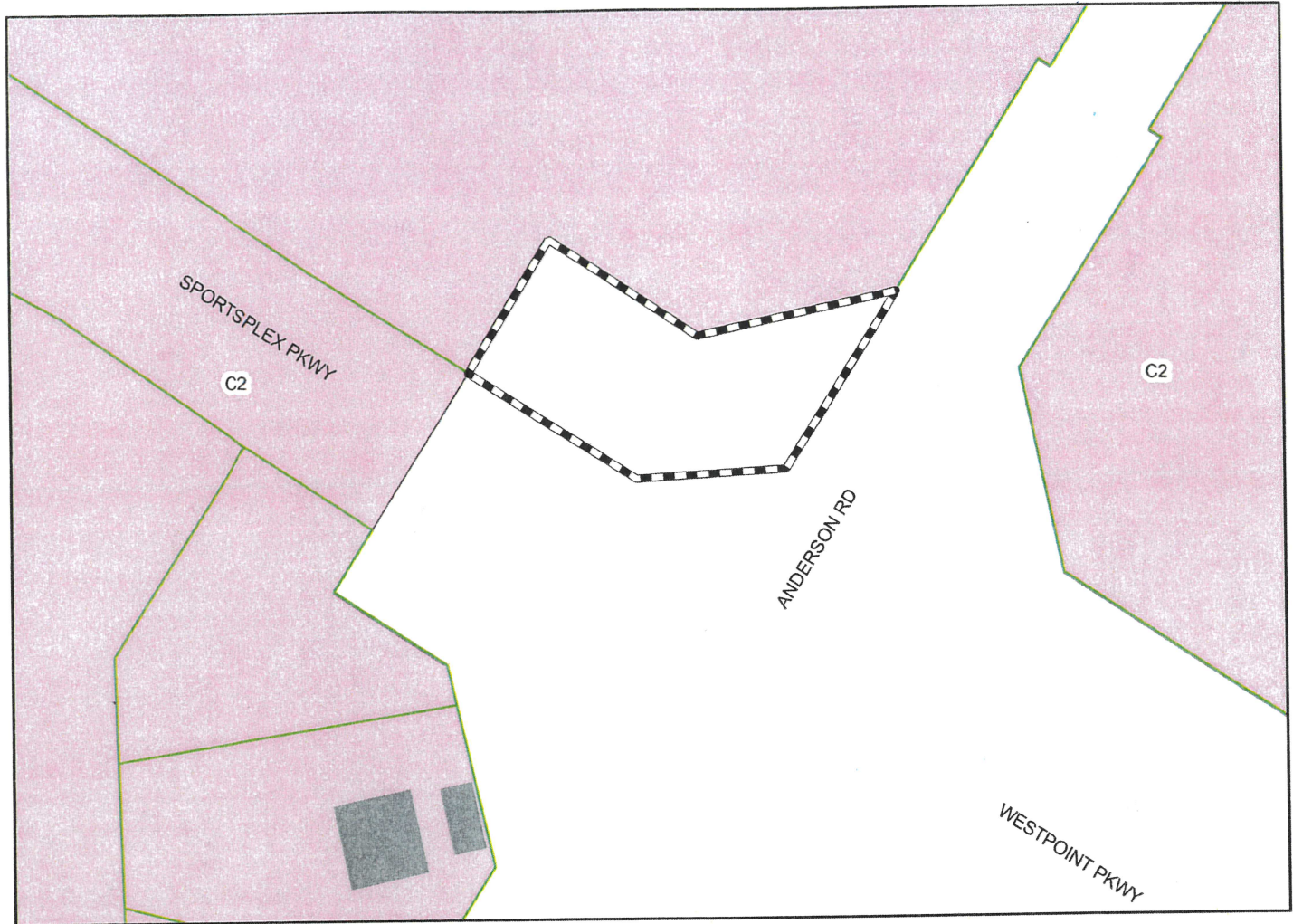
OPELIKA UTILITIES

No report.

Opelika Power Services

Opelika Power Services does not have Electrical Utilities within the above-mentioned right-of-way.

PETITION TO VACATE RIGHT-OF-WAY FOR PAEK INWOO
NORTHWEST PORTION SPORTSPLEX PARKWAY
VACATION OF ROW, #1



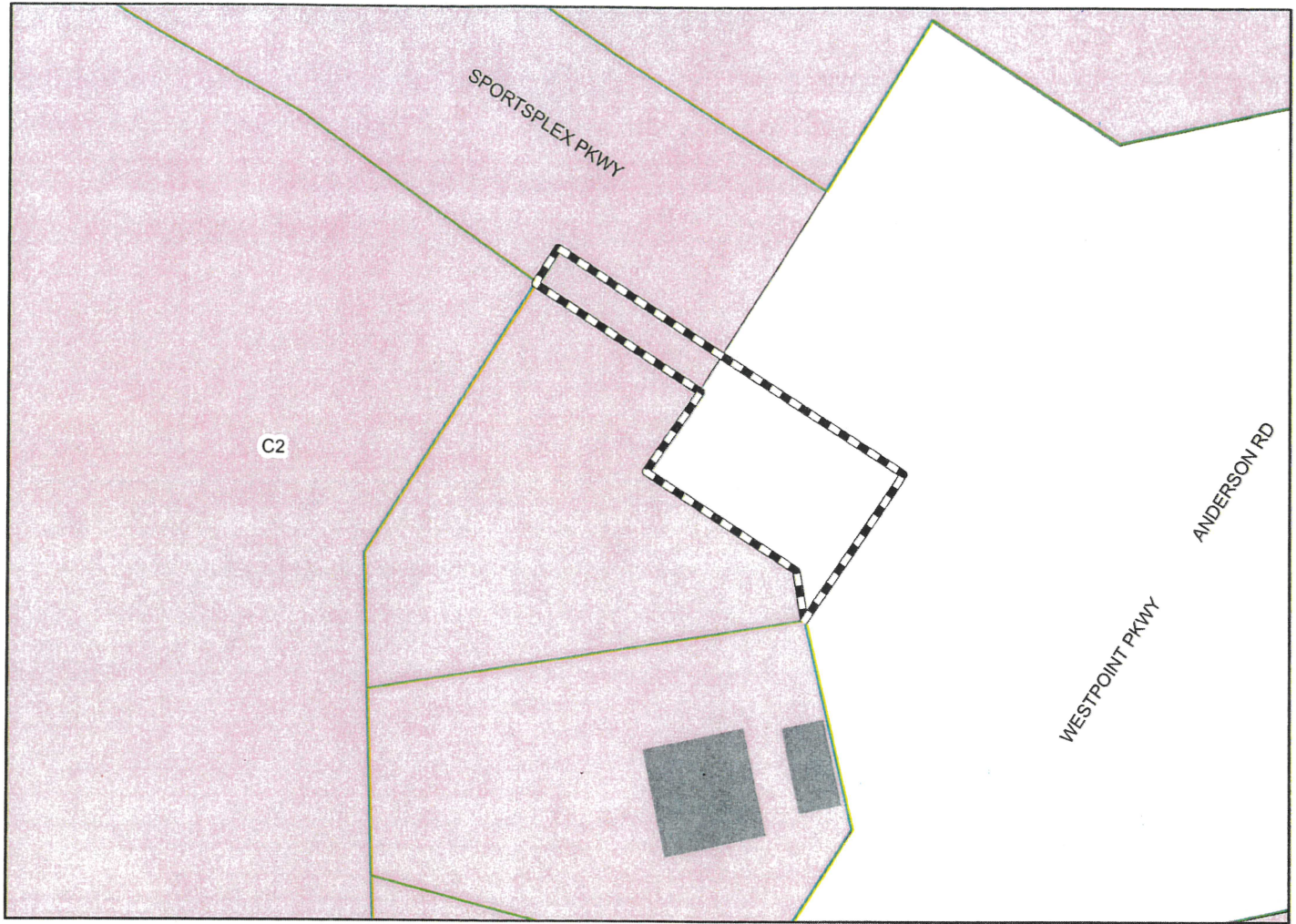
Paek Inwoo, petitioner & adjacent property owner, is requesting to vacate a northwest portion of Sportsplex Parkway.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without

**PETITION TO VACATE RIGHT-OF-WAY FOR MORGAN & BOOTHE
SOUTHWEST PORTION SPORTSPLEX PARKWAY
VACATION OF ROW, #2**



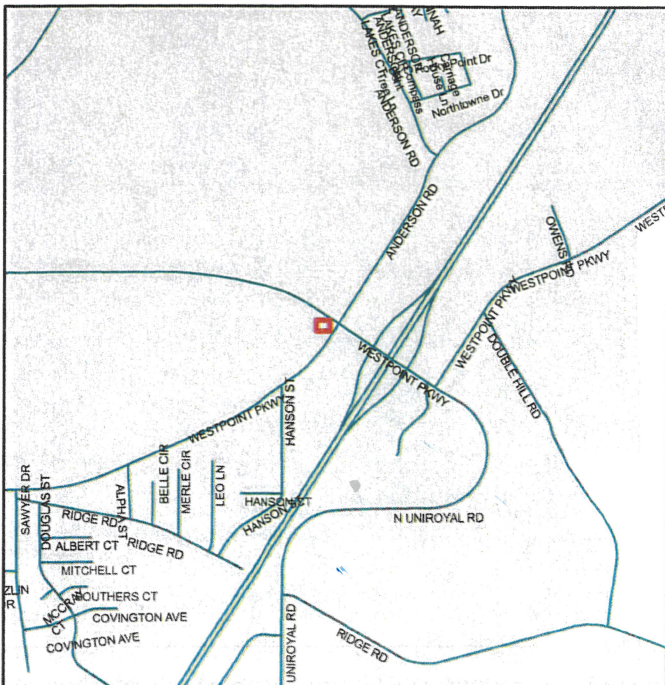
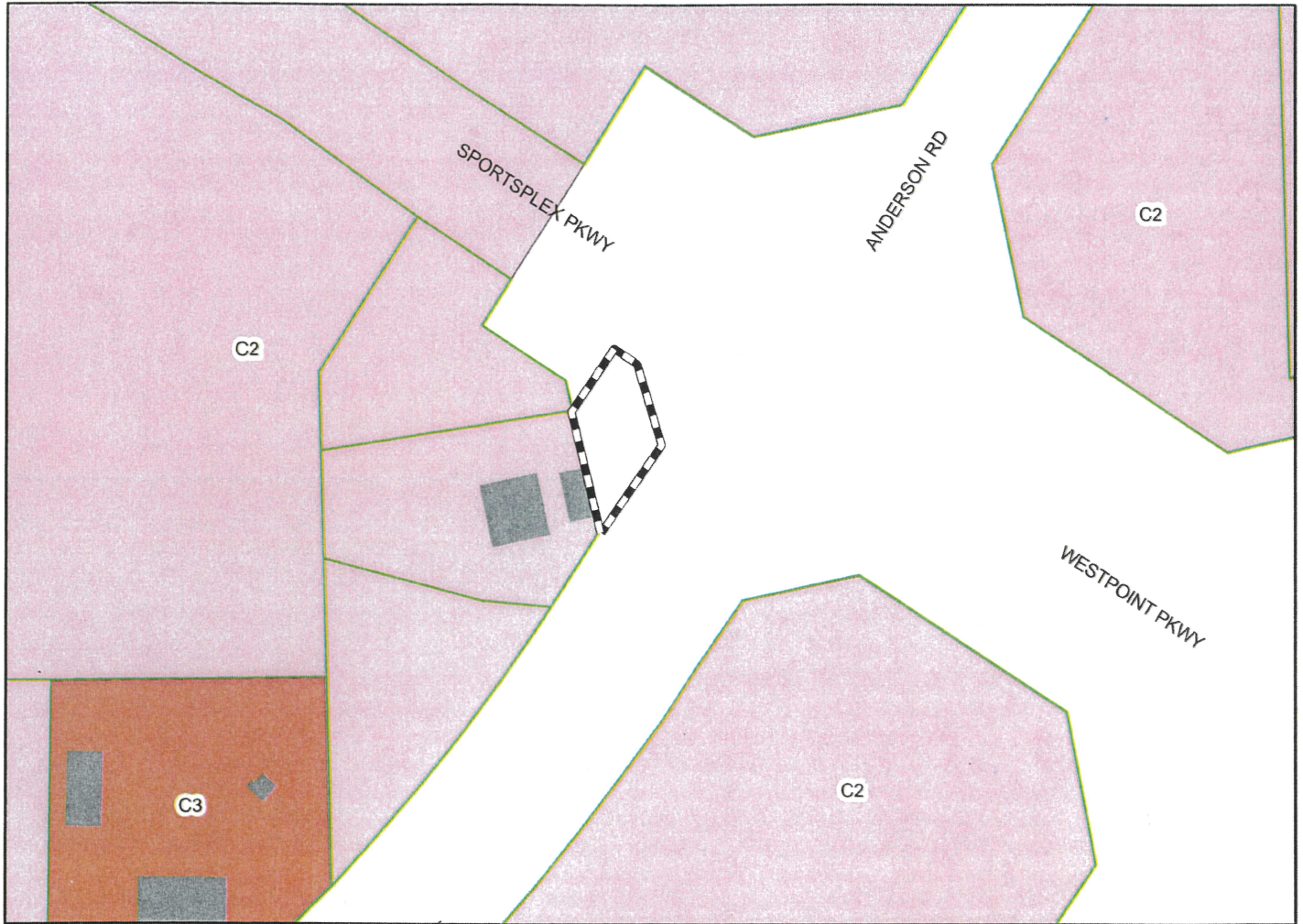
William M. Morgan & Robert D. Boothe, petitioners & adjacent property owners, are requesting to vacate a southwest portion of Sportsplex Parkway.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without

**PETITION TO VACATE RIGHT-OF-WAY FOR AWESOME LLC
SOUTHWEST PORTION SPORTSPLEX PARKWAY
VACATION OF ROW, #3**



Awesome LLC, petitioner & adjacent property owner, is requesting to vacate a southwest portion of Sportsplex Parkway.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without

NOTICE OF PUBLIC HEARING
OPELIKA CITY COUNCIL
March 19, 2019 7:00 P.M.

NOTICE IS HEREBY GIVEN in accordance with §23-4-2, *Code of Alabama*, 1975, that the City Council of the City of Opelika will conduct a Public Hearing during the regularly scheduled City Council meeting on Tuesday, March 19, 2019, beginning at 7:00 p.m. in the Opelika City Council Chambers of the Municipal Building, 204 S. 7th Street, Opelika, Lee County, Alabama, to receive the benefit of public input concerning a proposal to vacate a portion of the northwesterly right-of-way of Anderson Road and a portion of the northwesterly right-of-way of Sportsplex Parkway. All persons interested in the proposed vacation are invited to appear at the public hearing and express their views. Written statements or objections may be submitted to the City Clerk prior to the time of the hearing.

The portions of the rights-of-way of Anderson Road and Sportsplex Parkway proposed to be vacated are more particularly described as follows:

A tract or parcel of land containing 0.56 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N81°16'14"E 5991.60 feet to a point on an old highway right-of-way limit, the point of beginning; thence along said old highway right-of-way-limit N32°54'33"E 104.55 feet; thence continue along said old highway right-of-way-limit S57°23'58"E 112.20 feet; thence continue along said old highway right-of-way-limit N77°36'02"E 141.42 feet to a point on the northwest right-of-way limit of Anderson Road; thence along said northwest right-of-way limit S33°55'21"W 136.02 feet to the northeast right-of-way limit of Sportsplex Road; thence along said northeast right-of-way limit S79°09'19"W 101.25 feet; thence continue along said northeast right-of-way limit N56°57'26"W 136.12 feet to the point of beginning.

A copy of the Petition to Vacate and the proposed resolution approving the vacation will be available upon request at the office of the City Clerk, 2nd Floor of City Hall, 204 South 7th Street, Opelika, Alabama.

Please contact Lisa McLeod, the City's ADA Coordinator, at 334-705-5131 at least two (2) working days prior to the meeting if you require special accommodations due to a disability.

DATED this the ____ day of _____, 2019.

ROBERT G. SHUMAN, CITY CLERK

TO: PUBLISHER
{Name of Newspaper}
{Address}
Opelika, Alabama 36801

Please publish the foregoing Notice once a week for four (4) consecutive weeks in the [Name of Newspaper].

ROBERT G. SHUMAN, CITY CLERK



City Council

204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3319)

Meeting: 03/19/19 07:00 PM

Department: Planning

Category: Vacate Property

Prepared By: Marty Ogren

Initiator: Charles Mosley

Sponsors:

DOC ID: 3319

Public Hearing, Vacate ROW- Portion of Sportsplex Pkwy & West Point Pkwy, Morgan & Boothe

The City of Opelika has completed construction of Sportsplex Parkway. The City is requesting the vacation of a portion of the right-of-way for Sportsplex Parkway and West Point Parkway. This right-of-way was originally secured by the Alabama Department of Transportation for the construction of the interstate exit. The width of the right-of-way greatly exceeds what is necessary for the road. Three adjoining property owners to the right-of-way are involved in the vacation: Inwoo Paek, William M. Morgan & Robert D. Boothe, and Awesome LLC. At the January 22nd meeting, the Planning Commission voted 7 to 0 (and one abstain) to send a positive recommendation to City Council to vacate a portion of the right-of-way. At the Feb 5th CC WS, CC approved advertisement for a public hearing.

COMMENTS - Current Meeting:

President Smith open the public hearing for said vacating of property and asked if there was anyone present that would like to speak for or against said public hearing. Do one came forward to speak. President Smith closed the public hearing.

City of Opelika Planning Commission Report

Action Requested: Vacate Three Portions of Sportsplex Parkway:

1. Vacate a northwest portion of Sportsplex Parkway right-of-way (ROW) at the corner of West Point Parkway & Anderson Road for Inwoo Paek, adjacent property owner.
2. Vacate a southwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway for William M. Morgan & Robert D. Boothe, adjacent property owners
3. Vacate a southwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway for Awesome LLC, adjacent property owner.

Location of Property: Northwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway (see maps attached)

Adjacent Land Use: vacant property and commercial (gas station)

Current Zoning: C-2, GC-P

**Surrounding Zoning Districts
And Land Uses:**

North	C2, GC-P	vacant
South	C2, GC-P	Gas Station
East	C2, GC-P	vacant
West	C2, GC-P	vacant

Proposal:

The City of Opelika has completed the Sportsplex Parkway. The City of Opelika is requesting the vacation of a portion of the right-of-way for Sportsplex Parkway and West Point Parkway. This right-of-way was originally secured by the Alabama Department of Transportation for the construction of the interstate exit. The width of the right-of-way greatly exceeds what is necessary for the road. The #1 vacated ROW area (listed at top of page) is about 0.56 acres located next to vacant property. The #2 vacated area is about 0.20 acres. This property is adjacent to vacant property and includes a 20-foot sanitary sewer easement. The #3 vacated ROW area is adjacent to an existing gas station. The vacated area is a large portion of the gas station parking lot.

Staff recommends the Planning Commission send a positive recommendation to City Council to approve the vacation of the Northwest portion of Sportsplex Parkway right-of-way at the corner of West Point Parkway & Sportsplex Parkway.

At the January 22nd meeting, the Planning Commission voted 7 to 0 (one abstain) to send a positive recommendation to City Council to vacate the three portions of Sportsplex Parkway.

Engineer's Report

The Engineering Department initiated this ROW vacation as part of the ROW negotiations for the Sportsplex Parkway construction. This vacation is supported by the Engineering Department and a positive recommendation to City Council is supported.

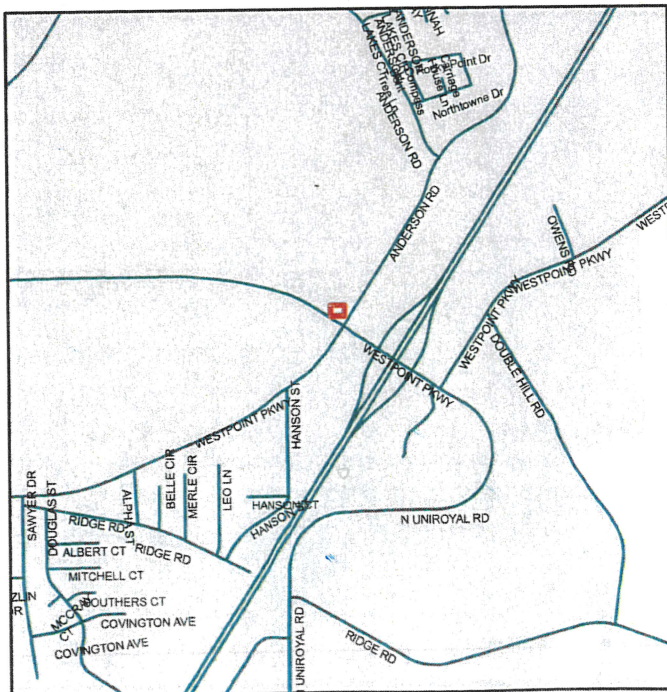
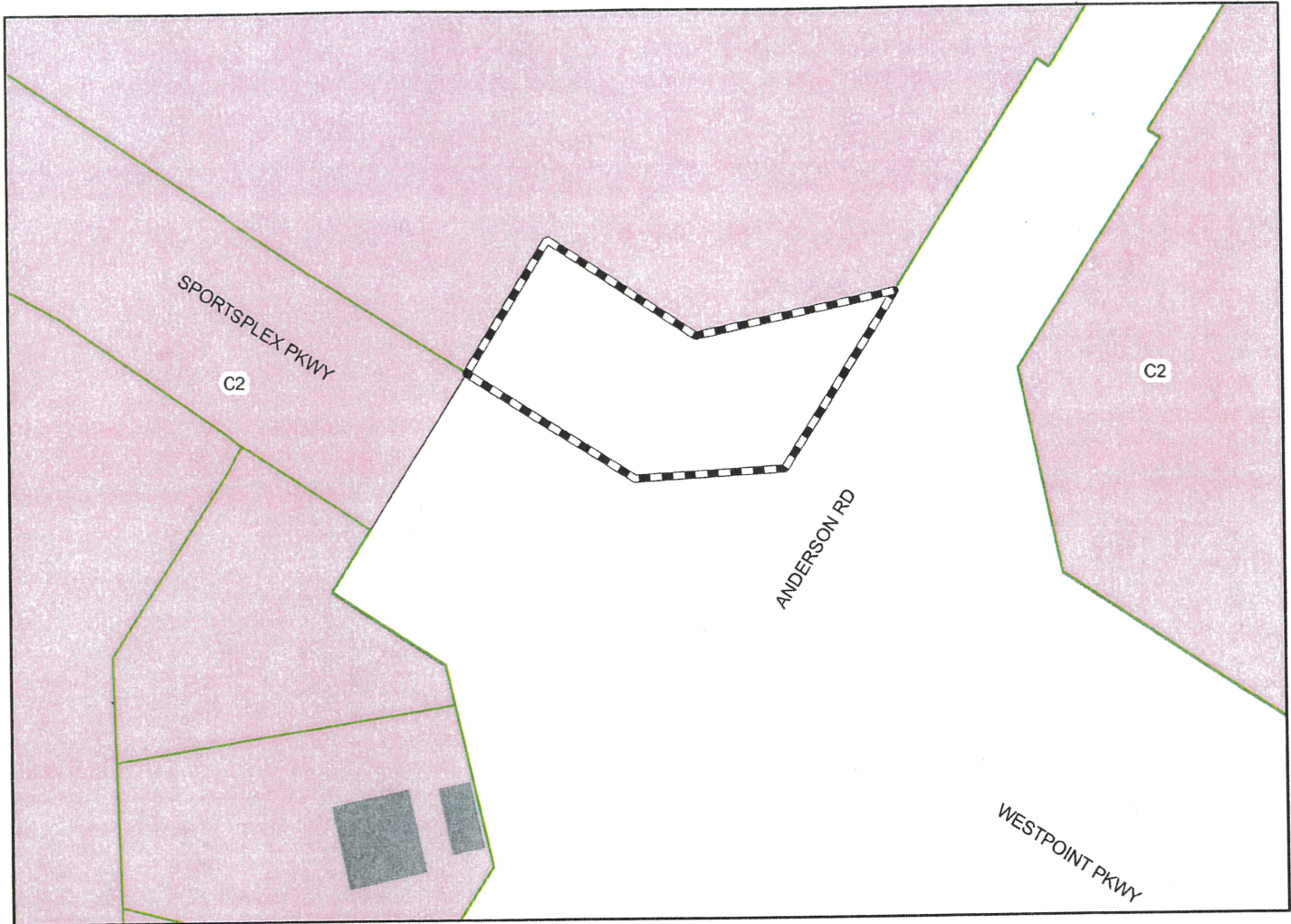
OPELIKA UTILITIES

No report.

Opelika Power Services

Opelika Power Services does not have Electrical Utilities within the above-mentioned right-of-way.

PETITION TO VACATE RIGHT-OF-WAY FOR PAEK INWOO NORTHWEST PORTION SPORTSPLEX PARKWAY VACATION OF ROW, #1

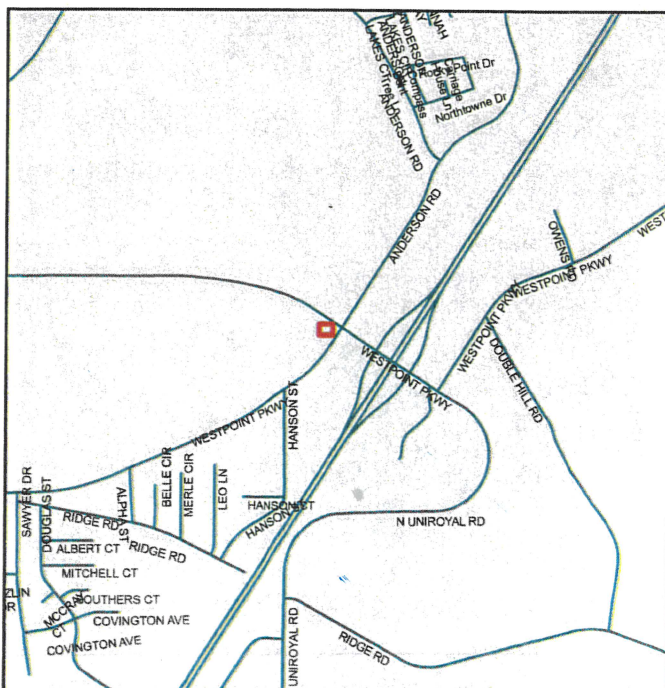


Paek Inwoo, petitioner & adjacent property owner, is requesting to vacate a northwest portion of Sportsplex Parkway.



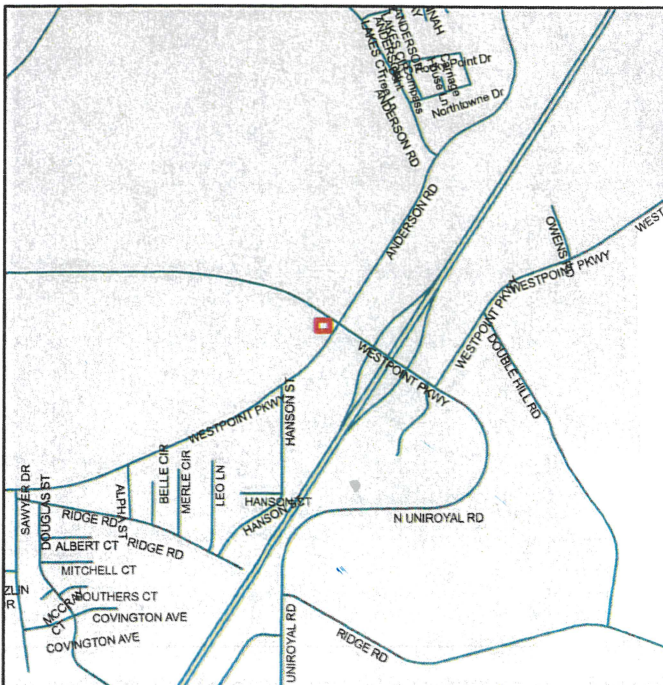
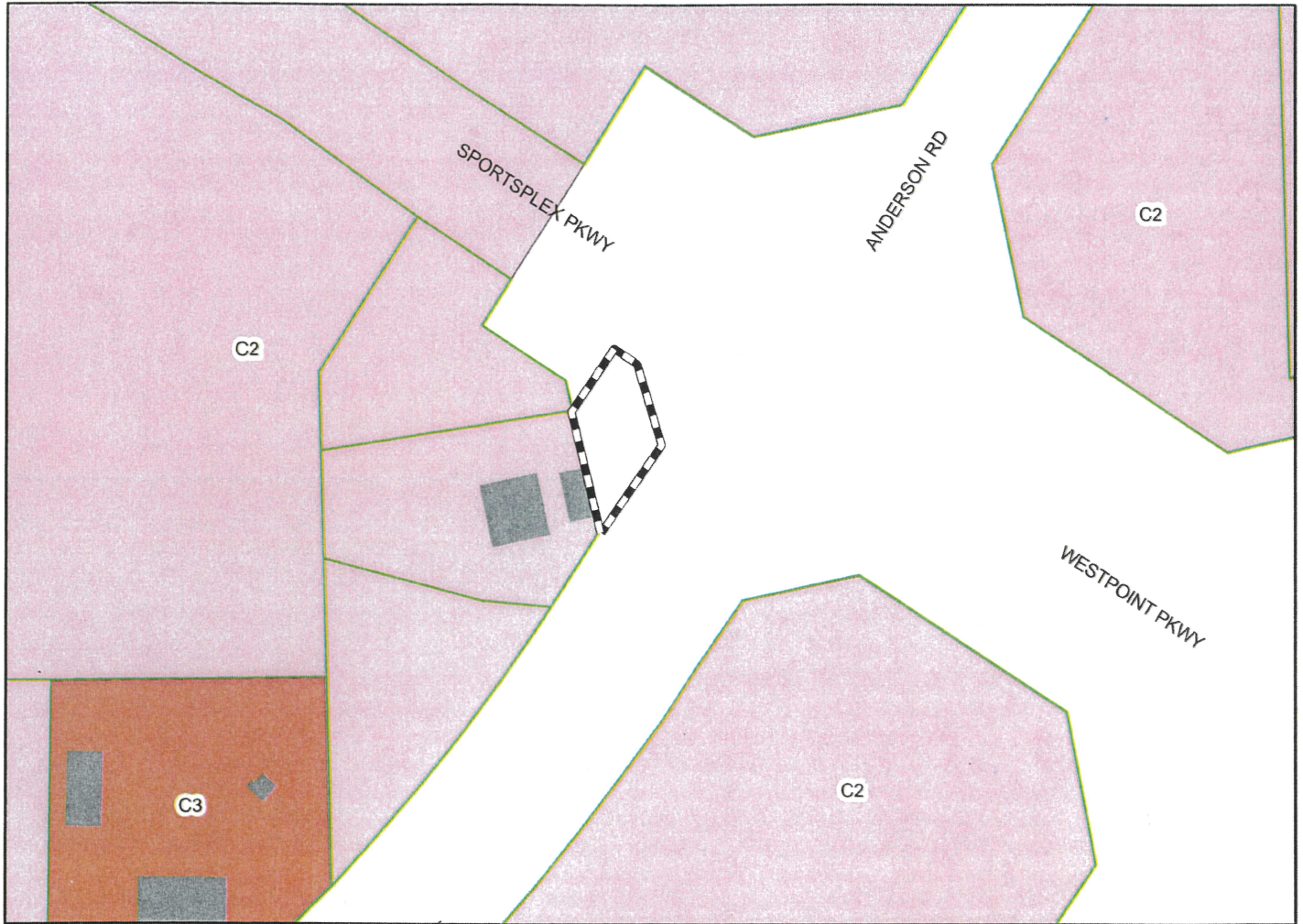
Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without



The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without

**PETITION TO VACATE RIGHT-OF-WAY FOR AWESOME LLC
SOUTHWEST PORTION SPORTSPLEX PARKWAY
VACATION OF ROW, #3**



Awesome LLC, petitioner & adjacent property owner, is requesting to vacate a southwest portion of Sportsplex Parkway.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without

NOTICE OF PUBLIC HEARING
OPELIKA CITY COUNCIL
March 19, 2019 7:00 P.M.

NOTICE IS HEREBY GIVEN in accordance with §23-4-2, *Code of Alabama*, 1975, that the City Council of the City of Opelika will conduct a Public Hearing during the regularly scheduled City Council meeting on Tuesday, March 19, 2019, beginning at 7:00 p.m. in the Opelika City Council Chambers of the Municipal Building, 204 S. 7th Street, Opelika, Lee County, Alabama, to receive the benefit of public input concerning a proposal to vacate a portion of the southwesterly right-of-way of Sportsplex Parkway and a portion of the southwesterly right-of-way of West Point Parkway (formerly U.S. Highway 29). All persons interested in the proposed vacation are invited to appear at the public hearing and express their views. Written statements or objections may be submitted to the City Clerk prior to the time of the hearing.

The portions of the rights-of-way of Sportsplex Parkway and West Point Parkway (formerly U.S. Highway 29) proposed to be vacated are more particularly described as follows:

A tract or parcel of land containing 0.20 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N83°23'32"E 5950.38 feet to a point on an old highway right-of-way limit, the point of beginning; thence along said old highway right-of-way limit N11°59'50"W 27.61 feet; thence continue along said old highway right-of-way limit N56°59'50"W 93.03 feet; thence continue along said old highway right-of-way limit N32°54'33"E 77.04 feet to the southwest right-of-way limit of Sportsplex Road; thence along said southwest right-of-way limit S56°57'26"E 112.74 feet; thence continue along said southwest right-of-way limit S33°02'34"W 20.00 feet; thence leaving said right-of-way limit S33°02'34"W 74.48 feet to the point of beginning.

A copy of the Petition to Vacate and the proposed resolution approving the vacation will be available upon request at the office of the City Clerk, 2nd Floor of City Hall, 204 South 7th Street, Opelika, Alabama.

Please contact Lisa McLeod, the City's ADA Coordinator, at 334-705-5131 at least two (2) working days prior to the meeting if you require special accommodations due to a disability.

DATED this the ____ day of _____, 2019.

ROBERT G. SHUMAN, CITY CLERK

TO: PUBLISHER
{Name of Newspaper}
{Address}
Opelika, Alabama 36801

Please publish the foregoing Notice once a week for four (4) consecutive weeks in the [Name of Newspaper].

ROBERT G. SHUMAN, CITY CLERK

RESOLUTION NO. 044-19

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
-----	-----	-----
Sherie Spain	P&R	193.56
Derek Lee	OPS	1,845.88
Guy Gunter	City Attorney	408.04
Patricia Jones	City Council	349.94

-) That attached is an expense report(s) prepared, dated and signed by the City employee or official covering the various expenses incurred on said trip and reviewed/approved by the City's accounting department and City official.
- 3) That the Opelika City Council hereby approves the attached expense reports for reimbursement to said City employee or official.
- 4) That the Mayor and/or appropriate City official is hereby directed and authorized to take the necessary steps so a check(s) can be prepared covering the attached expense report(s).
- 5) That the City Treasurer is authorized to sign said check(s) so it can be delivered to the appropriate City employee or official.

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

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - City Treasurer

EXPENSE REPORT

PERIOD ENDING

2-24-19

NAME

Regions - Sherie Spain

DEPARTMENT

Department Parks & Recreation

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
21-Feb	Opelika to Oxford/Conference					71.40						71.40
22-Feb	Oxford to/from conference					20.42						20.42
23-Feb	Oxford to/from conference					20.42						20.42
24-Feb	Oxford to Conference/Opelika					81.32						81.32
												0.00
												0.00
												0.00
WEEKLY CATEGORY TOTALS \$		0.00	0.00	0.00	0.00	193.56	0.00	0.00	0.00	0.00	0.00	193.56

WEEKLY TOTAL EXPENSES

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

NUMBER OF DAYS AWAY FROM HOME

4

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

Alabama Clay Conference personal vehicle mileage.

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL TO

Send check to Sherie Spain at Denson Rec.

Signature

Signature

Approved by

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
2/21	POV Mileage 123.10 miles	71.40
2/22	POV Mileage 35.20 miles	20.42
2/23	POV Mileage 35.20 miles	20.42
2/24	POV Mileage 140.20 miles	81.32
	Total Mileage = 333.70 miles	193.56

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

EXPENSE REPORT

PERIOD ENDING

2/28/19

NAME

Derek S. Lee

DEPARTMENT

OPS

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												0.00
MON 2/25/19	Washington D.C										10.00	10.00
TUE												0.00
WED	Washington D.C.				10.00							10.00
THU												0.00
FRI	Washington D.C.	1,825.88										1,825.88
SAT												0.00
WEEKLY CATEGORY TOTALS \$		1,825.88	0.00	0.00	10.00	0.00	0.00	0.00	0.00	0.00	10.00	1,845.88

WEEKLY TOTAL EXPENSES

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

NUMBER OF DAYS AWAY FROM HOME

4 Days

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

2019 APPA Legislative Rally

METHOD OF REIMBURSEMENT

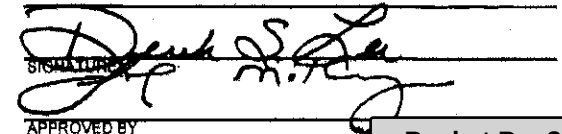
☐ DEDUCT FROM
MY ADVANCE

☒ MAIL TO

Send Check to Derek Lee @ OPS

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

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT
2/24	Doorman Tip	2.00
2/24	Bellman Tip	3.00
2/25	Skycap	3.00
2/26	Skycap	2.00

SIGNATURE 

APPROVED BY

EXPENSE REPORT

NAME

Name Guy F. Gunter, III

DEPARTMENT

Department Legal

PERIOD ENDING

3/12/2019

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS Itemize Below			ENTERTAIN- MENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												0.00
MON 3/11	Opelika to Washington DC Congressional Dinner	349.94									30.00	379.94
TUE	Washington DC to Opelika Congressional Dinner						28.10					28.10
WED												0.00
THU												0.00
FRI												0.00
SAT												0.00
WEEKLY CATEGORY TOTALS \$		349.94	0.00	0.00	0.00	0.00	28.10	0.00	0.00	0.00	30.00	408.04

WEEKLY TOTAL EXPENSES ↑

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

NUMBER OF DAYS AWAY FROM HOME

1

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

Attend the 3rd Congressional District Dinner

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
3/11	Baggage Fee	30.00

Guy F. Gunter, III

City Attorney

Opelika, AL 36801

SIGNATURE

APPROVED BY

NAME
Name*Patricia A. Jones*DEPARTMENT
Department*City Council*EXPENSE REPORT
PERIOD ENDING *3-13-19*

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC.	RENTAL CAR LIMO ETC.	LOCAL TAXI TOLLS & PUB. LIC. TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN												
MON	<i>Washington DC</i>	<i>349.94</i>										<i>349.94</i>
TUE												
WED												
THU												
FRI												
SAT												
WEEKLY CATEGORY TOTALS \$		<i>349.94</i>										<i>\$ 349.94</i>

WEEKLY TOTAL EXPENSES

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

NUMBER OF DAYS AWAY FROM HOME

1

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

- 0 -

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

- 0 -

NATURE OR PURPOSE OF TRAVEL

Congressional Dinner

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL TO

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

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT

SIGNATURE

APPROVED BY

*Patricia A. Jones**[Signature]*

RESOLUTION NO. 045-19

Purchase - Ford F450 - HGAC Contract - FD**RESOLUTION NO. _____**

WHEREAS, the Fire Department desires to purchase one (1) 2019 Ford F450 with certain options utilizing the HGAC Contract; and

WHEREAS, Emergency Equipment Professionals is the Contract Vendor for the 2019 Ford F450; and

WHEREAS, funding for this purchase is budgeted;

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

1. That the purchase be awarded to Emergency Equipment Professionals utilizing the HGAC Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Emergency Equipment Professionals in the amount of \$240,332.41.
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


CONTRACT PRICING WORKSHEET
 For MOTOR VEHICLES Only

 Contract
 No.:

AM10-18

 Date
 Prepared:

3/8/2019

*This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents **MUST** be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.*

Buying Agency:	CITY OF OPELIKA, AL (FIRE)	Contractor:	EEP: Emergency Equipment Professionals
Contact Person:	Jon Kennedy: EMS/Hazmat Coordinator	Prepared By:	Rob Cartee
Phone:	CELL: 334-750-7074	Phone:	256-466-2772
Fax:		Fax:	662-342-7251
Email:	JKennedy@opelika-al.gov	Email:	RCARTEE@EPROINC.COM
Product Code:	AM18BA16	Description:	ChiefXL Type I: Ford F450 4x2 / 193" Wheelbase / 72" Headroom / 169"
A. Product Item Base Unit Price Per Contractor's H-GAC Contract:			190844
B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable. (Note: Published Options are options which were submitted and priced in Contractor's bid.)			
Description	Cost	Description	Cost
SEE ATTACHED SHEET			
		Subtotal From Additional Sheet(s):	9621.2
		Subtotal B:	9621.2
C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary. (Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)			
Description	Cost	Description	Cost
SEE ATTACHED SHEET			
		Subtotal From Additional Sheet(s):	16780.2
		Subtotal C:	16780.2
Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).		For this transaction the percentage is:	8%
D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)			
Quantity Ordered:	1	X Subtotal of A + B + C:	217245.4 = Subtotal D: 217245.4
E. H-GAC Order Processing Charge (Amount Per Current Policy)			Subtotal E: 1000
F. Trade-Ins / Other Allowances / Special Discounts / Freight / Installation			
Description	Cost	Description	Cost
Loose equipment: Ferno stair chair, Ferno cot	11109.45	flatbed delivery, pdi, admin	4700
Loose Equip: Motorola APX8500 / Kenwood - per local quote	7166.96	Factory Final Inspection trip for 2 Opelika personnel	3000
DEALER & OEM DISCOUNTS	-3889.4		
		Subtotal F:	22087.01
Delivery Date: 180-210 from clean order		G. Total Purchase Price (D+E+F): 240332.41	

Attachment: 3-19-19 - ONE (1) FORD F450 - HGAC CONTRACT - CNCL PKT (045-19 : Purchase - Ford F450 - HGAC Contract - FD)

Opelika Fire, Alabama

Published Options	HGAC PRICE
OUTLETS, 125VAC - FOUR (4) INTERIOR DUPLEX	\$83.60
OUTLETS, 12VDC - FOUR (4) INTERIOR POWERPOINT	\$140.80
SOUND DEADENING PKG	\$490.00
COATING - CERAMIC THERMAL	\$296.00
ZIEBART UNDERCOATING	\$836.00
ZICO SCBA HOLDERS KD-UH-6-SF (#23891) TWO (2)	\$387.20
OUTSIDE STORAGE #1-O2 CYL. STORAGE WITH E-Z O2 LIFT	\$2,046.00
CONDENSER - HOSELINE TMC 2007, MODULE FRONT MOUNT	\$1,929.40
(2) F W #521 STORAGE BRACKET FOR "D", OR JUMBO "D" CYLINDER	\$622.60
NET - SQUADBENCH INSTALLED	\$585.20
FIRE EXTINGUISHER - (1) ABC DRY CHEM 5 LB. WITH BRACKET - front	\$84.70
FIRE EXTINGUISHER - (1) ABC DRY CHEM 5 LB. WITH BRACKET - rear	\$84.70
CHEVRON STRIPING - FULL COVERAGE - per attached layout	\$2,035.00
Additional - PUBLISHED OPTIONS:	\$9,621.20

Un Published Options	PRICE
ARM REST - EACH SIDE	\$ 225.00
INVERTER, VANNER - 1050 WATT, #20-1000TUL.2-DC	\$ 1,860.00
LIGHTS, INTERIOR CABINETS, RIDGEBACK 12V LED STRIP LIGHT, WHITE	\$ 1,038.00
led round compt lights	\$ 654.00
CABINET - RIGHT WALL BEHIND SQUADBENCH	\$ 1,198.00
POLISHED STAINLESS - NERF BARS ILO STD RUNNING BOARDS	\$ 350.00
DIVIDER WITH STAIR CHAIR STORAGE AND STRAP	\$ 600.00
deleted stream lights	\$ -
TURN SIGNAL CAMERAS EACH SIDE	\$ 900.00
deleted firecom	\$ -
(1) TECHNIMOUNT MONITOR BRACKET FOR ZOLL X SERIES	\$ 1,000.00
OUTLET 12VDC WIRED HOT AT ACTION AREA FOR CUSTOMER SUPPLIED NARC BO	\$ 64.00
GLOVE STORAGE AT CAB CONSOLE	\$ 225.00
deleted laptop mount	\$ -
VEHICLE PLACARD - TOTAL OF 3	\$ 325.00
ACP AREA - FLIP DOWN PANEL	\$ 62.20
BACKBOARD HOLDER AT TOP OF OSS 4	\$ 50.00
MODULE SEATING TO BE BRAUN UPGRADE - ILOS VALOR	\$ 300.00
PAINT MODULE ALL ONE SOLID COLOR, PLUS CLEAR COAT	\$ 1,280.00
PAINT CAB ALL ONE SOLID COLOR, PLUS CLEAR COAT	\$ 3,049.00
deleted - UPPER SECTION OF MODULE TO BE PAINTED BLACK	\$ -
MODULE ROOF TO BE PAINTED WHITE - NOT VISIBLE FROM GROUND LEVEL	\$ 800.00
GRAPHICS - CUSTOMIZED TO MATCH CURRENT FLEET	\$ 2,500.00
antenna bases to be mounted on chassis cab ROOF (2)	\$ 300.00
Total UNPUBLISHED OPTIONS:	\$ 16,780.20

RESOLUTION NO. 046-19

Purchase-VMware Licensing and Maintenance-New PD-IT**RESOLUTION NO. _____**

WHEREAS, the Information Technology Department desires to purchase VMware Licensing and Maintenance for three (3) years for the new Police Department utilizing National IPA Contract #2018011-01; and

WHEREAS, CDW Government, Inc. is the National IPA Contract Vendor for the VMware Licensing and Maintenance; and

WHEREAS, funds are budgeted from Capital Outlay;

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

1. That the purchase be awarded to CDW Government, Inc. utilizing the National IPA Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to CDW Government, Inc. in the total amount of \$102,370.62.
3. The Controller is authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

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

C.E. "Eddie" Smith, Jr.

President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

QUOTE CONFIRMATION



DEAR STEPHEN DAWE,

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

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
KLJX822	2/25/2019	KLJX822	0936449	\$102,370.62

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
VMware vRealize Network Insight Advanced - license - 1 CPU Mfg. Part#: VR-NI-ANXC-C-L3 UNSPSC: 43233006 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	20	4237606	\$1,094.52	\$21,890.40
VMware Support and Subscription Production - technical support - for VMware Mfg. Part#: VR-NI-ANXC-3P-SSS-C UNSPSC: 81112201 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	20	4237603	\$871.41	\$17,428.20
VMware vCenter Server Standard for vSphere (v. 6) - license - 1 instance Mfg. Part#: VCS6-STD-C-L3 UNSPSC: 43233006 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	1	5291248	\$4,786.08	\$4,786.08
VMware Support and Subscription Production - technical support - for VMware Mfg. Part#: VCS6-STD-3P-SSS-C UNSPSC: 86101601 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	1	3645538	\$4,152.14	\$4,152.14
VMware vSphere Enterprise Plus (v. 6) - license - 1 processor Mfg. Part#: VS6-EPL-C-L3 UNSPSC: 43233006 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	10	3645968	\$3,060.48	\$30,604.80
VMware Support and Subscription Production - technical support - for VMware Mfg. Part#: VS6-EPL-3P-SSS-C UNSPSC: 86101601 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	10	3645590	\$2,350.90	\$23,509.00

PURCHASER BILLING INFO	SUBTOTAL	\$102,370.62
-------------------------------	-----------------	--------------

Billing Address: CITY OF OPELIKA ACCOUNTS PAYABLE PO BOX 390 OPELIKA, AL 36803-0390 Phone: (334) 705-5120 Payment Terms: Net 30 Days-Govt State/Local	SHIPPING	\$0.00
	SALES TAX	\$0.00
	GRAND TOTAL	\$102,370.62
DELIVER TO Shipping Address: CITY OF OPELIKA STEPHEN DAWE 204 S 7TH ST OPELIKA, AL 36801 Shipping Method: ELECTRONIC DISTRIBUTION	Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	

Need Assistance? CDW•G SALES CONTACT INFORMATION



Griffin Curcio

(877) 635-6656

grifcur@cdwg.com

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

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



A WINNING PARTNERSHIP IN STRATEGIC SOURCING

We are pleased to announce that CDW·G has been awarded a special contract with National IPA, for the sale of Information Technology Solutions and Services, under Agreement 2018011-01. Contract 2018011-01 is now available for National IPA Participants to utilize for all of your technology needs.

STRONG PARTNERSHIP, STRONG SOLUTIONS

CDW·G and National IPA have worked collaboratively to help you successfully convert to the new program. If you have any questions about the transition or process, please contact your CDW·G account manager for additional assistance.

We look forward to serving you under our new agreement with National IPA.

HERE ARE THE BENEFITS OF THE CONTRACT:

- + Term: 3/1/2018 to 2/28/2023 with two, one-year renewals.
- + Competitive pricing across CDW·G's entire portfolio of products and solutions.
- + Access to a multitude of services and custom configurations, including equipment staging.
- + Pricing on products made by the following partners:



RESOLUTION NO. 047-19

Purchase-Backup Solution-New PD-IT**RESOLUTION NO. _____**

WHEREAS, the Information Technology Department desires to purchase a Backup Solution for the new Police Department utilizing National IPA Contract #2018011-01; and

WHEREAS, CDW Government, Inc. is the National IPA Contract Vendor for the Backup Solution; and

WHEREAS, funds are budgeted from Capital Outlay;

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

1. That the purchase be awarded to CDW Government, Inc. utilizing the National IPA Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to CDW Government, Inc. in the total amount of \$208,360.00, with the first payment due on May 1, 2019 in the amount of \$115,606.00, the second payment due on May 1, 2020 in the amount of \$46,377.00, and the final payment due on May 1, 2021 in the amount of \$46,377.00.
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



200 N. Milwaukee Ave.
Vernon Hills, IL 60061

Corporate Office: 847.465.6000
Fax: 847.465.6800
Toll-free: 800.800.4239
www.cdw.com

CDW Annual Billing Statement

City of Opelika, AL

In connection with National IPA Technology Solutions (2018011-01), this is to confirm our payment to CDW as follows:

TOTAL FEES: \$208,360

PAYMENT FOR YEAR ONE:	\$115,606
PAYMENT FOR YEAR TWO:	\$46,377
PAYMENT FOR YEAR THREE:	\$46,377
DUE DATE FOR PAYMENT ONE:	5/1/19
DUE DATE FOR PAYMENT TWO:	5/1/20
DUE DATE FOR PAYMENT THREE: DUE	5/1/21

CDW Quote # KLWQ663

If payment is not received within ten (10) days of the due date specified above, we hereby authorize CDW to invoice us for the annual payment amount and to receive prompt payment from in accordance with CDW's invoices. In addition, if the initial payment was made by credit card, we hereby authorize CDW to charge the annual payment against our credit card.

In the event that during the renewal years (year two, year three, year four and year five) of the State of Georgia Cisco Contract, the awarded reseller is no longer considered a Contract supplier, the City of Atlanta may purchase year two, year three, year four and year five licenses from a different Cisco Contract reseller resulting from a new solicitation for such years.

SIGNATURE: _____

DATE: _____



A WINNING PARTNERSHIP IN STRATEGIC SOURCING

We are pleased to announce that CDW-G has been awarded a special contract with National IPA, for the sale of Information Technology Solutions and Services, under Agreement 2018011-01. Contract 2018011-01 is now available for National IPA Participants to utilize for all of your technology needs.

STRONG PARTNERSHIP, STRONG SOLUTIONS

CDW-G and National IPA have worked collaboratively to help you successfully convert to the new program. If you have any questions about the transition or process, please contact your CDW-G account manager for additional assistance.

We look forward to serving you under our new agreement with National IPA.

HERE ARE THE BENEFITS OF THE CONTRACT:

- + Term: 3/1/2018 to 2/28/2023 with two, one-year renewals.
- + Competitive pricing across CDW-G's entire portfolio of products and solutions.
- + Access to a multitude of services and custom configurations, including equipment staging.
- + Pricing on products made by the following partners:



RESOLUTION NO. 048-19

Purchase-Server Hardware with Backup Support-New PD-IT**RESOLUTION NO. _____**

WHEREAS, the Information Technology Department desires to purchase Server Hardware that includes backup support for five years for the new Police Department utilizing National IPA Contract #2018011-01; and

WHEREAS, CDW Government, Inc. is the National IPA Contract Vendor for the Backup Solution; and

WHEREAS, funds are budgeted from Capital Outlay;

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

1. That the purchase be awarded to CDW Government, Inc. utilizing the National IPA Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to CDW Government, Inc. in the total amount of \$335,535.88.
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


5 Nodes-100 Cores,3840G Memory,4TB SSD Cache,76.8TB SSD Data


Prepared For: City of Opelika
 Customer #: 936449
 Attention: Stephen Dawe
 Project: New VxRail Hyperconverged Datacenter
 Date: 2/14/2019

Submitted By: Griffin Curcio
 Sr. Account Manager
 Phone: 877-635-6656
 E-Mail: grifcur@cdwg.com
 Quote #: 6002621009 V04

	Qty.	Part Numbers	Description	Unit Sell	Extended Sell
Hardware	1	2S8HPFANE560165GR	VXRAIL-500 2S 8 HIGH PERF FAN 165W/GRT	\$109.95	\$109.95
	1	2SE560HSKDM165OL	VXRAIL-500 2S E560 165WL HTK DIMM BLNK	\$12.74	\$12.74
	1	PROSV41141SF	VXR INTEL CPU SLV 4114 2.2G 10C 20T 1S F	\$532.73	\$532.73
	1	PROSV41142SF	VXR INTEL CPU SLV 4114 2.2G 10C 20T 2S F	\$532.73	\$532.73
	1	RISER640CNFG2DUAL	VXRAIL-500 RISER R640 CONFIG2 LP	\$8.98	\$8.98
	1	RAILKIT1U1NHAF	VXRAIL-500 A8 RRAILS 2-4POSTRACKS1U1N AF	\$24.54	\$24.54
	1	TPM1.2MODULEAF	VXRAIL-500 TPM 1.2 MODULE AF	\$29.25	\$29.25
	1	INSTLCTRYUSAFR640F	VXRAIL-500 USA SHIPMOD F	\$38.23	\$38.23
	1	PS1100WPSF	VXRAIL-500 DUAL HOTPLG 1100W PS F	\$389.29	\$389.29
	1	SYSE5602SVENF	VXRAIL 14G E560 1U1N 2S NVME ENT AF	\$8,385.28	\$8,385.28
	2	PWR200VRACK	C13-C14 PDU RACK PWR CRD 2M N. AM	\$0.00	\$0.00
	24	MEMLDIMM32GBAF	VXRAIL-500 MEMORY 32GB RDIMM AF	\$570.48	\$13,691.52
	1	RDIMM2666INFO	VXRAIL-500 FACTORYORD RQ 2666MHZ RDIMMS	\$0.00	\$0.00
	1	NDCX710QP10GBSFP AF	VXRAIL-500 NDC INTELX710 QP 10GB SFP+ AF	\$420.90	\$420.90
	1	INSTKITSFPAF	VXRAIL 14G CAT6 CABLE AF	\$28.32	\$28.32
	4	CAPSSDSATA3.84TBF	VXR 3.84TB CAPACITY SATA 2.5IN SSD F	\$2,127.59	\$8,510.36
	1	DSKLESSNVMECONFIGF	VXRAIL-500 DISKLESS NVME CONFIGURATION F	\$0.00	\$0.00
	1	CACHESSD800GB	VXR 800GB CACHE SSD 2.5IN	\$1,424.53	\$1,424.53
Hardware Total:					\$34,139.35
Software	1	VXR-14G-MGR-DE-4.7	VXRAIL SOFTWARE IMAGE V4.7=MA	\$0.00	\$0.00
	1	458-001-937	RECOVERPOINT FOR VM FOR 1-NODE HCIA	\$0.00	\$0.00
	1	456-111-959	RECOVERPOINT FOR VM FOR 1-NODE HCIA =IB	\$0.00	\$0.00
	1	458-002-519	VXRAIL VMWARE VSAN ENTERPRISE	\$0.00	\$0.00
	2	456-113-811	VXRAIL VMWARE VSANENTERPRISE 5Y MAINT=IG	\$0.00	\$0.00
	2	VXROBSBPROC SF	VXRAIL HYPER CONVERGED OS(BS F)=IG	\$1,672.72	\$3,345.44
Support	4	VXRO3.84SATAF	VXR HYPER CONVERGED OS(CAP 3.84 SATA)=CF	\$609.64	\$2,438.56
	Software Total:				\$5,784.00
	1	M-PSM-HW-J-003-5Y	PROSUPPORT W/MC VSAN ENT HW SUPP 5 YEAR (60 mos.)	\$17,083.23	\$17,083.23
	1	M-PSM-SW-D3-001	PROSUPPORT W/MISSION CRITICAL-SOFTWARE (60 mos.)	\$0.00	\$0.00
	1	M-PSM-SW-J-007	PROSUPPORT W/MC VSAN ENT SW SUPPORT (60 mos.)	\$0.00	\$0.00
	1	M-PSM-SW-J-001	PROSUPPORT W/MISSION CRITICAL-SOFTWARE (60 mos.)	\$1,672.30	\$1,672.30
	1	M-PSM-SW-J-001	PROSUPPORT W/MISSION CRITICAL-SOFTWARE (60 mos.)	\$1,219.42	\$1,219.42
Support Total:					\$19,974.95
Solution Total:					\$59,898.30
System Quantity:				5	
Extended Total:					\$299,491.50
Services	1	PS-PDP-P30VXRAIL	30DAYPOSTDEPLOYASSIST VXRAIL	\$209.19	\$209.19
	1	PS-PDP-VRLTRACKING	VXRAIL PRODEPLOYPLUS TRACKING	\$0.00	\$0.00
	600	CE-PDPTC0001	1 TRAINING CREDIT VALID 1YR (PDP)	\$0.93	\$558.00
	5	PS-PDP-HCIANIMPOS	ONSITE IMPLEMENTATION FOR VXRAIL NODE	\$3,346.92	\$16,734.60
	1	PSINST-ESRS	ZERO DOLLAR ESRS INSTALL	\$0.00	\$0.00
	1	PS-PDP-RVMTRACKING	RP4VM PRODEPLOYPLUS TRACKING	\$0.00	\$0.00
	1	PS-PDP-RPVMRROS	ONSITE RP4VM REMOTE REPL IMPL FOR 1 CG	\$6,685.09	\$6,685.09
	12750	CE-CORTC0001	1 TRAINING CREDIT VALID 1YR (COR)	\$0.93	\$11,857.50
Services Total:					\$36,044.38
Grand Total:					\$335,535.88

Prepared By: Megan Kurokawa (Solution Specialist)

Prices are contingent on final pricing approval from Manufacturer. Applicable Taxes and Shipping not shown.

Quote provided based on specification provided by customer. No workload validation has been done.

 The terms and conditions provided on this link apply: <https://www.cdwg.com/content/cdwg/en/terms-conditions.html>

CDW

Confidential

Page 1

Packet Pg. 99

Attachment: 3-19-19 - SERVER HARDWARE & SUPPORT FOR DATA CTR - PD - NATL IPA CONTR #2018011-01 - CNCL PKT (048-19 : Purchase-



A WINNING PARTNERSHIP IN STRATEGIC SOURCING

We are pleased to announce that CDW·G has been awarded a special contract with National IPA, for the sale of Information Technology Solutions and Services, under Agreement 2018011-01. Contract 2018011-01 is now available for National IPA Participants to utilize for all of your technology needs.

STRONG PARTNERSHIP, STRONG SOLUTIONS

CDW·G and National IPA have worked collaboratively to help you successfully convert to the new program. If you have any questions about the transition or process, please contact your CDW·G account manager for additional assistance.

We look forward to serving you under our new agreement with National IPA.

HERE ARE THE BENEFITS OF THE CONTRACT:

- + Term: 3/1/2018 to 2/28/2023 with two, one-year renewals.
- + Competitive pricing across CDW·G's entire portfolio of products and solutions.
- + Access to a multitude of services and custom configurations, including equipment staging.
- + Pricing on products made by the following partners:



RESOLUTION NO. 049-19

Refund Request-Christina Cox, 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 \$1,258.63 can be printed payable to Christina Cox, 614 Ave A, 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 of the

City of Opelika, Alabama

ATTEST:

ROBERT G. SHUMAN, CMC

CITY CLERK/TREASURER

RESOLUTION NO. 050-19

Resolution for Demolition - 808 Donald Avenue

RESOLUTION NO. _____

**RESOLUTION ORDERING THE DEMOLITION OF A BUILDING OR
STRUCTURE LOCATED AT 808 DONALD AVENUE, OPELIKA, ALABAMA 36801,
PARCEL ID NO.: 43-10-04-18-2-002-147.000 IN COMPLIANCE WITH SECTIONS
11-40-30 THROUGH 11-40-36, SECTIONS 11-53B-1 THROUGH 11-53B-16,
INCLUSIVE, OF THE CODE OF ALABAMA, AND IN COMPLIANCE WITH
ORDINANCE NO. 116-15.
OF THE CITY OF OPELIKA, ALABAMA**

WHEREAS, the Building Official of the City of Opelika, Alabama, determined that the condition of the building or structure located at 808 Donald Avenue, Opelika, Alabama, 36801, Parcel I.D. Number: 43-10-04-18-2-002-147.000, (hereinafter the Subject Property”) is in such condition as to make it dangerous to the life, health, property, morals, safety or general welfare of the public or the occupants; and

WHEREAS, Robert Calloway, Jr., is the record owner of the above-described property as shown from a search of records of the Office of the Judge of Probate of Lee County, Alabama; and

WHEREAS, Robert Calloway, Jr., is the person last assessing the subject property for state taxes; and

WHEREAS, a “Notice of Dangerous Building, Finding of Public Nuisance and Order to Remedy” was sent via certified mail, properly addressed, and postage prepaid to Robert Calloway, Jr., 1801 Century Boulevard, Apt. 701, Opelika, AL 36801; and

WHEREAS, contemporaneous with the filing of the “Notice of Dangerous Building, Finding of Public Nuisance and Order to Remedy”, a copy of the same was posted at or within three (3) feet of an entrance to the building on the subject property; and

WHEREAS, a Lis Pendens Notice was duly filed of record in the Office of the Judge of Probate of Lee County, Alabama, as required by Ordinance No. 116-15; and

WHEREAS, notice that the subject property is a dangerous building because it is unsafe to the extent that it is a public nuisance and is subject to demolition and that a public hearing would be held on a certain date was given to all interested parties as required by law; and

WHEREAS, Tuesday, March 19, 2019, at 7:00 p.m. in the City Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Lee County, Alabama, was fixed as the time and place when and where the City Council will meet to determine whether or not the building located at 808 Donald Avenue is unsafe to the extent that it creates a public nuisance; and

WHEREAS, the City Council of the City of Opelika met on Tuesday, March 19, 2019, at the aforesaid time and place for the purpose of conducting said public hearing; and

WHEREAS, the President of the City Council of the City of Opelika presided over said public hearing and opened the floor for comments from the public and any persons interested in the real property located at 808 Donald Avenue, Opelika, Alabama; and

WHEREAS, the City Council has considered all of the evidence and other matters in relation to said alleged public nuisance.

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

1. The City Council hereby finds and determines that the building or structure located at 808 Donald Avenue, Opelika, Alabama, Parcel I.D. Number: 43-10-04-18-2-002-147.000, is unsafe to the extent that it creates a public nuisance to the citizens of Opelika, Alabama, and is due to be condemned and demolished in compliance with §§11-40-30 through 11-40-36 and §§11-53B-1 through 11-53B-16, inclusive of the *Code of Alabama*, and Ordinance No. 116-15 of the City of Opelika, Alabama, which Ordinance is codified at Sections 5-221 through 5-238, inclusive of the *Code of Ordinances* of the City of Opelika, Alabama. The property referred to above is more particularly described as follows:

Commence at the certain point in the City of Opelika, Alabama, where the westerly margin of South Johnson Street intersects with the northerly margin of East Street; thence run in a northwesterly distance, along the northerly margin of East Street, for 200 feet to the point of beginning of the lot or parcel of land here to be described and conveyed; from said point of beginning thence run northwesterly, along the northerly margin of East Street, for 50 feet; thence run northeasterly, parallel with South Johnson Street, for 150 feet; thence run southeasterly, parallel with East Street, for 50 feet; thence run southwesterly, parallel with South Johnson Street, for 150 feet to the said point of beginning; together with all appurtenances thereunto appertaining.

Also being further described as Parcel Number 43-10-04-18-2-002-147.000, according to records maintained in the Lee County Revenue Commissioner's Office.

2. The Mayor is hereby authorized and directed to cause said building or structure to be demolished and removed after the expiration of twenty (20) days from the date of this resolution if an appeal has not been taken to the Circuit Court. The demolition may be accomplished by the municipality by the use of its own forces, or it may be provided by contract for the demolition. The municipality may sell or otherwise dispose of salvaged materials

resulting from the demolition. All employees, contractors and duly authorized agents of the City are authorized to enter upon said property for said purpose.

3. Any person aggrieved by the decision of the City Council may, within ten (10) days hereafter, appeal to the Circuit Court upon filing with the Clerk of the Court notice of appeal and a bond for security of costs in the form and amount approved by the Circuit Clerk.

4. Upon the demolition and removal of said building or structure, the Building Official shall make a report to the City Council of the cost. The City Council shall thereafter adopt a resolution fixing the costs which it finds were reasonably incurred in the demolition and removal of said building or structure and assess the costs against said property. The proceeds of any monies received from the sale of salvaged materials from the building or structure shall be used or applied against the cost of the demolition and removal. The fixing of costs by the City Council shall constitute a special assessment against the lot or lots, parcel, or parcels of land upon which the building or structure was located and shall constitute a lien on the property for the amount of the assessment.

5. The City Clerk is hereby directed to mail, by certified mail, a copy of this resolution to the owner of the property as the information appears on the records of the office of the Revenue Commissioner and in the Office of the Judge of Probate of Lee County, Alabama.

ADOPTED AND APPROVED this the ____ day of _____ 2019.

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

ATTEST:

CITY CLERK

Cc: Robert Calloway, Jr.
1801 Century Boulevard, Apt. 701
Opelika, AL 36801

RESOLUTION NO. 051-19

Vacate Right-Of-Way - Portion of West Point Pkwy & Anderson Rd

RESOLUTION NO. _____

**RESOLUTION APPROVING THE VACATION OF A PORTION OF THE EASTERLY
RIGHT-OF-WAY OF ANDERSON ROAD AND A PORTION OF THE
NORTHERLY RIGHT-OF-WAY OF U.S. HIGHWAY 29**

WHEREAS, Exit 64 LLC, an Alabama limited liability company, is the owner of the property described in that certain statutory warranty deed dated June 12, 2017, a copy of which is recorded in Deed Book 2515 at Page 370 in the Office of the Judge of Probate of Lee County, Alabama; and

WHEREAS, Exit 64 LLC is the owner of all of the property abutting along a portion of the easterly right-of-way of Anderson Road and a portion of the northerly right-of-way of U.S. Highway 29 (West Point Parkway); and

WHEREAS, a Petition to vacate a portion of the easterly right-of-way of Anderson Road and a portion of the northerly right-of-way of U.S. Highway 29 (West Point Parkway), duly executed by Exit 64 LLC, as the abutting property owner, has been presented to the City Council (the "City Council") of the City of Opelika, Alabama (the "City"), a municipal corporation, for the assent and approval of the governing body, said Petition with map attached being hereto affixed, marked Exhibit "A" and made a part hereof; and

WHEREAS, the Petition is filed in accordance with the provisions of §23-4-20, *Code of Alabama*, 1975, which provides that any street or alley may be vacated, in whole or in part, by the owner or owners of the land abutting the street or alley or abutting that portion of the street or

alley desired to be vacated; and

WHEREAS, the portions of the rights-of-way of Anderson Road and U.S. Highway 29 (West Point Parkway) to be vacated are more particularly described as follows:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 34, T-20-N, R-27-E, LEE COUNTY, ALABAMA; THENCE RUN N 00°00'00" W, 754.92 FEET TO A POINT; THENCE RUN S 90°00'00" E, 938.10 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE BEGINNING OF A RIGHT OF WAY FLARE AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF ANDERSON ROAD (ROW VARIES) AND THE NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 (300' ROW); THENCE RUN ALONG SAID FLARE S 11°17'08" E, 140.79 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE END OF SAID RIGHT OF WAY FLARE; THENCE CONTINUE ALONG SAID NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 S 57°07'29" E, 224.90 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE BEGINNING OF A RIGHT OF WAY FLARE AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 (300' ROW) AND THE WESTERLY RIGHT OF WAY OF INTERSTATE NO. 85 (ROW VARIES); THENCE LEAVING SAID NORTHERLY RIGHT OF WAY, RUN S 32°52'31" W, 75.00 FEET TO A POINT; THENCE RUN N 57°07'29" W, 256.61 FEET TO A POINT; THENCE RUN N 11°17'08" W, 95.71 FEET TO A POINT; THENCE RUN N 33°02'19" E, 107.34 FEET TO THE POINT OF BEGINNING.

SAID DESCRIBED PARCEL LYING AND BEING SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, T-20-N, R-27-E, LEE COUNTY, ALABAMA AND CONTAINS 0.618 ACRES (26,925 SF.) MORE OR LESS

Being further described according to and as shown by that certain survey or drawing prepared by Goodwyn Mills and Cawood attached hereto and marked Exhibit "A".

WHEREAS, the Petition states that no property owners will be deprived of any right they may have to convenient and reasonable means of ingress and egress to and from their property as

a result of the requested vacation; and

WHEREAS, the remaining portions of the rights-of-way of Anderson Road and U.S. Highway 29 (West Point Parkway) will remain public rights-of-way; and

WHEREAS, the City desires to reserve to Alabama Power Company, The Utilities Board of the City of Opelika and Bellsouth Telecommunications, LLC, d/b/a AT&T Alabama, utility easements for existing electric power lines, water mains and cable television and telecommunications fiber conduit as depicted on the attached survey; and

WHEREAS, a public hearing was conducted by the City Council on the 5th day of March, 2019, at which all persons were given the opportunity to be heard in favor of or in opposition to the proposed right-of-way vacation; and

WHEREAS, public notice of the public hearing was provided in accordance with §23-4-2, *Code of Alabama*, 1975; and

WHEREAS, the City Council has determined that it is in the best interest of the City to vacate the portions of the rights-of-way of Anderson Road and U.S. Highway 29 (West Point Parkway) as described in the attached Petition and the rights-of-way of said streets should be conveyed to Exit 64 LLC as requested by the Petitioner, subject to existing easements for electric power lines, water mains and cable television and telecommunications fiber conduit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika that the vacation of the above-described portions of the rights-of-way of Anderson Road and U.S. Highway 29 is assented to and approved and the same is hereby vacated pursuant to the provisions of Section 23-4-20, et.seq. of the *Code of Alabama*, and also pursuant to said *Code* in §35-2-54.

BE IT FURTHER RESOLVED that the City of Opelika, Alabama, a municipal corporation, remise, release and quitclaim unto Exit 64 LLC, whatever right, title and interest the said City of Opelika, Alabama, may have acquired in and to the above described portions of the rights-of-way of Anderson Road and U.S. Highway 29 (West Point Parkway) by virtue of the dedication or vacation of said roadways or otherwise, subject to the reservation of the above-described utility easements.

BE IT FURTHER RESOLVED that Gary Fuller, the Mayor of the City of Opelika, Alabama, a municipal corporation, be and he is hereby authorized and directed on behalf of the City of Opelika, Alabama, to execute a quitclaim deed to Exit 64 LLC, subject to the reservation of the above-described utility easements, for the purpose of carrying out the intent and intention of this Resolution and that Robert G. Shuman, City Clerk, be and he is hereby authorized and directed on behalf of the City of Opelika, Alabama, to attest the same.

BE IT FURTHER RESOLVED that the City Clerk will cause a copy of this Resolution to be filed in the Probate Office of Lee County, Alabama, and shall further cause a copy of this Resolution to be published once in a newspaper of general circulation in Lee County, Alabama, no less than fourteen (14) days after its adoption.

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

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

ATTEST:

CITY CLERK

**PETITION TO VACATE A PORTION OF THE EASTERLY
RIGHT-OF-WAY OF ANDERSON ROAD AND A PORTION OF THE
NORTHERLY RIGHT-OF-WAY OF U.S. HIGHWAY 29**

STATE OF ALABAMA
COUNTY OF LEE

TO THE HONORABLE MEMBERS OF THE CITY COUNCIL OF THE CITY OF OPELIKA

COMES NOW EXIT 64 LLC, an Alabama limited liability company (hereinafter referred to as the "Petitioner") and represents as follows:

1. The Petitioner is the owner of all of the property abutting upon a portion of the easterly right-of-way of Anderson Road and a portion of the northerly right-of-way of U.S. Highway 29 (West Point Parkway), and it does, by this written instrument, hereby vacate said portions of the right-of-way of Anderson Road and the right-of-way of U.S. Highway 29 (West Point Parkway), being more particularly described as follows, to wit:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 34, T-20-N, R-27-E, LEE COUNTY, ALABAMA; THENCE RUN N 00°00'00" W, 754.92 FEET TO A POINT; THENCE RUN S 90°00'00" E, 938.10 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE BEGINNING OF A RIGHT OF WAY FLARE AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF ANDERSON ROAD (ROW VARIES) AND THE NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 (300' ROW); THENCE RUN ALONG SAID FLARE S 11°17'08" E, 140.79 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE END OF SAID RIGHT OF WAY FLARE; THENCE CONTINUE ALONG SAID NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 S 57°07'29" E, 224.90 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE BEGINNING OF A RIGHT OF WAY FLARE AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 (300' ROW) AND THE WESTERLY RIGHT OF WAY OF INTERSTATE NO. 85 (ROW VARIES); THENCE LEAVING SAID NORTHERLY RIGHT OF WAY, RUN S 32°52'31" W, 75.00 FEET TO A POINT; THENCE RUN N 57°07'29" W, 256.61 FEET TO A POINT; THENCE RUN N 11°17'08" W, 95.71 FEET TO A POINT; THENCE RUN N 33°02'19" E, 107.34 FEET TO THE POINT OF BEGINNING.

SAID DESCRIBED PARCEL LYING AND BEING SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION

34, T-20-N, R-27-E, LEE COUNTY, ALABAMA AND CONTAINS 0.618 ACRES (26,925 SF.) MORE OR LESS.

Being further described according to and as shown by that certain survey or drawing prepared by Goodwyn Mills and Cawood attached hereto and marked Exhibit "A".

2. The Petitioner hereby represents and declares that it is the sole owner of the property abutting upon the portions of the rights-of-way of Anderson Road and U.S. Highway 29 (West Point Parkway) to be vacated. It is not the intention of the Petitioner to vacate any other portions of Anderson Road and U.S. Highway 29, except as described in Section 1 above.

3. The Petitioner hereby certifies that convenient and reasonable means of ingress and egress is afforded to all other property owners owning property in the area.

4. The Petitioner certifies that Anderson Road and U.S. Highway 29 (West Point Parkway) will remain public rights-of-way.

5. The Petitioner desires to vacate the above-described portions of the rights-of-way of Anderson Road and U.S. Highway 29 so as to destroy the force and effect of any dedication of the same and have divested therefrom all public rights therein.

6. The Petitioner agrees that the property within the vacated rights-of-way, as described in Section 1 above, shall constitute the property of Exit 64 LLC, subject to the following existing utility easements, as depicted on the attached survey:

- a. A 15-foot wide powerline easement to Alabama Power Company
- b. A 20-foot wide water main easement to The Utilities Board of the City of Opelika.
- c. A 15-foot wide cable television and telecommunications fiber easement to Bellsouth Telecommunications, LLC d/b/a AT&T Alabama.

7. This declaration of vacation is executed by the Petitioner in accordance with the provisions of §35-2-47, *Code of Alabama*, 1975, and also pursuant to said Code in §23-4-20.

NOW, THEREFORE, in consideration of the premises, the Petitioner hereby requests that Your Honors assent to, approve, ratify and confirm, the vacation of the above-described portions of the rights-of-way of Anderson Road and U.S. Highway 29, the annulment of any dedication thereof, and the divestment of all public rights therein except existing utility easements for power lines, water mains and cable television and telecommunications fiber, and that the City of Opelika, through its duly elected officials, adopt such appropriate Resolution and authorize the execution of such appropriate instruments as may be meet and proper to effect the vacation of said portion of said portions of the rights-of-way of Anderson Road and U.S. Highway 29 (West Point Parkway) in order to divest the public of all rights to use the same and convey to the Petitioner whatever right, title and interest which the City has or may have in and to the above described portions of said rights-of-way, subject to all existing easements for public utilities.

IN WITNESS WHEREOF, the Petitioner has hereunto set its hand and seal on this the _____ day of _____, 2019.

EXIT 64 LLC

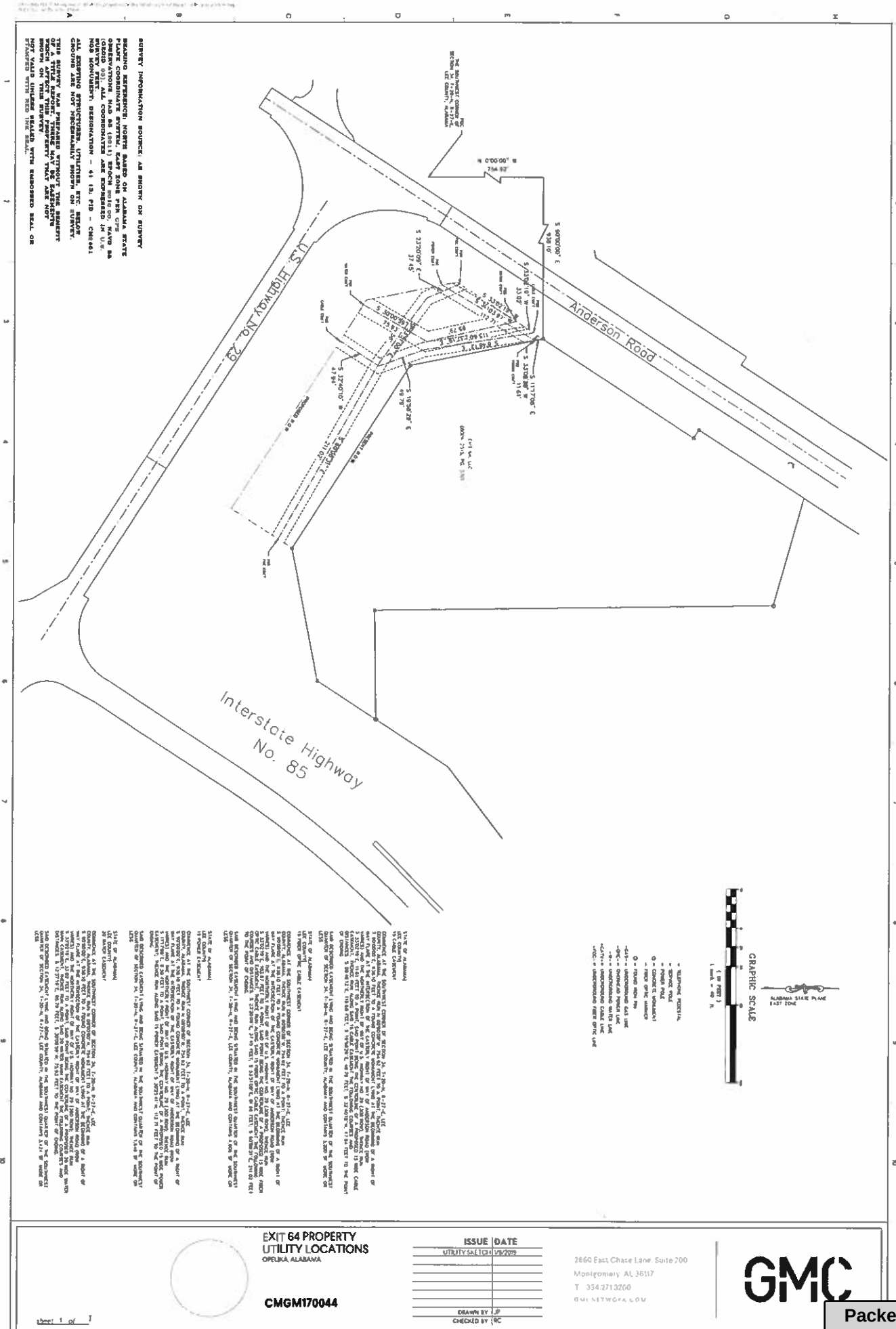
By: _____
C. THOMAS BRUNSON
ITS MANAGING MEMBER

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that C. THOMAS BRUNSON whose name is signed to the foregoing instrument as Managing Member of Exit 64 LLC, who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, in such capacity and as such Managing Member of Exit 64 LLC, and with full authority, executed the same voluntarily as said Managing Member of Exit 64 LLC, on the day the same bears date on behalf of said company.

GIVEN under my hand and official seal of office this the ____ day of _____, 2010.

NOTARY PUBLIC
MY COMMISSION EXPIRES:_____



GRANTEE'S ADDRESS:
Exit 64 LLC

NO TITLE OPINION RENDERED

STATE OF ALABAMA	)	
	:	QUITCLAIM DEED WITH RESERVATION
COUNTY OF LEE	)	OF UTILITY EASEMENTS

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations to the undersigned Grantor, City of Opelika, Alabama, in hand paid by Exit 64 LLC, (the "Grantee"), the receipt whereof is hereby acknowledged, the undersigned City of Opelika, Alabama, a municipal corporation (hereinafter called "Grantor"), does hereby remise, release, quitclaim, and convey unto Exit 64 LLC, an Alabama limited liability company, subject to the permanent utility easements as more particularly described below, all of its right, title, claim and interest in and to the following described real property situated in Opelika, Lee County, Alabama, to-wit:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 34, T-20-N, R-27-E, LEE COUNTY, ALABAMA; THENCE RUN N 00°00'00" W, 754.92 FEET TO A POINT; THENCE RUN S 90°00'00" E, 938.10 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE BEGINNING OF A RIGHT OF WAY FLARE AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF ANDERSON ROAD (ROW VARIES) AND THE NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 (300' ROW); THENCE RUN ALONG SAID FLARE S 11°17'08" E, 140.79 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE END OF SAID RIGHT OF WAY FLARE; THENCE CONTINUE ALONG SAID NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 S 57°07'29" E, 224.90 FEET TO A FOUND CONCRETE MONUMENT LYING AT THE BEGINNING OF A RIGHT OF WAY FLARE AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 29 (300' ROW) AND THE WESTERLY RIGHT OF WAY OF INTERSTATE NO. 85 (ROW VARIES); THENCE LEAVING SAID NORTHERLY RIGHT OF WAY, RUN S 32°52'31" W, 75.00 FEET TO A POINT; THENCE RUN N 57°07'29" W, 256.61 FEET TO

A POINT; THENCE RUN N 11°17'08" W, 95.71 FEET TO A POINT; THENCE RUN N 33°02'19" E, 107.34 FEET TO THE POINT OF BEGINNING.

SAID DESCRIBED PARCEL LYING AND BEING SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, T-20-N, R-27-E, LEE COUNTY, ALABAMA AND CONTAINS 0.618 ACRES (26,925 SF.) MORE OR LESS

Being further described according to and as shown by that certain survey or drawing prepared by Goodwyn Mills and Cawood attached hereto and marked Exhibit "A".

The Grantor hereby reserves to Alabama Power Company, The Utilities Board of the City of Opelika and Charter Communications, Inc., perpetual utility easements for existing electric power lines, water mains and cable television and telecommunications fiber conduit as depicted on the survey prepared by Goodwyn, Mills and Cawood attached hereto and marked Exhibit "A" and further described as follows:

- (1) a 15-foot wide perpetual power line easement to Alabama Power Company along, over, under and across the following described property:

Commence at the Southwest corner of Section 34, T020-N, R-27-E, Lee County, Alabama; thence run N 00°00'00"W, 754.92 feet to a point; thence run S 90°00'00"E, 938.10 feet to a found concrete monument lying at the beginning of a right-of-way flare at the intersection of the Easterly right-of-way of Anderson Road (ROW varies) and the Northerly right-of-way of U.S. Highway No. 29 (300' ROW); thence run along said right-of-way flare S11°17'08"E, 8.30 feet to the centerline of a proposed 15'foot wide power easement, said point being the point of beginning; thence leaving said right-of-way flare, run along said centerline S30°25'41"W, 112.71 feet to the point of ending.

Said described easement being 7.50 feet on both sides of the above described centerline.

Said described easement lying and being situated in the Southwest quarter of the Southwest Quarter of Section 34, T-20-N, R-27-E, Lee County, Alabama and contains 1.646 SF, more or less.

- (2) a 20-foot wide perpetual water main easement to The Utilities Board of the City of Opelika along, over, under and across the following described property:

Commence at the Southwest corner of Section 34, T020-N, R-27-E, Lee County, Alabama; thence run N 00°00'00"W, 754.92 feet to a point; thence run S 90°00'00"E, 938.10 feet to a found concrete monument lying at the beginning of a right-of-way flare at the intersection of the Easterly right-of-way of Anderson Road (ROW varies) and the Northerly right-of-way of U.S. Highway No. 29 (300' ROW); thence leaving said right-of-way, run S33°02'19"W, 33.02 feet to the centerline of a proposed 20'foot wide water main easement, said point being the point of beginning; thence run along said centerline the following courses and distances; S12°37'19"E, 95.79 feet; S 30°00'59"W, 75.93 feet to the point of ending.

Said described easement being 7.50 feet on both sides of the above described centerline.

Said described easement lying and being situated in the Southwest quarter of the Southwest Quarter of Section 34, T-20-N, R-27-E, Lee County, Alabama and contains 1.646 SF, more or less.

- (3) a 15-foot wide perpetual cable television and telecommunications fiber conduit easement to Bellsouth Telecommunications, LLC, d/b/a AT&T Alabama, along, over, under and across the following described property:

Commence at the Southwest corner of Section 34, T020-N, R-27-E, Lee County, Alabama; thence run N 00°00'00"W, 754.92 feet to a point; thence run S 90°00'00"E, 938.10 feet to a found concrete monument lying at the beginning of a right-of-way flare at the intersection of the Easterly right-of-way of Anderson Road (ROW varies) and the Northerly right-of-way of U.S. Highway No. 29 (300' ROW); thence leaving said right-of-way, run S33°02'19"W, 103.97 feet to the centerline of a proposed 15'foot wide fiber optic cable easement; thence run along said centerline the following courses and distances; S23°20'09"E, 37.45 feet; S 53°51'00"E, 81.56 feet; S 60°08'31"E, 211.02 feet to the point of ending.

Said described easement being 7.50 feet on both sides of the above described centerline.

Said described easement lying and being situated in the Southwest quarter of the Southwest Quarter of Section 34, T-20-N, R-27-E, Lee County, Alabama and contains 1.646 SF, more or less.

IN WITNESS WHEREOF, the City of Opelika, Alabama, a municipal corporation, has caused this instrument to be executed by Gary Fuller, its Mayor, and its seal to be affixed by Robert G. Shuman, its City Clerk, both of whom are hereunto authorized pursuant to Resolution No. ____-19 of the City Council of the City of Opelika, Alabama, a copy of which is attached hereto, marked Exhibit "A" on this the ____ day of _____, 2019.

CITY OF OPELIKA, ALABAMA

BY: _____
GARY FULLER, MAYOR

ATTEST:

ROBERT G. SHUMAN
CITY CLERK

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said county and state, hereby certify that Gary Fuller and Robert G. Shuman, whose names as Mayor and City Clerk, respectively of the City of Opelika, Alabama, are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day, that, being informed of the contents of said conveyance they, as such officers and with full authority, executed the same voluntarily as the act of said municipal corporation on the day the same bears date.

GIVEN under my hand and official seal of office this the ____ day of _____, 2019.

(SEAL)

NOTARY PUBLIC
MY COMMISSION EXPIRES:

**THIS INSTRUMENT WAS PREPARED BY:
GUY F. GUNTER, III
CITY ATTORNEY
CITY OF OPELIKA
608 Avenue A
P.O. BOX 390
OPELIKA, AL 36801
334-705-2074
334-705-5515 - FAX**

RESOLUTION NO. (ID # 3316)

Vacate ROW, Portion of Sportsplex Parkway & West Point Pkwy, Awesome LLC - Tabled.

RESOLUTION NO. _____

**RESOLUTION APPROVING THE VACATION OF A PORTION OF THE
SOUTHWESTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 29 LOCATED AT THE
CORNER OF WEST POINT PARKWAY AND SPORTSPLEX PARKWAY**

WHEREAS, Awesome, LLC, an Alabama limited liability company, is the owner of the property described in that warranty deed dated October 29, 2017, a copy of which is recorded in Deed Book 2525 at Page 145 in the Office of the Judge of Probate of Lee County, Alabama; and

WHEREAS, Awesome, LLC is the owner of all of the property abutting along a portion of the southwesterly right-of-way of West Point Parkway (formerly U.S. Highway 29); and

WHEREAS, a Petition to vacate a portion of the westerly right-of-way of West Point Parkway (formerly U.S. Highway 29) located at the corner of West Point Parkway and Sportsplex Parkway, duly executed by Awesome, LLC, as the abutting property owner, has been presented to the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”), a municipal corporation, for the assent and approval of the governing body, said Petition with map attached being hereto affixed, marked Exhibit “A” and made a part hereof; and

WHEREAS, the Petition is filed in accordance with the provisions of §23-4-20, *Code of Alabama*, 1975, which provides that any street or alley may be vacated, in whole or in part, by the owner or owners of the land abutting the street or alley or abutting that portion of the street or alley desired to be vacated; and

WHEREAS, the portion of the right-of-way of West Point Parkway (formerly U.S. Highway 29) to be vacated are more particularly described as follows:

A tract or parcel of land containing 0.18 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N83°23'32"E 5950.38 feet to a point on an old highway right-of-way limit, the point of beginning; thence leaving said right-of-way limit N33°02'34"E 74.48 feet to the southwest right-of-way limit of Sportsplex Road; thence along said southwest right-of-way limit S56°57'26"E 23.15 feet; thence continue along said southwest right-of-way limit S13°11'19"E 79.37 feet to the northwest right-of-way limit of West Point Parkway; thence along said northwest right-of-way limit S33°00'10"W 100.00 feet to point on old highway right-of-way limit; thence along said old highway right-of-way limit N11°59'50"W 113.81 feet to the point of beginning.

Being further described according to and as shown by that certain survey or drawing prepared by Barrett-Simpson, Inc., attached hereto and marked Exhibit "B".

WHEREAS, the Petition states that no property owners will be deprived of any right they may have to convenient and reasonable means of ingress and egress to and from their property as a result of the requested vacation; and

WHEREAS, the remaining portion of the right-of-way of West Point Parkway (formerly U.S. Highway 29) will remain public rights-of-way; and

WHEREAS, a public hearing was conducted by the City Council on the 19th day of March, 2019, at which all persons were given the opportunity to be heard in favor of or in opposition to the proposed right-of-way vacation; and

WHEREAS, public notice of the public hearing was provided in accordance with §23-4-2, *Code of Alabama*, 1975; and

WHEREAS, the City Council has determined that it is in the best interest of the City to vacate the portion of the right-of-way of West Point Parkway (formerly U.S. Highway 29) as described in the attached Petition and the right-of-way of said street should be conveyed to Awesome, LLC as requested by the Petitioner.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika that the vacation of the above-described portions of the rights-of-way of Anderson Road and U.S. Highway 29 is assented to and approved and the same is hereby vacated pursuant to the provisions of Section 23-4-20, et.seq. of the *Code of Alabama*, and also pursuant to said *Code* in §32-5-54.

BE IT FURTHER RESOLVED that the City of Opelika, Alabama, a municipal corporation, remise, release and quitclaim unto Awesome, LLC, whatever right, title and interest the said City of Opelika, Alabama, may have acquired in and to the above described portion of the right-of-way of West Point Parkway (formerly U.S. Highway 29) by virtue of the dedication or vacation of said roadway or otherwise.

BE IT FURTHER RESOLVED that Gary Fuller, the Mayor of the City of Opelika, Alabama, a municipal corporation, be and he is hereby authorized and directed on behalf of the City of Opelika, Alabama, to execute a quitclaim deed to Awesome, LLC, for the purpose of carrying out the intent and intention of this Resolution and that Robert G. Shuman, City Clerk, be and he is hereby authorized and directed on behalf of the City of Opelika, Alabama, to attest the same.

BE IT FURTHER RESOLVED that the City Clerk will cause a copy of this Resolution to be filed in the Probate Office of Lee County, Alabama, and shall further cause a copy of this Resolution to be published once in a newspaper of general circulation in Lee County, Alabama, no less than fourteen (14) days after its adoption.

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

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

ATTEST:

CITY CLERK

**PETITION TO VACATE A PORTION OF THE SOUTHWESTERLY
RIGHT-OF-WAY OF WEST POINT PARKWAY LOCATED AT THE CORNER
OF WEST POINT PARKWAY AND SPORTSPLEX PARKWAY**

STATE OF ALABAMA
COUNTY OF LEE

TO THE HONORABLE MEMBERS OF THE CITY COUNCIL OF THE CITY OF OPELIKA

COMES NOW AWESOME, LLC, an Alabama limited liability company (hereinafter referred to as the "Petitioner") and represents as follows:

1. The Petitioner is the owner of all of the property abutting upon a portion of the southwesterly right-of-way of West Point Parkway, and it does, by this written instrument, hereby vacate said portion of the right-of-way of West Point Parkway (formerly U.S. Highway 29) located at the corner of West Point Parkway and Sportsplex Parkway, being more particularly described as follows, to wit:

A tract or parcel of land containing 0.18 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N83°23'32"E 5950.38 feet to a point on an old highway right-of-way limit, the point of beginning; thence leaving said right-of-way limit N33°02'34"E 74.48 feet to the southwest right-of-way limit of Sportsplex Road; thence along said southwest right-of-way limit S56°57'26"E 23.15 feet; thence continue along said southwest right-of-way limit S13°11'19"E 79.37 feet to the northwest right-of-way limit of West Point Parkway; thence along said northwest right-of-way limit S33°00'10"W 100.00 feet to point on old highway right-of-way limit; thence along said old highway right-of-way limit N11°59'50"W 113.81 feet to the point of beginning.

Being further described according to and as shown by that certain survey or drawing prepared by Barrett-Simpson, Inc., attached hereto and marked Exhibit "A".

2. The Petitioner hereby represents and declares that it is the sole owner of the property abutting upon the portion of the right-of-way of to be vacated. It is not the intention of the

Petitioner to vacate any other portion of West Point Parkway (formerly U.S. Highway 29), except as described in Section 1 above.

3. The Petitioner hereby certifies that convenient and reasonable means of ingress and egress is afforded to all other property owners owning property in the area.

4. The Petitioner certifies that West Point Parkway (formerly U.S. Highway 29) will remain a public right-of-way.

5. The Petitioner desires to vacate the above-described portion of West Point Parkway (formerly U.S. Highway 29) so as to destroy the force and effect of any dedication of the same and have divested therefrom all public rights therein.

6. The Petitioner agrees that the property within the vacated rights-of-way, as described in Section 1 above, shall constitute the property of Awesome, LLC.

7. This declaration of vacation is executed by the Petitioner in accordance with the provisions of §35-2-47, *Code of Alabama*, 1975, and also pursuant to said Code in §23-4-20.

NOW, THEREFORE, in consideration of the premises, the Petitioner hereby requests that Your Honors assent to, approve, ratify and confirm, the vacation of the above-described portion of the right-of-way of West Point Parkway (formerly U.S. Highway 29), the annulment of any dedication thereof, and the divestment of all public rights therein, and that the City of Opelika, through its duly elected officials, adopt such appropriate Resolution and authorize the execution of such appropriate instruments as may be meet and proper to effect the vacation of said portion of the right-of-way of West Point Parkway (formerly U.S. Highway 29) in order to divest the public of all rights to use the same and convey to the Petitioner whatever right, title and interest which the City has or may have in and to the above described portion of said right-of-way.

IN WITNESS WHEREOF, the Petitioner has hereunto set its hand and seal on this the _____ day of _____, 2019.

AWESOME, LLC
An Alabama Limited Liability Company

By: _____
YAHESH PATEL
Title: MEMBER

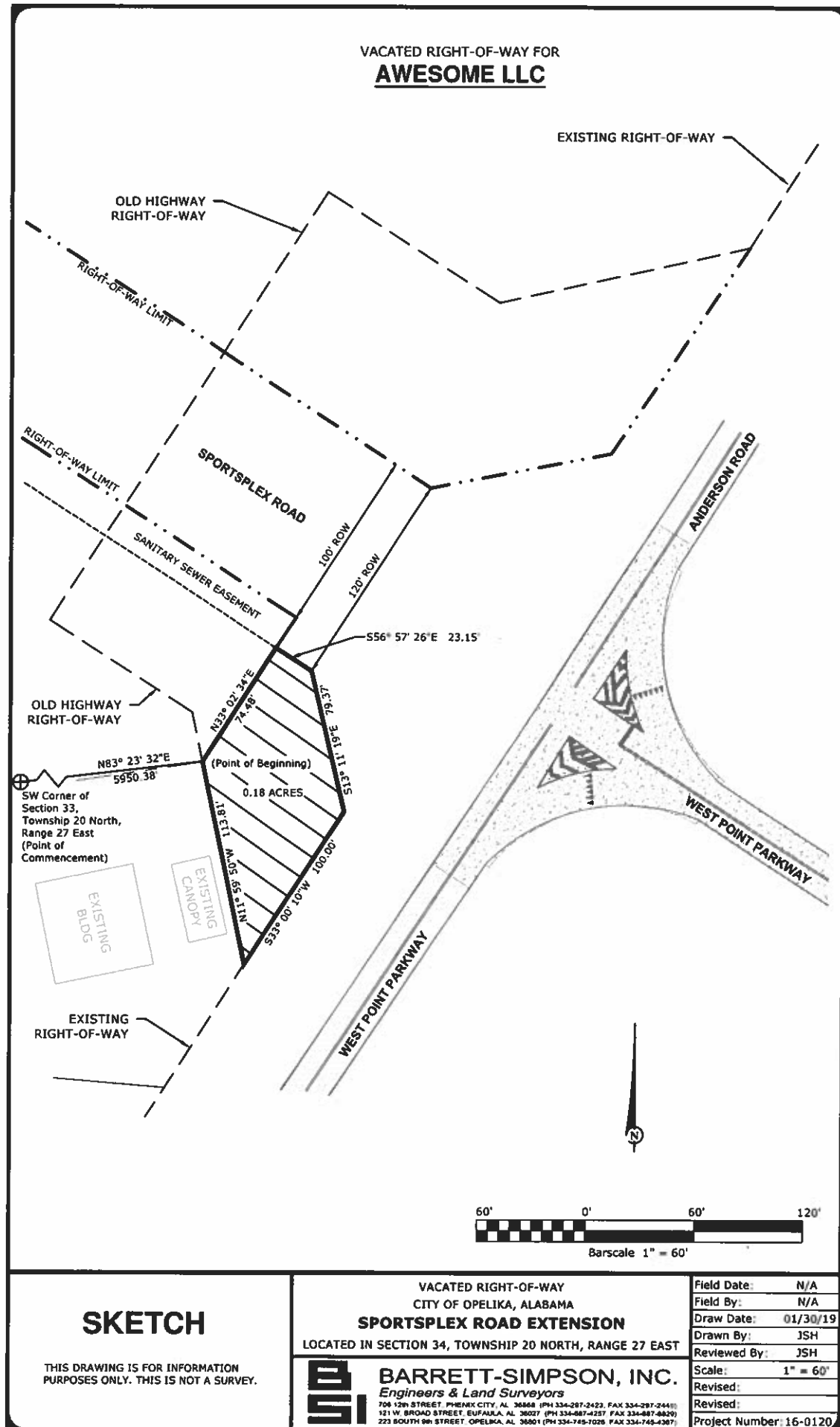
By: _____
TEJAS B. PATEL
Title: MEMBER

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that YAHESH PATEL and TEJAS B. PATEL, whose names are signed to the foregoing instrument as Members of Awesome, LLC, who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they, in such capacity and as Members of Awesome, LLC, and with full authority, executed the same voluntarily as said Members of Awesome, LLC, on the day the same bears date on behalf of said company.

GIVEN under my hand and official seal of office this the ____ day of _____, 2019.

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____



GRANTEE'S ADDRESS:

Awesome, LLC
 1501 Seaton Circle
 Montgomery, AL 36117

NO TITLE OPINION RENDERED

STATE OF ALABAMA	)	
	:	QUITCLAIM DEED
COUNTY OF LEE	)	

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations to the undersigned Grantor, City of Opelika, Alabama, in hand paid by Awesome, LLC, (the "Grantee"), the receipt whereof is hereby acknowledged, the undersigned City of Opelika, Alabama, a municipal corporation (hereinafter called "Grantor"), does hereby remise, release, quitclaim, and convey unto Awesome, LLC, an Alabama limited liability company, all of its right, title, claim and interest in and to the following described real property situated in Opelika, Lee County, Alabama, to-wit:

A tract or parcel of land containing 0.18 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N83°23'32"E 5950.38 feet to a point on an old highway right-of-way limit, the point of beginning; thence leaving said right-of-way limit N33°02'34"E 74.48 feet to the southwest right-of-way limit of Sportsplex Road; thence along said southwest right-of-way limit S56°57'26"E 23.15 feet; thence continue along said southwest right-of-way limit S13°11'19"E 79.37 feet to the northwest right-of-way limit of West Point Parkway; thence along said northwest right-of-way limit S33°00'10"W 100.00 feet to point on old highway right-of-way limit; thence along said old highway right-of-way limit N11°59'50"W 113.81 feet to the point of beginning.

Being further described according to and as shown by that certain survey or drawing prepared by Barrett-Simpson, Inc., attached hereto and marked Exhibit "A".

IN WITNESS WHEREOF, the City of Opelika, Alabama, a municipal corporation, has caused this instrument to be executed by Gary Fuller, its Mayor, and its seal to be affixed by Robert G. Shuman, its City Clerk, both of whom are hereunto authorized pursuant to Resolution No. ____-19 of the City Council of the City of Opelika, Alabama, a copy of which is attached hereto, marked Exhibit "B" on this the ____ day of _____, 2019.

CITY OF OPELIKA, ALABAMA

BY: _____
GARY FULLER, MAYOR

ATTEST:

ROBERT G. SHUMAN
CITY CLERK

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said county and state, hereby certify that Gary Fuller and Robert G. Shuman, whose names as Mayor and City Clerk, respectively of the City of Opelika, Alabama, are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day, that, being informed of the contents of said conveyance they, as such officers and with full authority, executed the same voluntarily as the act of said municipal corporation on the day the same bears date.

GIVEN under my hand and official seal of office this the ____ day of _____, 2019.

(SEAL)

NOTARY PUBLIC
MY COMMISSION EXPIRES:

**THIS INSTRUMENT WAS PREPARED BY:
GUY F. GUNTER, III
CITY ATTORNEY
CITY OF OPELIKA
608 Avenue A
P.O. BOX 390
OPELIKA, AL 36801
334-705-2074
334-705-5515 - FAX**

Attachment: QUIT CLAIM DEED - Vacate Portion of Sportsplex Pkwy & West Point Pkwy, Awesome LLC (3316 : Vacate Right-Of-Way, Portion

RESOLUTION NO. (ID # 3318)

Vacate ROW, Portion of Sportsplex Parkway & Anderson Rd, Inwoo Paek - Tabled.

RESOLUTION NO. _____

**RESOLUTION APPROVING THE VACATION OF A PORTION OF THE
NORTHWESTERLY RIGHT-OF-WAY OF ANDERSON ROAD AND A PORTION OF
THE NORTHWESTERLY RIGHT-OF-WAY OF SPORTSPLEX PARKWAY**

WHEREAS, Inwoo Paek, a single man, is the owner of the property described in that certain statutory warranty deed dated March 31, 2016, a copy of which is recorded in Deed Book 2482 at Page 338 in the Office of the Judge of Probate of Lee County, Alabama; and

WHEREAS, Inwoo Paek is the owner of all of the property abutting along a portion of the northwesterly right-of-way of Anderson Road and the northwesterly right-of-way of Sportsplex Parkway; and

WHEREAS, a Petition to vacate a portion of the northwesterly right-of-way of Anderson Road and a portion of the northwesterly right-of-way of Sportsplex Parkway, duly executed by Inwoo Paek, as the abutting property owner, has been presented to the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”), a municipal corporation, for the assent and approval of the governing body, said Petition with map attached being hereto affixed, marked Exhibit “A” and made a part hereof; and

WHEREAS, the Petition is filed in accordance with the provisions of §23-4-20, *Code of Alabama*, 1975, which provides that any street or alley may be vacated, in whole or in part, by the owner or owners of the land abutting the street or alley or abutting that portion of the street or alley desired to be vacated; and

WHEREAS, the portions of the rights-of-way of Anderson Road and Sportsplex Parkway to be vacated are more particularly described as follows:

A tract or parcel of land containing 0.56 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N81°16'14"E 5991.60 feet to a point on an old highway right-of-way limit, the point of beginning; thence along said old highway right-way-limit N32°54'33"E 104.55 feet; thence continue along said old highway right-way-limit S57°23'58"E 112.20 feet; thence continue along said old highway right-way-limit N77°36'02"E 141.42 feet to a point on the northwest right-of-way limit of Anderson Road; thence along said northwest right-of-way limit S33°55'21"W 136.02 feet to the northeast right-of-way limit of Sportsplex Road; thence along said northeast right-of-way limit S79°09'19"W 101.25 feet; thence continue along said northeast right-of-way limit N56°57'26"W 136.12 feet to the point of beginning.

Being further described according to and as shown by that certain survey or drawing prepared by Barrett-Simpson, Inc., attached hereto and marked Exhibit "A".

WHEREAS, the Petition states that no property owners will be deprived of any right they may have to convenient and reasonable means of ingress and egress to and from their property as a result of the requested vacation; and

WHEREAS, the remaining portions of the rights-of-way of Anderson Road and Sportsplex Parkway will remain public rights-of-way; and

WHEREAS, a public hearing was conducted by the City Council on the 19th day of March, 2019, at which all persons were given the opportunity to be heard in favor of or in opposition to the proposed rights-of-way vacation; and

WHEREAS, public notice of the public hearing was provided in accordance with §23-4-2, *Code of Alabama*, 1975; and

WHEREAS, the City Council has determined that it is in the best interest of the City to vacate the portions of the rights-of-way of Anderson Road and Sportsplex Parkway as described in the attached Petition and the rights-of-way of said streets should be conveyed to Inwoo Paek as requested by the Petitioner.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika that the vacation of the above-described portions of the rights-of-way of Anderson Road and Sportsplex Parkway is assented to and approved and the same is hereby vacated pursuant to the provisions of Section 23-4-20, et.seq. of the *Code of Alabama*, and also pursuant to said *Code* in §32-5-54.

BE IT FURTHER RESOLVED that the City of Opelika, Alabama, a municipal corporation, remise, release and quitclaim unto Inwoo Paek, whatever right, title and interest the said City of Opelika, Alabama, may have acquired in and to the above described portions of the rights-of-way of Anderson Road and Sportsplex Parkway by virtue of the dedication or vacation of said roadways or otherwise.

BE IT FURTHER RESOLVED that Gary Fuller, the Mayor of the City of Opelika, Alabama, a municipal corporation, be and he is hereby authorized and directed on behalf of the City of Opelika, Alabama, to execute a quitclaim deed to Inwoo Paek, for the purpose of carrying out the intent and intention of this Resolution and that Robert G. Shuman, City Clerk, be and he is hereby authorized and directed on behalf of the City of Opelika, Alabama, to attest the same.

BE IT FURTHER RESOLVED that the City Clerk will cause a copy of this Resolution to be filed in the Probate Office of Lee County, Alabama, and shall further cause a copy of this Resolution to be published once in a newspaper of general circulation in Lee County, Alabama, no less than fourteen (14) days after its adoption.

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

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

ATTEST:

CITY CLERK

**PETITION TO VACATE A PORTION OF THE NORTHWESTERLY
RIGHT-OF-WAY OF ANDERSON ROAD AND THE NORTHEASTERLY
RIGHT-OF-WAY OF SPORTSPLEX PARKWAY**

STATE OF ALABAMA
COUNTY OF LEE

TO THE HONORABLE MEMBERS OF THE CITY COUNCIL OF THE CITY OF OPELIKA

COMES NOW INWOO PAEK, a single man, (hereinafter referred to as the "Petitioner")
and represents as follows:

1. The Petitioner is the owner of all of the property abutting upon a portion of the northwesterly right-of-way of Anderson Road and a portion of the northeasterly right-of-way of Sportsplex Parkway, and he does, by this written instrument, hereby vacate said portions of the rights-of-way of Anderson Road and the right-of-way of Sportsplex Parkway, being more particularly described as follows, to wit:

A tract or parcel of land containing 0.56 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N81°16'14"E 5991.60 feet to a point on an old highway right-of-way limit, the point of beginning; thence along said old highway right-way-limit N32°54'33"E 104.55 feet; thence continue along said old highway right-way-limit S57°23'58"E 112.20 feet; thence continue along said old highway right-way-limit N77°36'02"E 141.42 feet to a point on the northwest right-of-way limit of Anderson Road; thence along said northwest right-of-way limit S33°55'21"W 136.02 feet to the northeast right-of-way limit of Sportsplex Road; thence along said northeast right-of-way limit S79°09'19"W 101.25 feet; thence continue along said northeast right-of-way limit N56°57'26"W 136.12 feet to the point of beginning.

Being further described according to and as shown by that certain survey or drawing prepared by Barrett-Simpson, Inc., attached hereto and marked Exhibit "A".

2. The Petitioner hereby represents and declares that he is the sole owner of the property abutting upon the portions of the rights-of-way of Anderson Road and Sportsplex Parkway to be

vacated. It is not the intention of the Petitioner to vacate any other portion of Anderson Road and Sportsplex Parkway, except as described in Section 1 above.

3. The Petitioner hereby certifies that convenient and reasonable means of ingress and egress is afforded to all other property owners owning property in the area.

4. The Petitioner certifies that Anderson Road and Sportsplex Parkway will remain public rights-of-way.

5. The Petitioner desires to vacate the above-described portions of the rights-of-way of Anderson Road and Sportsplex Parkway so as to destroy the force and effect of any dedication of the same and have divested therefrom all public rights therein.

6. The Petitioner agrees that the property within the vacated rights-of-way, as described in Section 1 above, shall constitute the property of Inwoo Paek.

7. This declaration of vacation is executed by the Petitioner in accordance with the provisions of §35-2-47, *Code of Alabama*, 1975, and also pursuant to said Code in §23-4-20.

NOW, THEREFORE, in consideration of the premises, the Petitioner hereby requests that Your Honors assent to, approve, ratify and confirm, the vacation of the above-described portions of the rights-of-way of Anderson Road and Sportsplex Parkway, the annulment of any dedication thereof, and the divestment of all public rights therein, and that the City of Opelika, through its duly elected officials, adopt such appropriate Resolution and authorize the execution of such appropriate instruments as may be meet and proper to effect the vacation of said portions of the rights-of-way of Anderson Road and Sportsplex Parkway in order to divest the public of all rights to use the same and convey to the Petitioner whatever right, title and interest which the City has or may have in and to the above described portions of said rights-of-way.

IN WITNESS WHEREOF, the Petitioner has hereunto set its hand and seal on this the _____ day of _____, 2019.

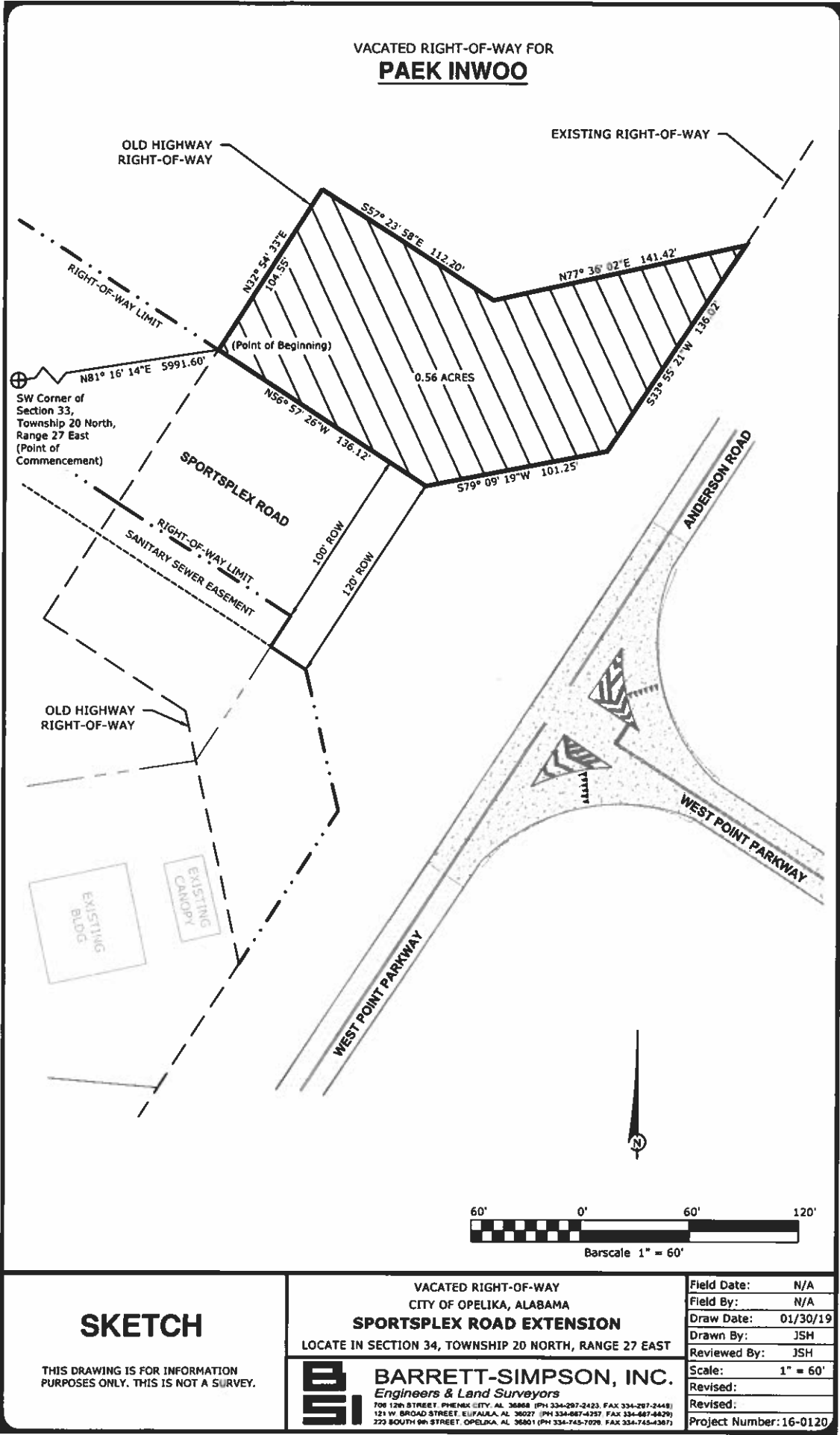
INWOO PAEK

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that INWOO PAEK, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office this the ____ day of _____, 2019.

NOTARY PUBLIC
MY COMMISSION EXPIRES:_____



Attachment: Exhibit A - Portion of Sportsplex Pkwy & Anderson Rd - Property Owner -Inwoo Paek (3318 : Vacate Right-Of-Way, Portion of Sportsplex

GRANTEE'S ADDRESS:

Inwoo Paek
 1575 Hamilton Hill
 Auburn, AL 36830

NO TITLE OPINION RENDERED

STATE OF ALABAMA	)	
	:	QUITCLAIM DEED
COUNTY OF LEE	)	

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations to the undersigned Grantor, City of Opelika, Alabama, in hand paid by Inwoo Paek, (the "Grantee"), the receipt whereof is hereby acknowledged, the undersigned City of Opelika, Alabama, a municipal corporation (hereinafter called "Grantor"), does hereby remise, release, quitclaim, and convey unto Inwoo Paek, a single man, all of its right, title, claim and interest in and to the following described real property situated in Opelika, Lee County, Alabama, to-wit:

A tract or parcel of land containing 0.56 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N81°16'14"E 5991.60 feet to a point on an old highway right-of-way limit, the point of beginning; thence along said old highway right-way-limit N32°54'33"E 104.55 feet; thence continue along said old highway right-way-limit S57°23'58"E 112.20 feet; thence continue along said old highway right-way-limit N77°36'02"E 141.42 feet to a point on the northwest right-of-way limit of Anderson Road; thence along said northwest right-of-way limit S33°55'21"W 136.02 feet to the northeast right-of-way limit of Sportsplex Road; thence along said northeast right-of-way limit S79°09'19"W 101.25 feet; thence continue along said northeast right-of-way limit N56°57'26"W 136.12 feet to the point of beginning.

Being further described according to and as shown by that certain survey or drawing prepared by Barrett-Simpson, Inc., attached hereto and marked Exhibit "A".

IN WITNESS WHEREOF, the City of Opelika, Alabama, a municipal corporation, has caused this instrument to be executed by Gary Fuller, its Mayor, and its seal to be affixed by Robert G. Shuman, its City Clerk, both of whom are hereunto authorized pursuant to Resolution No. ____-19 of the City Council of the City of Opelika, Alabama, a copy of which is attached hereto, marked Exhibit "A" on this the ____ day of _____, 2019.

CITY OF OPELIKA, ALABAMA

BY: _____
GARY FULLER, MAYOR

ATTEST:

ROBERT G. SHUMAN
CITY CLERK

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said county and state, hereby certify that Gary Fuller and Robert G. Shuman, whose names as Mayor and City Clerk, respectively of the City of Opelika, Alabama, are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day, that, being informed of the contents of said conveyance they, as such officers and with full authority, executed the same voluntarily as the act of said municipal corporation on the day the same bears date.

GIVEN under my hand and official seal of office this the ____ day of _____, 2019.

(SEAL)

NOTARY PUBLIC
MY COMMISSION EXPIRES:

**THIS INSTRUMENT WAS PREPARED BY:
GUY F. GUNTER, III
CITY ATTORNEY
CITY OF OPELIKA
608 Avenue A
P.O. BOX 390
OPELIKA, AL 36801
334-705-2074
334-705-5515 - FAX**

Attachment: QUIT CLAIM DEED (003) - Portion of Sportsplex Pkwy & Anderson Rd, Property Owner - Inwoo Paek (3318 : Vacate Right-Of-Way,

RESOLUTION NO. (ID # 3321)

Vacate ROW, Portion of Sportsplex Parkway & West Point Pkwy, Morgan & Boothe - Tabled.

RESOLUTION NO. _____

**RESOLUTION APPROVING THE VACATION OF A PORTION
OF THE SOUTHWESTERLY RIGHT-OF-WAY OF SPORTSPLEX
PARKWAY AND A PORTION OF THE SOUTHWESTERLY
RIGHT-OF-WAY OF WEST POINT PARKWAY**

WHEREAS, William M. Morgan, III and Robert D. Boothe are the owners of the property described in that warranty deed dated April 12, 2005, a copy of which is recorded in Deed Book 2272 at Page 904 in the Office of the Judge of Probate of Lee County, Alabama; and

WHEREAS, William M. Morgan, III and Robert D. Boothe are the owners of all of the property abutting along a portion of the southwesterly right-of-way of Sportsplex Parkway and a portion of the southwesterly portion of West Point Parkway (formerly U.S. Highway 29); and

WHEREAS, a Petition to vacate a portion of the southwesterly right-of-way of Sportsplex Parkway and a portion of the southwesterly right-of-way of West Point Parkway (formerly U.S. Highway 29), duly executed by William M. Morgan, III and Robert D. Boothe, as the abutting property owners, has been presented to the City Council (the "City Council") of the City of Opelika, Alabama (the "City"), a municipal corporation, for the assent and approval of the governing body, said Petition with map attached being hereto affixed, marked Exhibit "A" and made a part hereof; and

WHEREAS, the Petition is filed in accordance with the provisions of §23-4-20, *Code of Alabama*, 1975, which provides that any street or alley may be vacated, in whole or in part, by the owner or owners of the land abutting the street or alley or abutting that portion of the street or alley desired to be vacated; and

WHEREAS, the portions of the rights-of-way of Sportsplex Parkway and West Point Parkway (formerly (U.S. Highway 29) to be vacated are more particularly described as follows:

A tract or parcel of land containing 0.20 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N83°23'32"E 5950.38 feet to a point on an old highway right-of-way limit, the point of beginning; thence along said old highway right-of-way limit N11°59'50"W 27.61 feet; thence continue along said old highway right-of-way limit N56°59'50"W 93.03 feet; thence continue along said old highway right-of-way limit N32°54'33"E 77.04 feet to the southwest right-of-way limit of Sportsplex Road; thence along said southwest right-of-way limit S56°57'26"E 112.74 feet;

thence continue along said southwest right-of-way limit S33°02'34"W 20.00 feet; thence leaving said right-of-way limit S33°02'34"W 74.48 feet to the point of beginning.

Being further described according to and as shown by that certain survey or drawing prepared by Barrett-Simpson, Inc., attached hereto and marked Exhibit "B".

WHEREAS, the Petition states that no property owners will be deprived of any right they may have to convenient and reasonable means of ingress and egress to and from their property as a result of the requested vacation; and

WHEREAS, the remaining portions of the rights-of-way of Sportsplex Parkway and West Point Parkway (formerly U.S. Highway 29) will remain public rights-of-way; and

WHEREAS, the City desires to reserve to itself a 20-foot wide sanitary sewer easement, as depicted on the attached survey; and

WHEREAS, a public hearing was conducted by the City Council on the 19th day of March, 2019, at which all persons were given the opportunity to be heard in favor of or in opposition to the proposed rights-of-way vacation; and

WHEREAS, public notice of the public hearing was provided in accordance with §23-4-2, *Code of Alabama*, 1975; and

WHEREAS, the City Council has determined that it is in the best interest of the City to vacate the portions of the rights-of-way of Sportsplex Parkway and West Point Parkway (formerly U.S. Highway 29) as described in the attached Petition and the rights-of-way of said streets should be conveyed to William M. Morgan, III and Robert D. Boothe as requested by the Petitioners, subject to the existing sanitary sewer easement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika that the vacation of the above-described portions of the rights-of-way of Sportsplex Parkway and West Point Parkway (formerly U.S. Highway 29) is assented to and approved and the same is hereby vacated pursuant to the provisions of Section 23-4-20, et.seq. of the *Code of Alabama*, and also pursuant to said *Code* in §32-5-54.

BE IT FURTHER RESOLVED that the City of Opelika, Alabama, a municipal corporation, remise, release and quitclaim unto William M. Morgan, III and Robert D. Boothe, whatever right, title and interest the said City of Opelika, Alabama, may have acquired in and to the above described portions of the rights-of-way of Sportsplex Parkway and West Point Parkway (formerly U.S. Highway 29) by virtue of the dedication or vacation of said roadways or otherwise, subject to the reservation of the above-described sanitary sewer easement.

BE IT FURTHER RESOLVED that Gary Fuller, the Mayor of the City of Opelika, Alabama, a municipal corporation, be and he is hereby authorized and directed on behalf of the City of Opelika, Alabama, to execute a quitclaim deed to William M. Morgan, III and Robert D. Boothe, subject to the reservation of the above-described sanitary sewer easement, for the purpose of carrying out the intent and intention of this Resolution and that Robert G. Shuman, City Clerk, be and he is hereby authorized and directed on behalf of the City of Opelika, Alabama, to attest the same.

BE IT FURTHER RESOLVED that the City Clerk will cause a copy of this Resolution to be filed in the Probate Office of Lee County, Alabama, and shall further cause a copy of this Resolution to be published once in a newspaper of general circulation in Lee County, Alabama, no less than fourteen (14) days after its adoption.

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

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

ATTEST:

CITY CLERK

**PETITION TO VACATE A PORTION OF THE SOUTHWESTERLY
RIGHT-OF-WAY OF SPORTSPLEX PARKWAY AND THE
SOUTHWESTERLY RIGHT-OF-WAY OF WEST POINT PARKWAY**

STATE OF ALABAMA
COUNTY OF LEE

TO THE HONORABLE MEMBERS OF THE CITY COUNCIL OF THE CITY OF OPELIKA

COMES NOW WILLIAM M. MORGAN, III, a married man, and ROBERT D.

BOOTHE, a married man, (hereinafter referred to as the "Petitioners") and represent as follows:

1. The Petitioners are the owners of all of the property abutting upon a portion of the southwesterly right-of-way of Sportsplex Parkway and a portion of the southwesterly right-of-way of West Point Parkway (formerly U.S. Highway 29), and they do, by this written instrument, hereby vacate said portions of the right-of-way of Sportsplex Parkway and the right-of-way of West Point Parkway (formerly U.S. Highway 29), being more particularly described as follows, to wit:

A tract or parcel of land containing 0.20 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N83°23'32"E 5950.38 feet to a point on an old highway right-of-way limit, the point of beginning; thence along said old highway right-of-way limit N11°59'50"W 27.61 feet; thence continue along said old highway right-of-way limit N56°59'50"W 93.03 feet; thence continue along said old highway right-of-way limit N32°54'33"E 77.04 feet to the southwest right-of-way limit of Sportsplex Road; thence along said southwest right-of-way limit S56°57'26"E 112.74 feet; thence continue along said southwest right-of-way limit S33°02'34"W 20.00 feet; thence leaving said right-of-way limit S33°02'34"W 74.48 feet to the point of beginning.

Being further described according to and as shown by that certain survey or drawing prepared by Barrett-Simpson, Inc., attached hereto and marked Exhibit "A".

2. The Petitioners hereby represent and declare that they are the sole owners of the property abutting upon the portions of the rights-of-way of Sportsplex Parkway and West Point

Parkway (formerly U.S. Highway 29) to be vacated. It is not the intention of the Petitioners to vacate any other portion of Sportsplex Parkway and West Point Parkway (formerly U.S. Highway 29), except as described in Section 1 above.

3. The Petitioners hereby certify that convenient and reasonable means of ingress and egress is afforded to all other property owners owning property in the area.

4. The Petitioners certify that Sportsplex Parkway and West Point Parkway (formerly U.S. Highway 29) will remain public rights-of-way.

5. The Petitioners desire to vacate the above-described portions of the rights-of-way of Sportsplex Parkway and West Point Parkway (formerly U.S. Highway 29) so as to destroy the force and effect of any dedication of the same and have divested therefrom all public rights therein.

6. The Petitioners agree that the property within the vacated rights-of-way, as described in Section 1 above, shall constitute the property of the Petitioners, subject to a 20-foot wide sanitary sewer easement to the City of Opelika, as depicted on the attached survey.

7. This declaration of vacation is executed by the Petitioners in accordance with the provisions of §35-2-47, *Code of Alabama*, 1975, and also pursuant to said Code in §23-4-20.

NOW, THEREFORE, in consideration of the premises, the Petitioners hereby request that Your Honors assent to, approve, ratify and confirm, the vacation of the above-described portions of the rights-of-way of Sportsplex Parkway and West Point Parkway (formerly U.S. Highway 29), the annulment of any dedication thereof, and the divestment of all public rights therein, the existing sanitary sewer easement, and that the City of Opelika, through its duly elected officials, adopt such appropriate Resolution and authorize the execution of such appropriate instruments as may be meet and proper to effect the vacation of said portions of the

rights-of-way of Sportsplex Parkway and West Point Parkway (formerly U.S. Highway 29) in order to divest the public of all rights to use the same and convey to the Petitioner whatever right, title and interest which the City has or may have in and to the above described portions of said rights-of-way.

IN WITNESS WHEREOF, the Petitioner has hereunto set its hand and seal on this the _____ day of _____, 2019.

WILLIAM M. MORGAN, III

ROBERT D. BOOTHE

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that WILLIAM M. MORGAN, III, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office this the ____ day of _____, 2019.

NOTARY PUBLIC
MY COMMISSION EXPIRES:_____

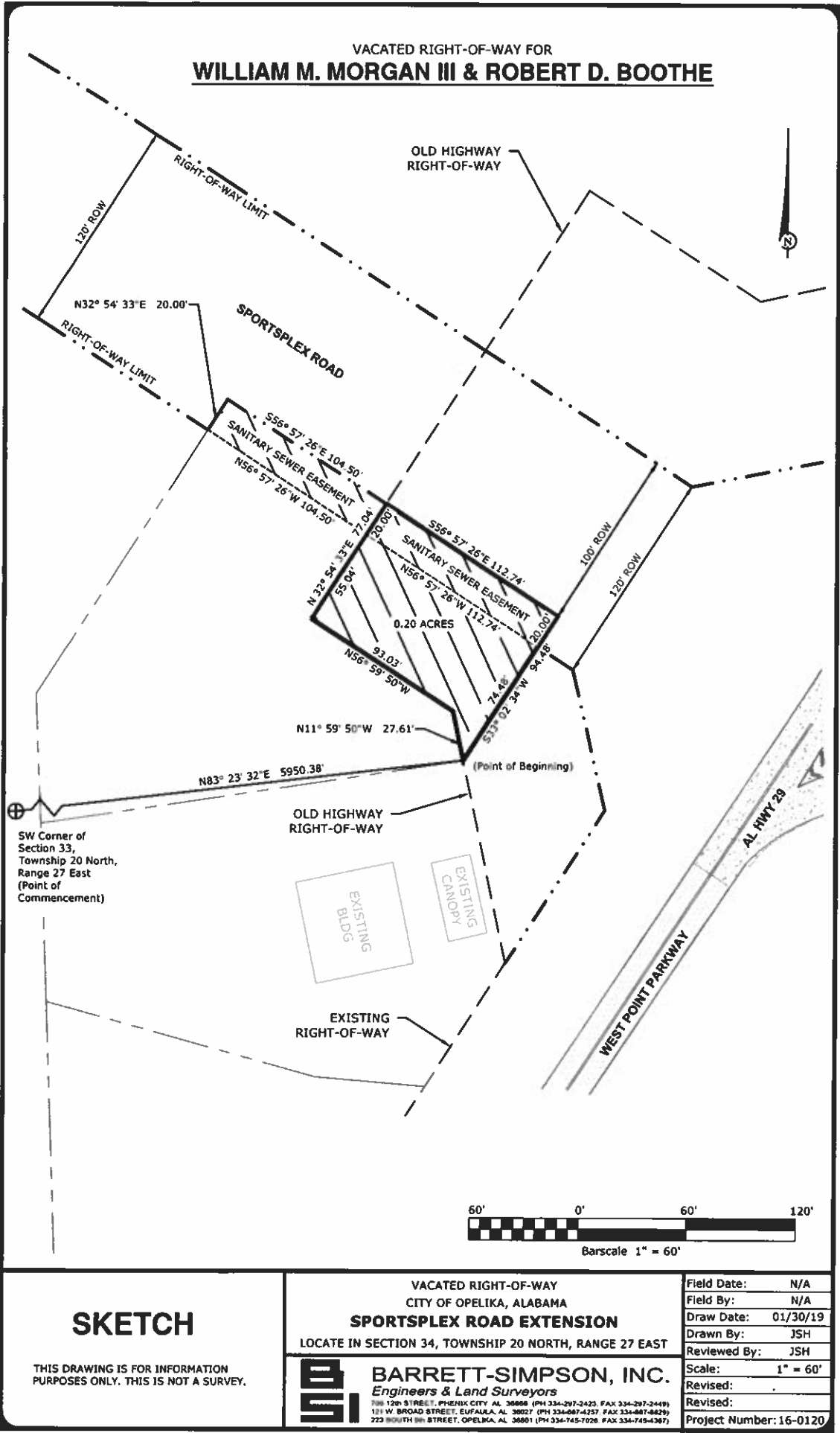
STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that ROBERT D. BOOTHE, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office this the ____ day of _____, 2019.

NOTARY PUBLIC

MY COMMISSION EXPIRES:_____



Attachment: Exhibit A - Portion of Sportsplex Parkway & West Point Pkwy, Morgan & Boothe (3321 : Vacate Right-Of-Way, Portion of Sportsplex Parkway

GRANTEE'S ADDRESS:

William M. Morgan, III
 Robert D. Boothe
 3305 Anderson Road
 Opelika, AL 36804

NO TITLE OPINION RENDERED

STATE OF ALABAMA	)	
	:	QUITCLAIM DEED WITH RESERVATION
COUNTY OF LEE	)	OF SANITARY SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations to the undersigned Grantor, City of Opelika, Alabama, in hand paid by William M. Morgan, III and Robert D. Boothe, (the "Grantees"), the receipt whereof is hereby acknowledged, the undersigned City of Opelika, Alabama, a municipal corporation (hereinafter called "Grantor"), does hereby remise, release, quitclaim, and convey unto William M. Morgan, III and Robert D. Boothe, subject to a permanent 20-foot wide sanitary sewer easement, as more particularly described below, all of its right, title, claim and interest in and to the following described real property situated in Opelika, Lee County, Alabama, to-wit:

A tract or parcel of land containing 0.20 acres located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N83°23'32"E 5950.38 feet to a point on an old highway right-of-way limit, the point of beginning; thence along said old highway right-of-way limit N11°59'50"W 27.61 feet; thence continue along said old highway right-of-way limit N56°59'50"W 93.03 feet; thence continue along said old highway right-of-way limit N32°54'33"E 77.04 feet to the southwest right-of-way limit of Sportsplex Road; thence along said southwest right-of-way limit S56°57'26"E 112.74 feet; thence continue along said southwest right-of-way limit S33°02'34"W 20.00 feet; thence leaving said right-of-way limit S33°02'34"W 74.48 feet to the point of beginning.

Being further described according to and as shown by that certain survey or drawing prepared by Barrett-Simpson, Inc., attached hereto and marked Exhibit "A".

The Grantor hereby reserves to itself a perpetual 20-foot wide sanitary sewer easement as depicted on the survey prepared by Barrett-Simpson, Inc., along, over, under, and across the following described property:

A sanitary sewer easement being 20 feet wide located in Section 34, Township 20 North, Range 27 East, Lee County, Alabama, and being more particularly described as follows: Commence at the southwest corner of Section 33, Township 20 North, Range 27 East; thence N83°23'32"E 5950.38 feet; thence N11°59'50"W 27.61 feet; thence N56°59'50"W 93.03 feet; thence N32°54'33"E 55.04 feet to the point of beginning; thence N56°57'26"W 104.50 feet to the southwest right-of-way limit of Sportsplex Road; thence along said southwest right-of-way limit N32°54'33"E 20.00 feet; thence continue along said southwest right-of-way limit S56°57'26"E 104.50 feet; thence continue along said southwest right-of-way limit S56°57'26"E 112.74 feet; thence continue along said southwest right-of-way limit S33°02'34"W 20.00 feet; thence N56°57'26"W 112.74 feet to the point of beginning.

IN WITNESS WHEREOF, the City of Opelika, Alabama, a municipal corporation, has caused this instrument to be executed by Gary Fuller, its Mayor, and its seal to be affixed by Robert G. Shuman, its City Clerk, both of whom are hereunto authorized pursuant to Resolution No. ____-19 of the City Council of the City of Opelika, Alabama, a copy of which is attached hereto, marked Exhibit "A" on this the ____ day of _____, 2019.

CITY OF OPELIKA, ALABAMA

BY: _____
GARY FULLER, MAYOR

ATTEST:

ROBERT G. SHUMAN
CITY CLERK

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said county and state, hereby certify that Gary Fuller and Robert G. Shuman, whose names as Mayor and City Clerk, respectively of the City of Opelika, Alabama, are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day, that, being informed of the contents of said conveyance they, as such officers and with full authority, executed the same voluntarily as the act of said municipal corporation on the day the same bears date.

GIVEN under my hand and official seal of office this the ____ day of _____, 2019.

(SEAL)

NOTARY PUBLIC
MY COMMISSION EXPIRES:

THIS INSTRUMENT WAS PREPARED BY:

GUY F. GUNTER, III
CITY ATTORNEY
CITY OF OPELIKA
608 Avenue A
P.O. BOX 390
OPELIKA, AL 36801
334-705-2074
334-705-5515 - FAX

RESOLUTION NO. 052-19

Tax abatement, Pharmavite LLC.

RESOLUTION NO. _____

**RESOLUTION APPROVING CERTAIN TAX ABATEMENTS AND
EXEMPTIONS FOR PHARMAVITE, LLC**

WHEREAS, Pharmavite, LLC (the “Company”) operates an industrial facility (“the Facility”) in the Northeast Industrial Park within the corporate limits of the City of Opelika (the “City”); and

WHEREAS, the Company has announced plans for a major addition (the “Project”) to its existing Facility located at 4701 Northpark Drive, Opelika, Alabama, within the jurisdiction of the City; and

WHEREAS, the Project, involving a building expansion, the purchase and acquisition of new manufacturing machinery and the acquisition of other new personal property, will involve a capital investment of approximately eight million nine hundred ten thousand and five hundred dollars (\$8,910,500.00); and

WHEREAS, the Project is estimated to be placed in service by April 1, 2020; 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 Project is expected to result in the creation of approximately eighteen (18) new jobs; and

WHEREAS, the Company's NAICS Code 325414 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); and (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

WHEREAS, the Company has requested that the abatement of state and local noneducational property taxes be extended for a period of ten (10) years in accordance with the Act; and

WHEREAS, pursuant to Article IV of Chapter 51 of Title 11, *Code of Alabama*, the Company has requested from the City a complete exemption of non-educational City ad valorem taxes for new additions to the existing buildings and manufacturing machinery and other new personal property to be acquired and installed in the Facility (the "Project"); and

WHEREAS, the City has considered the request of the Company and the completed application (copy attached) filed by the Company with the City in connection with its request; 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 Project will involve a capital investment of approximately eight million nine hundred ten thousand and five hundred dollars (\$8,910,500.00); 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 warrants 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 expanded use of the Facility due to the building expansion and the installation of said new manufacturing machinery and other new personal property.

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

1. Approval is hereby given to the 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; and (2) all construction related transactions (sales and use) taxes, as the same may apply to the fullest extent permitted by the Act, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, as the same may apply to the

fullest extent permitted by the Act. The period of abatement for the noneducational property taxes shall extend for a period of ten (10) years measured as provided in Section 40-9B-3(a)12 of the Act.

2. In addition, pursuant to Title 11, Article 4 of Chapter 51, *Code of Alabama*, the City agrees to grant to the Company a complete exemption for non-educational City ad valorem taxes for a period of fifteen (15) years.

3. 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 paragraphs 1 and 2 shall not exceed the maximum abatement allowed by state law.

4. 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 paragraphs 1 and 2 above.

5. A certified copy of this resolution, with Application and Abatement Agreement, shall be forwarded to the Company to deliver to the appropriate taxing authorities and to the Alabama Department of Revenue in accordance with the Act.

6. 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.

7. This resolution shall take effect upon 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. 053-19

Tax abatement, Mando America Corp.

RESOLUTION NO. _____

**RESOLUTION APPROVING CERTAIN TAX ABATEMENTS AND
EXEMPTIONS FOR MANDO AMERICA CORPORATION**

WHEREAS, Mando America Corporation (the “Company”) operates an industrial facility (“the Facility”) in the Northeast Industrial Park within the corporate limits of the City of Opelika (the “City”); and

WHEREAS, the Company has announced plans for a major addition (the “Project”) to its existing Facility located at 4201 Northpark Drive, Opelika, Alabama, within the jurisdiction of the City; and

WHEREAS, the Project, involving a building expansion, the purchase and acquisition of new manufacturing machinery and the acquisition of other personal property, will involve a capital investment of approximately nine million six hundred forty-two thousand and thirty-two dollars (\$9,642,032.00); and

WHEREAS, the Project is estimated to be placed in service by December 20, 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 Project is expected to result in the creation of approximately fourteen (23) new jobs; and

WHEREAS, the Company's NAICS Code 336330 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); and (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

WHEREAS, the Company has requested that the abatement of state and local non-educational property taxes be extended for a period of ten (10) years in accordance with the Act; and

WHEREAS, pursuant to Article IV of Chapter 51 of Title 11, *Code of Alabama*, the Company has requested from the City a complete exemption of non-educational City ad valorem taxes for the new machinery, equipment and other new personal property to be acquired and installed in the Facility (the "Project"); and

WHEREAS, the City has considered the request of the Company and the completed application (copy attached) filed by the Company in connection with its request; 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 Project will involve a capital investment of approximately nine million six hundred forty-two thousand thirty-two dollars (\$9,642,032.00); 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 warrants 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 expanded use of the Facility due to the building expansion and the installation of said new manufacturing machinery and other new personal property.

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

1. Approval is hereby given to the 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; and (2) all construction related transactions (sales and use) taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, as the same may apply to the fullest extent permitted by the Act. The period of abatement for the non-educational property taxes shall extend for a period of ten (10) years measured as provided in Section 40-9B-3(a)12 of the Act.

2. In addition, pursuant to Title 11, Article 4 of Chapter 51, *Code of Alabama*, the City agrees to grant to the Company a complete exemption for non-educational City ad valorem taxes for a period of fifteen (15) years.

3. 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 paragraphs 1 and 2 shall not exceed the maximum abatement allowed by state law.

4. 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 paragraphs 1 and 2 above.

5. A certified copy of this resolution, with Application and Abatement Agreement, shall be forwarded to the Company to deliver to the appropriate taxing authorities and to the Alabama Department of Revenue in accordance with the Act.

6. 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.

7. This resolution shall take effect upon 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. 054-19

Tax abatement extension, Golden State Foods & Wells Fargo EF.

RESOLUTION NO. _____

RESOLUTION APPROVING PROJECT EXTENSION FOR GOLDEN STATE FOODS CORP., LEX OPELIKA II, L.P. AND WELLS FARGO EQUIPMENT FINANCE, INC.

WHEREAS, on July 5, 2016, pursuant to Resolution No. 158-16, the City Council of the City of Opelika, Alabama (the “City Council”) approved the applications of Golden State Foods Corp., Lex Opelika II, L.P. and Wells Fargo Equipment Finance, Inc. for the abatement of (1) all state and local non-educational ad valorem property taxes for a period of ten (10) years and (2) all construction-related transaction (sales and use) taxes for a new state-of-the-art food processing facility located at 4801 Northpark Drive; and

WHEREAS, the City Council also approved the applications of the above entities for a complete exemption for non-educational City ad valorem taxes for a period of fifteen (15) years; and

WHEREAS, the Project was estimated to be placed in service on December 31, 2017; and

WHEREAS, the Project has taken longer to complete than anticipated due to the delayed delivery of certain equipment; and

WHEREAS, the Company has requested a time extension to January 31, 2018; and

WHEREAS, for good and sufficient cause, the City Council finds and determines that the City should grant the Company’s time extension request.

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

1. That the placed in service date for the Project be, and hereby is, extended through and including January 31, 2018.

2. That Section 1(f) of Resolution No. 158-16 shall be amended to read as follows:

“(f) The Project is estimated to be placed in service on January 31, 2018.”

3. That the Mayor and City Clerk are hereby authorized and directed to execute such documents and agreements as may be necessary to extend the time period as provided in paragraph 1 above.

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 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.

5. That a copy of this Resolution shall be forwarded to Golden State Foods Corp., Lex Opelika II, L.P. and Wells Fargo Equipment Finance, Inc., to deliver to the appropriate taxing authorities and to the Alabama Department of Revenue.

6. That this resolution shall take effect upon 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. 055-19

Appropriation contract with the Lee Co. Water Festival.**RESOLUTION NO.** _____**BE IT RESOLVED** by the City Council of the City of Opelika as follows:

) That the proposed CONTRACT FOR SERVICES to be entered into between the City

of Opelika and the Lee County Water Festival, a copy of which is hereto attached as

Exhibit "A", be and the same is hereby approved, adopted, authorized, ratified and confirmed,

) That Gary Fuller, Mayor of the City of Opelika is hereby authorized and

empowered to execute the foregoing agreement in the name and on behalf of the City of Opelika

and the City Clerk is hereby authorized to affix the corporate seal of the City of Opelika thereto

and to attest the same, and the Mayor shall deliver one copy to the Lee County Water Festival,

and retain one copy.

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 - Treasurer

STATE OF ALABAMA)
 :
 COUNTY OF LEE)

CONTRACT FOR SERVICES

THIS AGREEMENT is made and entered into between the City of Opelika, Alabama a municipal corporation, hereinafter referred to as the "CITY", and the Lee County Water Festival, a 501(c)(3) corporation, hereinafter referred to as "LCWF", on this 2nd day of July, 2018.

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

1. The term of this agreement shall be for a period of twelve (12) months commencing on the 1st day of October, 2018 and ending the 30th day of September, 2019.
2. During the term of this contract, the LCWF agrees to provide the following services:
 - Produce the annual Water Festival event.
 - Educate Opelika 4th graders on the role of surface and groundwater in the water cycle.
3. As compensation for the services rendered hereunder, the City agrees to pay to the LCWF, for the term of this agreement the sum of \$3,000.00 payable in a lump sum.
4. In the performance of its obligation hereunder, the LCWF shall not promote the beliefs of any religious sect or denomination or engage in impermissible religious activities under the First Amendment of the United States Constitution. All programs shall be open to qualifying participants regardless of race, national origin, gender or religious affiliation.
5. The LCWF agrees to comply with all local, state and federal laws while performing under the terms of this Contract.
6. The LCWF agrees that it will not use any funds received from the City for political activities nor shall it endorse or promote the campaign of any person for political office.
7. The LCWF in the performance of its operations and obligations hereunder shall not be deemed to be an agent of the City, but shall be deemed to be an independent contractor in every respect. The City does not and will not assume any responsibility for the means by which or manner in which the services by the LCWF are performed, but on the contrary, the LCWF shall be wholly responsible for the payment of its operating expenses, which includes, but not limited to, payroll expenses, taxes, maintenance expenses, supplies, utility charges, insurance premiums and governmental license fees.

8. The LCWF agrees that upon the violation of any of the covenants and agreements herein contained, the City may, at its option, terminate and cancel this agreement.
9. The LCWF shall not transfer or assign this contract or license any of the rights or privileges granted herein without the prior written consent of the City.
10. This contract supersedes any and all other agreements, either oral or written, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this contract which is not contained herein shall be valid or binding unless in writing signed by the parties.
11. Subject to the provisions regarding assignment, this contract shall be binding on the successors and assigns of the respective parties.
12. The validity of this contract and of any of its items, provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Alabama.

IN WITNESS WHEREOF, the parties have hereunto signed their names and affixed their seals, this the 3rd day of October, 2018

CITY OF OPELIKA, ALABAMA
A municipal corporation

BY: _____
Gary Fuller
Mayor

ATTEST:

Robert G. Shuman
City Clerk - Treasurer

Lee County Water Festival (LCWF)

BY: [Signature]
President

ATTEST:
[Signature]
LCWF - Treasurer

RESOLUTION NO. 056-19

Special appropriation to the Arts Assoc. of East Alabama.**RESOLUTION NO. _____**

WHEREAS, the Mayor of Opelika and the City Council fully supports the various programs provided by the Arts Association of East Alabama (AAEA), and

WHEREAS, AAEA is now in need of additional funds to assist with the expenses in providing the first annual Opelika Songwriters Festival on May 24-26, 2019, and

WHEREAS, City Council President Eddie Smith Ward 4, President Pro-tem Patricia Jones Ward 1, Councilwoman Tiffany Pitts Ward 2, Councilman Dozier Smith T Ward 3 and Councilman David Canon Ward 5 each wishes to appropriate \$500.00 each from their respective discretionary funds, to assist with funding the Songwriters Festival.

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

1. The City Council approves a total special appropriation of \$2,500.00 to the Arts Assoc. of East Alabama to assist in funding the Songwriters Festival.
2. The Opelika City Council hereby declares and determines that said expenditure of these public funds serve a public purpose for the City of Opelika and approves the attached Funding Agreement.
3. The Mayor and the Controller is hereby authorized and directed to move the discretionary funds as detailed below to the appropriate account(s):

Patricia Jones	Ward 1	Reserve fund	\$ 500.00
Tiffany Pitts	Ward 2	Reserve fund	\$ 500.00
Dozier Smith T	Ward 3	Reserve fund	\$ 500.00
Eddie Smith	Ward 4	Reserve fund	\$ 500.00
David Canon	Ward 5	Reserve fund	\$ 500.00
4. The Mayor and the Controller is also hereby authorized and directed to make the appropriate budget adjustments for an additional \$2,500.00 with these funds coming from the Unassigned Fund Balance.

5. The City Clerk-Treasurer is hereby authorized and directed to prepare the appropriate documents so that a check for \$2,500.00 payable to the Arts Association of East Alabama can be prepared and delivered with said funds being earmarked and designated for the 2019 Songwriters Festival.

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

C. E. "Eddie" Smith, Jr.

President City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

RESOLUTION NO. 057-19

Special appropriation to the American Cancer Society - Relay for Life.**RESOLUTION NO. _____**

WHEREAS, the entire Opelika City Council fully supports and appreciates the various services and research that is being provided by the American Cancer Society, and

WHEREAS, the local chapter of the American Cancer Society is in need of contributions to assist in funding their annual “Relay for Life” event and continued research to find the cure for cancer, and

WHEREAS, Council President pro-tem Patsy Jones Ward 1, Councilwoman Tiffany Gibson-Pitts Ward 2, Councilman Dozier Smith T Ward 3, Council President Eddie Smith Ward 4 and Councilman David Canon Ward 5 wish to provide a special appropriation to assist in supporting the annual “Relay for Life” event provided by the local chapter of the American Cancer Society.

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

1. That each Council member wish to make a special appropriation as detailed below to the local chapter of the American Cancer Society to assist with the cost of their annual “Relay for Life” event and continued research for the cure for cancer:

Patricia Jones	Ward 1	From reserve fund.	\$1,000.00
Tiffany Pitts	Ward 2	From reserve fund.	\$1,000.00
Dozier Smith T	Ward 3	From reserve fund.	
\$1,000.00	Eddie Smith	Ward 4	From reserve fund.
\$1,000.00			
David Canon	Ward 5	From reserve fund.	\$1,000.00

2. That the Council hereby declares and determines that said expenditures of these public funds will serve a public purpose for the City of Opelika.
3. That the Mayor and the Controller is hereby authorized and directed to move a total of \$5,000.00 from the various accounts/funds as detailed in No. 1 above to the appropriate account(s).

4. The City Clerk-Treasurer is hereby authorized and directed to prepare the appropriate documents so a check for \$5,000.00 can be prepared and delivered to the local chapter of the American Cancer Society.

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

President of the City Council
City of Opelika, Alabama

Attest:

Robert G. Shuman, CMC
City Clerk - Treasurer

RESOLUTION NO. 058-19

Roundabout Project Agreement with Lee Co

RESOLUTION NO. _____

**RESOLUTION APPROVING AND AUTHORIZING AN INTERGOVERNMENTAL
FUNDING AGREEMENT BETWEEN THE CITY OF OPELIKA AND LEE COUNTY
FOR THE CONSTRUCTION OF A ROUNDABOUT**

WHEREAS, the City of Opelika, Alabama, (the “City”) intends to construct a roundabout at the intersection of Gateway Drive, Lee Road 54 and Society Hill Road (the “Project:”); and

WHEREAS, Lee Road 54 running in a southwesterly direction from said intersection is owned and maintained by Lee County, Alabama (“Lee County”); and

WHEREAS, Lee County agreed to reimburse the City for fifty percent (50%) for all Project costs; and

WHEREAS, a proposed Intergovernmental Funding Agreement (the “Agreement”) has been prepared and submitted to the Council for approval, and the 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 proposed Intergovernmental Funding Agreement to be entered into by and between the City and Lee County, a copy of which is attached hereto and marked Exhibit “A”, be and the same is hereby approved, authorized, ratified and confirmed in the form substantially submitted to the City Council with such changes thereto (by addition, deletion or

substitution) as the Mayor shall approve, which approval shall be conclusively evidenced by the execution and delivery of said Agreement.

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

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

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

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

 PRESIDENT OF THE CITY COUNCIL
 OF THE CITY OF OPELIKA

ATTEST:

CITY CLERK

**INTERGOVERNMENTAL FUNDING AGREEMENT BETWEEN THE CITY OF
OPELIKA AND LEE COUNTY FOR CONSTRUCTION OF ROUNDABOUT**

This **INTERGOVERNMENTAL FUNDING AGREEMENT** (the “Agreement”) is made and entered into as of March ____, 2019, by and between the **CITY OF OPELIKA, ALABAMA**, an Alabama municipal corporation (the “City”) and **LEE COUNTY, ALABAMA**, a political subdivision of the State of Alabama (the “County”).

RECITALS

WHEREAS, to facilitate the efficient movement of traffic and ensure safety to the motoring public the City intends to construct a roundabout at the intersection of Gateway Drive Lee Road 54, and Society Hill Road (the “Project”); and

WHEREAS, Lee Road 54 running in a southwesterly direction from said intersection is owned and maintained by the County; and

WHEREAS, Gateway Drive and Society Hill Road are owned and maintained by the City; and

WHEREAS, the City has requested the assistance of the County, and the County is willing to commit funds to the Project; and

WHEREAS, the parties agree that an Intergovernmental Funding Agreement is appropriate; and

WHEREAS, pursuant to the applicable laws of the State of Alabama and for the purposes referenced herein, the City and the County have delivered this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, the City and the County hereby covenant and agree as follows:

ARTICLE 1

DEFINITIONS

For the purposes of this Agreement, the following terms shall have the following meanings:

“City” shall mean the City of Opelika, Alabama.

“Lee County” shall mean Lee County, Alabama, a political subdivision of the State of Alabama, acting by and through the Lee County Commission.

“Lee County contribution” shall have the meaning set forth in Section 3.

“Project” shall mean the construction of a roundabout at the intersection of Gateway Drive, Lee County 54 and Society Hill Road.

ARTICLE 2

AGREEMENTS AND OBLIGATIONS OF CITY

Section 2.01 Description of Obligations.

(1) The City hereby agrees to duly and punctually observe and perform all agreements under this Agreement.

(2) The City shall engage, at its sole cost, subject to reimbursement by Lee County as hereinafter stipulated, a civil engineering firm registered in the State of Alabama to prepare detailed plans and specifications for the complete construction of the Project in accordance with the City’s engineering specifications and standards.

(3) The City shall advertise, receive bids and award a contract for the construction of the Project and cause the Project to be constructed in accordance with plans and specifications approved jointly by the City and Lee County.

(4) The City agrees to assume the overall Project responsibility including assuring that all permits as may be required by the Project are secured. The parties hereto agree to cooperate insofar as their individual jurisdiction authorities allow with timely acquisition and clearance of said permits.

(5) The City agrees that on or before December 31, 2019, it shall construct or cause the Project to be constructed in accordance with the City's design standards and specifications.

(6) The City agrees to pay all costs and expenses incurred by the City in connection with the construction of the Project, subject to reimbursement by the County as hereinafter stipulated.

(7) The City agrees to assume and pay all costs and expenses incurred by the City in connection with the improvements to Gateway Drive and Society Hill Road beyond the Project limits.

(8) Upon completion of the Project, the City agrees, at its sole expense, to maintain the roundabout to the Project limits.

(9) The City agrees to indemnify, hold harmless and defend the County, its officials, representatives, agents, servants and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the installation of the roundabout and intersection improvements.

ARTICLE 3

AGREEMENTS AND OBLIGATIONS OF THE COUNTY

Section 3.01 Description of Obligations.

- (1) Lee County hereby agrees to duly and punctually observe and perform all agreements under this Agreement.
- (2) Lee County agrees that upon completion of the Project and receipt of an invoice from the City, to pay to the City an amount equal to fifty percent (50%) of the total costs of the Project, including design and engineering costs and actual construction costs.
- (3) The County agrees to reimburse the City for any costs associated with improvements to Lee Road 54 beyond the Project limits.

ARTICLE 4

SPECIAL AGREEMENTS OF THE PARTIES

- (1) The obligations and agreements of the parties hereunder are contingent and subject to the following:
 - (a) Approval by the Opelika Planning Commission of the location and character of the new roundabout;
 - (b) Approval of this Agreement by the Opelika City Council.
 - (c) Approval of this Agreement by the Lee County Commission.

ARTICLE 5

PROVISIONS OF GENERAL APPLICATION

Section 5.01 Prior Agreements.

This Agreement shall completely and fully supersede all other prior agreements, both written and oral, among the parties hereto relating to the matters contained herein. None of the parties hereto shall hereafter have any rights under any such prior agreements but shall look to

this Agreement for definition and determination of all of their respective rights, liabilities and responsibilities relating to the matters contained herein.

Section 5.02. Counterparts.

This Agreement may be executed in counterparts, each of which shall constitute but one and the same agreement.

Section 5.03. Binding Effect; Governing Law

(1) This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective their successors and assigns.

(2) This Agreement shall be governed exclusively by the laws of the State of Alabama.

Section 5.04. Notices.

(1) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to a party or to an officer of the party to whom the same is directed or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed to:

- | | |
|-----------------------|---|
| (a) If to the City: | City of Opelika
204 South 7 th Street
Opelika, AL 36801
ATTN: Mayor |
| (b) If to Lee County: | Lee County
215 South 9 th Street
Opelika, AL 36801
ATTN: County Administrator |

(2) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier.

Section 5.05. Amendments.

This Agreement may be amended or supplemented only by an instrument in writing duly authorized, executed and delivered by the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and date first above written.

THE CITY OF OPELIKA, ALABAMA

By: _____
GARY FULLER, ITS MAYOR

ATTEST:

CITY CLERK

LEE COUNTY, ALABAMA

By: _____
BILL ENGLISH, CHAIRMAN OF
THE LEE COUNTY COMMISSION

RESOLUTION NO. 059-19

Design Services Agreement for Society Hill Roundabout

RESOLUTION NO. _____

**RESOLUTION ACCEPTING PROPOSAL FOR CIVIL ENGINEERING
SERVICES SUBMITTED BY BOLT ENGINEERING, INC.**

WHEREAS, to facilitate the efficient movement of traffic and ensure safety to the motoring public the City intends to construct a roundabout at the intersection of Gateway Drive Lee Road 54, and Society Hill Road (the “Project”); and

WHEREAS, professional engineering services are needed to complete the, engineering design, prepare construction plans, specifications and other documents for the construction of the Project, for the City; and

WHEREAS, Bolt Engineering, Inc. (“Bolt Engineering”) is a professional engineering firm that possesses the requisite knowledge, skill and resources to design the Project and to prepare the necessary plans, drawings, specifications and other documents; and

WHEREAS, a Proposal for complete civil engineering services (the “Proposal”) has been prepared by Bolt Engineering 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 for engineering services.

WHEREAS, the City and Lee County have agreed to equally divide the cost of the services to be rendered by Bolt Engineering.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika,

Alabama, as follows:

1. That the Proposal submitted by Bolt Engineering, a copy of which is attached hereto and marked Exhibit "A", be and the same is hereby approved and accepted in the form substantially submitted to the City Council.

2. That the Mayor is further authorized and directed to execute and deliver the Proposal in the name and on behalf of the City and to execute and deliver or cause to be executed or delivered in the name and on behalf of the City such other agreements, contracts, change orders, notices, certificates, assurances or other instruments or other communications as he deems necessary or appropriate in order to carry into effect the intent of the provisions of this Resolution.

3. That the compensation to be paid to Bolt Engineering shall be paid from the Unassigned Fund Balance and the Controller is hereby authorized and directed to make all necessary and appropriate budget adjustments to implement this Resolution.

4. That the Purchasing-Revenue Manager is hereby authorized and directed to issue a purchase order to Bolt Engineering for the provision for engineering services as outlined in the Agreement attached hereto at a total cost not to exceed \$ 18,500, half of which is to be reimbursed by Lee County after the completion of the project.

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



February 28, 2019

RE: Roundabout addition to Gateway and Society Hill Road

Dear Mr. Parker,

I appreciate the opportunity to submit a proposal for the Civil Engineering aspects of your project. Our scope of work will be limited to preparing Civil construction plans based on the preliminary concept that was provided. We will work with your team to refine the preliminary concept prior to plan production.

Construction plans are anticipated to include the following:

- Existing Conditions Survey (by city)
- Site Layout Plan
- Site Striping and Signage Plan
- Site Grading Plan
- Drainage Plan

Our fee breakdown is proposed as follows:

Civil Construction Plans: \$18,500

This proposal does not include the following:

- Site visits are typically \$200 per visit
- Reimbursable expenses (ie: plan reproduction)
- Soils determinations
- Environmental services
- Geotechnical engineering
- Construction management, on-site monitoring or construction staking.
- Wall design
- As-builts
- Lighting Plans
- Erosion control plan or utility relocation
- ADEM Notice of Intent, termination or esc monitoring

Additional services if necessary, will be billed at standard hourly rates.

Thank you for considering us for services on your project!

Sincerely,

BOLT ENGINEERING INC

Brandon Bolt

Brandon Bolt, P.E.

RESOLUTION NO. 060-19

Design Services Agreement for 1St Ave Streetscape

RESOLUTION NO. _____

**RESOLUTION APPROVING PROPOSAL SUBMITTED BY HILLWORKS
LANDSCAPE + ARCHITECTURE FOR LANDSCAPE ARCHITECTURE SERVICES
IN CONNECTION WITH TAP PROJECT-1ST AVENUE STREET SCAPE**

WHEREAS, the City of Opelika, Alabama (hereinafter the “City”) intends to design, modify and construct pedestrian improvements to enhance the street scape in areas on and around 1st Avenue between North 7th Street and North 8th Street and North 8th Street between North Railroad Avenue and 1st Avenue (the “Project”); and

WHEREAS, said Project will include ADA compliant, modifications to existing infrastructure as well as landscaping, lighting and infrastructure designed to provide safe pedestrian traffic and an enhanced downtown experience; and

WHEREAS, said Project is eligible for funding through the Federal Transportation Alternatives Program (“TAP”); and

WHEREAS, federal funds in the amount of \$331,380.80 have been awarded for the Project; and

WHEREAS, the City has determined that there is a need for architectural and landscape design to generate the concept of improvements for work related to the Project; and

WHEREAS, the City of Opelika Engineering Department will transform these landscape and architectural ideas to create the ALDOT approved construction plans for the project; and

WHEREAS, Hillworks: Landscape + Architecture (“Hillworks”) is a professional

Landscape and Architecture firm that possesses the requisite knowledge, skill and resources to provide landscape and architecture services to the City with respect to the Project; and

WHEREAS, City staff recommends Hillworks to perform said services; and

WHEREAS, a Proposal for Landscape Architecture Service (the “Proposal”) has been prepared by Hillworks 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 Proposal submitted by Hillworks, a copy of which is attached hereto as Exhibit “A”, be and the same is hereby approved and accepted in the form substantially submitted to the City Council.
2. That the Mayor is hereby authorized and directed to execute and deliver the Proposal in the name and on behalf of the City and to execute such other agreements, contracts, change orders, notices, assurances, or other instruments or other communications as he deems necessary or appropriate to carry into effect the intent of this resolution.
3. That the officers of the City and any person or persons designated and authorized by any officers of the City to act in the name and on behalf of the City, or any one or more of them, are authorized to do or cause to be done or performed in the name and on behalf of the City such other acts and to execute and deliver or cause to be executed and delivered in the name and on behalf of the City such other notices, certificates, assurances or other instruments or other communications under the seal of the City or otherwise, as they or any of them deem necessary

or advisable or appropriate in order to carry into effect the intent of the provisions of this Resolution and the attached Proposal.

4. That the compensation to be paid to Hillworks, shall be paid from the Unassigned Fund Balance, and the Controller is hereby authorized and directed to make all necessary and appropriate budget adjustments and accounting entries as necessary to implement this Resolution.

5. That the Purchasing-Revenue Manager is hereby authorized and directed to issue a purchase order to Hillworks for the provisions of landscape and architecture services as outlined in the Proposal attached hereto.

6 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

HILLWORKS : landscape + architecture

301b sanders street | auburn, alabama 36830 | www.hillworks.us | 334.524.4581



19 February 2019

Scott H Parker
City of Opelika Engineer
700 Fox Trail
Opelika, AL 36801

City of Opelika's 1st Avenue Corridor Proposal for Landscape Architecture Services

Dear Scott,

HILLWORKS is pleased to submit this proposal for landscape architecture design services for the City of Opelika 1st Avenue Corridor design. The proposal is separated into two phases, each containing fees, scope, deliverables, and schedules.

Phase 01: Conceptual Design: *[four calendar weeks]*

Tasks:

Review existing site conditions and explore design alternatives.

Deliverables:

- + one (1) site plan that diagrams valuable existing conditions of the site
- + two (2) street sections
- + two (2) plan sketches of design alternatives
- + precedent images as needed to explain each design alternative

Meetings and Coordination:

- + one (1) pdf presentation client

Fee for Phase 01: \$5,800.00

Phase 02: Schematic Design: *[six calendar weeks]*

Tasks:

Upon approval of conceptual design, HILLWORKS will further refine the design throughout the schematic design phase.

Deliverables:

- + one (1) autocad site plan that characterizes site layout including paving, planting, and street lighting
- + one (1) illustrative site plan
- + two (2) illustrative cross sections
- + one (1) perspective

Meetings and Coordination:

- + one (1) PDF presentation to client

Fee for Phase 02: \$9,700.00

Attachment: Exhibit A--190219 1st ave corridor (060-19 : Design Services Agreement for 1st Ave Streetscape)

Fees and Expenses

The total fee for the above Scope of Services Phases 01 and 02 will be executed for **\$15,500.00**. Fees are based upon the Project Schedule outlined above. Fees will be billed monthly based on a percent of services completed. Payment is due within thirty (30) days of receipt of invoice. Past due balances after 30 days will carry interest charges at the rate of 1.5 percent per month.

Project related expenses will be billed as reimbursable. Reimbursable expenses will not exceed **\$400.00**. These expenses include but are not limited to printing costs, delivery charges, permitting/submittal fees, material sample order fees, travel expenses, the reproduction of plans and reports. Expenses and receipts will be submitted with each invoice.

Additional work requested and approved by the client beyond that which is specifically included in the Scope of Services will be billed at the 2019 hourly rated listed below.

HILLWORKS

David Hill, Founding Principal and Owner	\$ 165.00
Studio Associate	\$ 115.00
Landscape Designer	\$ 95.00
Studio Assistant	\$ 65.00

Base Information

The client will provide base information and documents including, but not limited to a site survey (topography, hydrology, vegetation, etc.) and any other available resources that describe the past and present conditions of the site.

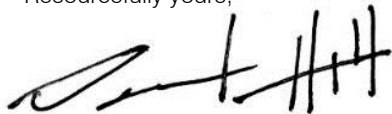
Exclusions

Excluded Services are not a part of the HILLWORKS' Scope of Work and are the responsibility of others. Excluded Services include, but are not limited to the following:

1. Subsurface conditions; soil issues (including suitability for planting, soil content, level of compaction); lot line location; drainage; utilities' location; security; and project or construction cost estimates are not included in this Scope of Work.
2. Public involvement, including presentations or communications, is not included in this Scope of Work.
3. This proposal does not include structural, civil, irrigation, or other consultant fees.

We look forward to working with you on the Opelika 1st Avenue Corridor project. Please sign below if this proposal meets your approval.

Resourcefully yours,



david hill, asla, leed ap
founding principal + owner

ACCEPTED BY:

signature

title

date

RESOLUTION NO. 061-19

Accepting Pinehurst Drive as a Public Street.

RESOLUTION NO. _____

RESOLUTION ACCEPTING PINEHURST DRIVE AS A PUBLIC STREET

WHEREAS, in 1995 a subdivision plat for Pinehurst Subdivision (the “1995 Plat”) was approved by the Planning Commission and the City Council and was filed for record in Plat Book 17 at Page 163 in the Office of the Judge of Probate of Lee County, Alabama; and

WHEREAS, the 1995 Plat showed Pinehurst Drive (the “Drive”) as a public street; and

WHEREAS, there exists within the Drive easements for public utilities that have been in use for more than twenty (20) years; and

WHEREAS, in 1996 the 1995 Plat was revised by Pinehurst Subdivision, First Revision (the “1996 Plat”), and approved by the Planning Commission and the City Council and was filed of record in Plat Book 18 at Page 83 in the Office of the Judge of Probate of Lee County, Alabama; and

WHEREAS, the 1996 Plat did not show the Drive as a public street, but rather showed the area making up the Drive as a part of Parcel A (“Parcel A”) on the 1996 Plat; and

WHEREAS, the City did not ever vacate the Drive; and

WHEREAS, the City has continuously maintained the Drive as if it were a public street, there exists a street sign at the corner of West Point Parkway and the Drive stating that the Drive is named Pinehurst Drive, and no one has ever attempted to claim ownership of the Drive; and

WHEREAS, the owner of Parcel A has not maintained the Drive, has not ever been

conveyed title to the Drive, is not being assessed as the owner of the Drive, has not taken any steps to possess the Drive, and has requested confirmation that the Drive is a public street; and

WHEREAS, the City Council deems it in the best interest of the City that the Drive be a public street.

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

1. That Pinehurst Drive, as such is shown on the subdivision plat of Pinehurst Subdivision as recorded in Plat Book 17 at Page 163 in the Office of the Judge of Lee County, Alabama, is a public street to be maintained by the City.
2. That the City desires and is willing to accept Pinehurst Drive as a public street.
3. That upon the City's receipt of a quitclaim deed from Pinehurst Villas, Ltd, being the current owner of Parcel A of Pinehurst Subdivision, First Revision, the City shall accept Pinehurst drive as a public street.
4. That this Resolution shall take effect upon its passage and adoption by the City Council.

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

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

ATTEST:

CITY CLERK

STATE OF ALABAMA
COUNTY OF LEE

QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of One and No/100 Dollar (\$1.00) to the undersigned Grantor, **Pinehurst Villas, LTD, an Alabama limited partnership**, in hand paid by **City of Opelika, Alabama, a municipal corporation**, the receipt and sufficiency of which is hereby acknowledged, **Pinehurst Villas, LTD, an Alabama limited partnership**, does hereby remise, release, quit claim and convey unto **City of Opelika, Alabama, a municipal corporation** all of its right, title, interest and claim in and to the following described real property situated in Lee County, Alabama, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

TO HAVE AND TO HOLD unto the said **City of Opelika, Alabama, a municipal corporation**, its successors and assigns, forever.

THIS DEED IS GIVEN TO PERFECT TITLE.

IN WITNESS WHEREOF, Pinehurst Villas, LTD, an Alabama limited partnership, has caused this conveyance to be executed this _____ day of _____, 2019.

[SIGNATURE ON FOLLOWING PAGE]

Attachment: Quit Claim Deed (002) (061-19 : Resolution Accepting Pinehurst Drive as a Public Street)

**PINEHURST VILLAS, LTD, an Alabama
limited partnership**

By: _____

STATE OF _____
COUNTY OF _____

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as Manager of **Pinehurst Villas, LTD, an Alabama limited partnership**, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such Manager and with full authority, executed the same voluntarily for and as the act of said limited partnership.

Given under my hand and official seal this the ____ day of _____, 2019.

(NOTARY SEAL)

Notary Public, State at Large
My commission expires:

Grantee's address is:
204 S 7th Street
Opelika, AL 36803

This instrument prepared by:
J. Alex Muncie III, Esq.
MUNCIE & MATTSON, P.C.
Post Office Box 3208
Auburn, Alabama 36831-3208
(334) 821-7301

**EXHIBIT A
LEGAL DESCRIPTION**

All of the property shown and described as “Pinehurst Drive” on that certain map or plat of Pinehurst Subdivision as recorded in Plat Book 17 at Page 163 in the Office of the Judge of Probate of Lee County, Alabama.

Being more particularly described as:

Commencing at the Northeast corner of Section 5, T-19-N, R-27-E in Opelika, Lee County, Alabama; thence South 940.0 feet, thence West 250.0 feet; thence S 01 degree 54' W 755.5 feet; thence S 89 degrees 15' W 903.0 feet; thence S 89 degrees 02' W 110.0 feet; thence S 87 degrees 32' W 110.0 feet; thence S 85 degrees 15' 00" W 110.0 feet to the northerly R/W Line of U.S. Highway No. 29 - West Point Parkway; thence leaving said R/W Line S 0 degree 45' E 82.2 feet; thence SW along the southern R/W Line of U.S. Highway No. 29 – West Point Parkway 255.20 feet to the POINT OF BEGINNING of the parcel herein described; thence S 10 degrees 45' 00" E 390.19 feet; thence S 12 degrees 07' 30" W along the arc of a curve to the right having a radius of 446.00 feet for 356.13 feet to a point; thence N 55 degrees 00' 00" W 60.00 feet; thence N 12 degrees 07' 30" E along the arc of a curve to the left having a radius of 386.00 feet for 308.22 feet; thence N 10 degrees 45' 00" W 385.24 feet to the southerly R/W Line of U.S. Highway No. 29 – West Point Parkway; thence N 74 degrees 32' 00" E 60.20 feet to the POINT OF BEGINNING.

Attachment: Quit Claim Deed (002) (061-19 : Resolution Accepting Pinehurst Drive as a Public Street)

RESOLUTION NO. 062-19

Agreement, pump station replacement with Delta Development Group, LLC.

RESOLUTION NO. _____

**RESOLUTION APPROVING PUMP STATION REPLACEMENT
AGREEMENT BETWEEN THE CITY OF OPELIKA, ALABAMA,
AND DELTA DEVELOPMENT GROUP, LLC**

WHEREAS, Delta Development Group, LLC proposes to develop a site with approximately thirty (30) acres off East Glenn Avenue near the intersection of Skyway Drive within the corporate limits of the City of Auburn (the “Project”); and

WHEREAS, the Project, consisting of commercial uses and multi-family residential units, is known as Spring Lake Subdivision; and

WHEREAS, the City of Auburn is requesting that the City of Opelika provide wastewater services to present and future residents of Spring Lake Subdivision; and

WHEREAS, the Project will require upgrades to an existing sanitary sewer lift and pump station known as the “Auburn Pasture Pump Station” located near the Opelika/Auburn city limits and Interstate 85 (the “Pump Station”) in order to serve Spring Lake Subdivision; and

WHEREAS, the City is willing to provide sanitary sewer services to the Project provided the Company pays all costs of upgrading the Pump Station; and

WHEREAS, the Company is willing to construct a replacement pump station in accordance with design plans approved by the City of Opelika; and

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

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

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

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

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

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

Council.

ADOPTED AND APPROVED this the _____ day of _____ 2019.

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

ATTEST:

CITY CLERK

PUMP STATION REPLACEMENT AGREEMENT
BY AND BETWEEN
THE CITY OF OPELIKA
AND
DELTA DEVELOPMENT GROUP, LLC

PUMP STATION REPLACEMENT AGREEMENT

THIS PUMP STATION REPLACEMENT AGREEMENT (the “Agreement”) is made and entered as of _____, 2019 (the “Effective Date”), by and between the **CITY OF OPELIKA, ALABAMA**, an Alabama municipal corporation (the "City of Opelika") and **DELTA DEVELOPMENT GROUP, LLC**, an Alabama limited liability company (the "Company").

RECITALS

WHEREAS, the Company proposes to develop a site with approximately thirty (30) acres located off East Glenn Avenue near the intersection of Skyway Drive within the corporate limits of the City of Auburn (the “Project”); and

WHEREAS, the Project, consisting of commercial uses and multi-family residential units, is known as Spring Lake Subdivision; and

WHEREAS, the City of Auburn is requesting that the City of Opelika provide wastewater services to present and future residents of Spring Lake Subdivision; and

WHEREAS, the City of Auburn has prepared and presented to the City of Opelika, an Inducement Water Supply and Sewer Service Agreement to be entered into by and among the City of Opelika, The Utilities Board of the City of Opelika, the City of Auburn and The Water Works Board of the City of Auburn; and

WHEREAS, the Project will require upgrades to an existing sanitary sewer lift and pump station known as the Auburn pasture pump station located near the Opelika/Auburn City limits and Interstate 85 (the “Pump Station”) in order to serve Spring Lake Subdivision; and

WHEREAS, the City of Opelika is willing to provide sanitary sewer services to the Project, provided the Company pays all costs of upgrading the pump station; and

WHEREAS, the Company is willing to construct a replacement pump station in accordance with design plans approved by the City of Opelika; and

WHEREAS, the Company desires certain commitments from the City of Opelika in regard to sanitary sewer collection.

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises and the respective agreements, promises and covenants of the parties hereto, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Company, at its own expense, shall retain a competent professional engineer registered in the State of Alabama to design the new pump station which shall be located adjacent to the existing station. The pump station shall be designed to meet the City of Opelika's standards and specifications.

2. The Director of the Opelika Public Works Department (the "Director") shall approve the design plans before the commencement of construction.

3. The Company, at its own expense, shall employ a contractor to construct the new pump station in accordance with the design plans. All construction, engineering and inspection costs in connection with the pump station shall be borne by the Company.

4. The Company shall not connect the Project to the public sanitary sewer system until the pump station is inspected, approved and accepted by the Director.

5. After completion and acceptance of the pump station, the City of Opelika shall provide wastewater services to present and future customers of the Subdivision, subject to the terms and conditions of the Inducement Water Supply and Sewer Service Agreement, a copy of which is attached hereto.

6. Upon the completion of the pump station, subject to the approval of the Director, the City of Opelika shall accept title thereto and shall assume responsibility for maintenance and operation of the pump station.

IN WITNESS WHEREOF, the City of Opelika has caused this Agreement to be executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and the Company has executed this Agreement under seal, and the parties have caused this Agreement to be dated the date and year first above written.

CITY OF OPELIKA, ALABAMA

SEAL

By: _____
Its Mayor

ATTEST:

City Clerk

**DELTA DEVELOPMENT GROUP,
LLC,**
an Alabama limited liability company

By: _____
_____, Its _____

Date: _____

Attachment: PROJECT DEVELOPMENT AGREEMENT 022519 (062-19 : Resolution Approving Pump Station Replacement)

RESOLUTION NO. 063-19

Inducement agreement, water supply and sewer services, with Opelika Utilities Board, City of Auburn & Auburn Waterworks Board.

RESOLUTION NO. _____

RESOLUTION APPROVING INDUCEMENT WATER SUPPLY AND SEWER SERVICE AGREEMENT BY AND AMONG THE CITY OF OPELIKA, ALABAMA, THE UTILITIES BOARD OF THE CITY OF OPELIKA, ALABAMA, THE CITY OF AUBURN, ALABAMA AND AUBURN WATERWORKS BOARD

WHEREAS, Spring Lake Subdivision (the “Development”) is a development located off of East Glenn Avenue near the intersection of Skyway Drive within the City of Auburn, Alabama; and

WHEREAS, the City of Auburn requested the City of Opelika (sometimes hereinafter referred to as the “City”) to provide sanitary sewer services to present and future customers within the Development; and

WHEREAS, it is not economically feasible for the City of Auburn to extend sewer services to the Development, which is located in an area already served by the City of Opelika; and

WHEREAS, the City is willing to provide sewer services to present and future customers within the Development, subject to the terms and conditions hereof; and

WHEREAS, the City Council of the City of Opelika (the “Council”) has been furnished a copy of an Inducement Water Supply and Sewer Service Agreement (the “Agreement”) to be entered into by and among the City of Opelika, The Utilities Board of the City of Opelika; the

City of Auburn, Alabama, and the Auburn Waterworks Board; and

WHEREAS, the Council has determined that the general terms of such Agreement are acceptable to the Council in principal.

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

1. That the proposed Inducement Water Supply and Sewer Agreement to be entered into between the City of Opelika, the Utilities Board of the City of Opelika, Alabama, the City of Auburn, Alabama and the Auburn Waterworks Board, a copy of which is attached hereto as Exhibit "A", is hereby approved, authorized, ratified and confirmed.

2. That the Mayor is hereby authorized to execute and deliver said Agreement in in the name and on behalf of the City substantially the form presented to the Board at it is meeting. The City Clerk is hereby authorized to affix the seal of the City to said document and to attest the same.

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

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

Council.

ADOPTED AND APPROVED this the _____ day of _____ 2019.

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

ATTEST:

CITY CLERK

STATE OF ALABAMA)
 :
 INDUCEMENT WATER SUPPLY AND SEWER
 SERVICE AGREEMENT
 COUNTY OF LEE)

INDUCEMENT WATER SUPPLY AGREEMENT by and among the City of Opelika, Alabama, a municipal corporation ("Opelika"), the Utilities Board of the City of Opelika, a public corporation under the laws of the State of Alabama ("Opelika Utilities"), the City of Auburn, Alabama, a municipal corporation ("Auburn") and The Waterworks Board of the City of Auburn, a public corporation under the laws of the State of Alabama ("Auburn Waterworks Board").

RECITALS

The parties hereto make the following recitals of fact as the basis of the undertakings herein made.

- (a) Spring Lake Subdivision (the "Development") is a development located off East Glenn Avenue near the intersection of Skyway Drive within the City of Auburn (Exhibit A).
- (b) Auburn requested Opelika to provide wastewater services to present and future customers within the Development.
- (c) Auburn Waterworks Board requested Opelika Utilities to provide water services to present and future customers within the Development.
- (d) Opelika owns and operates a wastewater treatment system with a capacity currently capable of serving present and future customers within the Development.
- (e) Opelika Utilities owns and operates a water distribution system with a capacity currently capable of serving the present and future customers within the Development.

(f) It is not economically feasible or practical for Auburn and the Auburn Waterworks Board to provide water and wastewater services to the Development, which is located in an area already served by Opelika.

(g) Opelika and Opelika Utilities are willing to provide wastewater and water services to present and future customers of the Development, subject to the terms and conditions hereof.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and respective agreements, promises and covenants of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

PROVISIONS OF WASTEWATER & WATER SERVICES

Opelika and Opelika Utilities agree to furnish wastewater and water services to present and future customers located in the Development.

ARTICLE II

CHARGES FOR WASTEWATER SERVICES

For all wastewater treated in the Development, the owner or tenant of each building or structure which shall discharge wastewater into Opelika's wastewater system shall pay to Opelika such treatment charges and fees as are charged to other customers of the City's wastewater treatment system at the published rates on file in the office of the Director of Public Works.. The owner or tenant of each such building or structure shall also pay to the City of Opelika such developmental sewer assessment fees and tapping fees as are charged to other wastewater customers at the published rates on file in the office of the Director of Public Works.

ARTICLE III**CHARGES FOR WATER SERVICES**

For all treated water sold by Opelika Utilities and purchased by present and future customers within the Development, such present and future customers shall pay for treated water at the published rates charged by the Opelika Utilities to other retail customers and on file in the Board's business office. The owner or tenant of each building or structure served with treated water shall also pay to Opelika Utilities all developmental assessment fees and tap-on fees charged to other retail customers of Opelika Utilities at published rates on file in the business office of Opelika Utilities.

ARTICLE IV**BILLING**

Opelika and Opelika Utilities shall bill directly all present and future wastewater and water customers directly for wastewater and water services. All bills and statements shall be rendered in accordance with published procedures now in effect or hereafter adopted by Opelika and Opelika Utilities.

ARTICLE V**EXEMPTION FROM TAXES AND FEES**

As an inducement to Opelika and Opelika Utilities to provide wastewater and water services in the Development, Auburn agrees that Opelika and Opelika Utilities shall not be obligated to pay to Auburn any fees and taxes, including, but not limited to, franchise fees, occupational license fees, ad valorem taxes, and business licenses fees in respect to engaging in any of the activities authorized by this Agreement. Auburn further agrees that Opelika and

Opelika Utilities shall not be required to enter into any franchise agreements in respect to the furnishing of wastewater and water services in the Development.

ARTICLE VI

COMPENSATION FOR DUPLICATION OF SEWER LINES AND MAINS

In the event Auburn shall extend its wastewater system for the provision of wastewater services to any premises being provided wastewater services by Opelika within the Development, Auburn hereby agrees to purchase the portion of Opelika's wastewater system affected by said extension. As compensation Auburn shall reimburse Opelika its original cost of the wastewater facilities to be acquired, less straight line depreciation of such original cost over an assumed life of fifty (50) years for the period of time equal to the age of the items of the facilities being transferred. In no event, however, shall any items be depreciated more than fifty percent (50%) of the original cost of said item. The facilities shall be conveyed to Auburn "as is", "where is" without warranty, expressed or implied, as to the condition of the facilities. The term "facilities" as used in this Article shall include sewer lines, mains and other facilities constructed or installed by Opelika in the area to which purchase applies. In the event a dispute shall arise between Opelika and Auburn in connection with the purchase of said facilities, such matters as are in dispute between the parties shall be decided by arbitration. Auburn shall give Opelika one hundred eighty (180) days notice in advance of its intention to purchase any portion of Opelika's wastewater system pursuant to this Article.

ARTICLE VII

COMPENSATION FOR DUPLICATION OF WATER LINES AND MAINS

In the event the Auburn Waterworks Board shall extend its water distribution system for

the provision of retail water service to any premises in the Development being provided retail water service by Opelika Utilities, Auburn Waterworks Board hereby agrees to purchase the portion of Opelika Utilities' distribution system affected by said extension. As compensation, the Auburn Waterworks Board shall reimburse Opelika Utilities the original cost of the distribution facilities to be acquired, less straight line depreciation of such original cost over an assumed life of fifty (50) years for the period of the time equal to the age of the items of the facility being transferred. In no event, however, shall any item be depreciated more than 50% of the original cost of that item. The distribution facilities shall be conveyed to the Auburn Waterworks Board, "as is" "where is" without warranty expressed or implied, as to the condition of the facilities. The term "distribution facilities" as used in this Article shall include distribution lines, mains, meters, fire hydrants, and other facilities constructed or installed by the Opelika Utilities in the area to which the purchase applies. In the event a dispute shall arise between the Opelika Utilities and Auburn Waterworks Board in connection with the purchase of the distribution facilities, such matters as are in dispute between the parties shall be decided by arbitration. Auburn Waterworks Board shall give Opelika Utilities 180 days notice in advance of its intention to purchase any portion of Opelika Utilities' distribution system pursuant to this Article.

ARTICLE VIII

ASSIGNMENT

This Agreement may not be assigned by any party without the prior written consent of the other parties hereto except that any party or any permitted assignee thereof may, without consent of the other parties, assign its interest and obligation hereunder to a bank, trustee or

trustees as collateral for or otherwise in connection with the arrangement for the financing of all or part of its wastewater system or its water distribution system.

ARTICLE IX

RELATIONSHIP OF THE PARTIES

No party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by the other parties and nothing in this Agreement shall be deemed to constitute any party a partner, agent or local representative of the other parties or to create any fiduciary relationship between the parties.

ARTICLE X

BINDING EFFECT

This Agreement shall bind and inure to the benefit of the parties to this Agreement and its successors and assigns acquiring any interest hereunder consistent with the provisions of Article VIII.

ARTICLE XI

AMENDMENT OR WAIVER, ETC.

Neither this Agreement nor any provisions hereof may be changed, modified, amended, or waived, except by a written instrument signed by the party against whom enforcement for such change, modification, amendment or waiver is sought.

ARTICLE XII

COUNTERPARTS

This Agreement may be executed in one or more parts, each of which shall be deemed an original, and all of which shall be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be
executed by their duly authorized officers as of the _____ day of _____ 2018.

CITY OF OPELIKA, ALABAMA, a municipal
corporation

BY: _____
Its Mayor

ATTEST:

City Clerk

THE UTILITIES BOARD OF THE CITY OF
OPELIKA, a public corporation

BY: _____
Its Chairman

ATTEST:

Its Secretary

CITY OF AUBURN, ALABAMA, a municipal
corporation

BY: Bice Hop
Its Mayor

ATTEST:

[Signature]
City Manager

THE WATERWORKS BOARD OF THE CITY OF
AUBURN, a public corporation

BY: [Signature]
Its Chairman

ATTEST:

[Signature]
Its Secretary

STATE OF ALABAMA

COUNTY OF LEE

I, the undersigned authority, a notary public in and for said county and state, hereby certify that Gary Fuller and Robert G. Shuman, whose names as Mayor and City Clerk, respectively of City of Opelika, Alabama, are signed to the foregoing instrument and who are known to me acknowledged before me on this day, that, being informed of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal office this the ____ day of _____ 2018.

(SEAL)

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

STATE OF ALABAMA

COUNTY OF LEE

I, the undersigned authority, a notary public in and for said county and state, hereby certify that Jeffery A. Hilyer and Herbert Slaughter, whose names as Chairman and Secretary, respectively of the Utilities Board of the City of Opelika, Alabama, are signed to the foregoing instrument and who are known to me acknowledged before me on this day, that, being informed of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal office this the ____ day of _____ 2018.

(SEAL)

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

STATE OF ALABAMA

COUNTY OF LEE

I, the undersigned authority, a notary public in and for said county and state, hereby certify that Bill Ham and _____, whose names as Mayor and City Manager, respectively of the City of Auburn, Alabama, are signed to the foregoing instrument and who are known to me acknowledged before me on this day, that, being informed of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal office this the _____ day of _____ 2018.

(SEAL)

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

STATE OF ALABAMA

COUNTY OF LEE

I, the undersigned authority, a notary public in and for said county and state, hereby certify that Jeff Clary and Jennifer Chambliss, whose names as Chairman and Secretary, respectively of The Waterworks Board of The City of Auburn, are signed to the foregoing instrument and who are known to me acknowledged before me on this day, that, being informed of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal office this the 22nd day of February 2018.

(SEAL)

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

My commission expires July 28, 2018.

RESOLUTION NO. 064-19

Agreement, settlement with Emanuel's Trailer Park, Vincent Lamar Kindred.

RESOLUTION NO _____

**RESOLUTION APPROVING SETTLEMENT AGREEMENT BY
AND AMONG EMANUEL'S TRAILER PARK, VINCENT LAMAR
KINDRED AND THE CITY OF OPELIKA, ALABAMA**

WHEREAS, Vincent Lamar Kindred ("Kindred") is the owner and operator of Emanuel's Trailer Park located at 1300 South Long Street, Opelika, Alabama ; and

WHEREAS , Emanuel's Trailer Park is connected to the City of Opelika's public sanitary sewer system; and

WHEREAS, a dispute has arisen between the City and Kindred regarding the payment of past-due sanitary sewer fees; and

WHEREAS, the Parties have agreed to settle the dispute by the payment of the sum of \$13,000 by Kindred to the City of Opelika (the "City"); and

WHEREAS, a Settlement Agreement and Release (the "Settlement Agreement") has been prepared and presented 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 Settlement Agreement.

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

1. That the Settlement Agreement to be entered into by and among Emanuel's Court

Trailer Park, Vincent Lamar Kindred and the City of Opelika, a copy of which is attached hereto and marked Exhibit “A”, be and the same is hereby approved, authorized, ratified and confirmed in the form substantially submitted to the City Council with such changes thereto (by addition, substitution or deletion) as the Mayor shall approve, which approval shall be conclusively evidenced by execution and delivery of said Settlement Agreement.

2. That the Mayor is hereby authorized and directed to execute and deliver the Settlement Agreement on behalf of the City.

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

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

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

PRESIDENT OF THE CITY COUNCIL OF THE

CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK



ADAMS WHITE & OLIVER, LLP

Law Office and Mediation Center

Phillip E. Adams, Jr.
Matthew W. White*
Blake L. Oliver*

205 S. 9th Street
Opelika, AL 36801

Email: boliver@adamswhite.com
Direct Fax: (334) 749-2800

Mailing Address:
P.O. Box 2069
Opelika, AL 36803-2069
Tel. (334) 745-6466
Fax (334) 749-3238

*Also admitted in GA

March 14, 2019

Sent via e-mail (ggunter@opelika-al.gov) only

Hon. Guy F. Gunter, III
City Attorney's Office
608 Avenue A
Opelika, Alabama 36801

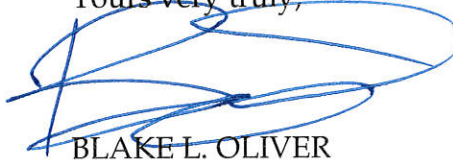
RE: Emanuel's Court Trailer Park

Dear Guy:

Pursuant to your letter of March 8, 2019, please find enclosed an amended Settlement Agreement and Release. If this Agreement meets your approval, please sign it and have the appropriate person with the City sign it as well. Once that has been done, please send the original back to me and I will have Mr. Kindred execute it for Emanuel's Court Trailer Park and on behalf of himself individually.

Of course, if there are any additional changes that need to be made, please let me know.

Yours very truly,



BLAKE L. OLIVER

BLO:km
Enc.
cc: Mr. Vince Kindred

Attachment: Settlement Agreement (064-19 : Resolution Approving Settlement Agreement)

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT (this "Agreement") is made and entered into by and among Emanuels Court Trailer Park ("Emanuels"), Vincent Lamar Kindred, individually ("Vince") (collectively "Kindred"), and the City of Opelika ("Opelika"). Kindred and Opelika may be referred to herein as the "Parties."

RECITALS

WHEREAS, certain disputes arose between the parties hereto, regarding allegations of fees being owed to the City for sewer services ("services") provided to Kindred;

WHEREAS, no charges or actions in litigation were filed by either party;

WHEREAS, Kindred denies that it is responsible for payment of said services;

WHEREAS, Opelika contends that Kindred is liable to it for said fees for services;

WHEREAS, Kindred contests Opelika's position regarding the alleged amount due for services; and

WHEREAS, Kindred and Opelika desire to and have agreed to settle, compromise and resolve all matters in dispute between them regarding the fees for services provided to Kindred under the terms set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and in consideration of all parties' settlement of all claims raised, or that could have been raised in any court of law, the Parties agree that:

A. Settlement Terms.

1. Opelika hereby waives and releases all asserted and potential claims related to Kindred's responsibility for payment of services.

2. Kindred shall pay to Opelika the sum of \$13,000.00 as full and final payment for any arrearage in alleged fees for services.

3. The above represents a full and final settlement of all claims asserted or which might have been asserted, against Kindred in any Litigation or otherwise.

4. The parties agree that all matters concerning, in any manner whatsoever, to any alleged issues related to arrearage for services to Kindred have been fully and finally resolved.

5. The parties agree to execute such further formal settlement documents as may be necessary to conclude any dispute regarding the arrearage due for services whatsoever.

B. Release.

In consideration of the Parties' performance of their covenants and obligations under this Agreement, Opelika, its heirs, agents, attorneys, representatives, predecessors, successors and assigns, (collectively "Releasors") release, waive, remise, acquit, satisfy, and forever discharge Kindred, its past present and future directors, officers (whether acting in such capacity or individually), shareholders, owners, partners, joint venturers, principals, trustees, creditors, attorneys, representatives, employees, managers, parent corporations, subsidiaries, divisions, subdivisions, departments, affiliates, nominees, predecessors, successors, assigns and assignees or any agent acting or purporting to act for them or on their behalf, (collectively the "Releasees"), and each of them respectively from any and all claims, demands, damages, actions, causes of action or suits, whether at law or in equity, whether contractual, statutory or in tort, which arise out of, in any manner whatsoever to the arrearage for sewer services and/or any claim asserted or that could have been asserted in any Litigation regarding the arrearage for sewer services (the "Released Matters"). The Releasors hereby accept the terms and conditions of this Agreement in full settlement, satisfaction, and accord of any and all claims, rights, liens, or causes of action they have or could have, whether directly, derivatively, or otherwise, against the Releasees. This release does not include claims for future sewer services.

C. **Compromise.** This settlement is a compromise of doubtful and disputed claims, and neither this Agreement nor the actions taken hereunder shall be construed as an admission by any party, and the Parties expressly deny all liability for such claims. This Agreement shall not be admissible in evidence by any Party in any judicial or other proceeding except for the purpose of enforcing the rights and obligations created hereby.

D. **Costs, Expenses, and Attorneys' Fees.** The Parties shall bear their own costs, expenses and attorneys' fees with respect to the claims, obligations, and disputes settled hereby and with respect to the costs relating to preparation and execution of this Agreement and the other instruments and agreements referred to herein, but not for the enforcement of the terms hereof. In the event that any party is compelled to institute litigation to enforce any terms of this Agreement, and if that party prevails in such litigation, the other party agrees to pay reasonable attorney's fees and costs of the party prevailing in such litigation.

E. **Independent Judgment.**

1. The Parties represent that they have completely read the terms of this Agreement and that those terms are fully understood and voluntarily accepted. It is further acknowledged that each Party to this Agreement, with the assistance of counsel, has participated in the drafting of this Agreement, and that any ambiguities shall not be construed for or against any party to this Agreement on account of such drafting. This Agreement is made and executed without reliance upon any statement or representation of any party, their respective agents, representatives, or attorneys not set forth herein.

2. The Parties have had an opportunity to review the terms and conditions of this Agreement with legal counsel and are entering into this Agreement fully informed of all duties, obligations and ramifications of all terms and conditions contained herein, and do agree to abide by and honor all said terms and conditions within this Agreement. Because this Agreement is the result of the joint effort of the Parties to amicably resolve the disputes and the Parties have had the opportunity to employ legal counsel, it should not be construed more strictly against any one Party.

F. **Modification.** This Agreement may not be modified or amended in any way except in writing, signed by all Parties.

G. **Headings.** Headings of the sections and paragraphs of this Agreement are inserted for convenience only and are not intended to create any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

H. **Entire Release and Merger.** The Parties hereby represent and warrant that no promise or inducement not contained herein has been offered to them, that this Agreement supersedes all prior negotiations, agreements, statements, and representations with respect to the subject matter hereof and that this Agreement constitutes a single, integrated, written contract expressing the entire understanding and Agreement between the Parties, and the terms of the Agreement are contractual and not merely recitals. There is no other agreement, written or oral, expressed or implied between the Parties with respect to the subject matter of this agreement and the Parties declare and represent that no promise, inducement or other agreement not expressly contained in this agreement has been made conferring any benefit upon them or upon which they have relied in any way.

I. **Counterparts.** This Agreement may be executed in facsimile form and/or in two or more counterparts, each of which shall for all purposes constitute an original, but all of which shall together constitute one and the same instrument.

J. **Alabama Law.** This Agreement shall be governed by, construed and interpreted in accordance with the laws of the State of Alabama.

K. **Severability.** Should any portion (word, clause, phrase, sentence, paragraph, or section) of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected.

L. **Effectiveness.** This Agreement shall become effective following execution by all of the undersigned Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

EMANUELS COURT TRAILER PARK

By: _____
 Vincent Lamar Kindred
 Its: _____

Sworn to and subscribed before me
 this ____ day of _____, 2019.

 Notary Public
 My Commission Expires: _____

VINCENT LAMAR KINDRED

Sworn to and subscribed before me
 this ____ day of _____, 2019.

 Notary Public
 My Commission Expires: _____

BLAKE L. OLIVER
*Attorney for Emanuels Court Trailer Park and
 Vincent Lamar Kindred*

CITY OF OPELIKA

By: _____

Its: _____

Sworn to and subscribed before me
this ____ day of _____, 2019.

Notary Public

My Commission Expires: _____

GUY F. GUNTER, III*Attorney for the City of Opelika*

ORDINANCE NO. 003-19-ORD

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 (003-19-ORD : 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 ($1/8^{\text{th}}$) of the dog's weight; and it is free of tangles.
- (3) The dog is tethered in such a manner as to prevent injury, strangulation or entanglement.
- (4) The dog is not outside during a period of extreme weather including, without limitation, extreme heat or freezing temperatures, thunderstorms, tornadoes, tropical storms or hurricanes.
- (5) The dog has access to water, shelter and dry ground.
- (6) The dog is at least six (6) months of age. Puppies shall not be tethered.
- (7) The dog is not sick or injured.
- (8) Pulley, running line or trolley systems are at least fifteen (15) feet in length and are at least seven (7) feet above the ground.
- (9) If there are multiple dogs, each dog is tethered separately.

Sec. 4-46 Keeping of Dangerous Dogs

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

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

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

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

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

(c) **Hearing, Founded.**

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

(d) **Hearing, Unfounded.**

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

(e) **Procedures.**

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

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

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

Sec. 4-48 Dangerous Dog Violations

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

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

Sec. 4-71 Violations of This Article.

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

Sec. 4-72 Keeping of Hogs.

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

Sec. 4-73 Keeping of Chickens.

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

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

Sec. 4-74 Large Animals and Fowl

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

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

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

Sec. 4-76 Minimum Size of Corrals

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

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

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

Sec. 4-78 Large Animals Running At Large Prohibited

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

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

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

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

Sec. 4-80 Same—Minimum Space Requirements

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

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

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

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

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

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

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

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

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

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

Sec. 4-84 Keeping of Fowl

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

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

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

Sec. 4-86 Bird Sanctuary

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

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

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

Article IV Rabies Control

Sec. 4-101 Rabies Vaccination

(a) Vaccine Required.

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

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

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

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

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

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

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

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

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

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

Article V Impoundment and Destruction

Sec. 4-141 Impoundment.

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

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

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

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

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

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

Sec. 4-142 Redemption and Disposition.

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

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

Sec. 4-143 Fees and Charges; Administration

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

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

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

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

Sec. 4-144 Destruction of Certain Animals

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

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

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

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

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

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

Article VI Dead Animals.

Sec. 4-181 Penalties.

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

Sec. 4-182 Disposal Limited

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

Sec. 4-183 Disposal Generally

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

Sec. 4-184 Appropriate City Official Notification

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

Sec. 4-185 Removal By the City

When a request is made to the Director or an animal control officer for a removal of a small dead animal or when request is made to the Director for the removal of a large dead

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

Sec. 4-186 Fees For Removal By City

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

Article VI. Enforcement, Fines and Penalties

Sec. 4-187 Enforcement

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

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

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

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

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

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

Sec. 4-188 Citations and Warrants

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

Sec. 4-189 Penalties for Violation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATTEST:

CITY CLERK

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

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

Attachment: Ordinance, amend city code, Chapter 4, Animal Control replacing chapter 4, 2-19-19 (003-19-ORD : 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

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 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



CITY ATTORNEY'S OFFICE
 608 Avenue A • P.O. Box 390
 Opelika, AL 36803-0390
 (p) 334-705-2074 (f) 334-705-5155
 www.opelika-al.gov

March 19, 2019

Eddie Smith
 Patsy Jones
 Tiffany Gibson-Pitts
 Dozier Smith T
 David Canon

Re: Amendments to the Animal Control Ordinance

All:

Attached is a revised Protocol adding a new number 8. Seconded by (Council Member).
 Everything else remains the same.

If you have any questions, please don't hesitate to call me.

Yours very truly,

Guy F. Gunter, III

GFG,III:jpg

Cc: Gary Fuller
 Barbara Arrington
 Joel Motley
 Bob Shuman
 Terry White

PROTOCOL AND PROCEDURE TO ADOPT



Attachment: CM 3-19-19, Protocol approving Animal Control Ordinance (003-19-ORD : Ordinance to Amend Chapter 4 Animal Control - Tabled)

ANIMAL CONTROL ORDINANCE AS AMENDED

1. I, (Council Member), move to take from the table the Animal Control Ordinance.
2. Seconded by (Council Member).
3. The question is put as to the adoption of the motion to remove from the table and the roll was called by the Clerk.
4. The President declares the motion carried.
5. I, (Council Member), move to adopt the Ordinance on second reading.
6. Seconded by (Council Member).
7. I, (Council Member), move to amend the Ordinance (Animal Control Ordinance) in the following respects:
 1. In Section 4-2, the definition of "Exotic Animal" is amended to read as follows:

(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.

2. In Section 4-2, the definition of “Guard Dog” is amended to read as follows:

(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.

3. Section 4-2 is amended by adding the following definitions: “Feral Animal”, “Reptile”, “Trap”, “Trapping”, “Venomous Snakes” and “Veterinarian” to read as follows:

(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.

(ee) “*Reptile*” means and includes turtles, terrapins, tortoises, lizards, worm lizards, snakes, crocodiles, alligators, caimans, gharials, gavials and tuataras.

(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.

(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.

4. Section 4-8(a)(8) is amended to read as follows:

(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.



5. Section 4-8(a)(12) is amended by adding the following words at the end of the last sentence:

(See Sec. 4-45 for tethering of dogs).

6. Section 4-8 is amended by adding new subsections (c) and (d) to read as follows:

(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.

7. The Ordinance is amended by adding a new section to be numbered 4-17 to read as follows:

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.

8. Section 4-17 Mobile Home Parks is renumbered 4-18.

9. Section 4-18 Cooperative Service Agreement is renumbered 4-19.

10. The title of Article II is amended to read as follows:

Article II. Dogs, Cats and Ferrets.

11. Section 4-41 is amended to read as follows:

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.

12. Section 4-44 Confinement of Dogs During Estrus (Heat) is amended to read as follows:

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.

13. The Ordinance is amended by adding a new section to be numbered Section 4-49 Off-Leash Dog Parks to read as follows:

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.

14. The title of Article III is amended to read as follows:

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

15. Section 4-73(c) is amended to read as follows:

(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

16. Section 4-101 Rabies Vaccination is amended to read as follows:

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.

17. Section 4-102(a) is amended to read as follows:

- (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.)

18. Section 4 Effective Date is amended to read as follows:

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

- 8. Seconded by (Council Member).
- 9. The question is put as to the adoption of the motion and the roll is called by the Clerk.
- 10. The President declares the motion carried.
- 11. I, (Council Member), move to adopt the Ordinance as amended.
- 12. Seconded by (Council Member).
- 13. The question is put as to the final passage and adoption of the Ordinance as amended and the roll is called by the Clerk.
- 14. The President declares the motion carried and the Ordinance adopted as amended.



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 chapter 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