

CITY OF DAPHNE
1705 MAIN STREET, DAPHNE, AL
CITY COUNCIL BUSINESS MEETING AGENDA
NOVEMBER 20, 2017

1. **CALL TO ORDER**
2. **ROLL CALL**
INVOCATION
PLEDGE OF ALLEGIANCE

PROCLAMATION: SMALL BUSINESS SATURDAY 3
3. **APPROVE MINUTES:** **Council Meeting minutes** – November 6, 2017 4

PUBLIC HEARING – CHICKENS
4. **REPORTS OF STANDING COMMITTEES**
 - A. **FINANCE COMMITTEE** – Rudicell
 - B. **BUILDINGS & PROPERTY COMMITTEE** – LeJeune
Review minutes of October 9, 2017 97
 - C. **PUBLIC SAFETY COMMITTEE** – Davis
Review minutes of October 9, 2017 100
 - D. **CODE ENFORCEMENT/ORDINANCE COMMITTEE** – Goodlin
 - E. **PUBLIC WORKS COMMITTEE** – Coleman
MOTION – Recycling
5. **REPORTS OF SPECIAL BOARDS & COMMISSIONS**
 - A. **BOARD OF ZONING ADJUSTMENTS** – Adrienne Jones
 - B. **DOWNTOWN REDEVELOPMENT AUTHORITY** – Conaway
 - C. **INDUSTRIAL DEVELOPMENT BOARD** – Davis
 - D. **LIBRARY BOARD** – Rudicell
 - F. **PLANNING COMMISSION** – Scott
 - F. **RECREATION BOARD** – LeJeune
 - G. **UTILITY BOARD** – LeJeune
6. **MAYOR’S REPORT**
7. **CITY ATTORNEY REPORT**
8. **DEPARTMENT HEAD REPORTS**
9. **PUBLIC PARTICIPATION**

City Council Agenda – November 20, 2017

10. CITY CLERK’S REPORT

MOTION: To approve Criterion Consulting K-12 to move forward with Phase II of the school feasibility study. **104**

11. RESOLUTIONS & ORDINANCES

RESOLUTIONS:

2017-54 – Authorize Pre-Application to the Alabama Department of Economic & Community Affairs requesting grant assistance from the Recreational Trails Program to construct a Walking Trail at Village Point Preserve. **105**

2ND READ ORDINANCES: **106**

A. **2017-83 –** Annexation: Bertolla Properties, LLC – Southeast of Austin Road and Alabama Highway 181

B. **2017-84 -** Additional Appropriation: The Porch-Daphne Public Library-Architect fees for the Construction phase **109**

1ST READ ORDINANCES

NONE

12. COUNCIL COMMENTS

13. ADJOURN

CITY OF DAPHNE, ALABAMA

Proclamation

WHEREAS; The government of Daphne, Alabama celebrates our local small businesses and the contributions they make to our local economy and community; according to the United States Small Business Administration, there are currently 28.8 million small businesses in the United States, they represent 99.7 percent of all businesses with employees in the United States, are responsible for 63 percent of net new jobs created over the past 20 years; and

WHEREAS; Small businesses employ 48 percent of the employees in the private sector in the United States; and

WHEREAS; On average, 33 percent of consumers' holiday shopping will be done at small, independently-owned retailers and restaurants; and

WHEREAS; 91 percent of all consumers believe that supporting small, independently-owned restaurants and bars is important; and

WHEREAS; 76 percent of all consumers plan to go to one or more small businesses as part of their holiday shopping; and

WHEREAS; The City of Daphne supports our local businesses that create jobs, boost our local economy and preserve our neighborhoods; and

WHEREAS; Advocacy groups as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

NOW,
THEREFORE; I, Dane Haygood as the Mayor of the City of Daphne, together with the City Council do hereby proclaim November 25, 2017 as

SMALL BUSINESS SATURDAY

and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.



ATTEST:

A blue ink signature of Dane Haygood, the Mayor of the City of Daphne.

Dane Haygood, Mayor

A blue ink signature of Candace G. Antinarella, the City Clerk.

Candace G. Antinarella, City Clerk

**November 6, 2017
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER:

There being a quorum present Councilman Scott called the meeting to order at 6:30 p.m.

2. ROLL CALL

COUNCIL MEMBERS PRESENT: Ron Scott; Joel Coleman; Doug Goodlin; Joe Davis; Tommie Conaway; Pat Rudicell; Robin LeJeune.

Also Present: Dane Haygood, Mayor; Candace Antinarella, City Clerk; Jay Ross, City Attorney; James White, Fire Chief; David McKelroy, Recreation Director; Adrienne Jones, Planning Director; Kim Sparks, Building Department; Kelli Kichler, Finance Director/Treasurer; David Carpenter, Police Chief; BJ Eringman, Public Works; Tonja Young, Library Director; Margaret Thigpen, Civic Center Director; Betsy Schneider, Operations Director; Vickie Hinman, Human Resources Director.

INVOCATION/PLEDGE OF ALLEGIANCE:

Spanish Fort Sophomore Cadet Airman First Class Dorian Griffen gave the invocation. The JROTC Cadets presented the colors and led the Pledge of Allegiance.

Presentation –Mayor Haygood and Councilman Doug Goodlin presented the Daphne/Spanish Fort JROTC Cadets with a Proclamation of congratulations on their recent accomplishments.

3. APPROVE MINUTES:

The October 16, 2017 Council Meeting minutes stand approved as written.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE – Rudicell

Finance reports and minutes are in the packet.

MOTION BY Councilman Rudicell to release the \$4,781.83 encumbrance for the Daphne High School communications equipment (evolved from a FY2010 Encumbrance). Seconded by Councilwoman Conaway.

MOTION CARRIED UNANIMOUSLY

MOTION BY Councilman Rudicell to approve the transfer of \$5,192.52 from Police Patrol FY2018 (Personnel) Budget line item to Police Admin Temporary Part-Time (Operating) Budget line item. Seconded by Councilman Coleman.

MOTION CARRIED UNANIMOUSLY

B. BUILDINGS & PROPERTY COMMITTEE – LeJeune

No report.

C. PUBLIC SAFETY COMMITTEE – Davis

October 9, 2017 minutes in the packet.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Goodlin

October 2, 2017 minutes in the packet. Impact Fees discussed at today's meeting.

**November 6, 2017
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

E. PUBLIC WORKS COMMITTEE – Coleman

Earlier today received updates on all city buildings. Museum minutes are in the packet.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Adrienne Jones

No report.

B. Downtown Redevelopment Authority – Conaway by Scott

Next meeting is November 29, 2017 at 5:30pm at the Market on Main.

C. Industrial Development Board – Davis

Next meeting is tomorrow at 11:30am. Continuing to move forward with the EDA grant.

D. Library Board – Rudicell

Next meeting is Thursday at 4:00pm.

E. Planning Commission – Scott

Minutes from September 28 are in the packet. Next meeting is November 16 at 5:00pm.

MOTION BY Councilman Davis to set a Public Hearing Date for December 18, 2017 to consider revisions to the City of Daphne Zoning Map. Seconded by Councilman Goodlin.

MOTION CARRIED UNANIMOUSLY

F. Recreation Board - LeJeune

Park Drive Project update.

G. Utility Board – LeJeune

No report.

6. MAYOR'S REPORT

Mayor Haygood invited the council to the Veteran's Day Program at Daphne High School on Thursday, November 9. He complimented the attendance at tonight's meeting. Mayor Haygood reminded everyone that we will hold a public hearing on November 20, 2017 to discuss allowing chickens in Daphne. Mayor Haygood also mentioned the need to go into executive session to discuss two subjects: the City's good name and character as well as real property.

7. CITY ATTORNEY REPORT:

No report.

8. DEPARTMENT HEAD COMMENTS:

David McKelroy – Football is underway in Daphne.

9. CITY CLERK'S REPORT:

MOTION BY Councilman LeJeune to postpone the motion to approve Criterion Consulting K-12 to move forward with Phase II of the school feasibility study to the November 20 council meeting. Seconded by Councilman Goodlin.

AYE –Conaway, Rudicell, Coleman, Goodlin, LeJeune NAY – Davis, Scott

MOTION CARRIED

November 6, 2017
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

Election of Officers –

MOTION BY Councilman Rudicell to appoint Tommie Conaway at Council President. Seconded by Councilman Goodlin.

MOTION CARRIED UNANIMOUSLY

MOTION BY Councilman LeJeune to appoint Pat Rudicell as Council President Pro-Tem. Seconded by Councilman Goodlin.

MOTION CARRIED UNANIMOUSLY

MOTION BY Councilman Rudicell to hold Special Called Meetings on October 30, 2017 beginning at 4:00pm for an employment related matter and 5:00pm for a Work Session for an update on the school feasibility study, all in council chambers. Seconded by Councilwoman Conaway.

MOTION CARRIED UNANIMOUSLY

10. PUBLIC PARTICIPATION

John Lake congratulated Councilwoman Conaway and Councilman Rudicell on their new positions.

Thomas Warner spoke against the school system and asked the council to vote no.

Kevin Spriggs said considering a city school system is a big mistake and continuing the study is continuing to spend money.

Richard Jaehne asked that we invest in the county school system to make Baldwin County better.

11. RESOLUTIONS:

MOTION BY Councilman Rudicell to waive the reading of Resolution 2017-53 – Bid Award: 2018-A-The Porch – Daphne Public Library. Seconded by Councilman Davis.

MOTION CARRIED UNANIMOUSLY

MOTION BY Councilman Rudicell to adopt Resolution 2017-53 – Bid Award: 2018-A-The Porch – Daphne Public Library. Seconded by Councilman Davis.

MOTION CARRIED UNANIMOUSLY

ORDINANCES:

2nd READ

NONE

1st READ

2017-84 - Additional Appropriation: The Porch-Daphne Public Library-Architect fees for the Construction phase

**November 6, 2017
CITY COUNCIL MEETING
REGULAR BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

12. COUNCIL COMMENTS

Councilman Davis noted the upcoming public hearing is in regard to chickens, not roosters. Also, he commended SEEDS for a great golf tournament. Councilman Davis thanked Councilman Scott for a great job as council president. He is surprised the second phase of the school study wasn't considered tonight and he is against the city schools.

Councilman LeJeune thought it was appropriate to give extra time to consider the school study.

Councilman Scott thanked the council and appreciated working with them as president.

Councilman Goodlin said the second phase of the study will answer what is better and best.

Councilman Coleman received some feedback on the schools but wants more.

Councilman Rudicell thanked Councilman Scott for his work as council president.

Councilwoman Conaway said she voted nay because she wants to hear from the citizens.

Mayor Haygood commended everyone who came out to tonight's meeting. Mayor wants the best schools for our children and wants to know how we get there. He posted a pole on his Facebook page and is interested to see the feedback.

City Attorney Jay Ross certified the need to go into executive session to discuss the good name of the city/personnel issue as well as the buy/sale/lease of real property. The session would last approximately 20 minutes.

Council returned from executive session at 8:15pm.

13. ADJOURN:

MOTION BY Councilman Davis to adjourn. Seconded by Councilman Scott.

MOTION CARRIED UNANIMOUSLY

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:16 P.M.

Respectfully submitted by,

Certification of Presiding Officer

Candace G. Antinarella, City Clerk

Ron Scott, Council President

Backyard chicken trend causes spike in infections, 1 fatal

By ASSOCIATED PRESS OCTOBER 19, 2017



Tanya Keith and her daughter Iolana feed chickens in the backyard of their home in Des Moines.

CHARLIE NEIBERGALL/AP

DES MOINES, Iowa — Luke Gabriele was a healthy 14-year-old football player in Pennsylvania when he began to feel soreness in his chest that grew increasingly painful. When his breathing became difficult, doctors detected a mass that appeared to be a tumor.

For a week, Dan and DeAnna Gabriele thought their son was dying until tests identified the cause: not cancer, but chickens — the ones he cared for at home. They had apparently infected him with salmonella that produced a severe abscess.

The popular trend of raising backyard chickens in U.S. cities and suburbs is bringing with it a soaring number of illnesses from poultry-related diseases, some of them fatal.

Since January, more than 1,100 people have contracted salmonella poisoning from chickens and ducks in 48 states, according to the Centers for Disease Control. Almost 250 were hospitalized and one person died. The toll was four times higher than in 2015.

The CDC estimates the actual number of cases from contact with chickens and ducks is likely much higher.

“For one salmonella case we know of in an outbreak, there are up to 30 others that we don’t know about,” CDC veterinarian Megin Nichols said.

A “large contributing factor” to the surge, Nichols said, comes from natural food fanciers who have taken up the backyard chicken hobby but don’t understand the potential dangers. Some treat their birds like pets, kissing or snuggling them and letting them walk around the house.

Poultry can carry salmonella bacteria in their intestines that can be shed in their feces. The bacteria can attach to feathers and dust and brush off on shoes or clothing.

But illnesses can be prevented with proper handling. The CDC recommends that people raising chickens wash their hands thoroughly after handling the birds, eggs or nesting materials, and leave any shoes worn in a chicken coop outside.

Salmonella is much more common as a food-borne illness. More than 1 million people fall ill each year from salmonella contamination in food, resulting in more than 300 deaths, according to the CDC.

There are no firm figures on how many households in the U.S. have backyard chickens, but a Department of Agriculture report in 2013 found a growing number of residents in Denver, Los Angeles, Miami and New York City expressed interest in getting them. Coops are now seen in even the smallest yards and densest urban neighborhoods.

For Tanya Keith, the nine hens and a rooster that she keeps behind her home in Des Moines provide fresh eggs and lessons for her three children about where food comes from.

But even as her kids collect eggs and help keep the six nesting

boxes tidy, she warns them not get too affectionate.

“We don’t transfer chicken germs to our face,” Keith tells them. Stopping the germs at home is important because safeguards against salmonella are limited at the commercial sources that sell most of the birds.

A large share of baby chicks and ducks sold to consumers come from about 20 feed and farm supply retailers across the U.S. They get their chicks from a half dozen large hatcheries that supply tens of millions of baby chicks and ducklings each year.

While the Agriculture Department encourages hatcheries to be tested regularly for salmonella contamination, the program is voluntary. Unsanitary conditions or rodent infestations can help salmonella spread in hatcheries.

Dr. Stacene Maroushek, a pediatric infectious disease physician in Minneapolis, sees both sides of the popular trend. She manages her own flock of about 50 birds.

“I love to see people getting back to nature, having their home gardens and having self-sustainability,” Maroushek said.

But in her clinic she’s seen young children suffering from salmonella poisoning. The bacteria often cause flu-like symptoms, including diarrhea, and can produce more serious infections in children, the elderly and people with weak immune systems.

“It gets into their blood and it can get into organs,” she said. “It can be much more significant in people with underlying health problems.”

Even those who have had chickens for years can fall victim, as Luke Gabriele did in 2013 in his hometown of Felton in southeast Pennsylvania.

DeAnna Gabriele said her son was responsible for feeding and watering the chickens, but he didn’t really like the birds and certainly didn’t treat them as pets.

“They really never figured out specifically how Luke got the salmonella,” she said. “They theorized that maybe he inhaled

something because it can live in the environment and you can breathe it in in the dust.”

He recovered after nine days in the hospital with the help of antibiotics.

She and her husband said that anyone buying chickens for the first time should try to find out whether the hatchery they came from tests for salmonella.

Nichols said the best way chicken raisers can protect themselves is to assume all birds carry salmonella and treat them carefully.

“We view this as a preventable public health problem and are really hoping we start to see some change,” she said.

— David Pitt

Backyard chicken trend leads to more disease infections

19 October 2017, by David Pitt



In this Tuesday, Sept. 26, 2017, photo, Tanya Keith, of Des Moines, Iowa, and her daughter Iolana feed their chickens in the backyard of their home, in Des Moines. The trend of raising backyard chickens is causing a soaring number of illnesses from poultry-related diseases. For Keith, the nine hens and a rooster that she keeps behind her home provide fresh eggs and lessons for her three children about where food comes from. But even as her kids collect eggs and help keep the six nesting boxes tidy, she warns them not get too affectionate. (AP Photo/Charlie Neibergall)

Luke Gabriele was a healthy 14-year-old football player in Pennsylvania when he began to feel soreness in his chest that grew increasingly painful. After his breathing became difficult, doctors detected a mass that appeared to be a tumor.

For a week, Dan and DeAnna Gabriele thought their son was dying until tests identified the cause: not cancer, but chickens—the ones he cared for at home. They had apparently infected him with salmonella that produced a severe abscess.

The popular trend of raising backyard chickens in U.S. cities and suburbs is bringing with it a soaring number of illnesses from poultry-related diseases, at least one of them fatal.

Since January, nearly 1,000 people have contracted salmonella poisoning from chickens and ducks in 48 states, according to the Centers for Disease Control. More than 200 were hospitalized and one person died. The toll was four times higher than in 2015.

The CDC estimates that the actual number of cases from contact with chickens and ducks is likely much higher.

"For one salmonella case we know of in an outbreak, there are up to 30 others that we don't know about," CDC veterinarian Megin Nichols said.

A "large contributing factor" to the surge, Nichols said, comes from natural food fanciers who have taken up the backyard chicken hobby but don't understand the potential dangers. Some treat their birds like pets, kissing or snuggling them and letting them walk around the house.



In this Tuesday, Sept. 26, 2017 photo, Iolana Keith, of Des Moines, Iowa, feeds chickens in the backyard with her mom, Tanya Keith, in Des Moines. The trend of raising backyard chickens is causing a soaring number of illnesses from poultry-related diseases. For Tanya Keith, the nine hens and a rooster that she keeps behind her home in Des Moines provide fresh eggs and lessons for her three children about where food comes from. But

even as her kids collect eggs and help keep the six nesting boxes tidy, she warns them not get too affectionate. (AP Photo/Charlie Neibergall)

Poultry can carry salmonella bacteria in their intestines that can be shed in their feces. The bacteria can attach to feathers and dust and brush off on shoes or clothing.

But illnesses can be prevented with proper handling. The CDC recommends that people raising chickens wash their hands thoroughly after handling the birds, eggs or nesting materials, and leave any shoes worn in a chicken coop outside.

Salmonella is much more common as a food-borne illness. More than 1 million people fall ill each year from salmonella contamination in food, resulting in more than 300 deaths, according to the CDC.

There are no firm figures on how many households in the U.S. have backyard chickens, but a Department of Agriculture report in 2013 found a growing number of residents in Denver, Los Angeles, Miami and New York City expressed interest in getting them. Coops are now seen in even the smallest yards and densest urban neighborhoods.

For Tanya Keith, the nine hens and a rooster that she keeps behind her home in Des Moines provide fresh eggs and lessons for her three children about where food comes from.

But even as her kids collect eggs and help keep the six nesting boxes tidy, she warns them not get too affectionate.

"We don't transfer chicken germs to our face," Keith tells them.



In this Sept. 26, 2017 photo, a rooster walks in the backyard of Tanya Keith's home in Des Moines. A rapid increase in the number of backyard chicken pens in cities and suburbs across the country has brought with it a record number of salmonella illnesses that have public health officials concerned. The U.S. Centers for Disease Control and Prevention says treating chickens like pets contributes to the problem. (AP Photo/Charlie Neibergall)

Stopping the germs at home is important because safeguards against salmonella are limited at the commercial sources that sell most of the birds.

A large share of baby chicks and ducks sold to consumers come from about 20 feed and farm supply retailers across the U.S. They get their chicks from a half dozen large hatcheries that supply tens of millions of baby chicks and ducklings each year.

While the Agriculture Department encourages hatcheries to be tested regularly for salmonella contamination, the program is voluntary. Unsanitary conditions or rodent infestations can help salmonella spread in hatcheries.

Dr. Stacene Maroushek, a pediatric infectious disease physician in Minneapolis, sees both sides of the popular trend. She manages her own flock of about 50 birds.

"I think it's really important to know where your food comes from, but I do think they need to be educated on how to do it safely," Maroushek said. "There are things growing up as a farm kid you

know instinctively but city people don't know."

In her clinic, she's seen young children suffering from salmonella poisoning. The bacteria often cause flu-like symptoms, including diarrhea, and can produce more serious infections in children, the elderly and people with weak immune systems.

"It gets into their blood and it can get into organs," she said. "It can be much more significant in people with underlying health problems."

maybe he inhaled something because it can live in the environment and you can breathe it in in the dust."

He recovered after nine days in the hospital with the help of antibiotics.

She and her husband said that anyone buying chickens for the first time should try to find out whether the hatchery they came from tests for salmonella.

Nichols said the best way chicken raisers can protect themselves is to assume all birds carry salmonella and treat them carefully.

"We view this as a preventable public health problem and are really hoping we start to see some change," she said.

© 2017 The Associated Press. All rights reserved.



In this Tuesday, Sept. 26, 2017, photo, Tanya Keith, of Des Moines, Iowa, and her daughter Iolana open a fence to their backyard to feed chickens, in Des Moines. The trend of raising backyard chickens is causing a soaring number of illnesses from poultry-related diseases. For Keith, the nine hens and a rooster that she keeps behind her home provide fresh eggs and lessons for her three children about where food comes from. But even as her kids collect eggs and help keep the six nesting boxes tidy, she warns them not get too affectionate. (AP Photo/Charlie Neibergall)

Even those who have had chickens for years can fall victim, as Luke Gabriele did in 2013 in his hometown of Felton in southeast Pennsylvania.

DeAnna Gabriele said her son was responsible for feeding and watering the chickens, but he didn't really like the birds and certainly didn't treat them as pets.

"They really never figured out specifically how Luke got the salmonella," she said. "They theorized that

APA citation: Backyard chicken trend leads to more disease infections (2017, October 19) retrieved 20 October 2017 from <https://medicalxpress.com/news/2017-10-backyard-chicken-trend-disease-infections.html>

This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.

Company Name

Baldwin County Animal Control
Bay Minette Animal Control ✓
Daphne Animal Control
Fairhope Animal Control ✓
Foley Animal Control
Gulf Animal Control
Loxley Animal Control
Orange Beach Animal Control
Robertsdale Animal Control ✓
Spanish Animal Control ✓

E-mail Address

animalcontrol@daphnepolice.org
beckyb@cofairhope.com

Business Phone

251-972-6834 ✓
251-580-2559 Yes - Caged
251-621-2831 ✓
251-929-0354 Yes - See ordinance
251-943-4431 No -
251-968-2431 No
251-964-5162 _____
251-981-9777 No
251-947-5600 Yes
251-626-4884 Yes - Caged

Those on Beach
don't
Not much of problems
7/25/17

Chapter 5 - ANIMALS AND FOWL^[1]

yes

Footnotes:

--- (1) ---

Editor's note— Ord. No. 988, adopted Dec. 12, 1995, repealed former Ch. 5, animals and fowl, substantive sections thereof being §§ 5-1—5-10, 5-20—5-28, and enacted new provisions in lieu thereof. For derivation of each section, see the history note following such section and the Code Comparative Table at the back of this volume. Prior to repeal, former Ch. 5 was derived from Ord. No. 969, adopted Apr. 24, 1995.

Cross reference— Illegal use of animal of another, § 14-12.

State Law reference— Authority to regulate, Code of Ala. 1975, §§ 3-5-14, 3-7-13, 11-47-110; cruelty, § 13A-11-14.

Sec. 5-1. - Definitions.

As used in this chapter, the following terms shall have the respective meanings ascribed to them:

At large: Off the premises of the owner and not on leash, cord, chain or other device adequate to maintain the animal under immediate and effective control.

Cat: As defined in the Code of Alabama, 1975, as amended.

Dog: As defined in the Code of Alabama, 1975, as amended.

Animal control officer: Includes all agents, officers and employees of the city who have been designated to control dogs and other animals.

Inoculation against rabies: As defined in the Code of Alabama, 1975, as amended.

Livestock: As defined in the Code of Alabama, 1975, as amended.

Vicious or dangerous animal: Any animal which bites, scratches, paws, kicks, hooks or attempts to bite, scratch, paw, kick or hook any person or other animal, or which chases or runs after any person or vehicle in which or on which a person is riding shall be deemed to be vicious or dangerous. For the purposes of this chapter, the term vicious or dangerous animal shall include both nondomesticated animals and reptiles, which by nature of being venomous, wild, aggressive or nondomesticated pose or may pose a threat to humans.

(Ord. No. 988, 12-11-95)

Sec. 5-2. - Livestock.

It shall be unlawful to keep any livestock within the city except as may be permitted in specific zoning districts by the Fairhope Zoning Ordinance. This section shall not apply outside the corporate limits of Fairhope.

(Ord. No. 988, 12-11-95)

Sec. 5-3. - Livestock or fowl at large.

It shall be unlawful for any person to allow any livestock or fowl to be at large within the city.

(Ord. No. 988, 12-11-95)

Sec. 5-4. - Fowl.

It shall be unlawful to keep any fowl within the city except as may be permitted in specific zoning districts by the Fairhope Zoning Ordinance. This section shall not apply outside the corporate limits of Fairhope.

(Ord. No. 988, 12-11-95)

Sec. 5-5. - Keeping of vicious or dangerous animals.

It shall be unlawful to keep any vicious or dangerous animals within the city.

(Ord. No. 988, 12-11-95)

Sec. 5-6. - [Keeping of domestic poultry in single-family residential zones.]

- (a) Purpose . The purpose of this section is to provide standards for the keeping of domestic poultry in single-family residential zones in the City of Fairhope. It is intended to enable residents to keep a limited number of hens for non-commercial purposes, while establishing standards to limit the adverse impacts on neighboring properties, and ensuring the health and sanitation of the domestic poultry and related structures.
- (b) General requirements . Domestic poultry may be kept in single-family residential zones and single family residential PUD (Planned Unit Development) districts in accordance with the following regulations:
 - (1) Domestic poultry may be kept on all parcels in single-family residential zones having a minimum lot area of seven thousand eight hundred (7,800) square feet.
 - (2) For parcels with a lot area of seven thousand eight hundred (7,800) square feet, residents

may keep up to four (4) hens.

- (3) Parcels in single-family residential zones that contain more than two (2) residential dwelling units or a non-conforming multifamily structure shall not be eligible to keep chickens on a parcel where the aforementioned conditions exist.
- (4) Hens shall be kept for personal use only. The selling of eggs, fertilizer or breeding of hens is prohibited.
- (5) All hens shall be kept in a henhouse or run. Henhouses and runs shall be fenced and maintained in accordance with the design standards set forth in subsection (c) of this section. Chickens may be allowed in enclosed rear yards during daylight hours only.
- (6) It shall be unlawful for any domestic poultry to be at large within city limits.
- (7) It shall be unlawful for the owner, keeper or custodian of any domestic poultry to allow the animal(s) to be a nuisance to any neighbor(s), including but not limited to noxious odors from the animals or related structure, associated rodent or pest infestation, and noise of a loud and persistent and habitual nature. An officer of the City of Fairhope Animal Control Service, City of Fairhope Code Enforcement, City of Fairhope Police Department or the Baldwin County Health Department shall determine whether or not a nuisance exists.
- (8) The slaughtering of hens in residential zones is prohibited.
- (9) It shall be unlawful for any resident to keep roosters, crowing hens, peafowl, or waterfowl in a single-family residential zone.

The penalty for violation of any provision of this section shall be as specified for general penalty in section 1-8 of the Code of Ordinances of the City of Fairhope.

(c) Requirements for henhouses and runs .

(1) Location .

- a. The henhouse and run shall be located in the rear yard only. On double frontage lots or corner lots, henhouses and runs shall not be allowed within fifty (50) feet of any public right-of-way.
- b. The henhouse and run shall be a minimum of ten (10) feet from any property line.
- c. The henhouse and run shall be a minimum of twenty-five (25) feet from the residence.

(2) Design requirements .

- a. The henhouse shall be enclosed on all sides and have a roof and access door that are able to be shut and secured. The henhouse shall be ventilated and impermeable to rodents, wild birds, and predators including raccoons, skunks, dogs and cats. Any openings on the henhouse or the entire henhouse shall be elevated at least eighteen (18) inches above ground. Except for access doors, all other openings shall be sealed

with rodent and predator-proof wire mesh with openings of one-quarter ($\frac{1}{4}$) inch or smaller.

- b. The henhouse shall be free-standing and accessible on all sides for cleaning and maintenance.
 - c. The run shall be fully enclosed, including a roof, by a secured fence at all times. The fence must be at least (5) feet in height and no more than (6) feet in height. The fence shall be made of one-quarter ($\frac{1}{4}$) inch metal mesh hardware cloth and buried. Chicken wire shall not be permitted.
 - d. The total area of the henhouse and run shall be at least of six (6) square feet per hen and the total area of the henhouse shall be at least of two (2) square feet per hen. The total area of the run shall not exceed eighty (80) square feet and the total area of the henhouse shall not exceed thirty-six (36) square feet.
 - e. Materials used for henhouses and runs shall be suitable for use in single-family residential zones. Prefabricated henhouses are allowed, provided they meet the specification for excluding rodents.
 - f. The henhouse shall not exceed eight (8) feet in height at its tallest point.
- (3) Sanitation requirements .
- a. All henhouses and runs shall be kept and maintained in a clean and sanitary condition. All droppings shall be cleaned out at least once every week. Chicken pens shall be thoroughly cleaned with a standard disinfectant at least three (3) times yearly, once in each of the months of March, July and October. At all times, all hens shall have access to feed and clean liquid water.

(d) Definitions .

Domestic poultry . Any species of chicken.

Hen . A female chicken.

Henhouse . An enclosed structure designed for the purpose of keeping and securing hens.

Run . A fenced area meant for the keeping of hens.

Ord. No. 1558, §§ I—IV, 11-23-15

Editor's note— Ord. No. 1558, §§ I—IV, adopted Nov. 23, 2015, did not specify manner of inclusion; hence, codification as § 5-6 was at the discretion of the editor.

Secs. 5-7—5-9. - Reserved.

Sec. 5-10. - Pets constituting nuisance.

- (a) It shall be unlawful for the owner of any cat, dog or other pet to allow the same to be a nuisance by barking, making loud or raucous noise, biting, scratching, creating offensive odors or unsanitary conditions, damaging or destroying property of others or going at large upon the property of others.
- (b) No person owning or in charge of any dog or cat shall cause or allow such animal to soil, defile, defecate on, or commit any nuisance on any common thoroughfare, sidewalk, passageway, by-path, play area, park, or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without the permission of the owner of such private property.

Any person owning or in charge of any animal which soils, defiles, defecates on, or commits any nuisance on any common thoroughfare, sidewalk, passageway, by-path, play area, park, or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property, without the permission of the owner of such private property, shall immediately remove all feces deposited by any such animal, in a sanitary manner.

The feces removed from the aforementioned designated areas shall be disposed of by the person owning or in charge of any such animal in a sealed, non-absorbent, leak-proof container.

Provided, however, the provisions of this section shall not apply to any blind person with respect to any animal used as a guide dog by such blind person.

Provided, further, that violations on private property under the foregoing subsection (b) shall not be enforceable except upon a warrant of arrest issued on complaint of the property owner alleging violation thereof.

(Ord. No. 988, 12-11-95)

Sec. 5-11. - Bird sanctuaries.

All parks within the city are hereby designated as bird sanctuaries.

(Ord. No. 988, 12-11-95)

Secs. 5-12—5-19. - Reserved.

Sec. 5-20. - Enforcement officers—Right of entry.

The animal control officer of the city shall have the right and it shall be his duty to enter upon any property, except a private dwelling, for the purpose of capturing any animal at large, in compliance with this Code.

(Ord. No. 988, 12-11-95)

Sec. 5-21. - Citations; issuance for violations.

The animal control officer, other municipal enforcement officers and the police are hereby authorized to issue municipal offense tickets for violation of provisions herein, as provided in section 10-28 of this Code. However, nothing herein shall be construed to prohibit the immediate issuance of a warrant of arrest for any person where there exists probable cause to believe that such person has violated any provision herein.

(Ord. No. 988, 12-11-95)

Sec. 5-22. - License—Tag and collar required.

All dogs and cats owned and kept within the city, and all dogs and cats brought in or permitted to come within the city, shall wear a collar to which shall be attached a numbered tag issued by the city.

(Ord. No. 988, 12-11-95)

Sec. 5-23. - License—Inoculation against rabies a prerequisite to issuance.

No license shall be issued until and unless the applicant therefor shall produce a current certificate of rabies inoculation for the dog or cat to be licensed.

(Ord. No. 988, 12-11-95)

Sec. 5-24. - Dogs at large—Prohibited.

It shall be unlawful for the owner of any dog to permit such animal to be at large within the city at any time.

(Ord. No. 988, 12-11-95)

Sec. 5-25. - Same—Owner liable for damages.

If the owner of a dog or cat carelessly manages such animal and permits the same to be at large,

and another person suffers damage thereby, such owner shall be liable for such damages.

(Ord. No. 988, 12-11-95)

Sec. 5-26. - Impounding, generally.

It shall be the duty of every police officer of the city, upon finding a dog, cat, or other animal at large in the city to notify the animal control officer. It shall be the duty of such officer when so notified, or when he observes any such animal at large, to seize such animal and confine it in the city pound, and if said animal is licensed by the city, to make a reasonable effort to notify the owner of the animal.

(Ord. No. 988, 12-11-95)

Sec. 5-27. - Procedure where injury by a dog or cat has occurred.

When any person is bitten by a dog or cat, the procedures for quarantine, observation and disposal of the animal shall be as provided in the Code of Alabama, 1975, as amended.

(Ord. No. 988, 12-11-95)

Sec. 5-28. - Procedure for redemption of impounded dog.

The owner of any dog impounded for being at large may, within forty-eight (48) hours after the animal is impounded, redeem the animal by paying to the city the sum of twenty-five dollars (\$25.00) for the impounding and one dollar (\$1.00) for each day the animal remains in the pound for keep. Provided, however, if the animal is not currently licensed by the city, the owner must furnish evidence of inoculation for rabies and obtain license before the animal may be redeemed.

(Ord. No. 988, 12-11-95)

Sec. 5-28.1. - Holding fee for cat.

The owner of any cat being held in the animal shelter for any reason may redeem the animal by paying the city the sum of five dollars (\$5.00) for each day the animal remains in the shelter for keep. Provided, however, if the animal is not currently licensed by the city, the owner must furnish evidence of inoculation for rabies and obtain license before the animal may be redeemed.

(Ord. No. 988, 12-11-95)

Sec. 5-29. - Illegally releasing animal.

It shall be unlawful for any person to release any animal from the city pound until provisions of section 5-28 [or 5-28.1] have been complied with.

(Ord. No. 988, 12-11-95)

Sec. 5-30. - Disposition of unredeemed animals.

When an impounded animal has not been redeemed within seven (7) days after impoundment or notification of impoundment to an owner, the animal control officer may, at his discretion, sell animal, provided the purchaser complies with the requirements for inoculation and licensing, and the purchaser shall be vested with legal title to the animal, or such officer may elect to either destroy the animal in a humane manner or may allow a local humane society to destroy the animal.

When a licensed veterinarian opines that an in custody canine or feline is in such great pain or degree of lameness that it cannot be expected to have a good quality of life, said animal may be euthanized before the mandatory waiting period seven (7) days. The animal control officer, veterinarian, department head, nor the City of Fairhope can be held liable for this decision.

(Ord. No. 988, 12-11-95; Ord. No. 1440, § 1, 10-11-10)

Sec. 5-31. - Nuisance.

In addition to other prohibitions in this chapter, it shall be unlawful for any person to bring, keep or maintain within the city any warm-blooded or cold-blooded animal in such manner as to constitute a nuisance.

(Ord. No. 988, 12-11-95; Ord. No. 1440, § 1, 10-11-10)

Sec. 5-32. - Penalty for violation.

Any person who violates any provision herein shall be subject to a penalty not to exceed that provided in section 1-8 of the Fairhope Code of Ordinances.

(Ord. No. 988, 12-11-95)

Sec. 5-33. - Abandonment of animals.

(1) It is unlawful to abandon any animal in public areas or private property within Fairhope

corporate limits. Abandonment shall not include surrender of any animal to the Fairhope City Animal Shelter or the transfer of the animal's care to the veterinarian, boarding facility or other mutually consenting responsible party.

(2) Definitions:

Abandon: Leave or place an animal without transferring responsibility for the care of the animal to a responsible party.

Animal: Any nonhuman including, but not limited to: dogs, cats, rodents, reptiles, waterfowls, barnyard fowls, birds, and live stocks.

Private property: Any area in Fairhope that is not owned or administered by the city.

Public area: Parks, piers, marinas, landfill, recreational areas, civic buildings, city properties or public streets.

(3) Enforcement: The animal control department, animal control officer or any law enforcement officer acting on behalf of the city may enforce the ordinance.

(4) Penalties for conviction of ordinance violation:

First offense—One hundred dollar (\$100.00) fine, and thirty (30) hours community service with a local humane organization.

Second offense—Two hundred fifty dollar (\$250.00) fine, thirty (30) hours community service with a local humane organization and three (3) days confinement in the city jail.

Third offense (habitual offender)—Three hundred dollar (\$300.00) fine, forty (40) hours community service with a local humane organization and seven (7) days confinement in the city jail.

(5) Disposition of the abandoned animal: Regardless of any conviction, the abandoned animal will be placed with a local humane organization or the city's animal shelter, as deemed appropriate. Every attempt will be made by these groups to place the animal in a property home. If the animal is not adoptable after a reasonable amount of time, the animal will be humanely euthanized.

(6) Other laws, ordinances: To the extent that abandonment of animals within Fairhope Corporate Limits constitutes violation of other laws and ordinances of the State of Alabama or Baldwin County, the law or ordinance with the more stringent penalties will apply.

(Ord. No. 1123, §§ 1—6, 5-14-2001)

Sec. 5-34. - Chaining dogs, and dog enclosures.

- (a) Any person owning and/or controlling dogs whether vaccinated or unvaccinated, licensed or unlicensed, shall not allow said animal to be tied or chained to dog houses, or other stationary objects.
- (b) No person shall, at any time, fasten, chain, or tie any dog or cause such dog to be fastened, chained or tied while such dog is on the dog owner's property or on the property of the dog owner's landlord, or on any property within the corporate limits of the city.
- (c) Any dogs confined within a fenced yard must have an adequate space for exercise based on a dimension of at least one hundred and fifty (150) square feet per dog. Provided, further that where dogs are kept or housed on property without a fenced yard, the owner of such dogs or persons having custody of such dogs shall provide an enclosure for such dogs meeting the one hundred and fifty (150) square foot per dog dimension. Such enclosure shall be constructed of chain link or similar type materials with all four (4) sides enclosed. The enclosure shall be sufficient height to prevent the dog from escaping from such enclosure, and shall meet the requirements of the Alabama Animal Rights Protection Act 13A-11-241.
- (d) Nothing in this article shall be construed to prohibit owners or others walking dogs with a hand held leash.
- (e) Nothing in this article shall be construed to prohibit owners from allowing dogs to be attached to over head runs (i.e. leash or chain attached to an over head wire at least ten (10) feet long, that allows the dog to move unheeded.)
- (f) Any person, firm or corporation will have thirty (30) days after written notification to comply. Any person, firm or corporation failing to comply with the provisions of this article will be deemed to have committed a misdemeanor and upon such conviction thereof shall be punished as prescribed in section 1-8 entitled "General Penalty" of this Code.

(Ord. No. 1169, §§ 1—6, 5-12-2003)

Sec. 5-35. - Protection of animals in unattended vehicles.

- (a) No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.
- (b) Unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100.00) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding one

thousand dollars, imprisonment in a city jail not exceeding one (1) year, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500.00), imprisonment in a city jail not exceeding one (1) year, or by both a fine and imprisonment.

- (c) (1) Nothing in this section shall prevent a peace officer, humane officer, or an animal control officer from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.
- (2) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment.
- (3) A peace officer, humane officer, or animal control officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.
- (4) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, be claimed by the owner only after payment of all charges that have accrued from the maintenance, care, medical treatment, or impoundment of the animal.
- (5) The municipality nor any employee or agent of the municipality, acting in good faith, shall be liable for any actions taken under this section. As provided in the Code of Alabama 1975, § 13A-11-243: Powers of agents, officers; liability.
- (d) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, pigs, sheep, poultry or other agricultural animals in motor vehicles designed to transport such animals for agricultural purposes.

(Ord. No. 1396, §§ I—IV, 7-27-09)

Chapter 4 - ANIMAL CONTROL^[1]

Yes
Caged

Footnotes:

--- (1) ---

Editor's note— Ord. No. 958, adopted November 16, 2009, repealed the former Ch. 4, §§ 4-1—4-8, 4-21—4-42, and enacted a new Ch. 4 as set out herein. The former Ch. 4 pertained to animal and fowl and derived from Ord. No. 330, §§ 1, 8, 9, 6-5-28; Ord. No. 374, §§ 1, 2, 5-2-33; Ord. No. 396, § 1, 4-6-37; Ord. No. 468, § 1, 6-19-45; Code 1980, §§ 4-1—4-6, 4-10; Ord. No. 821, §§ 1—22, 9-18-00.

State Law reference— Authority to regulate, Code of Ala. 1975, §§ 3-5-14, 3-7-13, 11-47-110.

ARTICLE I. - ANIMALS IN GENERAL

Sec. 4-1. - Definitions.

For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Animal. Any domesticated animal.

Animal control officer. The person who works under the direct supervision of the chief of police and is primarily responsible for the enforcement of this article. This person is hired by and answers directly to the chief of police. The animal control officer and his/her associates operate solely within the corporate limits of the city of Bay Minette but not the police jurisdiction.

At large. Unrestrained and not under the control of the owner or other person acting for the owner, such control to be exercised (1) by confinement within a fence (including an invisible fence), wall or other enclosure in such manner as to effectively prevent escape of the animal; (2) by restraint of the animal by a leash, cord, rope, bridle or chain in such a manner as to effectively prevent the escape of the animal. It is provided further that no animal shall be restrained in an inhumane manner.

City. Includes the corporate limits of Bay Minette, Alabama but not the police jurisdiction.

Owner. Any person owning, keeping, possessing, harboring, or maintaining an animal. Owner shall include any person who has a right of property in an animal or who had an animal in his care or acts as its custodian or who permits an animal to remain on or about the premises occupied by him.

Person. Any individual, partnership, company, corporation or other legal entity.

Sworn statement. A written report of an incident or condition alleged to be in violation of this article, signed by the complainant and filed with the Bay Minette Police Department.

(Ord. No. 958, 11-16-09)

Sec. 4-2. - Bird sanctuary—City declared.

The territory within the boundaries of the city is declared to be a bird sanctuary.

(Ord. No. 958, 11-16-09)

Sec. 4-3. - Same—Killing, etc., wild bird.

It shall be unlawful for any person to maim, kill or in any manner injure any wild or migratory bird within the city.

Exception: In areas of the city zoned RA, dove hunting is permitted during dove season after 3:00 p.m. on weekdays and all day on weekends (subject to state hunting laws).

(Ord. No. 958, 11-16-09)

Sec. 4-4. - Animal fights.

It shall be unlawful for any person to cause or permit any fights of chickens, dogs, or other fowl or animals.

(Ord. No. 958, 11-16-09)

Sec. 4-5. - Swine prohibited.

The keeping, pasturing or penning of hogs, pigs or swine within the city is hereby declared to be a public nuisance per se, menacing the public health and unlawful, and is hereby expressly prohibited.

(Ord. No. 958, 11-16-09)

Sec. 4-6. - Fowl at large.

It shall be unlawful for any person owning or having control of chickens or other domestic fowl in the city to allow the same to be at large.

(Ord. No. 958, 11-16-09)

Sec. 4-7. - Livestock at large—Prohibited.

The owner of any horse, mule, stallion, jack, bull, cow, sheep, goat or any other domesticated animal or any person having the care or custody of any such animal, who knowingly, negligently or carelessly allows, causes or permits said animal to be at large within the city shall be charged with a misdemeanor and, upon conviction, shall be subject to a fine of not less than \$25.00 nor more than \$500.00 and may be sentenced to jail for a period not to exceed six months.

(Ord. No. 958, 11-16-09)

Sec. 4-8. - Same—Subject to impounding.

It shall be unlawful for any owner or person in control of any horse, mule, stallion, jack, bull, cow, sheep, goat or any other domesticated animal to allow the same to be at large on the streets of the city, and any such animal found at large is subject to impoundment.

(Ord. No. 958, 11-16-09)

Sec. 4-9. - Humane treatment of animals.

Owners of domesticated animals must provide humane shelter from heat, cold, wind and inclement weather and must give them food and water adequate to keep said animals in good health and comfort. Animals must be given adequate room to exercise. Animals must be given veterinarian care when needed to prevent parasites, disease, suffering and to keep said animals in good health. Any animal(s) that, in the opinion of the animal control officer, is being treated inhumanely can be impounded by the animal control officer at the expense of the animal's owner until conditions responsible for said inhumane treatment are corrected.

(Ord. No. 958, 11-16-09)

Sec. 4-10. - Noise created by animals.

It shall be unlawful for the owner of any animal(s) to permit said animal(s) to habitually create any noise in such a loud and frequent manner as to annoy and disturb the public in the vicinity so that it interferes with the reasonable use and enjoyment of adjacent or neighboring premises. The animal control officer, his/her associates or an officer of the Bay Minette Police Department shall make the judgment as to whether the noise created by said animal(s) constitutes a violation of this article. Upon three violations of this section, the municipal judge can order said animals removed from the premises and impounded at the owner's expense until a resolution to the noise problem is implemented.

(Ord. No. 958, 11-16-09)

Sec. 4-11. - Odors created by animals.

It shall be unlawful for any person to keep on any tract, lot or premises within the city any animal or group of animals, whether the same is housed in a fence, pen, kennel, building or otherwise under such circumstances that the odor from such keeping is offensive to the public in the vicinity and said offensive odors interfere with the reasonable use and enjoyment of adjacent or neighboring premises. The animal control officer, his/her associates or an officer of the Bay Minette Police Department shall make the judgment as to whether the odor created by said animal(s) constitutes a violation of this article. Upon three violations of this section, the municipal judge can order said animals removed from the premises and impounded at the owners expense until a resolution to the odor problem is implemented.

(Ord. No. 958, 11-16-09)

Sec. 4-12. - Insect problems created by animals.

It shall be unlawful for any person to keep on any tract, lot or premises within the city any animal or group of animals, whether the same is housed in a fence, pen, kennel, building or otherwise under such circumstances that the attraction and/or proliferation of insects, particularly flies, is irritating to the public in the vicinity and said insects interfere with the reasonable use and enjoyment of adjacent or neighboring premises. The animal control officer, his/her associates or an officer of the Bay Minette Police Department shall make the judgment as to whether the attraction and/or proliferation of insects created by said animal(s) constitutes a violation of this article. Upon three violations of this section, the municipal judge can order said animals removed from the premises and impounded at the owners expense until a resolution to the insect problem is implemented.

(Ord. No. 958, 11-16-09)

Sec. 4-13. - Disposing of feces.

It shall be the duty of the owner or person-in-charge of any animal to immediately remove and properly dispose of any feces deposited by said animal upon the grounds of any property within the city except for private property owned or controlled by the owner or person-in-charge of any such animal.

(Ord. No. 958, 11-16-09)

Sec. 4-14. - Right to enter upon premises.

The animal control officer, his/her assistants and officers of the City of Bay Minette Police Department shall have the right, for the protection of the public health, welfare and safety, to enter upon any premises within the city for the purpose of catching and taking any animal found at large or to investigate any suspected violation of this article.

(Ord. No. 958, 11-16-09)

Sec. 4-15. - Unlawful to interfere with person authorized to perform their duty.

It shall be unlawful and punishable as a misdemeanor for any person to hinder, molest, or interfere with any person authorized or empowered to perform a duty under this article.

(Ord. No. 958, 11-16-09)

Sec. 4-16. - Unlawful to release animals in the city.

It shall be unlawful and punishable as a misdemeanor for any person to dispose of an animal by releasing it or by leaving it tied, bridled, roped, caged or restrained in any other manner within the city limits of Bay Minette. Anyone who does so shall be subject to a fine of no less than \$250.00 nor more than \$500.00 and may be sentenced to jail for a period not to exceed six months.

(Ord. No. 958, 11-16-09)

Secs. 4-17—4-20. - Reserved.

ARTICLE II. - ANIMALS KEPT AND MAINTAINED—DOGS AND CATS

Sec. 4-21. - Definitions.

For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Animal. Any animal which is required by state law to be inoculated for rabies (dogs and cats) and of the age of three months or older.

Animal control officer. The person who works under the direct supervision of the chief of police and is primarily responsible for the enforcement of this article. This person is hired by and answers directly to the chief of police. The animal control officer and his/her associates operate within the corporate limits of the City of Bay Minette but not the police jurisdiction.

At large. Unrestrained and not under the control of the owner or other person acting for the owner, such control to be exercised (1) by confinement within a fence (including an invisible fence), wall or other enclosure in such manner as to effectively prevent escape of the animal; (2) by restraint of the animal by a leash, cord or chain in such a manner as to effectively prevent the escape of the animal. It is provided further that no animal shall be restrained in an inhumane manner.

City. Includes the corporate limits of Bay Minette, Alabama, but not the police jurisdiction.

Guard dog. A dog which is trained and used for the express purpose of protecting and guarding private property. Guard dogs must be so designated when registered.

Owner. Any person owning, keeping, possessing, harboring, or maintaining an animal. Owner shall include any person who has a right of property in an animal or who had an animal in his care or acts as its custodian or who permits an animal to remain on or about the premises occupied by him.

Person. Any individual, partnership, company, corporation or other legal entity.

Show animal. An animal that participates with its owner or handler in any of the following sanctioned events: Confirmation shows, field trials or agility trials.

Stray. A dog, cat, puppy, or kitten with no apparent owner and no means of identification.

Sworn statement. A written report of an incident or condition alleged to be in violation of this article, signed by the complainant and filed with the Bay Minette Police Department.

Vicious animal. An animal which has been designated "vicious" by the animal control officer because of past behavior. This behavior includes but is not limited to an unprovoked attack on a person or another animal, including, but not limited to, animals as defined in this article.

(Ord. No. 958, 11-16-09)

Sec. 4-22. - Animal control officer; enforcement of article.

- (a) The chief of police shall hire an animal control officer and any assistants that may be necessary. The animal control officer and assistants shall be paid such salaries or fees as the city council may set. The expenses of the animal control officer and assistants, together with their salaries or fees shall be paid from the general fund of the city. It shall be the duty of the animal control officer to enforce the provisions of this article within the city limits of Bay Minette; to catch and take any animal running at large within the city limits at his/her discretion or upon complaint being made by any person to such animal control officer, his/her assistants, or the City of Bay Minette Police Department; to rid the city of stray, injured and diseased animals; to cooperate with any humane officer and any county rabies inspector; to investigate any suspected violations of this article; and to perform such other duties relating to animal control as may be prescribed by the chief of police.
- (b) The animal control officer, his/her assistants and officers of the City of Bay Minette Police Department shall have the right, for the protection of the public health, welfare and safety, to enter upon any premises within the city for the purpose of catching and taking any animal found running at large or to investigate any suspected violations of this article.

(Ord. No. 958, 11-16-09)

Sec. 4-23. - Inoculation required.

It shall be unlawful for any person to own, possess, keep, maintain or harbor an animal, whether canine or otherwise, within the city without having such animal inoculated for rabies, as required by Alabama law.

(Ord. No. 958, 11-16-09)

Sec. 4-24. - Inoculation tag to be worn only by animal for which issued.

It shall be unlawful for any person to permit or allow any animal in his charge or control to wear an animal inoculation tag issued for a different animal.

(Ord. No. 958, 11-16-09)

Sec. 4-25. - Collar or harness required; tag to be attached; removal, etc. prohibited.

Every animal shall wear a substantially durable collar or harness. Attached to the collar or harness shall be a registration tag bearing the animals permanent registration number. It shall be

unlawful to attach such tags by wire, rope or other inhumane means. No person shall remove the collar or identification tag from any animal without the consent of the owner. It shall be unlawful and punishable as a misdemeanor for an owner to allow his/her animal to be on any property other than the owner's without their animal wearing a collar or harness with a registration tag. Fine for animal not wearing a collar or harness shall be \$25.00.

(Ord. No. 958, 11-16-09)

Sec. 4-26. - Being at large prohibited.

- (a) It shall be unlawful and punishable as a misdemeanor for any person owning, keeping, possessing, harboring, or maintaining an animal to cause, permit or allow such animal to be at large within the City of Bay Minette.

(Ord. No. 958, 11-16-09)

Sec. 4-27A. - Animals found at large wearing a collar or harness with an ID tag and/or a registration tag; redemption procedure; disposition of animals not retaken.

Any animal wearing a collar or harness with an ID tag and/or a registration tag which is found at large on any street, sidewalk, alley, thoroughfare, or other place in the city shall be caught and taken by the animal control officer, his/her assistants, or an Officer of the Bay Minette Police Department at his/her discretion or upon a complaint being made to such animal control officer, his/her assistants, or the City of Bay Minette Police Department. The animal control officer shall immediately contact the owner or their duly authorized representative and return the animal to the owner. Owner shall be issued a citation for allowing his/her animal to be at large. If the owner cannot be contacted said animal is impounded. If the animal is impounded said animal may be retaken by the owner or his duly authorized representative within seven days from the impoundment thereof, or at any time thereafter before said animal is placed for adoption or humanely destroyed, by paying to the City of Bay Minette the cost of keeping such animal in the pound at the rate of \$15.00 per day. If the animal owner lives in the city limits and the animal is wearing an ID tag but not a registration tag, the owner must pay an additional fine, per section 4-69. If the animal has not been registered with the Bay Minette Police Department, said animal must be registered before it can be retaken. Any animal retaken under this article must be inoculated for rabies as prescribed by state law and a certificate and tag issued. The expense of inoculation shall be borne by the owner. Inoculation is waived if proof of such as prescribed by state law can be shown by the owner or their authorized representative. Animals not retaken within seven days shall be placed for adoption or destroyed by the animal control officer or the pound master in a humane manner.

The cost of the citation for catching an animal at large shall be as follows:

1st event \$25.00

2nd event in a 12-month period \$50.00

3rd event in a 12-month period \$100.00

Each subsequent event in a 12-month period \$250.00

These events pertain to a particular owner, not a particular animal. An owner may have several animals. Each time an owner has a violation for an animal running at large in a given 12-month period, the cost of the citation increases per the above schedule.

(Ord. No. 958, 11-16-09)

Sec. 4-27B. - Animals found at large without a collar or harness; redemption procedure; disposition of animals not retaken.

Any animal not wearing a collar or harness has no means of identification and shall be considered a "stray". If found at large on any street, sidewalk, alley, thoroughfare, or other place in the city said animal shall be caught and taken by the animal control officer, his/her assistants, or an Officer of the Bay Minette Police Department at his/her discretion or upon a complaint being made to such animal control officer, his/her assistants, or the City of Bay Minette Police Department. The animal control officer shall make a reasonable effort to find the owner by inquiring in the neighborhood in which the animal was caught. If the owner can be found, the animal control officer shall return the animal to the owner and issue a citation for allowing said animal to run at large. In addition owner must pay a fine of \$25.00 because the animal was not wearing a collar or harness and a fine, per section 4-69, because the animal was not wearing a registration tag. If the owner cannot be found said animal is impounded and the same redemption procedures as described in section 4-27A are followed except that stray animals need only be held for five days before disposition. If the animal is not registered, owner must register said animal before it can be retaken. If the owner cannot be found or if the animal is not retaken said animal is impounded for five days after which the animal control officer or the pound master shall place the animal for adoption or destroy it in a humane manner.

(Ord. No. 958, 11-16-09)

Sec. 4-27C. - Animals found at large with a collar or harness but no ID tag or registration tag; redemption procedure; disposition of animals not retaken.

Any animal wearing a collar or harness but no ID tag or registration tag has no means of identification and shall be considered a "stray". The same redemption and disposition procedures shall be followed as in section 4-27B except that the owner need not pay a \$25.00 fee because the animal was not wearing a collar or harness.

(Ord. No. 958, 11-16-09)

Sec. 4-27D. - Impounded of diseased or injured animals.

Diseased or injured animals caught and taken under this section may be destroyed by the animal control officer or pound master in a humane manner without delay.

(Ord. No. 958, 11-16-09)

Sec. 4-28. - Inhumane treatment of animals prohibited.

It shall be unlawful for the owner or keeper of any animal to keep such animal in any enclosure or on any leash or other restraint unless the same shall be so arranged that such animal shall at all times have available water, shade and proper shelter, or to treat any animal in any other inhumane manner.

(Ord. No. 958, 11-16-09)

Sec. 4-29. - Impounding of animals found upon premises of other than owner.

Any animal which if found upon the premises of a person other than the owner or keeper thereof, shall, at the request of the owner of such premises or his duly authorized representative to the animal control officer, his/her assistants, or the Bay Minette police department, be caught and taken by the animal control officer or his/her assistants as provided in this article. Such animal may be redeemed upon the payment of the fee set out in section 4-27 of this article. If such animal is not redeemed, it shall be placed for adoption or destroyed in a humane manner as provided for in section 4-27 of this article.

(Ord. No. 958, 11-16-09)

Sec. 4-30. - When an animal has bitten a human being.

(a) The animal control officer, his/her assistants and members of the police department, upon verified sworn statement that an animal has bitten a human being shall confine said animal with

a licensed veterinarian for a period of ten days pursuant to Alabama law.

- (b) It shall be unlawful and punishable as a misdemeanor for any person who is the owner or custodian of an animal which has bitten a human being to fail to promptly turn over or deliver such animal to the animal control officer, his/her assistants or members of the police department, upon their demand. Any expense incurred in the handling of any animal, under the provision of this subsection, shall be borne by the owner or custodian of such animal.

(Ord. No. 958, 11-16-09)

Sec. 4-31. - Interference with enforcement of ordinance.

It shall be unlawful and punishable as a misdemeanor for any person to hinder, molest, or interfere with any person authorized or empowered to perform a duty under this article.

(Ord. No. 958, 11-16-09)

Sec. 4-32. - Prima facie evidence of viciousness.

It shall be prima facie evidence that an animal is vicious if it shall, without provocation, attack any person or any other animal, including but not limited to animals as defined in this article. A report documenting said attack containing a complete description of said animal shall be kept on permanent file with the animal control officer. Said animal from the day of said attack henceforth shall be considered a vicious animal by the city of Bay Minette. The animal control officer shall inform the owner in writing of their requirements and obligations if they are to keep a vicious animal in the city limits of Bay Minette. If an animal that has been deemed vicious attacks and bites any person without provocation, said animal shall be impounded for ten days under the supervision of a veterinarian and immediately destroyed, unless the owner appeals to the municipal judge, in which case the matter shall be determined by the municipal judge.

(Ord. No. 958, 11-16-09)

Sec. 4-33. - Confinement required.

It shall be unlawful and punishable as a misdemeanor for the owner of a vicious animal to keep said animal in the city unless said animal is securely confined in an enclosure from which said animal cannot escape or is adequately leashed and securely held by it's owner or other person in charge in such a manner as to prevent said animal from breaking free and attacking and/or biting a person or other animal. Such a vicious animal, when not confined in an enclosure but on a leash, must wear a muzzle to prevent it from harming a person or another animal. Chaining or roping a vicious animal to

an inanimate object is considered inadequate confinement and is expressly prohibited unless said animal is also within an enclosure from which said animal cannot escape.

(Ord. No. 958, 11-16-09)

Sec. 4-34. - Enclosure for vicious animals—Posting of premises.

Whenever a vicious animal is permitted to run freely within a wall, fence or other enclosure, it shall be the duty of the owner or person in charge of said animal to give public notice or warning that said animal is running freely within such enclosure by conspicuously posting a printed notice at every entrance to such enclosure. Printed notice must meet the approval of the animal control officer.

(Ord. No. 958, 11-16-09)

Sec. 4-35. - Enclosure for vicious animals—Enclosure deemed inadequate.

Whenever, in the opinion of the animal control officer, a vicious animal is not properly and securely confined in an enclosure so that it cannot escape, the chief animal control officer shall order impoundment of the animal until an enclosure is provided which the animal control officer deems adequate. The animal control officer shall order impoundment of said animal at a place the animal control officer will determine. The cost of feeding and caring for the animals shall be paid by the owner, at a rate of \$15.00 per day. If the owner of such animal fails to provide an enclosure which the animal control officer deems to be adequate within 30 days, said animal shall be destroyed. Owner must agree to pay the impoundment charges as well as any court costs and attorneys fees relative to collecting such impoundment charges in writing before the animal is impounded or the animal shall be impounded for seven days and then destroyed.

(Ord. No. 958, 11-16-09)

Sec. 4-36. - Reporting of vicious animals—By sworn statement; procedure upon first indication of viciousness.

When any person claims that an animal is vicious, he shall make a sworn statement setting forth the reasons for believing the animal to be vicious. Such written statement shall be delivered to the Bay Minette Police Department. Upon receipt of such sworn statement, the animal control officer shall immediately make an investigation. If, in the opinion of the animal control officer, the animal is vicious, the animal control officer shall declare the animal a vicious animal. And if said vicious animal is not properly and securely confined in an enclosure so that it cannot escape the animal control

officer shall order said animal impounded. If the owner of said animal fails to provide an enclosure which the animal control officer deems to be adequate within 30 days, said animal shall be destroyed. Owner must agree to pay the impoundment charges as well as any court costs and attorneys fees relative to collecting such impoundment charges in writing before said animal is impounded or said animal shall be impounded for seven days and then destroyed, unless the owner appeals to the municipal judge, in which case the matter shall be determined by the municipal judge.

(Ord. No. 958, 11-16-09)

Sec. 4-37. - Same—Procedure upon prior indication of viciousness but no action taken by animal control officer.

If, upon receipt of the sworn statement provided in section 4-36, the animal control officer determines that an animal has acted in a vicious manner, and if he/she further finds that the animal has, on previous occasions, given evidence of its viciousness, but no action was taken by the animal control officer, in reference to such animal, he/she may either order the animal impounded as provided in section 4-36 or he/she may file a proceeding before the municipal judge to have such animal destroyed.

(Ord. No. 958, 11-16-09)

Sec. 4-38. - Same—Procedure when there has been prior indication of viciousness and animal control officer has acted.

If upon receipt of the sworn statement provided in section 4-36 of this article, the animal control officer finds that an animal has acted in a vicious manner, and if he/she further finds that, prior to the time of the receipt of said sworn statement, the animal control officer has found said animal to be vicious, the animal control officer shall order said animal destroyed.

(Ord. No. 958, 11-16-09)

Sec. 4-39. - Removing animal from the city to avoid being destroyed.

It shall be considered unlawful and a misdemeanor for a person to remove an animal from the city if said animal has been ordered destroyed. The owner of an animal who does so shall be fined \$500.00 and may be sentenced to jail for a period not to exceed six months.

(Ord. No. 958, 11-16-09)

Sec. 4-40. - Removing a vicious animal from the city.

- (a) An animal deemed vicious by the city of Bay Minette may be relocated outside the city. However, once relocated outside the city, said animal cannot be returned to the city. Returning said animal to city, once relocated, shall be considered unlawful and a misdemeanor punishable by a fine of not less than \$250.00 nor more than \$500.00 and the owner may be sentenced to jail for a period not to exceed six months.
- (b) An animal deemed vicious by the city of Bay Minette may be sold or given away. However, the owner of said animal must give written notice to the new owner of said animal that said animal has been deemed "vicious" by the City of Bay Minette.
- (c) An animal deemed vicious by another municipality cannot be relocated in the City of Bay Minette.

(Ord. No. 958, 11-16-09)

Sec. 4-41. - Guard dogs.

Guard dogs are vicious by training and are used expressly to protect private property. Owner must designate said dog as a guard dog when the dog is registered. Guard dogs must be confined within an enclosure that the animal control officer inspects and deems adequate to contain the dog. Said enclosure must be marked at every entrance, locked or unlocked, stating that a guard dog is loose within the confines of the enclosure and that entering the enclosure could be dangerous. Anyone who disregards said warning and enters the enclosure puts themselves at risk of being attacked. No action will be taken against the dog if someone recklessly enters the enclosure. If a guard dog is removed from its' confinement, said dog must wear a muzzle.

(Ord. No. 958, 11-16-09)

Sec. 4-42. - Specific offenses.

- (a) It shall be unlawful and punishable as a misdemeanor for the owner of any vicious animal to refuse or fail to comply with any orders of the animal control officer regarding the confinement or other action pertaining to such vicious animal.
- (b) It shall be unlawful and punishable as a misdemeanor for an owner or other person to criminally, negligently, recklessly, or intentionally cause or allow the escape of a vicious animal from its enclosure or restraint. For the purposes of this article, criminal negligence, recklessly and intentionally shall be given the definitions as set forth in Code of Ala. 1975, §§ 13A-2-2, and as such definitions shall be amended from time to time hereafter, and such definitions are

adopted and incorporated herein as if fully set forth at length.

- (c) It shall be unlawful and punishable as a misdemeanor for an owner or other person to commit any act proscribed herein or to fail or refuse to perform any duty or obligation herein imposed.
- (d) Nothing in this article shall be construed so as to impose criminal liability upon the animal control officer or his/her assistants, or any agent, servant, or employee of the City of Bay Minette and/or the City of Bay Minette Police Department.

(Ord. No. 958, 11-16-09)

Sec. 4-43. - Rabid animals.

When any animal, where canine or otherwise, is apparently suffering from rabies, the animal control officer or his/her assistants, or any Officer of the Bay Minette Police Department may lawfully destroy such animal in a reasonable manner whenever such animal is apprehended, without the necessity of impounding such animal.

(Ord. No. 958, 11-16-09)

Sec. 4-44. - Remedies to be cumulative.

The remedies provided in this article are cumulative and shall in no way affect any other remedies provided by the law and shall be in addition to the criminal prosecution of the owner or keeper of any vicious animal.

(Ord. No. 958, 11-16-09)

Sec. 4-45. - Penalties—Fines.

The animal control officer is authorized to issue citations for any violations of this article. A violation of any of the provisions of this article by any person shall be punishable as a misdemeanor and any person convicted of a violation of the ordinance shall be subject to a fine of not less than \$25.00 nor more than \$500.00 and may be sentenced to jail for a period not to exceed six months.

(Ord. No. 958, 11-16-09)

Sec. 4-46. - Disposition of unwanted litters under the age of three months.

Unplanned and/or unwanted litters pose a threat to the public health, welfare and safety. Therefore, upon request by a citizen who lives within the city limits of Bay Minette, the animal control officer will come to the private property of that citizen and retrieve the unwanted litter. Disposition of

said litters shall occur without impoundment. There will be a fee associated with this service of \$5.00 per littermate. The animal control officer will not accept litters that are brought to him/her but must come and retrieve the litter from the private property of the citizen that requests this service. Subsequent requests for this service by the same owner - the fee per littermate will double the last fee charged.

(Ord. No. 958, 11-16-09)

Sec. 4-47. - Accepting animals for disposition.

The animal control officer will not accept animals for disposition unless the owner can show that he/she is a resident of the City of Bay Minette.

(Ord. No. 958, 11-16-09)

Sec. 4-48. - Feral cat initiative.

In no way should this ordinance hinder the implementation or the operation of the feral cat initiative undertaken by the Bay Minette Police Department under the direction of the Bay Minette Animal Control Officer. The feral cat initiative is a program designed to capture the "wild" (feral) offspring of domestic cats, to spay and neuter them, and to return them to the area where they were captured in hopes that they will control the "wild" cat population in their territory.

(Ord. No. 958, 11-16-09)

Secs. 4-49—4-60. - Reserved.

ARTICLE III. - REGISTRATION OF ANIMALS THAT STATE LAW REQUIRES TO BE INOCULATED FOR RABIES— DOGS AND CATS

Sec. 4-61. - Registration required.

No person shall own, keep, or harbor any animal over three months old within the city limits unless such animal is registered with the Bay Minette Police Department as herein provided. Each animal need only be registered once in their lifetime unless ownership changes.

(Ord. No. 958, 11-16-09)

Sec. 4-62. - Application.

Written application to register an animal shall be made to the Bay Minette Police Department and shall state the name, address, and phone number of the owner, and the name, breed, color, sex, approximate weight and distinguishing marks of each animal. Separate applications must be made for each animal. The applicant shall sign the application, certifying to its accuracy.

(Ord. No. 958, 11-16-09)

Sec. 4-63. - Registration records.

The registration fee shall be paid at the time of making the application. A receipt, a copy of the registration form with the animal's permanent registration number, and an ID tag with the permanent registration number imprinted on it shall be issued at that time. The Bay Minette Police Department shall maintain records of each animal along with the permanent registration number.

(Ord. No. 958, 11-16-09)

Sec. 4-64. - Registration fee.

The registration fee for each sterilized animal shall be ten dollars (\$10). The registration fee for an animal that has not been sterilized shall be twenty five dollars (\$25). Animal owners must show written proof of sterilization from a licensed veterinarian.

Sec. 4-65. - Proof of sterilization.

The owner of an animal may register said animal with the intent of sterilization for ten (\$10) dollars. The copy of the registration form will be issued but the tag will be withheld until the owner can show written proof of sterilization from a licensed veterinarian. If said animal is caught and taken by the animal control officer, his/her associates, or the Bay Minette Police Department within three (3) months of being registered and the owner can show proof of said animal being registered there will be no fine for not wearing a registration tag.

Exception: The owner of a show animal, field trial animal, or agility trial animal that can show written proof of participation in at least three (3) sanctioned shows or trials in a given year shall be required to pay only the ten dollar (\$10) registration fee even though the animal has not been sterilized. The "owner" must show participation in shows with this breed. Said animal may not have participated in any of these named events to date.

Exception: Animals that cannot be sterilized due to medical complications need pay only a ten dollar (\$10) registration fee. Proof of said medical complications from a licensed veterinarian must be presented at the time of registration

(Ord. No. 958, 11-16-09)

Sec. 4-66. - Lost registration tag.

If the copy of the registration form or the registration tag is lost or destroyed, a duplicate of either may be obtained from the magistrate for a fee of five dollars (\$5).

(Ord. No. 958, 11-16-09)

Sec. 4-67. - Tags worn on collar

Tags must be permanently attached to the animals collar. Owners of animals that are not wearing a registration tag when caught and taken by the animal control officer, his/her assistants, or the Bay Minette Police Department are subject to a fine even though the animal is registered.

(Ord. No. 958, 11-16-09)

Sec. 4-68. - Ownership changes.

If the ownership of an animal changes, said animal must be registered once again under the new owner's name. The fee for the new registration is the same as outlined in section "E".

(Ord. No. 958, 11-16-09)

Sec. 4-69. - Fine.

The fine for not registering an animal or for an animal not wearing their ID tag shall be twenty five dollars (\$25) for the first offense. Each subsequent offense shall be double the fine for the previous offense.

(Ord. No. 958, 11-16-09)

Sec. 4-70. - Falsify registration tag.

It shall be unlawful and a misdemeanor for anyone to falsify a registration tag. Anyone who places a registration tag on an animal without first registering it with the Bay Minette Police

Department shall be subject to a fine of not less than \$250 and not more than \$500 and may be sentenced to jail for a period not to exceed six months.

(Ord. No. 958, 11-16-09)

Sec. 4-71. - Move registration tag from one animal to another.

It shall be unlawful and a misdemeanor for anyone to place a registration tag from the collar of one animal onto the collar of another animal. Anyone who moves a registration tag from one animal to another shall be subject to a fine of not less than \$250 and not more than \$500 and may be sentenced to jail for a period not to exceed six months.

(Ord. No. 958, 11-16-09)

Sec. 4-72. - Registration requirements.

In order to register an animal with the city of Bay Minette, owners must be nineteen (19) years old or older. There can be only one animal owner per household. All animals in a household must be registered under the same name.

(Ord. No. 958, 11-16-09)

Ves
Caged

ORDINANCE NO. 115-2001

**AN ORDINANCE REGULATING THE KEEPING OF ANIMALS WITHIN
THE CORPORATE LIMITS OF THE CITY OF SPANISH FORT, ALABAMA**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
SPANISH FORT, ALABAMA, AS FOLLOWS:**

SECTION 1. Office of Animal Control Officer Created.

(a) There is hereby created within the City of Spanish Fort, Alabama, the position of Animal Control Officer. The Animal Control Officer shall be appointed by the City Council of the City of Spanish Fort, and the Chief of Police or any member of the Spanish Fort Police Department may be appointed as Animal Control Officer, in addition to their other duties. The Animal Control Officer shall supervise the enforcement of this Ordinance, and any additional enforcement officers appointed by the City Council shall hereafter be known as Animal Control Officers. Any officer of the Spanish Fort Police Department shall have authority to enforce the provisions of this Ordinance.

(b) It shall be unlawful for any person to knowingly and willfully oppose or resist the Animal Control Officer or any other enforcement officers in executing or attempting to execute any lawful process or in the discharge of any regular duty, or in any way to interfere with, hinder or prevent any such officer from discharging his or her duty.

SECTION 2. Definitions.

For the purpose of this Ordinance, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

(a) CITY OF SPANISH FORT ANIMAL SHELTER OR CITY ANIMAL SHELTER. The place designated or used by the City of Spanish Fort for the place of confinement of animals held under the authority of this Ordinance, which may include, but is not limited to, any county animal shelter, any animal shelter maintained by another municipality or any privately operated animal shelter or veterinarian clinic.

(b) ANIMAL CONTROL OFFICER. All enforcement officers assigned by the City of Spanish Fort to enforce this Ordinance.

(c) ATLARGE. Any animal, other than a domestic house cat, shall be "at large" when it is off the property of its owner or person in charge of such animal and not carried by said person kept in an effective enclosure or controlled by such

upon the premises of its owner or a person in charge of the animal. A dog which is off the premises of its owner or a person in charge of the animal and more than 30 feet from the actual location of its handler shall not be considered in the immediate presence of and under voice control of said handler.

(d) BITTEN. Shall mean seized with the teeth or jaws, such that the skin of the person or thing seized has been nipped or gripped or has been wounded or pierced and there has been probable contact of saliva with the break or abrasion of the skin as determined by a licensed physician.

(e) DOG. Shall mean and include all members of the domestic canine family.

★ (f) DOMESTICATED ANIMALS. Any such animals that are accustomed to live in or about the habitation of humans, including, but not limited to, cows, fowl, horses, sheep, goats, swine, livestock or any other animal kept as a pet or otherwise.

(g) CAT. Shall mean the domestic house cat.

(h) STRAY ANIMAL. Any animal running at large, the owner or person in charge of which is unknown.

(i) WILD ANIMAL. Any animal of a species that in their natural life or habitat are wild, dangerous or ferocious and, though they may be trained and domesticated by the owner, will remain dangerous to the public at large.

SECTION 3. Collar and Tag Requirement.

Every dog over three months of age kept within the corporate limits of the City of Spanish Fort shall at all times wear a collar to which shall be attached an identification tag identifying the owner's name, address and telephone number where the owner may be contacted.

SECTION 4. Seizure of Dogs Running at Large.

(a) It shall be unlawful for the owner or any other person having charge or control of a dog to allow it to be or run at large within the City. It shall be the duty of the Animal Control Officer when so notified, or whenever the Animal Control Officer observes any dog running at large, to immediately cause such dog to be seized and confined in the City Animal Shelter and to make a reasonable effort to notify the owner if the dog has a tag identifying the name, address and telephone number of the owner. Any dog found unlawfully to be at large within the City is hereby declared a nuisance and shall be seized and confined by the Animal Control Officer and cared for in a humane manner for a period of not less than seven (7) days 48

(c) Immediately upon confinement of dogs, the Animal Control Officer shall make reasonable effort to ascertain the identity of and notify the owner or person in charge of such dogs of their confinement and of the conditions under which they may regain possession of such animal.

SECTION 5. Keeping of Vicious Dogs.

(a) VICIOUS OR DANGEROUS DOG DEFINED. Any dog which bites, scratches, fiercely attacks or attempts to bite, scratch or fiercely attack any person or other animal, or which chases or runs after any person or vehicle in which or on which a person is riding, shall be deemed to be vicious or dangerous.

(b) CONFINEMENT REQUIRED. It shall be unlawful for the owner or other person in charge thereof to keep a vicious dog in the City, unless such dog is securely confined, bound or adequately leashed in such a manner as to prevent such dog from biting or attacking a person or other animal.

(c) ENCLOSURES FOR VICIOUS DOGS-POSTING OF PREMISES. Whenever a vicious dog is permitted to run at large within a wall, fence or other enclosure, it shall be the duty of the owner or person in charge of such dog to give public notice or warning that such dog is at large within such enclosure by conspicuously posting a written or printed notice at every unlocked entrance to such enclosure.

(d) AUTHORITY OF ANIMAL CONTROL OFFICER WHEN ENCLOSURE DEEMED INADEQUATE. Whenever a vicious dog is not properly and securely confined, the Animal Control Officer may order confinement of the dog until the owner or other person in charge of such dog provides an enclosure which, in the opinion of the Animal Control Officer, is adequate. Until an enclosure is provided which the Animal Control Officer deems adequate, the Animal Control Officer may order confinement of such dog with such person or organization as the Animal Control Officer shall determine. The cost of feeding and caring for the dog shall be paid by the owner. If the owner of such dog fails to provide an enclosure which the Animal Control Officer deems to be adequate within thirty days, such dog may be disposed of by extermination or as otherwise directed by the Animal Control Officer.

(e) REPORTING OF VICIOUS DOGS BY SWORN STATEMENT, PROCEDURE UPON FIRST INDICATION OF VICIOUSNESS. When any person claims that a dog is vicious, he or she shall make a sworn statement before an officer authorized to administer oaths in the City, and the sworn statement shall set forth the reasons for believing the dog to be vicious. The sworn statement shall be delivered to the Animal Control Officer. Upon receipt of such sworn statement, the Animal Control Officer shall immediately make an investigation. If, in the Animal Control Officer's opinion, the dog is vicious, and if he or she further finds that the incident reported is the first incident or indication of viciousness on the part of the dog the

(f) PROCEDURE UPON PRIOR INDICATION OF VICIOUSNESS BUT NO PRIOR ACTION TAKEN BY ANIMAL CONTROL OFFICER. If upon receipt of the sworn statement provided in the preceding section the Animal Control Officer determines that the dog is vicious, and if he or she further finds that the dog has on previous occasions given evidence of its viciousness, but that no prior order has been made by him or her in reference to such dog, the Animal Control Officer may, in his or her judgment, either order the dog confined as provided in the preceding section, or he or she may file a judicial proceeding before the municipal court or the court authorized to hear municipal cases to determine whether or not such dog should be exterminated.

(g) PROCEDURE WHEN THERE HAS BEEN PRIOR INDICATION OF VICIOUSNESS AND ANIMAL CONTROL OFFICER HAS ACTED. If upon receipt of the sworn statement provided in Section 5, the Animal Control Officer shall find such dog to be vicious, and if he or she further finds that he or she had, prior to the time of the receipt of such sworn statement, ordered the dog to be confined, the Animal Control Officer shall order such dog confined for three days, and at the end of such time shall have the dog exterminated, unless the owner appeals to the municipal court or the court authorized to hear municipal cases, in which case the matter shall be determined by the judge.

(h) APPEAL OF FINDING OF VICIOUSNESS BY ANIMAL CONTROL OFFICER. In the event the Animal Control Officer determines that a dog is vicious or dangerous and orders the dog to be confined, the owner or other person in charge of such dog may appeal the finding and order to the municipal court or the court authorized to hear municipal cases by filing a notice of appeal with the court clerk and the City Clerk within 5 days of the date of the order. The owner shall be responsible for all costs of the appeal and expenses of confinement during the pendency of the appeal or otherwise.

(i) REMEDIES OF DIVISION TO BE CUMULATIVE. The remedies provided in this division are cumulative and shall in no way affect any other remedies provided by law and shall be in addition to the criminal prosecution of the owner or keeper of any vicious dog.

SECTION 6. Animals Running at Large-Prohibited.

It shall be unlawful for the owner or any other person having charge or control of any animal other than a dog or cat, including, but not limited to, livestock, domesticated animals or any other animal kept by said person, to allow said animal to be or run at large within the City.

SECTION 7. Noisy Animals.

(b) It shall be unlawful and a nuisance for any person to keep on any tract, lot or premises within the City any animal or group of animals whether the same is housed in a corral, kennel, building or other structure(s) under such circumstances that the sounds or noises emitted by said animals are of such volume and nature as unreasonably to interfere with or disturb the peace, quiet, comfort and repose of persons of ordinary sensibilities in the reasonable use and enjoyment of any adjacent property used for residential purposes.

(c) Any owner or person in charge violating this Section shall be guilty of maintaining a nuisance. Provided, however, that no prosecution shall be commenced and no arrest made pursuant to this Section, except upon affidavit made before and warrant issued by a Magistrate.

SECTION 8. Right of Entry.

The Animal Control Officer of the City of Spanish Fort shall have the right to enter upon any property, except a private dwelling house, for the purpose of capturing any animal in violation of the provisions of this Ordinance subject to state law.

SECTION 9. Procedure for Redemption.

The owner of any animal may, within seven (7) days after the animal is impounded, redeem the animal by paying to the City of Spanish Fort Animal Shelter the sum of twenty-five (\$25.00) dollars for the impounding and the actual cost incurred by the City of Spanish Fort Animal Shelter, but not less than ten (\$10.00) dollars per day, for the keep of said animal, plus any other fees charged by the shelter. In the case of a dog or cat, evidence must be presented that said dog or cat has been inoculated against rabies prior to release.

SECTION 10. Disposition of Unredeemed Dogs or Cats.

(a) In the event any impounded animal is not redeemed within seven (7) days after the same is impounded, the Animal Control Officer may, at such Officer's discretion, place said animal in a home or adopt the animal out to a third party for expenses incurred, turn said animal over to the Humane Society for adoption or destroy said animal in a humane manner.

(b) After a dog or cat has been confined for the period of time as provided in this Section, and if the owner or person entitled to possession fails to make application for the release of such animal as herein provided, or fails to pay the charges as provided this Ordinance, or fails to pay for the proper inoculation for rabies, or if such satisfactory evidence as required by this Ordinance is not provided, then such animal is hereby declared a nuisance and a danger to the health, safety and welfare of the City and the Animal Control Officer shall cause such animal to be

and kill such animal, if in attempting to capture the same or in otherwise keeping the same, it shall become an immediate hazard to his or her safety or the safety of persons or animals in the immediate vicinity.

(d) Any confined animal that is injured or diseased will, as an act of mercy, be humanely destroyed immediately if it is determined by the Animal Control Officer or a veterinarian that such destruction is necessary to prevent unnecessary suffering, to prevent the spread of disease or because the animal is incurable. A written finding to this effect shall be signed by those inspecting the animal and such written document shall be retained by the City for a period of one (1) year.

(e) The Animal Control Officer when required to dispose of animals shall do so by such process as is recognized by veterinary science as being a humane manner in which to destroy animals.

(f) Wild or non-domesticated animals, when circumstances demand, may be destroyed by the Animal Control Officer or at his or her direction for public safety, to prevent the spread of disease and as an act of mercy. Such authority shall come from the Chief of Police for animal control personnel to carry out the provisions of this Section.

SECTION 11. Rabies Vaccination Required - Penalty.

(a) It shall be unlawful for any owner or person in charge to keep any dog or cat more than three (3) months of age within the City which has not been vaccinated against rabies within the preceding twelve (12) months.

(b) Any owner or person in charge in violation thereof shall be subject to a penalty not to exceed an amount equal to twice the State-approved charge for inoculation, to be imposed by the Animal Control Officer or his authorized representative, in addition to the fee prescribed for the inoculation.

(c) In order to be sufficient under this Ordinance, the vaccination of a dog or cat shall be accomplished by a licensed veterinarian.

(d) The serially numbered rabies tag at the time of inoculation shall at all times be attached to a collar or harness worn by the dog for which the tag is issued. However, said tag need not be attached during supervised obedience training classes or animal shows.

SECTION 12. Confinement of Dogs or Cats in Heat.

Every female dog or cat in heat shall be kept confined by the owner or person in charge. At any time that a female dog or cat in heat is found to be causing a disturbance of cats and dogs on adjoining premises it shall be the duty of the owner or

whether or not said dog is upon or away from his or her premises. It shall be unlawful for the owner or person in charge of any dog to fail to keep said animal under effective restraint or control. Proof that a dog was not properly restrained or controlled while 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 control or restraint shall not be a defense; however, competent evidence that said failure was occasioned by an unforeseeable and independent act of a third person shall shift the burden on the City to prove otherwise.

(b) Cats - It shall be unlawful for the owner or any person having custody or control of any cat known to habitually cause destruction or damage to the property of another to allow said cat to run at large within the City. Provided, however, that no prosecution shall be commenced and no arrest made pursuant to paragraph (b) of this Section except upon affidavit made before and warrant issued by a Magistrate.

SECTION 14. Stray Dogs May be Taken Up.

Any person in the City finding any dog running at large about his premises or residence, or the residence of which he or she in charge, may have such animal confined by the Animal Control Officer as an at large animal or stray.

SECTION 15. Humane Traps.

(a) The Animal Control Officer is hereby authorized, in order to apprehend animals in violation of this Ordinance, to use traps designed humanely to capture said animals by placing the same upon any public property of the City, upon the right of way of any public street or highway or upon the private property of any person granting permission therefor.

(b) It shall be the duty of the Animal Control Officer to check such traps daily and remove captured animals therefrom to the City Animal Shelter where they shall be disposed of as otherwise provided herein.

(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 Animal Control Officer in setting or servicing any such trap.

(d) Any owner or person in charge of any dog captured in a humane trap which is off the premises of the owner or person in charge thereof shall be prima facie presumed to have allowed, suffered or permitted such animal to be or to run at large. At any time a dog is captured by use of such trap, and the owner or person in charge is known or becomes known to the Animal Control Officer, such owner or person in charge shall be given a citation to appear in court.

weather, or cruelly drives or rides or allows to be ridden or overdriven when unfit for labor; and (c) any person who having the charge or custody of any animal known to him or her to require medical treatment or care in order to prevent unjustifiable physical pain, suffering, or death, who having such knowledge fails to provide proper treatment and care, or in the alternative, to cause said animal to be humanely disposed of; and (d) any person who unlawfully or maliciously kills, disables, disfigures or injures any animal, without good excuse, shall be guilty of a misdemeanor.

SECTION 17. Duty of Owner to Remove Deposited Feces.

It shall be the duty of the owner or person in charge of any dog or cat which has been allowed by that person to be at large to remove and dispose of any feces deposited by the animal upon any residential lot of another occupied for human habitation, or upon any right-of-way adjacent thereto, upon demand from the owner or occupant thereof, or upon demand of the Animal Control Officer.

SECTION 18. Owner's Duty to Remove Scattered Garbage.

It shall be the duty of the owner or person in charge of any dog or cat which has been allowed or suffered by that person to run at large to pick up and remove to a secure authorized container any garbage or refuse which the animal has caused to be overturned, spilled or scattered upon any residential lot occupied for human habitation, or upon any right-of-way adjacent thereto, upon demand from the owner or occupant thereof, or upon demand of the Animal Control Officer, and it shall be unlawful for any such person to fail or refuse to do so; provided, however, that no prosecution shall be commenced and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a Magistrate.

SECTION 19. Citations.

When any animal is found by the Animal Control Officer to be in violation of any provision of this Ordinance, and the person or persons responsible become known to the Animal Control Officer, he may issue a citation to the owner or person in charge for said violation directing him to appear in court at a time and date stated therein to answer to charges of violations of this Ordinance, which said charges shall be stated in said citation.

SECTION 20. Disposition of Fees.

All monies collected as provided for in this Ordinance shall be turned over and delivered forthwith to the City Clerk.

SECTION 21. Minimum Penalties.

<u>Description of Offense</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
Allowing a dog to run at large	\$ 15.00	\$ 25.00	\$ 50.00
Allowing a dog to be kept without a proper identification tag affixed	\$ 10.00	\$ 20.00	\$ 30.00
Not properly confining a female dog or cat in heat	\$ 25.00	\$ 50.00	\$100.00
Cruelty to animals Confinement	\$200.00	\$500.00	10days
Allowing an animal known or presumed to be vicious to be at large	\$100.00	\$200.00	\$500.00

SECTION 22. Animals Suspected of Having Rabies Declared Nuisances; Impoundment of Same.

Any animal suspected of infection with rabies is hereby declared to be a public nuisance and a danger to the health and safety of the community. The Animal Control Officer may take up and confine any such animal.

SECTION 23. Severability Clause.

If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 24. Repealer Clause.

Any ordinance heretofore adopted by the City Council of the City of Spanish Fort, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION 25. Effective Date.

This Ordinance shall become effective upon its adoption.

ATTEST:

Mary Lynn Williams
City Clerk

No

Chapter 3 - ANIMALS AND FOWL^[1]

Footnotes:

--- (1) ---

Cross reference— Removal of dead animals, § 10-50.

State Law reference— Authority, Code of Ala. 1975, §§ 3-5-14, 3-7-13, 11-47-110.

ARTICLE I. - IN GENERAL

Sec. 3-1. - Bird sanctuary—City designated.

The entire area embraced within the corporate limits of the city is hereby designated as a "bird sanctuary."

(Ord. No. 281, § 1, 3-16-81)

Sec. 3-2. - Same—Harming of birds.

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 within the bird sanctuary; provided, however, that if Starlings, pigeons, or other birds found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the council, the council may make arrangements to abate the nuisance in such manner as it deems advisable.

(Ord. No. 281, § 2, 3-16-81)

Sec. 3-3. - Animals going on property of another.

It is unlawful for any owner or custodian of a dog or of a domesticated animal to allow such dog or domesticated animal to enter upon the property of another, unless accompanied by the owner of the dog or domesticated animal, or some custodian being charged with the care of the dog or domesticated animal, and should any dog or domesticated animal be found on the property of another, on complaint made by the person on whose property the dog or domesticated animal is found, the owner of such dog or domesticated animal may be punished as provided in section 1-8. As used in this section 3-3, the terms "dog" and "domesticated animal" shall have the meanings ascribed to them in section 3-22, and these meanings exclude cats.

(Ord. No. 219, § 3, 5-19-75; Ord. No. 16-2010, § 1, 4-18-16)

Sec. 3-4. - Chickens.

The owning, harboring, keeping, or maintaining on any premises in the corporate limits of the city of any number of chickens shall be considered as a commercial enterprise, and shall be deemed a nuisance per se, and in violation of this Code if kept or maintained within three hundred (300) feet of any dwelling house other than that of the owner or person in control of such chickens.

(Ord. No. 127, § 1, 7-16-62)

Sec. 3-5. - Identification and inoculation tag on dogs at large—Required.

Each dog, male or female, of any age, which leaves the property of its owner or custodian by going upon the public streets or ways, or upon the property of others, must bear a collar or harness showing the name and address of the owner and containing a tag or other evidence of inoculation for rabies as issued in the current year by the department of the state charged with such responsibility.

(Ord. No. 219, § 1, 5-19-75)

State Law reference— Inoculation, Code of Ala. 1975, § 3-7-1 et seq.

Sec. 3-6. - Same—Impounding; punishment of offenders.

Any dog of any age or sex found upon any property other than that of its owner or custodian, including, but not limited to, public streets or ways of the city, which animal does not have a collar or harness containing the name and address of the owner and an official current inoculation tag or device as referred to in section 3-5, such dog shall be considered as a stray animal and may be picked

up by any person, and all obligations for the care, maintenance or humane disposition of such animal will be considered as done and accomplished on delivery of such animal to a person licensed in veterinary medicine. In addition to the above, the owner of such dog, if known, may be punished as provided in section 1-8 for allowing such dog to be off of the property of the owner or custodian without proof of current inoculation and name and address of owner being on a collar or harness worn by the dog.

(Ord. No. 219, § 1, 5-19-75)

Sec. 3-7. - Dog causing injury or fear—On streets.

It shall be unlawful for any owner or custodian of a dog of any age or sex to allow or permit such dog to cause injury or fear of injury to any person on the public streets, ways, parks or grounds of the city, and should such dog cause injury or fear of injury, on complaint of such person injured or put in fear, the owner of such animal may be punished as provided in section 1-8.

(Ord. No. 219, §§ 4, 5, 5-19-75)

State Law reference— Liability of owners of biting dogs, Code of Ala. 1975, §§ 3-1-2, 3-6-1; liability of owners of vicious animals, Code of Ala. 1975, § 3-1-3.

Sec. 3-8. - Same—On another's property; property damage.

It shall be unlawful for any owner or custodian of any dog of any age or sex to permit such dog to cause damage to the property of any other person or injury or fear of injury to any person when such dog is off of the premises of the owner or custodian and on the property of another, and should such dog cause damage to property or cause injury or fear of injury to any person when such dog is on the property of another not its owner or custodian, on complaint of such person caused damage or injury, or put in fear, the owner of such animal may be punished as provided in section 1-8.

(Ord. No. 219, § 5, 5-19-75)

Sec. 3-9. - Removal of canine fecal matter.

(a) Definitions. That the following terms will have the following definitions in the context of this section:

Dog: Any type or species of domesticated animal in the canine family.

Owner: Any person or persons, firm, association or corporation owning, keeping or harboring a

dog, or any person having custody, possession, or control of a dog at any particular time, or, in the case of a person under the age of eighteen (18), the person's parent or legal guardian. A dog shall be deemed to be harbored if it has been fed or sheltered for three (3) or more consecutive days.

Private property of another: Real property owned by any person or entity other than the owner or responsible party of a particular dog.

Public property: All parks, recreation areas, playing fields, school grounds, sidewalks, easements, rights-of-way, and the traveled portion of public streets and roads owned or available for use by the public at large.

- (b) Removal of feces required. If any dog shall defecate upon public property or upon private property of another, the owner shall immediately remove or cause to be removed all feces of said dog. If such feces is not so removed, then the owner of said dog shall be deemed to be in violation of this section.
- (c) Exceptions. The provisions of this section shall not apply to a guide dog accompanying a blind person.
- (d) Penalties. Violation of this section shall be punishable by a citation to appear in court. Failure to appear at assigned court hearing may result in issuance of an arrest warrant. Violators of this section shall be fined up to twenty-five dollars (\$25.00) for the first violation, fifty dollars (\$50.00) for the second violation, and one hundred dollars (\$100.00) for each subsequent violation.

(Ord. No. 1151-10, §§ 1—4, 12-20-10)

Sec. 3-10. - Public nuisance animals prohibited.

It shall be unlawful for any owner or custodian of any animal to permit or allow such animal to constitute a public nuisance by habitually making loud or disturbing noises including, but not limited to, barking, yelping, whining, howling or other utterances causing annoyance or discomfort to persons with ordinary sensibilities in close proximity to the premises where the animal is kept. Whenever any person shall complain to the city concerning an alleged public nuisance animal, the city shall dispatch an animal control officer or city police officer to the location of the alleged nuisance animal to investigate. The owner's or custodian's failure to prevent such public nuisance shall constitute a violation of this section and, once cited, shall subject the owner or keeper of the animal to the penalties provided for in section 1-8 of the Foley Code of Ordinances.

(Ord. No. 1164-11, § 1, 4-18-11)

Secs. 3-11—3-20. - Reserved.

ARTICLE II. - REGULATION OF KEEPING OF DOGS, CATS, AND DOMESTICATED ANIMALS

Sec. 3-21. - Foley police officers to enforce article.

It shall be unlawful for any person to knowingly or willingly oppose or resist any police officer in executing or attempting to execute any lawful process or in the discharge of any regular duty, or in any way to interfere with, hinder or prevent any such officer from discharging his/her duty.

(Ord. No. 1143-10, § I, 9-20-10)

Sec. 3-22. - Definitions.

For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section unless taken specific exception to elsewhere in the article.

At large. Any animal which is not upon the property of its owner or person-in-charge and not carried by such person or kept in an effective enclosure or under control by means of a restraining device to prevent its free movement so as to prevent said animal from freely charging or attacking a person or animal or to prevent the animal from roaming the city unattended with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities.

Bitten. Seized with teeth or jaws, such that the skin of the person or thing seized has been nipped or gripped or has been wounded or pierced and there has been possible contact or saliva with the break or abrasion of the skin as determined by a licensed physician.

Cat. Shall mean and include all members of the feline family.

Dog. Shall mean and include all members of the domestic canine family.

Dogs presumed to be vicious. Any dog which is known by owner or person in charge to habitually chase moving vehicles or charge persons on the public streets and other public ways shall be presumed to be vicious, whether or not such dog has actually bitten or attacked a person or other animal.

Domesticated animal. Shall mean any animal used as a pet that is not a cat or a dog including, but not limited to, rabbits, squirrels, raccoons, pot-bellied pigs, birds, snakes, or reptiles.

Person in charge. Any person who is in charge of, responsible for or keeps any animal and all of the responsible adult members of the household in which an animal is kept, allowed, or suffered to remain.

Stray animal. Any animal running at large, the owner or person in charge of which is unknown.

Vicious dog. A dog meeting any one (1) or more of the following definitions:

- (a) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings, domestic animals, dogs or cats;
- (b) Any dog which, without provocation, has attacked or bitten a human being, domestic animal, cat or dog;
- (c) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
- (d) Any dog that has, without provocation, approached a person in a terrorizing manner in an apparent attitude of attack.

The term "vicious" shall not apply to dogs used by law enforcement officials for legitimate law enforcement purposes or to dogs located at and in the care of licensed kennels, humane society shelters, animal control facilities, or veterinarians.

(Ord. No. 1143-10, § II, 9-20-10; Ord. No. 15-1010, § 1, 5-21-15; Ord. No. 16-2010, § 2, 4-18-16)

Sec. 3-23. - Identification and inoculation tag on dogs and cats required.

The owner or person in charge of every dog and/or cat, male or female, in the city which is more than three (3) months of age shall ensure that the animal bears a collar or harness showing name and address of the owner and containing a tag or other evidence of inoculation for rabies as issued in the current year by the department of state charged with such responsibility.

(Ord. No. 1143-10, § III, 9-20-10)

Sec. 3-24. - Dogs at large; registration of vicious dogs; insurance.

- (a) General prohibition. No owner or person in charge of any dog shall permit or allow the dog to be at large at any time within the City of Foley with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities.
- (b) Owner liability. If the owner of any dog carelessly manages said dog or permits or allows said animal to be at large, and another person or entity suffers personal injury, property damage, or

other injury, such dog owner shall be liable for the damages proximately caused by the dog.

- (c) Registration of vicious dog. The owner or keeper of a vicious dog within the city limits of Foley shall annually register such animal with the Foley Police Department. The registration application shall contain the following information:
- (1) Name of owner or keeper;
 - (2) Address and phone number of the owner or keeper;
 - (3) Breed, age, sex, color of animal;
 - (4) Any other identifying marks of the animal;
 - (5) Location where the animal is to be kept if not at the address of the owner;
 - (6) Proof of vaccination for rabies within the preceding twelve (12) months;
 - (7) Two (2) identification color photographs of the animal clearly showing the color, any markings and approximate size of the animal;
 - (8) Any other information the city may require.

The tag and certificate of registration or license shall be of such form and design and shall contain such information as the city shall prescribe and shall be issued to the owner or keeper upon payment of registration fee. The registration fee shall be five hundred dollars (\$500.00).

The owner or person in charge shall, at all times, keep the tag affixed to said dog. It shall be unlawful for any owner or person in charge of an animal to fail to comply fully with all of the requirements of this section.

No replacement tag shall be issued unless the dog has been inoculated for rabies within twelve (12) months of the date of issuance of the duplicate tag.

- (d) Insurance. All owners or keepers of a vicious dog, or dog presumed to be vicious, shall provide proof of liability insurance in a single incident amount of at least one hundred thousand dollars (\$100,000.00), specifically covering any damage or injury which may result from the ownership, keeping or maintenance of such animal. The policy shall contain a provision requiring the city to be named as an additional insured for the sole purpose of being notified by the insurer of any cancellation, termination or expiration of the liability insurance policy.
- (e) Promoting animal fighting. It shall be unlawful for any person to promote, permit, stage, hold, engage in, conduct, carry on or attend any game, exhibition, contest, fight or combat involving one (1) or more animals or involving humans and animals. It shall be unlawful for any person to house, control or raise animal(s) for the purpose of animal fighting as prohibited in this section.

(Ord. No. 1143-10, § IV, 9-20-10; Ord. No. 15-1010, § 1, 5-21-15)

Sec. 3-25. - Seizure of dogs at large.

- (a) Police officer's duty/procedure for seizure of dogs at large. It shall be the duty of every police officer in the city, upon discovering a dog at large within the city, to immediately seize the dog and confine the animal and to make a reasonable effort to notify the owner with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities. Any dog found unlawfully to be at large within the city is hereby declared a nuisance and shall be seized and confined and cared for in a humane manner for a period of not less than seven (7) days.
- (b) Return of dogs to owner permitted. In addition to, or in lieu of, confining a dog found unlawfully at large, when the owner or person in charge of said dog is known, the police officer may return the dog to the owner or person in charge and may issue a citation for violation of this article.
- (c) Abatement of nuisance; enforcement. Any owner or person-in-charge violating this section shall be guilty of maintaining a nuisance. However, that no prosecution shall be commenced and no arrest made pursuant to this section, except upon affidavit made before, and warrant issued by a magistrate. Any police officer may take steps immediately to cure the situation to cause the nuisance to be abated, either through issuance of a citation, or impounding the animal if the owner, agent or person in charge cannot be found at the time of the disturbance.
- (d) Humane destruction of nuisance animals. After a dog has been confined for the period of time as otherwise provided in this article and if the owner or person entitled to possession fails to make application for release of such dog as herein provided, or fails to pay the fine(s) as provided in this article, or fails to pay the proper inoculation for rabies, or if such satisfactory evidence as required by ordinance is not provided, then such dog is hereby declared a nuisance and a danger to the health, safety and welfare of the city; and the authorized police officer shall cause such dog to be humanely destroyed as herein provided; however, any dog under two (2) weeks old or whose eyes have not opened since birth may be humanely disposed of upon being impounded where it has been found in violation of this article.
- (e) Humane destruction of diseased animals; acts of mercy. Any confined dog that is injured or diseased, shall, as an act of mercy, be humanely destroyed immediately after inspection by a veterinarian, or by a police officer if it is determined that such destruction is necessary to prevent unnecessary suffering, to prevent the spread of disease or because the animal is incurable. A written agreement to this effect shall be signed by those inspecting the animal and such agreement shall be retained for a period of one (1) year.
- (f) Manner of disposal. A police officer, when required to dispose of dogs, shall do so by such process as is recognized by veterinary science as being a humane manner in which to destroy said dogs.
- (g) Disposal of nondomesticated animals. Nondomesticated animals may be destroyed by police

officers or by their direction, for public safety, to prevent the spread of disease and acts of mercy.

- (h) Investigation of vicious dogs or dogs presumed to be vicious.
 - (1) When any person claims that a dog is vicious or presumed to be vicious, he or she shall make a police report setting forth the name of the animal's owner, the location where the animal is being kept in the city, and the reason he or she believes the animal to be vicious.
 - (2) The police report will be delivered to a designated police officer who will complete a vicious dog investigation. Police officers are authorized to initiate a vicious dog investigation in cases where a bite or serious injury to any person has been reported or when the officer has other reason to believe a dog may be vicious.
 - (3) Police officers shall be permitted to enter the exterior property where a vicious dog or a dog presumed to be vicious is located for the purpose of investigating the allegation of viciousness. If the police officer has reason to believe an animal poses an immediate threat to the health, safety or welfare of the general public, the officer may seize the animal and impound the animal at the animal shelter pending completion of the investigation and hearing.
 - (4) If a law enforcement officer has investigated and determined that there exists probable cause or believes that a dog is potentially dangerous or vicious, the officer shall petition the municipal court of the City of Foley for a hearing for the purpose of determining whether or not the animal in question should be declared potentially dangerous or vicious. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition.
 - (5) In the event the vicious dog investigation leads the police to believe the allegation is unfounded, the officer shall advise the complainant of his/her findings and submit the results of the investigation to the municipal court and his/her supervisor.
- (i) Notice, hearing, and appeal.
 - (1) The owner or keeper of the dog shall be served with notice of the hearing and a copy of the petition, either personally or by first-class mail with return receipt requested. (The hearing shall be held no less than ten (10) days nor more than twenty (20) days after such notice is mailed to the owner or keeper of the animal and shall be open to the public.)
 - (2) At such hearing all interested persons shall have the opportunity to present evidence on the issue of the dog's dangerousness, habits, propensities, and any other matters relevant to the applicability or enforcement of this article. The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, photographs and video tapes, limit

the scope of discovery, and may shorten the time to produce records or witnesses. In the event that the animal in question has caused injury to any person, the municipal judge may impound the animal, at the owner's expense, pending the hearing and determination of the complaint. If the court finds that the animal is potentially dangerous or vicious, it may make any orders authorized by this chapter or other laws, including, but not limited to, the punishment provided in this Code.

- (3) After the hearing is conducted pursuant to this section, the owner or keeper of the dog shall be notified in writing of the determination and orders issued, either personally or by first-class mail postage prepaid by the municipal court. If a determination is made that the animal is potentially dangerous or vicious and no appeal is filed, the owner or keeper shall comply with the municipal court's order no later than fourteen (14) days following the rendering of the decision. If the owner or keeper of the animal contests the determination, he or she may, within fourteen (14) days of the municipal court's decision, appeal the decision to the circuit court of the county. All filing fees and costs shall be paid by the owner or keeper of the animal. The owner or keeper of the animal shall serve notice upon the city that the appeal has been filed.
 - (4) The circuit court may conduct a hearing de novo, and make its own determination as to potential danger and viciousness and make other orders authorized by this chapter, based upon the evidence presented. The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. If the court rules the dog to be potentially dangerous or vicious, compliance with the order shall begin within seven (7) days of the date of the court's determination.
- (j) Regulation of potentially dangerous or vicious dogs. If it is determined at the hearing that the dog is dangerous or vicious, the court may order the following:
- (1) Confinement:
 - a. Owners shall provide an exterior perimeter fence suitable to contain the animal in question. The perimeter fence shall be constructed of chain link or wooden privacy type and shall be at least four (4) feet in height.
 - b. Owners shall provide an additional fence or pen of adequate size inside the perimeter fence to humanely confine the vicious animal.
 1. This additional fence or pen may not share common fencing with the perimeter fence.
 2. This additional fence or pen must have secure sides and a secure top attached at all sides.

3. All sides of this additional fence or pen must be sunk at least two (2) feet into the ground or the fence or pen must be built over a concrete pad to prevent the animal from digging out.
 4. The additional fence or pen must have an inward-opening gate and shall be kept locked at all times by padlock or key lock except when tending to the care of the animal.
 5. The sides of this additional fence or pen shall be, from ground to top, at least twice the height of the animal, the height of the animal being measured from its shoulders.
 6. The additional fence or pen must not be positioned so that neighbors or passersby have access to the animal. It must be at least twenty (20) feet from any neighboring property line.
 7. Signs shall be posted on each side of this additional fence or pen stating that a vicious animal is enclosed and shall specify the type of animal enclosed, i.e., "Vicious Dog". Signs must be printed and legible from twenty (20) feet.
 8. The pen or structure must also provide the animal with protection from the elements and must, at all times, be kept in sanitary condition.
- c. Whenever the animal is outside either the additional fence or pen provided for this section:
1. It must be attended by the owner; and
 2. It must be restrained by a secure collar and leash or rope (no longer than eight (8) feet) with sufficient strength to prevent escape; and
 3. It must be securely muzzled so as to effectively prevent such animal from biting another animal or person.
- d. No vicious animal shall be allowed outside the owner's property except in emergencies or for normal or necessary medical or health related treatment.
- (2) Destruction. In the event it is determined at the hearing that the release of the animal would create a significant threat to the public health, safety and welfare, the animal may be humanely destroyed.
- (3) When it is determined that the dog is not dangerous or vicious. In the event it is determined at the hearing that the dog is not vicious, the court shall inform the complainant of said findings.
- (4) Minor owner or keeper. In the event that the owner or keeper of a potentially dangerous or vicious animal is a minor, the parent or guardian of such minor shall be liable for all injuries

and property damage sustained by any person or domestic animal caused by an unprovoked attack by such potentially dangerous or vicious animal.

- (5) Person in charge of dog. In addition to the actual owner, any person who regularly feeds or provides for a dog not owned by him or her or who otherwise cares for the dog shall also be subject to this Code as if they are the owner of the animal.
- (6) Procedure upon loss, sale or transfer of dog. The owner or keeper of a potentially dangerous or vicious dog shall notify the police department within twelve (12) hours if such potentially dangerous or vicious dog is loose or missing or if the potentially dangerous or vicious dog has attacked or wounded a human being or another animal. If the dog in question dies, or is sold, transferred, or permanently removed from the city or county where the owner or keeper resides, the owner of a potentially dangerous or vicious dog shall notify the police department of the changed condition and new location of the animal in writing within two (2) working days. If the owner or keeper of a potentially dangerous or vicious dog moves the dog to a different address within the city limits of the city, such owner or keeper shall notify the police department of such fact and the new address within twenty-four (24) hours.
- (7) Keeping potentially dangerous or vicious dogs. It is unlawful for any owner or keeper of a potentially dangerous or vicious dog to be in violation of any provision of this chapter or any order of any court as provided in this chapter. Any owner or keeper of a potentially dangerous or vicious dog found to be in violation of this section or any provision of this chapter shall be guilty of a misdemeanor and shall be punishable as provided in this Code.
- (8) Penalty for violation. The penalty for violation of any provision of this article shall be as follows:

1st Offense: Not less than three hundred dollars (\$300.00) or more than five hundred dollars (\$500.00) and/or not to exceed ninety (90) days in jail;

2nd and Subsequent Offenses: Five hundred dollars (\$500.00) and/or not to exceed six (6) months in jail.

In addition, the court shall assess the violator with any and all costs incurred for the impoundment and/or destruction of the dog.

- (9) Confinement generally. No owner, keeper or harbinger shall permit a vicious or potentially dangerous dog to be kept on a chain, rope or other type of leash outside of its fence and/or pen unless he or she is under physical control of a leash. Such dogs may not be leashed or chained to inanimate objects such as trees, posts, buildings, etc., outside of the perimeter fence and/or pen. No vicious or potentially dangerous dogs may be kept on a porch, patio or

in any other portion of the house or structure that would allow the dog to exit such building or structure on its own violation. In addition, no such animal may be kept in a house or structure where screen doors are the only obstacle preventing the dog from exiting the structure.

- (10) Computer registration of vicious dogs. All potentially dangerous or vicious dogs as defined herein, or as found to be vicious after a municipal court hearing, shall be registered on the city's website. Such registry shall include the address where the dog is located [and] identifying information on the dog, including two (2) identifying color photographs of the dog. The registry shall not contain the name or names of the owners or tenants at said location.

(Ord. No. 1143-10, § V, 9-20-10; Ord. No. 15-1010, § 1, 5-21-15)

Sec. 3-26. - Rabies vaccination required; penalty.

- (a) Rabies vaccination required. It shall be unlawful for any owner or person in charge of any premises where a dog or cat is kept to keep any dog or cat more than three (3) months of age, thereon, which has not been vaccinated against rabies within the preceding twelve (12) months.
- (b) Penalty. Any owner or person in charge in violation hereof shall be subject to a penalty not to exceed any amount equal to twice the state approved charge for inoculation, in addition to the fee prescribed for the inoculation.
- (c) Licensed veterinarian. In order to be sufficient under this article, the vaccination of any dog or cat shall be accomplished by a licensed veterinarian.
- (d) Tag attachment mandatory. The serially numbered rabies tag issued at the time of inoculation shall, at all times, be attached to a collar or harness worn by the dog or cat for which the tag is issued. It shall be unlawful for any owner or person in charge of any dog or cat not to keep attached to said dog or cat the tag evidencing the antirabies vaccine or inoculation as provided in this article. However, said tag need not be attached during supervised obedience training classes or animal shows.
- (e) Animal bite.
 - (1) Whenever the Foley Police Department receives information that any person has been bitten by an animal required to be inoculated against rabies, the animal will be placed in quarantine with a duly licensed veterinarian for observation of rabies for ten (10) consecutive days. The owner or person in charge shall be responsible for ensuring the quarantine is carried out immediately and at the owner's or person in charge's expense. A police report will be completed documenting the incident and confirmation of quarantine. It

shall be unlawful for any person having knowledge that any person has been bitten by any such animal to refuse to notify promptly the Foley Police Department.

- (2) It shall be unlawful for an owner or person in charge to refuse or fail to quarantine an animal.
- (3) Where biting occurs by a stray animal, a police officer may humanely destroy the animal immediately after the bite and submit the animal's head to the state health laboratory for rabies examination.
- (4) K-9 animals used by law enforcement shall be exempted from the quarantine period where such bite occurs in the line of duty and evidence of proper vaccination against rabies.

(Ord. No. 1143-10, § VI, 9-20-10)

Sec. 3-27. - Vaccination period.

The vaccination of any dog or cat against rabies shall be valid for a period of one (1) year.

(Ord. No. 1143-10, § VII, 9-20-10)

Sec. 3-28. - Confinement of dogs in heat.

Every female dog in heat shall be kept confined by the owner or person in charge. At any time a female dog in heat is found to be causing a disturbance of any dog on adjoining premises, it shall be the duty of the owner or person in charge of said dog to immediately confine said dog in a manner so as to avoid such disturbance.

(Ord. No. 1143-10, § VIII, 9-20-10; Ord. No. 16-2010, § 3, 4-18-16)

Sec. 3-29. - Duty of animal owners.

- (a) Duty to restrain dogs. It shall be the duty of every owner or person in charge of any dog to keep said animal under effective restraint, while the same is within the limits of the city, whether or not said dog is upon or away from his or her premises with the exceptions of City of Foley designated off-leash areas that allow such off-leash activities. It shall be unlawful for the owner or person in charge of any dog to fail to keep said animal under effective restraint. Proof that a dog was not properly restrained, whether 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; however, competent evidence that said failure was occasioned by an unforeseeable and independent act of a third person shall shift the burden on the city to prove otherwise.

- (b) Prevent damage to property. It shall be unlawful for the owner or person in charge of any dog or domesticated animal within the City of Foley known to said person to habitually cause destruction or damage to the property of another to allow said dog or domestic animal to run at large.
- (c) Condition of premises.
 - (1) The premises where any dog, cat or domesticated animal is kept shall be free from unsanitary droppings, refuse and odors, or in a condition to breed flies or infestation of fleas. Unsanitary or inhumane living conditions for these animals will not be allowed. A police officer shall notify the owner or person in charge of the premises to remove such matter or cure such condition within a reasonable time, to be fixed by the police. If such condition is not remedied within the time so fixed, a police officer shall issue a citation to the owner or person in charge. Animals found in cruel, abusive or neglectful situations may be promptly impounded if the life or health of the animal is at risk. If no contact is immediately made with the owner, then a written notice shall be left indicating the location of the animal and the reason for impoundment. The animal may remain impounded until the condition has been corrected.
 - (2) An owner or person in charge of any dog, cat or domesticated animal shall provide adequate shelter from the elements if the animal is kept outside. Adequate food and water shall be made available to the animal. Where any dog, cat or domesticated animal is humanely tied to a runner, such runner shall be a minimum of twenty (20) feet long and the animal shall have a minimum shade area or structure that allows the animal to escape direct sunlight.
 - (3) No dog, cat or domesticated animal shall be restrained with a restraining device less than six (6) feet long unless walking or training such animal.
 - (4) No dog, cat or domesticated animal shall be placed, confined or allowed 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 temperature, lack of food or water, or such other conditions as may reasonably be expected to cause suffering, disability or death.
- (d) Right of entry to inspect. A Foley Police Officer shall have the right, and it shall be the officer's duty, to enter upon any property, except a private dwelling house, for the purpose of inspecting any living condition for an animal for which there is a reasonable suspicion to believe that there exists thereupon a violation of this article.

(Ord. No. 1143-10, § IX, 9-20-10; Ord. No. 15-1010, § 1, 5-21-15; Ord. No. 16-2010, § 4, 4-18-16)

Sec. 3-30. - Stray dogs or domesticated animals may be taken up.

Any person in the city finding any dog or domesticated animal running at large about his own premises or residence, or the residence of which he is in charge, may have such animal confined by the police department as an at large animal or stray.

(Ord. No. 1143-10, § X, 9-20-10; Ord. No. 16-2010, § 5, 4-18-16)

Sec. 3-31. - Humane traps.

The police department is hereby authorized, in order to apprehend animals in violation of this article, which are otherwise difficult to apprehend, to use traps designed to humanely capture said animals by placing the same upon any public property of the city, upon the right-of-way of any public street or highway or upon the private property of any person granting permission therefore.

It shall be the duty of the police department to check such traps daily and remove captured animals therefrom so they shall be disposed or treated as otherwise provided herein.

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 police officer in setting or servicing any such trap.

(Ord. No. 1143-10, § XI, 9-20-10)

Sec. 3-32. - Cruelty to animals.

Any person who commits any of the acts enumerated hereafter shall be guilty of a misdemeanor:

- (1) Any person who overrides, over-drives, overloads, drives when overloaded, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates, or cruelly kills a dog, cat or domesticated animal, or causes or procures a dog, cat, or domesticated animal to be overridden, over-driven, overloaded, driven when overloaded, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated, abandoned or cruelly killed; or
- (2) Any person having the charge or custody of such animal, either as owner or otherwise, inflicts unnecessary cruelty upon same, or fails to provide the same with proper food, drink or protection from the weather, or cruelly drives or allows to be ridden or over-driven when unfit for labor; or
- (3) Any person who, having the charge or custody of any animal known to him to require medical treatment or care in order to prevent unjustifiable physical pain, suffering or death,

who having such knowledge fails to provide proper treatment and care, or in the alternative to cause said animal to be humanely disposed of; or

- (4) Any person who unlawfully or maliciously kills, disables, disfigures, or injures any animal, without good cause.

Exception: This section shall not be construed as prohibiting the dehorning or castration of cattle, sheep or goats.

(Ord. No. 1143-10, § XII, 9-20-10)

Sec. 3-33. - Animals suspected of having rabies declared nuisances; impoundment of same.

Any animal suspected of infection with rabies is hereby declared to be a public nuisance and a danger to the health and safety of the community. The police department may take up and confine any such animal.

(Ord. No. 1143-10, § XIII, 9-20-10)

Sec. 3-34. - Citation.

When any animal is found by the police department to be in violation of any provision of this article, and the person or persons responsible becomes known, a citation, unless otherwise stated, may be issued to the owner or person in charge for said violation directing the person to appear in municipal court at a time and date stated therein to answer to charges of violations of this article, which said charges shall be stated in said citation. It shall be unlawful and a misdemeanor for any person to fail to appear in city court at the time and place stated in a citation issued by a police officer.

(Ord. No. 1143-10, § XIV, 9-20-10)

Chapter 5 - ANIMALS AND FOWL^[1]

No

Footnotes:

--- (1) ---

Cross reference— Animals on beach, § 6-8; disposal of animal carcasses, § 14-37.

ARTICLE I. - IN GENERAL

Sec. 5-1. - Definitions.

For the purpose of this chapter, the following terms shall have the respective meanings ascribed to them:

At large: Off the premises of the owner and not under control by leash, cord, chain or otherwise.

City: Any reference to "city" in this article shall include the police jurisdiction thereof outside of the city, unless specifically stated otherwise.

Dog: All members of the domesticated canine (*Canis familiaris*) family.

Dog control officer: Any agent, officer or employee of the city who has been delegated to control dogs.

Inoculation against rabies: As defined in Code of Ala. 1975, § 3-7A-2 as amended.

Keeping: Shall include "confine," "harbor," and "allow to remain."

Owner: Any person owning, harboring or keeping a dog within the city or who has right to property in a dog or who has a dog in such person's care or acts as its custodian or who permits a dog to remain on or about the premises occupied by such person.

Vicious dog or dangerous animal: Any animal which bites, scratches, paws, or attempts to bite, scratch, or paw any person or other animal, or which chases or runs after any person or vehicle in which or on which a person is riding.

(Ord. No. 426, § 1, 9-28-87; Ord. No. 1598, § 1, 4-12-10)

Sec. 5-2. - Bird sanctuary.

- (a) The entire area embraced within the corporate limits of the city is hereby designated as a "Bird Sanctuary."

- (b) It shall be unlawful to trap, hunt, or shoot or attempt to trap or shoot or molest in any manner any bird or wild fowl, or to rob bird nests or wild fowl nests within the bird sanctuary; provided, however, that if starlings, pigeons, or other birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the council, the council may make arrangements to abate the nuisance in such manner as it may deem advisable.

(Ord. No. 22, § 1(g), 6-21-60; Ord. No. 405, §§ 1, 2, 3-23-87)

Sec. 5-3. - Feeding of alligators.

It shall be unlawful for any person to voluntarily feed alligators on or from public property in the city limits, or on or from private property therein where the public is invited.

(Ord. No. 237, § 1, 5-24-82)

Sec. 5-4. - Vicious or dangerous animals—Confining.

It shall be unlawful for any person who owns or keeps a vicious or dangerous animal to fail to keep the same securely confined or restricted so that it cannot harm any licensee or other lawful visitor coming upon the premises, or carelessly or negligently permit the same to go at large.

(Ord. No. 426, § 13, 9-28-87)

Sec. 5-5. - Same—Liability of owner.

A person owns or keeps a vicious animal in the city at such person's own risk. If a vicious animal escapes from its enclosure or injures any person outside the enclosure, the owner of such dog shall be liable, whether such escape or injury occurred with or without the negligence of the owner, the keeper or any other person.

(Ord. No. 426, § 14, 9-28-87)

State Law reference— Similar provisions, Code of Ala. 1975, § 3-1-3.

Secs. 5-6—5-19. - Reserved.

ARTICLE II. - DOGS; RABIES CONTROL

Sec. 5-20. - Dog control officer—Offices created; duties.

The city council shall provide one (1) or more dog control officers who shall be employees of the city and shall be paid such salary as the city council shall prescribe. The expenses of such dog control officers, in the performance of their duties, together with their salaries, shall be paid from the general fund of the city, as may be necessary. It shall be the duty of the dog control officers to enforce the provisions of this article; to attempt to rid the city of stray, homeless, unclaimed or diseased dogs; to coordinate the functions of the humane officer with the work of the county rabies inspector and the county health department; and to perform such other duties as may be prescribed by the city council.

(Ord. No. 426, § 2, 9-28-87)

Sec. 5-21. - Same—Right-of-entry; interference with officers.

- (a) The dog control officers of the city shall have the right and it shall be such officers' duty to enter upon any property, except a private dwelling house, for the purpose of capturing any dog at large, or capturing any dog upon written complaint that such dog has bitten a human being, or capturing any vicious dog, or capturing any rabid dog in compliance with this article.
- (b) No person shall hinder, molest or interfere with any such officer who is authorized or empowered to perform any duty under this article.

(Ord. No. 426, § 3, 9-28-87)

Sec. 5-22. - Same—Issuance of summons and arrest warrants.

The dog control officers and police officers are hereby authorized to issue a summons for violations of provisions of this article pertaining to dogs. A summons shall be delivered by the dog control officer or the police officer to any person reasonably believed to have violated any provision of this article, advising such person of the pertinent provision believed to have been violated, the facts of the violation believed to have occurred and advising such person to appear before the municipal judge at a date and time certain, and show cause, if any, why a warrant for such person's arrest should not be issued. Nothing herein shall be construed to prohibit the immediate issuance of a warrant for the arrest of any person when probable cause exists to believe that such person may have violated any provision of this article.

(Ord. No. 426, § 4, 9-28-87; Ord. No. 1598, § 2, 4-12-10)

Sec. 5-23. - Dogs at large—Prohibited.

It shall be unlawful for the owner of any dog to permit it to be at large within the city at any time.

(Ord. No. 426, § 5, 9-28-87)

State Law reference— Dogs at large, Code of Ala. 1975, § 3-1-5.

Sec. 5-24. - Same—Owner liable for damages.

If the owner of a dog carelessly manages the dog or permits it to go at large, and another person, without fault on such other person's part, suffers damage thereby, such owner shall be liable for such damages.

(Ord. No. 426, § 6, 9-28-87)

State Law reference— Liability of owner, Code of Ala. 1975, § 3-1-1 et seq.

Sec. 5-25. - Rabies inoculation required.

It shall be unlawful for any person to own, possess, keep or harbor a dog within the city without having such dog inoculated for rabies in accordance with the intervals specified in the vaccine's license, as required by Code of Ala. 1975, § 3-7A-2, as amended.

(Ord. No. 426, § 9, 9-28-87; Ord. No. 1598, § 3, 4-12-10)

Sec. 5-26. - Inoculation tag and leash control required.

It shall be unlawful for any owner to permit any dog to be upon a street, alley, sidewalk, thoroughfare or public place within the city unless controlled by a suitable leash, not more than eight (8) feet in length, and collar or harness, to which is attached a dog inoculation tag. Nothing in this section shall be construed as permitting any such dog, whether tagged or untagged, to become a nuisance or to run at large upon the premises of any person other than the owner of such dog.

(Ord. No. 426, § 10, 9-28-87)

Sec. 5-27. - Collar or harness required; tag to be attached; removal prohibited.

Every dog over the age of three (3) months shall wear a substantial, durable collar or harness, to which the inoculation tag provided for in this article shall be attached. It shall be unlawful to attach such tag by wire, rope or other inhumane means. No person shall remove the collar or harness or inoculation tag, from any dog without the consent of its owner.

(Ord. No. 426, § 11, 9-28-87)

Sec. 5-28. - Inoculation tag to be worn only by dog for which issued.

It shall be unlawful for any person to permit or allow any dog in such person's charge or control to wear a dog inoculation tag issued for a different dog.

(Ord. No. 426, § 12, 9-28-87)

Sec. 5-29. - Impounding—Generally.

It shall be the duty of every police officer of the city, upon discovering a dog at large within the city, to promptly notify a dog control officer. It shall be the duty of each dog control officer, when so notified or whenever the dog control officer observes any dog at large, to immediately seize such dog and confine it in the city pound, the county animal center, the holding facility of a duly licensed veterinarian, or any facility which the city may have or may hereafter construct; and to make a reasonable effort to notify the owner of such seizure and impoundment.

(Ord. No. 426, § 15, 9-28-87)

Sec. 5-30. - Same—Dogs on premises other than that of owner.

Any dog, whether wearing a tag or not, which is found upon the premises of a person other than the owner or keeper thereof, shall, at the request of the owner of such premises, be impounded by a dog control officer; and the owner of the dog, if known, shall be notified of such impoundment and if not known, shall be notified prior to the sale of the dog by posting notice of the sale as provided for in section 5-34. Such dog may be redeemed by the owner under the procedures for redemption as provided for in section 5-33.

(Ord. No. 426, § 23, 9-28-87)

Sec. 5-31. - Same—Procedure when rabies or biting is suspected.

If any impounded dog exhibits pronounced symptoms of rabies, or if the dog has bitten, scratched, or had physical contact with any person, the pound-keeper shall notify the county health department, and impound the dog in accordance with the instructions from such department, until it is determined whether or not the dog has rabies. If the dog has rabies, it is to be destroyed; if it has not bitten anyone and does not have rabies, the poundkeeper is to allow the dog to be redeemed as hereinafter set out, and if it is not redeemed, to destroy the dog humanely, or sell the dog as

hereinafter provided.

(Ord. No. 426, § 16, 9-28-87)

Sec. 5-32. - Same—Procedure when biting is reported.

It shall be unlawful for any person having knowledge that any person has been bitten by a dog to refuse to notify promptly one (1) or more of the officers mentioned in this section. It shall be unlawful for the owner of any such dog to refuse to or fail to comply with any recommendation made by the dog control officer or police department in any particular case. It shall be unlawful for the owner of any such dog to refuse to deliver possession of the dog to any of such officers demanding possession of the dog, and the police department or dog control officer shall have the right to go upon the premises of the owner of the dog and forcibly take the dog and place it with a licensed veterinarian. Whenever the police department or dog control officer shall receive information that any person has been bitten by a dog, the police department or dog control officer shall have the dog confined under the direct care, custody, control and supervision of a licensed veterinarian for a period of ten (10) days. The veterinarian under whose care a dog has been committed shall report the results of such veterinarian's observations of the dog to the person bitten or such person's physician or, in the case of a minor, to the parent or physician of the minor, or custodian or guardian of the minor. Any expenses incurred in the handling of any such dog, including the fees of the licensed veterinarian and board of the dog shall be borne by the owner, and the dog shall not be returned to the owner until the fees are paid to the veterinarian and the dog is determined not to be rabid by the veterinarian. Then the veterinarian shall deliver the dog to the pound and the dog shall not be delivered or returned to the owner until all fees and expenses have been collected. If the owner neglects, fails or refuses to pay such fees, the dog shall be disposed of as provided for in section 5-34.

(Ord. No. 426, § 17, 9-28-87)

Sec. 5-33. - Procedure for redemption.

Any such dog so impounded may be retaken or redeemed from the pound by the owner thereof within three (3) days from impoundment thereof, or at any time thereafter before sale or destruction thereof, by paying to the city clerk the sum of twenty-five dollars (\$25.00) for the impounding plus cost of keeping such dog in the pound, inoculation fees, and any other reasonable expense incurred. If such impounded dog has an inoculation tag, the owner must present a valid inoculation certificate at time of redemption of the dog.

(Ord. No. 426, § 18, 9-28-87; Ord. No. 607, § 1, 9-12-94)

Sec. 5-34. - Disposition of unredeemed dogs and diseased or injured dogs.

Every dog which has remained in a pound for three (3) days and which has not been redeemed or retaken by the owner within such time shall be sold by the poundkeeper, after having first given forty-eight (48) hours' written notice of the time of sale, with a description of the dog to be sold, by posting such notice upon a bulletin board at the city hall and the police station; provided, that no such dog shall be sold at a price of less than the cost of boarding, inoculation and other reasonable expense incurred. No such dog shall be released from a pound, either to the owner or to the purchaser, unless and until the same shall have been inoculated, as prescribed in this article. Dogs not redeemed or purchased as herein provided shall be destroyed by the poundkeeper or other authorized person in a humane manner. Diseased or injured dogs impounded under this article shall be destroyed by the poundkeeper in a humane manner without delay.

(Ord. No. 426, § 20, 9-28-87; Ord. No. 607, § 1, 9-12-94)

Sec. 5-35. - Illegally releasing dog.

It shall be unlawful for any person to release any dog from the city pound without first complying with the conditions set forth in this article.

(Ord. No. 426, § 19, 9-28-87)

Sec. 5-36. - Pets constituting nuisance.

The owner of any dog in the city, who allows the same to be a nuisance by barking, or making a loud or raucous noise, biting, frightening, threatening, or intimidating any person, or creating offensive odors or unsanitary conditions shall be deemed guilty of a misdemeanor. The police shall take action against any person charged with violation of this section by any party so annoyed.

(Ord. No. 426, § 21, 9-28-87)

Sec. 5-37. - Duty to remove animal feces.

- (a) No owner or custodian of any animal shall cause or allow such animal to defecate on any public property or upon any street, sidewalk, public way, beach, play area or common grounds jointly owned by the members of a homeowners or condominium association, or upon any private property other than that of the owner or custodian, unless such owner or custodian immediately

removes and disposes of all feces deposited by such animal by the following methods:

- (1) Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container; and
 - (2) Removal of such bag or other container to the property of the animal owner or custodian and disposal thereafter in a manner as otherwise may be permitted by law.
- (b) This section shall not be construed to authorize the owner or custodian of any animal to enter any private property without the prior permission of the owner of the property or to take or allow the animal into or in any public or beach area from which the animal is otherwise banned or excluded by state law or regulation or municipal ordinance.

(Ord. No. 426, § 7, 9-28-87; Ord. No. 775, § 1, 3-8-99)

Sec. 5-38. - Dog owner's duty to remove overturned or scattered garbage.

It shall be the duty of the owner or person in charge of any dog which has been allowed or suffered by such person to run at large, to pick up and remove to a secure authorized container any garbage or refuse which such animal has caused to be overturned, spilled, or scattered upon any residential lot occupied for human habitation, or upon any right-of-way adjacent thereto, upon demand from the owner or occupant thereof, or upon demand of a dog control officer or agent under the officer's supervision, and it shall be unlawful for any such person to fail or refuse to do so; provided, however, that no prosecution shall be commenced, and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a duly appointed municipal judge or magistrate of the city.

(Ord. No. 426, § 8, 9-28-87)

Sec. 5-39. - Inhumane treatment of dogs.

It shall be unlawful for the owner or keeper of any dog to keep same in any enclosure or to keep the same on any leash or other restraint unless the same shall be so arranged that such dog at all times shall have available water, shade and proper shelter; or to treat a dog in any other inhumane manner.

(Ord. No. 426, § 22, 9-28-87)

State Law reference— Malicious injury, Code of Ala. 1975, § 3-1-10; cruelty, § 13A-11-14.

Sec. 5-40. - Animals prohibited at public parks.

It shall be unlawful for any person to take or allow a dog, cat, horse, or other pet or domestic or domesticated animal or livestock into or in any of the following areas of the city or police jurisdiction: Wade Ward Nature Park, Meyer Park, Johnnie Sims Park, and the City Sportsplex except in those portions of Meyer Park and Johnnie Sims Park as determined and designated by proper signage by the chief of police.

(Ord. No. 775, § 2, 3-8-99; Ord. No. 785, § 1, 7-26-99; Ord. No. 862, § 1, 2-12-01; Ord. No. 1048, § 1, 2-25-02)

Secs. 5-41—5-49. - Reserved.

ARTICLE III. - PROHIBITED ANIMALS AND FOWL

Sec. 5-50. - Definitions.

- (a) As used in this article, the term "prohibited animal or fowl" shall mean any cattle, sheep, horse, mule, donkey, burro, pig, hog, goat, chicken, turkey, guinea fowl, camel, llama, ostrich, emu, captive wild animal, or any animals or fowl being raised for consumption; provided, however, that the term shall not include any animal or fowl, including, without limitation, ducks, geese, and other waterfowl, in which no person claims a property interest and which is neither physically nor structurally restricted from exiting the property on which the animal or fowl is found; and provided, further, that the term shall not include any animal or fowl of the kinds first enumerated above that is housed, kept, or raised entirely on property that is zoned for agricultural uses which expressly include the housing, keeping or raising of such animal or fowl or that is zoned for amusement/theme park uses and that is maintained as part of an amusement/theme park in conformity with a site plan approved by the city council as provided in the zoning ordinance of the city.
- (b) The term "captive wild animal" shall mean any mammal, reptile, or amphibian of a species predominantly found in the wild and commonly exhibited in captivity in zoos, regardless whether such animal was born in the wild and regardless whether such animal has been tamed, trained, or domesticated. The term "captive wild animal" shall include, without limitation, any lion, tiger, wolf, bear, elephant, monkey, ape, alligator, poisonous snake, and any non-poisonous snake not indigenous to the continental United States.

(Ord. No. 753, § 1, 5-28-98)

Sec. 5-51. - Prohibited activities.

It shall be unlawful and an offense against the city punishable as provided in section 1-8(a) of this Code for any person, corporation, or other entity to house, keep, or raise any prohibited animal or fowl within the corporate limits of the city. Each day during which such animal or fowl is housed, kept, or raised in violation of this article shall constitute and be punishable as a separate offense. Where more than one prohibited animal or fowl are being housed, kept, or raised in violation of this article, the housing, keeping, or raising of each prohibited animal or fowl shall constitute and be punishable as a separate offense.

(Ord. No. 753, § 1, 5-23-98)

Sec. 5-52. - Conditions precedent to enforcement action.

Before issuing a citation or making an arrest for violation of this article, a law enforcement officer shall confirm that the person, corporation, or other entity to be charged has been given oral or written notice of the violation by a law enforcement officer or other officer or employee of the city and has failed to cure the condition of violation within twenty-four (24) hours after the giving of such notice. The posting of a written notice of the violation at a conspicuous place on the premises where the prohibited animal or fowl is being housed, kept, or raised shall be sufficient notice for purposes of this section and shall be deemed given for the purposes of this section at the time of posting.

(Ord. No. 753, § 1, 5-28-98)

Chapter 10 - ANIMALS^[1]

Footnotes:

--- (1) ---

Cross reference— Environment, ch. 30; health and sanitation, ch. 38.

State Law reference— Animals generally, Code of Ala. 1975, § 3-1-1 et seq.

ARTICLE I. - IN GENERAL

Sec. 10-1. - Bird sanctuary.

- (a) City designated. The entire area embraced within the corporate limits of the city is hereby designated as a "bird sanctuary."
- (b) Prohibited acts. It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any wild bird or wild fowl, or to rob wild bird nests or wild fowl nests within the bird sanctuary; provided, however, that if wild starlings, pigeons or other wild birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property, in the opinion of the mayor, the mayor may make arrangements to abate the nuisance in such manner as deemed advisable.

(Ord. No. 94, §§ 1, 2, 3-24-1987)

Sec. 10-2. - Game and wildlife sanctuaries.

- (a) Municipal property designated. All real property owned or managed by the city is designated as municipal game and wildlife sanctuaries.
- (b) Prohibited acts. It shall be unlawful for any person to hunt, trap, pursue, catch or kill any wild bird or wild animal, including reptiles, on any land owned or managed by the city, unless that person or group of people is specifically invited by the city council to participate in a controlled hunt of only those species to be named in an official invitation by resolution of the city council.

(Ord. No. 184, 8-26-1991)

Secs. 10-3—10-20. - Reserved.

ARTICLE II. - DOGS AND OTHER ANIMALS^[2]

No

Footnotes:

--- (2) ---

Editor's note—Ord. No. 2011-1125, §§ 1, 2, adopted March 1, 2011, repealed former Art. II, §§ 10-21—10-87, and enacted a new Art. II as set out herein. Said ordinance also set out the new sections to be numbered as §§ 10-1—10-21, which are currently in existence, therefore these sections have been renumbered as §§ 10-21—10-41, at the editor's discretion. Former Art. II pertained to the same subject matter and derived from Ord. No. 75, § 1, adopted Sept. 30, 1986; Ord. No. 131, §§ 1—5 and 10—23, adopted Sept. 25, 1989; and Ord. No. 99-513, §§ 1—21, adopted June 15, 1999 and Ord. No. 2003-739, §§ 1—21, adopted March 18, 2003.

Sec. 10-21. - Title.

This article shall be known as the "Animal Control Ordinance" and shall apply within the city limits of the City of Orange Beach. This article is adopted pursuant to general police powers and Code of Ala. (1975) § 11-47-110.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-22. - Findings.

- (a) It is a public nuisance for animals to be allowed to run at large and it is in the best interest of the citizens of the city that animals be prohibited from running at large.
- (b) Potentially dangerous and vicious animals have become a serious and widespread threat to the safety and welfare of citizens. In recent years, they have assaulted without provocation and seriously injured individuals, and have killed other animals. Some of these attacks have occurred in public places.
- (c) The necessity for the regulation and control of public nuisance and vicious and potentially dangerous dogs and other animals is a city-wide problem, requiring city-wide regulation, and existing laws are inadequate to deal with the threat to public health and safety posed by nuisance, vicious and potentially dangerous dogs and other animals.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-23. - Administration and enforcement.

This article shall be administered and enforced by the chief of police and his designated animal control officers or police officers so assigned within the corporate limits of the city.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-24. - Definitions.

For the purpose of this article, words used in the present tense include the future, the singular

number includes the plural, and the plural the singular. Words and terms are defined as follows:

Animal means any live creature, both domestic and wild, except humans. "Animal" includes mammals, fowl, fish and reptiles.

Animal control officer means the chief of police or any agent, officer, or employee of the city who has been delegated by the chief of police to control animals.

Animal shelter means a facility operated by the city or humane society and designated or used as such by the city for the appropriate shelter and care of impounded animals.

At large means any animal which is off the property of its owner or person in charge and not carried by said person, kept in an effective closure, or under control or restraint by such person by means of a leash in such a way as to prevent its free movement, and so as to prevent said animal from freely charging or attacking persons or animals. The term "at large" shall not apply to dog parks, nor shall it apply to animals participating in pet-friendly special events permitted by the city.

Bitten means seized with teeth or jaws such that the skin of the person or thing seized has been nipped or gripped or has been wounded or pierced and there has been probable contact of saliva with the break or abrasion of the skin.

Caged means confinement in a container, which may include a vehicle but not its trunk, in such a way that the free movement of such animal is restrained and so as to prevent the animal caged from biting or attacking a person or animal.

Corral means any uncovered, enclosed parcel of land where large animals are kept.

Dog means all members of the domestic canine family.

Exotic animal means any live monkey, alligator, crocodiles, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snake, member of the feline species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*), or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals.

Inoculation against rabies or immunization against rabies means as defined in Code of Ala. (1975) § 3-7A-1(6).

Keep means to confine, harbor or allow to remain.

Owner/person in charge means any natural person or legal entity that has a right of property in

the animal, or who keeps or harbors the animal, or who cares for the animal, or acts as its custodian, or who permits the animal to remain on or about any premises occupied by him or her. Any person who feeds a dog or cat not owned by him or her or who otherwise cares for the animal or whose control the animal is under.

Vicious dog.

- (1) A dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals.
- (2) Any dog that has, without provocation, or will, without provocation, attack or bite a human being or domestic animal.
- (3) Any dog trained or used for the purpose of dog fighting, or especially trained as an attack, guard or fighting dog.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-25. - Exceptions.

This article shall not apply to dogs used by law enforcement officials for legitimate law enforcement purposes, nor dogs used as certified guide dogs for the blind, hearing dogs for the deaf nor aid dogs for the handicapped nor shall it apply to licensed kennels, humane society shelters, animal control facilities, or veterinarians.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-26. - Animals on gulf beaches:

- (a) It shall be unlawful for the owner of an animal to allow such animal, whether roaming at large or on a leash or otherwise under such owner's control, to go on the, gulf beaches below mean high tide or in the waters of the Gulf of Mexico, or on any public property within the City of Orange Beach, except for parking areas of public property within the City of Orange Beach. However, no owner shall be prohibited from permitting the animal within 50 feet of a building which the animal owner owns or leases.
- (b) The gulf beach areas as used in this section is defined as that area bordered by the waters of the Gulf of Mexico or any bays, inlets, or canals thereto and the mean high tide, except on the animal owner's property or with the permission of the landowner.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-27. - Dogs and other animals constituting a nuisance.

- (a) Any animal which continuously emits noise with no apparent reason or by making a loud and raucous noise at such hours or times so as to disturb the peace of others or by chasing, biting, threatening or intimidating any person, or by chasing vehicles, or creating foul and offensive odors or unsanitary conditions shall be deemed to be a nuisance. The owner of such animal shall, upon notification by the animal control officer or police officer, take whatever measures are recommended or necessary to abate such nuisance.
- (b) Failure to abate such nuisance upon request shall be deemed a violation under this article and the animal control officer or police officer is authorized to issue a violation citation to the owner of such animal and/or to impound the animal in accordance with this article.
- (c) 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.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-28. - Exotic animals.

It shall be unlawful for anyone to own, harbor, or permit any exotic animal without the written permission of the city council. Such permission shall be given only if it is demonstrated to the satisfaction of the city council that the animal will not constitute a threat to public health or safety. This section shall not apply to the temporary sheltering of animals by agents of recognized wildlife associations or zoos.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-29. - Inhumane treatment of animals; confinements and leashes generally.

- (a) It shall be unlawful for the owner or keeper of any animal to keep such animal in any enclosure or on any leash or other restraint unless the enclosure, leash or restraint shall be so arranged that such animal at all times shall have available water, shade and proper shelter. It shall be unlawful to treat an animal in any other inhumane manner.
- (b) It shall be unlawful for any person owning or controlling dogs or other animals to fasten, chain or tie any such animal for more than eight hours within any 24-hour period.
- (c) Any dogs confined within a fenced yard must have an adequate space for exercise based on a dimension of at least 150 square feet per dog.
- (d) Leashes. Nothing herein shall be construed to prohibit owners or others from walking dogs with

a hand held leash.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-30. - Duty of owner for removing feces of animal.

It shall be the duty of the owner or person in charge of any animal which has been allowed by such person to be off the premises of such person to remove and dispose of any feces deposited by such animal upon any residential lot of another occupied for human habitation, or upon any right-of-way adjacent thereto, upon demand from the owner or occupant thereof, or upon demand of an animal control officer or police officer.

It shall be unlawful for any owner or person in charge of any animal to fail or refuse to remove such feces.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-31. - Duty of owner remove overturned or scattered garbage.

It shall be the duty of the owner or person in charge of any animal which has been allowed or suffered by such person to run at large, to pick up and remove to a secure authorized container any garbage or refuse which such animal has caused to be overturned, spilled, or scattered upon any residential lot occupied for human habitation, or upon any right-of-way adjacent thereto, upon demand from the owner or occupant thereof, or upon demand of an animal control officer, and it shall be unlawful for any such person to fail or refuse to do so.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-32. - Dogs at large, duty to restrain.

It shall be unlawful for the owner of any dog to permit such animal to be at large within the city at any time.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-33. - Dogs unlawfully at large to be confined; adoption of dogs confined.

- (a) Any dog found unlawfully to be at large within the city is hereby declared to be a violation and shall be seized by a police officer and confined at the animal shelter and cared for in a humane manner for a period of not less than seven calendar days. In addition to, or in lieu of, confining a

dog found unlawfully at large, when the owner or person in charge of said dog is known to the police officer, the police officer may return the dog to the owner or person in charge and shall issue a warning or citation for violation of this chapter.

- (b) Immediately upon seizure of a dog the police officer shall make reasonable effort to ascertain the identity of and notify the owner or person in charge of such animal's seizure and of the condition under which they may regain possession of it.
- (c) Dogs may be held at the animal shelter until the expiration of the detention period if the animal has not been claimed by the owner or person in charge, and any unclaimed animal may be offered for adoption. The humane society, animal shelter, or its duly authorized agent, upon obtaining possession of each such dog, shall not release said animal to any person until the following requirements have been met;
 - (1) Dogs which appear to be three months of age or older shall have received a rabies inoculation;
 - (2) Male dogs which appear to be six months of age or older shall have been neutered;
 - (3) Female dogs which appear to be six months of age or older shall have been spayed;
 - (4) Male dogs which appear to be less than six months of age and female dogs which appear to be less than six months of age, be adopted with the proviso in the certificate of adoption requiring neutering or spaying at the proper age with the proviso being accepted and signed by the adopter.
- (d) Any dog that is maimed or diseased or, in the opinion of the humane society or animal shelter, is otherwise not suitable for adoption, shall not be put up for adoption. This paragraph, however, shall not be so construed as to preclude transfer of an injured, maimed, or diseased dog to a veterinarian agreeable to the humane society, animal rescue operation or animal shelter, with payment for subsequent veterinary services to be made by the humane society or animal shelter.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-34. - Inoculation; rabies; bites.

- (a) Every animal in the City of Orange Beach must be in compliance with the inoculation and other requirements set out in Code of Ala. (1975) § 3-7A-I(6).
- (b) If any impounded animal exhibits pronounced symptoms of rabies, or if the animal has bitten, scratched or had physical contact with any person, the animal control officer shall notify the county health department and impound the animal in accordance with the instructions from such department until it is determined whether or not the animal has rabies. If the animal has

rabies, it is to be humanely destroyed; if it has not bitten anyone and does not have rabies, the animal may be returned to its owner or if not claimed by the owner placed for adoption or humanely destroyed.

- (c) Every person having knowledge that any person has been bitten by an animal shall promptly notify the animal control officer.
- (d) Whenever the animal control officer shall receive information that any person has been bitten by an animal, the animal control officer shall have the animal confined under the direct care, custody, and control and supervision of a licensed veterinarian for a period of ten days and shall initiate a vicious animal investigation as set out herein. It shall be unlawful for the owner of any such dog to refuse to deliver possession of the dog to any such officer demanding possession of the dog.
- (e) The veterinarian under whose care any animal has been committed shall report the results of such veterinarian's observations of such animal to the person bitten or such person's physician or, in the case of a minor, to the parent or physician of the minor, or custodian or guardian of the minor. Any expenses incurred in the handling of any such animal, including the fees of the licensed veterinarian and the boarding of such animal, shall be borne by the owner, if known, provided that the animal has been determined not to be rabid and that all fees, fines, and expenses associated with the impoundment of such animal have been paid to the veterinarian and to the city. No such impounded animal shall be returned to the owner until all fees and expenses have been collected. If the owner of such animal is not known or the owner neglects, fails or refuses to pay such fees, the animal shall be humanely destroyed or placed for adoption.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-35. - Harboring.

- (a) No person shall keep any animal for the purpose of animal fighting, or train, torment, badger, bait or use any animal for the purpose of causing or encouraging said animal to attack human beings or domestic animals when not provoked.
- (b) No person shall sell, offer for sale, breed, buy or attempt to buy any vicious animal within the city.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-36. - Investigation of vicious dogs.

- (a) When any person claims that an animal is vicious, he or she shall make a sworn statement to the police department setting forth the name of the animal's owner, the location where the animal is

being kept in the city, and the reason he or she believes the animal to be vicious.

- (b) Animal control officers are authorized to and shall initiate a vicious animal investigation in cases where a bite or serious injury to any person has been reported or when the officer has other reason to believe a dog may be vicious. The owner or keeper of the animal must cooperate with the investigating authority.
- (c) Because vicious animals present an immediate danger to the public welfare, police officers and/or animal control officers shall be permitted to enter the exterior property where a vicious animal or animal alleged to be vicious is located for the purpose of investigating the allegation of viciousness. If the police officer and/or animal control officer has reason to believe an animal poses an immediate threat to the health, safety or welfare of the general public, the officer shall seize the animal and impound the animal at the city animal shelter or other appropriate shelter pending completion of the investigation and/or hearing.
- (d) If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or vicious, the animal control officer, the chief officer of the public pound or his or her immediate supervisor or the head of the local law enforcement agency, or his or her designee, shall file a complaint with the Municipal Court of the City of Orange Beach. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the animal control office or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the ordinance violation ticket.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-37. - Remedies.

If the court determines that the animal is dangerous or vicious, the court may order the following:

- (1) Confinement. Should confinement be ordered, the owner or keeper of the animal must provide suitable facilities for the animal, as detailed below, such facilities to be inspected and approved by the police department or animal control officer. Upon satisfactory inspection and approval of the facilities, the court will issue an order of release authorizing the animal to be released to the owner or keeper.
 - a. Owners shall provide an exterior perimeter fence suitable to contain an average animal of the same type. The perimeter fence shall be constructed of chain link or wooden privacy type and shall be at least four feet in height.
 - b. Owners shall provide an additional fence or pen of adequate size inside the perimeter

fence to humanely confine the vicious animal.

1. This additional fence or pen may not share common fencing with the perimeter fence.
 2. This additional fence or pen must have secure sides and a secure top attached to all sides.
 3. All four sides of this additional 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 animal from digging out.
 4. The additional fence or pen must have an inward-opening gate and shall be kept locked at all times by pad lock or key lock except when tending to the care of the animal.
 5. The sides of this additional fence or pen shall be from ground to top at least twice the height of the animal, the height of the animal being measured from its shoulders.
 6. The additional fence or pen must not be positioned so that neighbors or passersby have access to the animal. It must be no less than 20 feet from any neighboring property line and must be secured so that children cannot trespass; and
 7. Signs shall be posted on each side of this additional fence or pen stating that a vicious animal is enclosed and shall specify the type of animal enclosed, i.e., "Vicious Dog". Signs must be printed and legible from 20 feet.
 8. The pen or structure must also provide the animal with protection from the elements and must at all times be kept in sanitary condition.
 9. Or, the owner or keeper may remove the animal from the city.
- c. Whenever the animal is outside either the additional fence or pen provided for in this section:
1. It must be attended by the owner; and
 2. It must be restrained by a secure collar and leash or rope to (no longer than six feet) and of sufficient strength to prevent escape; and
 3. It must be securely muzzled so as to effectively prevent such animal from biting another animal or person.
- d. No vicious animal shall be allowed outside the owner's property except in emergencies or for normal or necessary medical or health related treatment.
- (2) Destruction of a vicious dog. In the event it is determined at the hearing that the release of the animal would create a significant threat to the public health, safety and welfare, the

animal may be humanely destroyed by the department of animal control.

- (3) Vaccination prior to release to owner. Prior to the release of any animal back to the custody of its owner or keeper, the owner or keeper must provide records showing the animal is current and up-to-date on all required vaccinations. If the owner or keeper does not produce those records to the satisfaction of the animal control officer or police department, the animal shall be vaccinated prior to its release, at the owner or keeper's sole expense.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-38. - Confinement generally.

No owner, keeper or harbinger of an animal shall permit a vicious or dangerous dog to be kept on a chain, rope or other type of leash outside of its fence and/or pen unless it is under physical control of a leash. Such dogs may not be leashed or chained to inanimate objects such as trees, posts, buildings, etc., outside of the perimeter fence and/or pen. No vicious or dangerous dog may be kept on a porch, patio or in any other portion of the house or structure that would allow the dog to exit such building or structure on its own volition. In addition, no such animal may be kept in a house or structure where screen doors are the only obstacle prevent the dog from exiting the structure.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-39. - Procedure upon loss, sale or transfer of animal.

The owner or keeper of a potentially dangerous or vicious animal shall notify the animal control officer or the police department immediately upon discovery that such potentially dangerous or vicious animal is loose or missing or that the potentially dangerous or vicious animal has attacked or wounded a human being or another animal. If the animal in question dies, or is sold, transferred, or permanently removed from the city, the owner of a potentially dangerous or vicious animal shall notify the animal control officer or the police department of the changed condition and new location of the animal in writing within two working days. If the owner or keeper of a potentially dangerous or vicious animal moves the animal to a different address within the city, such owner or keeper shall notify the animal control officer or the police department of such fact and provide the new address within 24 hours.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-40. - Computer registration of vicious dogs.

The police department shall maintain a registry of all dangerous or vicious dogs as defined herein or as found to be vicious after a municipal court hearing.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Sec. 10-41. - Penalty for violation.

Persons found guilty of violating this Code shall be punished in accordance with section 1-7 of the City's Code of Ordinances.

(Ord. No. 2011-1128, §§ 1, 2, 3-1-2011)

Secs. 10-42—10-100. - Reserved.

ARTICLE III. - WILD ANIMALS^[3]

Footnotes:

--- (3) ---

Editor's note—Ord. No. 2009-1098, §§ 1—3, adopted Nov. 3, 2009, amended Art. III in its entirety to read as herein set out. Former Art. III, §§ 10-101—10-103, pertained to similar subject matter, and derived from Ord. No. 2008-1069, §§ 1—3, 9-16-2008.

Sec. 10-101. - Findings.

- (a) The Code of Ordinances of the City of Orange Beach prohibits certain activities relating to the treatment of the city's wildlife community.
- (b) The city's wildlife community is adversely affected by feeding, specifically:
 - (1) Providing artificial food sources to wildlife causes overpopulation of the species, starvation and epidemics of disease;
 - (2) Wildlife have specialized diets and suffer from the introduction of artificial food sources;
 - (3) Feeding causes injuries and harmful interactions between wildlife species and human beings; and
 - (4) Feeding wildlife causes wildlife to lose their natural fear of human beings.
- (c) The city council of the City of Orange Beach has deemed it in the best interest of the public to add to those prohibited activities.

(Ord. No. 2009-1098, § 1, 11-3-2009)

Sec. 10-102. - Definitions.

- (a) Wild animals/wildlife means any live animals living in the wild state, including but not limited to, coyotes, raccoons, foxes, or any other warm-blooded animal, marine mammal, reptile and other amphibious animal found in the wild state.
- (b) Take means to harass, capture, collect, or kill, or attempt to harass, hunt, capture, collect or kill any wild animal. This includes, without limitation: the collection of dead animals or parts thereof; the restraint or detention of wild animals, no matter how temporary; tagging wild animals; the negligent or intentional operation of motor vehicles, aircraft or vessels, or the doing of any other negligent or intentional act which results in disturbing or molesting wild animals; and feeding or attempting to feed wild animals.
- (c) Harassment means any act of pursuit, torment, or annoyance which has the potential to injure a wild animal; any act of pursuit, torment or annoyance which has the potential to disturb a wild animal by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.
- (d) Feeding means the offering, giving, or attempting to give food or nonfood items to wild animals. It includes operating vessels or providing other platforms from which feeding is conducted or supported. It does not include the routine discard of bycatch during fishing operations or the routine discharge of waste or fish byproducts from fish processing plants or other platforms if the discharge is otherwise legal and is incidental to operation of the activity.

(Ord. No. 2009-1098, § 2, 11-3-2009)

Sec. 10-103. - Prohibited acts.

It shall be unlawful for any person to take, harass or feed any wild animal within the corporate limits and police jurisdiction of the City of Orange Beach. This provision shall not prohibit:

- (1) The feeding of fish;
- (2) Planting for the purpose of providing feeding plots, wildlife viewing areas or nuisance species control sites;
- (3) Extermination of nuisance species;
- (4) Killing of any venomous snake that poses a threat to personal or public safety.

(Ord. No. 2009-1098, § 3, 11-3-2009)

BUILDINGS & PROPERTY COMMITTEE MEETING

Monday, October 9, 2017, 5:15 p.m.

**City Hall, Jubilee Conference Room,
1705 Main Street, Daphne, AL 36526**

MEETING MINUTES

MEMBERS PRESENT: Councilman Joel Coleman; Councilman Doug Goodlin; Councilman Ron Scott; Councilman Pat Rudicell; Councilwoman Tommie Conaway; Councilman Robin LeJeune and Councilman Joe Davis

ALSO PRESENT: Mayor Dane Haygood, Patrick Dungan, City Attorney; Candace Antinarella, City Clerk; Kelli Kichler, Finance Director; Betsy Schneider, Operations Director; Suzanne Henson, Senior Accountant; BJ Eringman, Deputy Director Public Works; David McKelroy, Recreation Director; Margaret Thigpen, Civic Center; Richard Merchant, Building Official; Kara Wilbourn, Marketing Coordinator;

1) CALL MEETING TO ORDER / ROLL CALL

There being a quorum present Councilman Pat Rudicell called meeting to order at 5:33 pm.

2) PUBLIC PARTICIPATION

None

3) APPROVAL OF MINUTES: SEPTEMBER 11, 2017

Councilman Pat Rudicell noted there being no corrections to the September 11, 2017 minutes they stand approved as written.

4) CITY BOAT RAMP ACCESS PROJECTS REPORT: BJ ENRINGMAN

The boat ramps held up well in the storm.

5) SURPLUS PROPERTY: SUZANNE HENSON

Suzanne Henson gave the Surplus Property Report. No new surplus at this time.

6) BUILDING INSPECTION REPORT: RICHARD MERCHANT

Richard Merchant gave Building Inspection Report for August.

- Total Building Permits / 22
- New Home Permits / 20
- New Commercial Permits / 2

7) CIVIC CENTER & BAYFRONT PAVILION REPORT: MARGARET THIGPEN

Margaret Thigpen gave Civic Center & Bayfront Pavilion report for September 2017 with yearend totals. In a recent survey, Google and Trip Advisor are the two websites where most people hear about Daphne.

BJ Eringman discussed storm damage to Village Point Park and Bayfront. Mayor Haygood mentioned various damage around the city. Bayfront is a priority to repair stairs. Margaret thanked her staff for working with citizens during the storm.

8) RECREATION REPORT: DAVID MCKELROY

David McKelroy said Daphne East had their Fall Festival at Trione Park and it was a success.

Kara Wilbourn reported on the film crew who recently used the Nicholson Center was very pleased and it was one of the best facilities they have ever used.

Mayor Haygood had a discussion about pets in city facilities from employees and citizens. He recommended that we have a policy

9) LIBRARY REPORT: MARGARET THIGPEN

Margaret Thigpen gave the library report and stated the roof held up in the storm. The Porch Project Agreements are in progress.

10) VILLAGE POINT FOUNDATION REPORT: SELENA VAUGHN

No report.

11) BAYFRONT MASTER PLAN & IMPROVEMENT COMMITTEE REPORT: BJ ENRINGMAN

BJ Enringman noted we're awaiting an update.

13) OLD BUSINESS

CITY PARKS SIGNAGE SPECIFICATION

Councilman Ron Scott asked Kara Wilbourn for report. Kara Wilbourn is working with drawings and a local sign company to get new signs.

DAPHNE WELCOME CENTER

Mayor Dane Haygood reported the city is looking at opportunities for Daphne Welcome Center. Mayor reported the facility needs maintenance and he is exploring options.

DAPHNE CITY HALL FENCING

BJ Eringman reported we will be outsourcing the project and the plans have been drawn.

14) NEW BUSINESS

NICHOLSON CENTER

Discussion of improving the facility and the need for ADA compliance. Council and Mayor will tour the Nicholson Center and Welcome Center soon.

15) ANY OTHER BUILDINGS & PROPERTY BUSINESS

No further business discussed.

16) NEXT MEETING

Next meeting scheduled for Monday, November 13, 2017 at 5:15 p.m.

17) ADJOURN

Councilman Ron Scott adjourned meeting at 6:21 p.m. with no further business to discuss.
--

Public Safety Committee

Monday, October 9, 2017

Councilman Joe Davis
Councilman Ron Scott
Councilman Doug Goodlin
Councilman Robin LeJeune
Councilman Pat Rudicell
Councilwoman Tommie Conaway
Councilman Joel Coleman

Police Chief David Carpenter
Fire Chief James White
Public Works Director, BJ Eringman
Samantha Cooper - Secretary

Committee Members Attending:

Councilman Joe Davis, Councilman Ron Scott, Councilwoman Tommie Conaway, Councilman Doug Goodlin, Councilman Joel Coleman, Councilman Pat Rudicell, Councilman Robin LeJeune, Mayor Dane Haygood,, Public Works Assistant Director BJ Eringman, Captain Jud Beedy, Fire Chief James White, Fire Assistant Chief Joey Holasz

CALL TO ORDER

Councilman Joe Davis **convened** the meeting at 4:30 p.m.

PUBLIC PARTICIPATION – N/A

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Minutes from September 11, 2017 were approved as read.

POLICE DEPARTMENT

- A. New Business** – Captain Beedy presented the monthly stats as provided. Jud stated we made it through the Hurricane fine with little to no issues or damage.

He also brought up a miss-communication with Kelly in finance about the temporary part-time admin position (Tracy Bishop) and where she thought it was through the FY2017 (ending Oct. 1), when in actuality was supposed to be through December 31, 2017. The money is accounted for, just had to be moved around. A motion was moved by Councilman Scott and second by Councilman Goodlin for the transfer of money to pay for this position through December 31, 2017 to be forwarded to Finance. All in favor, unanimous.

Transfer of Wages and Payroll Taxes to Police Admin (142521 org) from Police Patrol (142524 org) for Temporary Part Time Admin Position:

Part Time Wages: 16 hours a week for 13 weeks at	
Wages: \$23.19 hour	4,823.52 Wages
Medicare (1.45%)	69.94 Payroll Taxes
Social Security (6.2%)	<u>299.06 Payroll Taxes</u>
Total Transfer	\$5,192.52

Captain Beedy spoke about our 2 vacant openings at the Police Department and that they still have yet to be filled, in addition to 3 openings due to upcoming retirements at the end of the year (Lieutenant Ric Yelding, Sergeant Glen Barr, Officer Ron Gibney). Councilman LeJuene asked if we've seen an increase in applicants since increasing the Officer pay for this Fiscal Year. Jud stated yes, there were 74 applicants and we hope to have all 5 positions filled by the end of January. He stated that our hiring list is good for a year and we hope to fill all open positions with this current

list. There are some new requirements by the State of Alabama, that anyone that does not have an Associate or 4-year college degree has to take what is equivalent to an ACT test, in order to get post certified as a police officer. The last three people that were just hired were the first from our department that have had to do this new requirement, and all three passed. Councilman Davis inquired about the 74 applicants that have applied for Police Officer and if they have any prior experience or are currently officers elsewhere. The three just recently hired did not have any prior police experience. Of the 74 applicants, 16 applicants have police experience and 8 of them are currently employed as police officers.

FIRE DEPARTMENT

A: New Business – Chief White presented the stats. He emphasized that the 3 fire calls they responded to were outside of the city – 2 in Spanish Fort and 1 in Fairhope. He also stated that they have 2 open fire positions, 1 through a resignation, and 1 for a new position.

Old Business – Chief Holasz gave an update on Fire Station 2. He stated that they've had very slow progression. They are still having water intrusion issues and aren't able to get an answer out of anyone in the last several weeks. The OAC meeting took place 2 weeks ago and a lot of the items on that punch-list were taken care of and a lot of issues resolved. There are electrical issues as well as the roof that still need to be taken care of. After several weeks of trying, they got a copy of the inspection report for the warranty. The outcome was not satisfactory and we are unable to pass the inspection for warranty right now. This has to do with many issues with roof. They are currently going back and forth between architect and the contractor, without really getting any answers. Councilman Davis inquired if they were to get answers and given a reasonable time to correct, when would this station be checked off and utilized 100%? Chief Holasz said that he doesn't feel with the way things have been going that it will not be ready to be used until the end of November, if they are lucky. He also stated that there has not been any work done in the past 2 ½ weeks.

Councilman Davis asked the Mayor if the Liquidated Damages clause is still in effect. Mayor Haygood stated that yes it is still in effect, but between the conversations that have happened between the former Public Works Director, the architect and the contractor; he doesn't have a strong comfort level of the acceptance of the "LD" situation. The contractor was put on notice at the end of August. Mayor Haygood stated there is a lot of finger pointing happening right now between the contractor and the architect, with new interruptions along with the scope of work has slightly changed. He feels like it is currently messy and everyone is pointing the finger at the other, and how real our acceptance of the liquidated damages is, remains to be unseen. How much of it is the architects' fault, the contractors' fault, or the third party's fault, we just don't know. Councilman Davis asked if these people aren't able to get this job done and finished, do we have something in place in order to get this job done; what our next step is. Public Works Director BJ Eringman stated the process to go about doing that would be by pulling the performance bond. It is a last case scenario and something that no one wants to have done. It would stop all work, the progress would have to be reassessed and inspected, and would delay the process for months and months before they could begin work with someone else. Mayor Haygood added that it is a good thing that the roof issues are presenting themselves right now so that they can be fixed and fixed correctly.

Councilman LeJuene inquired as to how much we have paid out so far. \$460,000 or the \$700,000 has currently been paid with around \$220,000 or so currently on hold and no further invoices are being paid until the problems are solved.

In retrospect, Mayor Haygood stated we may have been better off tearing the entire building down and starting fresh, but hind-site is 20-20. Councilman Scott agreed and added that in moving forward into looking at Fire Station 5, we need to document what went wrong. He stated that this needs to be taken as a learning lesson, addressing whether it be a low bidding issue or selection process, and some due-diligence on our end to make sure those that are hired are competent people

doing these jobs. Mayor Haygood agreed and stated there has been a lack of accountability between the architects, contractors and engineers.

OTHER BUSINESS –

Mayor Haygood brought up discussion about Fire Station 5 and some concerns he had. There are outstanding issues with the deed and a decision needs to be made. There was also a concern, which he believes has been resolved, about siting. Chief White sat down with BJ last week about the siting issues and they feel it is resolved. BJ added that it was a matter of the geometry of the property and how they wanted the floorplan. Chief White wants to have back access as well as front. BJ stated we just have to make sure we communicate well with the architect in how it is laid out due to an issue with the easement and water run-off. Mayor Haygood added that Chief White wants the building modeled after a fire station in Foley. He stated the building should be able to be sited 1 of 3 ways on that property with the notion of the easement as it has been presented. He stated if there is a problem, we want to talk about it and figure out how to make it work before we spend any further money. He continued that we've already appropriated and accepted the bid on architectural and engineering, but want to make sure all issues are resolved before moving forward with it. He stated the last issue, which isn't really an issue, is the low elevation of the site; it was decided to raise that elevation. BJ added that you can raise the site but water is still going to be an issue there. Mayor Haygood stated these three factors (deed, siting and low elevation) need to be brought together and a decision needs to be made; if this is the site that we want then we need to go ahead and get it going, if it's not and there are concerns then we need to make adjustments and begin to figure out a Plan B as we are losing time on this.

Councilman Scott asked what the deed issues are. Jay Ross (city attorney) stated the deed issues relate to the reversionary interest that the Bertolla Properties LLC family wishes to have. The current language is that as long as it is used for public purpose, not for jail facilities, housing of detainees or inmates, rehabilitation facilities, firing range, garbage facilities or fleet parking, then the city gets to have the property continuously. If it were to be used for some other purpose or it is not used at all, then after a 180 notice and we don't cure it, then it reverts back to them. Jay Ross stated that the Mayor has made some good points that he would prefer the reversionary interest not be there at all, if so has asked for it be extended and uplifted after a period of 25 or 50 years, so that sometime in the future if it is used for some different purpose by the City not consistent with the deed, we won't be restricted. Jay Ross stated he has been back and forth with their lawyer and is currently waiting on an answer of after a period of time (he suggested 25 years) the restrictions be lifted. He is unsure if this is something they will be willing to agree with or not. Mayor Haygood stated that what he is uncomfortable with is that it would revert back to the prior owners. So if we use public funds, and go and build a million dollar fire station and whether its 10 years from now or 30 years from now or 50 years from now, and the use of that property changes, there may be circumstances that dictate what might happen in the future, if for some reason that covenant is violated, it could go back into the hands of a private property owner and out of the hands of the City. He stated, our actions, or lack thereof, could result in us losing title to the property. Councilman Scott agreed to the same concerns regarding the reversionary clause and stated he felt it was a good idea to go back to them and state after 25 years, let us be relieved from the reversionary clause. Councilman LeJuene added that we need to consider a Plan B; as it is important to not only meet our current needs, but to also make sure we set up the city for the future when we are no longer here. Jay Ross added that he thinks that they interpret this as if you use this property for any purpose other than those listed, the reversionary clause will never come into effect. He stated they want to have some way to control that property so those factors don't occur in perpetuity, or for a very long time.

Mayor Haygood addressed the ALDOT letter that was included in the packet. He provided a letter of response from ALDOT to the committee that they are addressing the concerns that were posted in the 'anonymous' hand-written letter. Mayor Haygood asked that it be included in the packet so that the sender of the letter, or those with other concerns, can see that the concerns are being addressed. He stated he was going to post it on social media, in hopes to reach the party that submitted the first letter of concern. The letter came with no return address or any way of contacting the citizen who wrote the

letter.

Mayor Haygood wanted to update the committee on a letter that also came in from Ms. Miller, who lives in Historic Malbis, referencing a lot of the same concerns that Mr. Spriggs has previously stated. He forwarded this letter to ALDOT as well. They indicated over the next two weeks they are going to review the public comments that they've got from the public involvement hearing. He asked that they put together a timeline associated with the project. He was told that they've pushed this back a month from the letting. They are going to provide a more detailed timeline with the Mayor so he can communicate effectively with the public regarding this. Councilman Davis stated he has reached out to Ms. Miller, as she is in the district he represents, and has not had a response from her. He stated he will reach out again to her.

Councilman Rudicell brought up the on-going issue that has yet to be addressed of a new Police Station and a location for it. He stated it has been put on the back-burner over the last 6 months; it is a growing need and is something we need to seriously address and start to plan for, especially as we continue to grow to the East. Councilman Davis asked that Jud get with Chief and start to address this and come back with some ideas of a location to address the growing concerns of the East and where a good usable location would be for the growth of our Police Department in conjunction with the growth of the city.

Councilman Goodlin addressed the issue of the vacant overlook building that is deteriorating. He asked if there has been any further resolution in finding someone to come in and occupy this building. Mayor Haygood stated no, that one of the opportunities that they were hopeful in trying to get here has decided to locate in Fairhope. They had been in discussions in trying to bring in the University of Alabama with an entrepreneurial center. They were showed the building and given some plans, but just because they chose to go with something in Fairhope, they haven't closed the door on them having a mutually exclusive facility in Daphne as well, but it does change the timeline. He stated last Monday, Fairhope City Council approved \$50,000 to help supplement that initiative on some private property that was purposed. He stated this was one of the things we were working on something we were hopeful would materialize, but as of right now it hasn't, at least for the initial Eastern Shore launch.

Mayor Haygood gave on final update regarding a recent visit him and Captain Beedy took to Mobile earlier in the week. He stated it is in reference to the City of Mobile's Project Shield and how they are implementing their video camera use. He stated it as a great learning experience to see how they utilize this program and how they have set up video feeds throughout their city in connection with private business owners. He stated this was something he wanted to explore more in regards to getting to the next phase of utilizing this technology for the City of Daphne with developing an infrastructure for a camera system in monitoring the City, parks, and other areas, especially regarding the high amount of car break-ins in public places that are happening here.

ADJOURN

There being no further business to discuss, Councilman Scott made a motion to adjourn the meeting at 5:25 p.m. The next meeting will be Monday, November 13, 2017 at 4:30 p.m. at City Hall Council Chambers.

Respectfully submitted,

Daphne Public Safety Committee



Mayor Haygood created a poll.

Published by Dane Haygood · November 6 at 3:31pm ·

Should the City of Daphne continue to pursue creating a municipal school system by approving Phase II of a feasibility study for an Independent School System?

The cost for Phase II is \$30k. See my prior posts for a link to the Phase I study which outline the overall financial picture and costs for the City of Daphne to start and operate a school system comparable to how the Daphne Schools are operated today.

24% Yes, pursue Phase II

76% No, don't pursue Phase II

This poll has ended.

626 Votes

7,216 people reached

Boost Unavailable

**CITY OF DAPHNE, ALABAMA
RESOLUTION 2017-54**

**Authorize Pre-Application to the Alabama Department of Economic and Community Affairs
(ADECA) requesting grant assistance from the Recreational Trails Program (RTP) to construct a
Walking Trail at Village Point Preserve**

WHEREAS, the City of Daphne intends to submit a Pre-Application to the Alabama Department of Economic and Community Affairs (ADECA) requesting grant assistance from the Recreational Trails Program (RTP) to construct a walking trail at Village Point Preserve; and

WHEREAS, the grant funds requested cannot exceed \$100,000 and ADECA requires a 20% matching contribution from the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, as follows:

- 1) Authorizes the submission of a pre-application to ADECA; and
- 2) The City of Daphne will be requesting \$80,000 in FY 2018 RTP Funds if the grant is awarded; and
- 3) The Mayor and is hereby authorized to execute such application and any and all additional documents necessary to carry out the purpose of requesting funding consideration from ADECA on behalf of the City of Daphne.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 2017

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2017-83**

**ORDINANCE TO ANNEX PROPERTY CONTIGUOUS
TO THE CORPORATE LIMITS OF THE CITY OF DAPHNE**

**Southeast of Corte Road and County Road 13
Fred L. Corte**

WHEREAS, on the 24th day of July 2017, being the owner of all real property, hereinafter described, did file with the City Clerk a petition asking that the said tracts or parcels of land be annexed into and become part of the City of Daphne, Alabama; and

WHEREAS, said petition did contain the signatures of all owners of the described territory, and a map of said property showing its relationship to the corporate limits of the City of Daphne, Alabama; and

WHEREAS, after proper publication, a public hearing was held by the City Council on October 16, 2017 concerning the petition for annexation; and

WHEREAS, said petition has been presented to the Planning Commission of the City of Daphne at a regular scheduled meeting on August 24, 2017, and the Commission set forth a unanimous favorable recommendation for the City Council of the City of Daphne to consider said request for annexation of said property.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, AS FOLLOWS:

SECTION ONE: ANNEXATION

The City Council of the City of Daphne, Alabama finds that and declares as the legislative body of the City of Daphne, Alabama that it is in the best interest of the citizens of the City of Daphne, Alabama and the citizens of the affected area, to bring the territory described in Section Two of this Ordinance into the City of Daphne, Alabama, and it did further determine that all legal requirements for annexing said real property have been met pursuant to Sections 11-42-20 through 11-42-24, et seq., Code of Alabama, 1975; effective on publication as required by Section 11-42-21, Code of Alabama 1975, as amended.

SECTION TWO: ZONING

At the July 19, 2017 regularly scheduled City Council meeting Ordinance 2017-39 was adopted pre-zoning the said property as PUD, Planned Unit Development (Jubilee Farms).

SECTION THREE: DESCRIPTION OF TERRITORY

The boundary lines of the City of Daphne, Alabama, be, and the same are hereby altered or rearranged so as to include all the territory hereto before encompassed by the corporate limits of the City of Daphne, Alabama and in addition thereto the following described property, to-wit:

Legal Description for Annexation:

BEGINNING AT A 3/4" CRIMP TOP IRON PIPE AT THE "LOCALLY ACCEPTED" SOUTHEAST CORNER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA AND RUN THENCE SOUTH 89°49'02" WEST, ALONG THE SOUTH LINE OF SAID SECTION 26, A DISTANCE OF 2669.96 FEET TO A 1/2" CAPPED REBAR (CA-0604) AT THE SOUTHEAST CORNER OF LOT 28, DUNMORE, PHASE TWO, PART B, AS SHOWN BY MAP OR PLAT THEREOF, RECORDED AT SLIDE 2448-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN NORTH 00°11'14" EAST, ALONG THE EAST MARGIN OF SAID DUNMORE, PHASE TWO, PART B AND DUNMORE, PHASE TWO, PART A, AS SHOWN BY MAP

OR PLAT THEREOF, RECORDED AT SLIDE 2443-B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA AND A PROJECTION THEREOF, A DISTANCE OF 2671.05 FEET TO 1/2" CAPPED REBAR (CA-1109) AT THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 26; THENCE RUN SOUTH 89°34'24" WEST, ALONG THE SOUTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 26, A DISTANCE OF 2610.05 FEET TO 1/2" CAPPED REBAR (CA-1109) ON THE EAST RIGHT-OF-WAY OF ALABAMA HIGHWAY 181; THENCE RUN NORTH 00°10'51" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID ALABAMA HIGHWAY 181, A DISTANCE OF 400.02 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN NORTH 89°34'24" EAST, DEPARTING SAID RIGHT-OF-WAY, A DISTANCE OF 1402.13 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN NORTH 00°03'11" EAST, A DISTANCE OF 902.21 FEET TO A 1/2" CAPPED REBAR ON THE SOUTH RIGHT-OF-WAY OF AUSTIN ROAD; THENCE RUN NORTH 89°32'12" EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID AUSTIN ROAD, A DISTANCE OF 1256.80 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN NORTH 00°07'47" EAST, ALONG THE EAST RIGHT-OF-WAY OF SAID AUSTIN ROAD, A DISTANCE OF 30.14 FEET TO 1/2" CAPPED REBAR AT THE SOUTHWEST CORNER OF LOT 1 OF AUSTIN BRIDGES, UNIT 1, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2007-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA AND RUN THENCE NORTH 89°22'04" EAST, ALONG THE SOUTH MARGIN OF SAID AUSTIN BRIDGES, UNIT 1 AND THE SOUTH MARGIN AUSTIN BRIDGES, UNIT TWO, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2082-B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, A DISTANCE OF 1297.53 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE SOUTHEAST CORNER OF LOT 18 OF SAID AUSTIN BRIDGES, UNIT TWO; THENCE RUN SOUTH 00°46'05" WEST, A DISTANCE OF 670.61 FEET TO 1/2" REBAR; THENCE RUN NORTH 89°25'58" EAST, A DISTANCE OF 1069.01 FEET TO A 1/2" CAPPED REBAR AT THE NORTHWEST CORNER OF LOT 1 OF STEPHEN SPRINGS, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2346-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00°11'38" WEST, A DISTANCE OF 300.66 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE SOUTHWEST CORNER OF LOT 2 OF SAID STEPHEN SPRINGS; THENCE RUN NORTH 89°25'14" EAST, A DISTANCE OF 214.96 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE SOUTHEAST CORNER OF LOT 2 OF SAID STEPHEN SPRINGS;

THENCE RUN SOUTH 00°11'25" WEST, A DISTANCE OF 80.01 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE NORTHEAST CORNER OF LOT 3 OF SAID STEPHEN SPRINGS; THENCE RUN SOUTH 89°25'14" WEST, A DISTANCE OF 214.96 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE NORTHWEST CORNER OF LOT 3 OF SAID STEPHEN SPRINGS; THENCE RUN SOUTH 00°11'38" WEST, A DISTANCE OF 145.04 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE NORTHWEST CORNER OF LOT 4 OF SAID STEPHEN SPRINGS; THENCE RUN SOUTH 00°11'38" WEST, A DISTANCE OF 145.05 FEET TO A 1/2" CAPPED REBAR (CA-604) AT THE SOUTHWEST CORNER OF LOT 4 OF SAID STEPHEN SPRINGS; THENCE RUN NORTH 89°58'37" WEST, ALONG AND WITH A BARBWIRE FENCE, A DISTANCE OF 412.34 FEET TO 1-1/2" OPEN END IRON PIPE; THENCE RUN SOUTH 00°02'13" WEST, ALONG AND WITH A BARBWIRE FENCE, A DISTANCE OF 672.87 FEET TO 1/2" CAPPED REBAR (CA-1109) AT THE SOUTHWEST CORNER OF TRACT 1 IN SECTION 26 OF HIGHLAND FARMS, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT MISCELLANEOUS BOOK 1, PAGE 290-291, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89°47'09" EAST, A DISTANCE OF 1923.05 FEET TO 1/2" REBAR; THENCE RUN NORTH 00°06'23" EAST, A DISTANCE OF 630.48 FEET TO A 1/2" REBAR ON THE SOUTH RIGHT-OF-WAY OF BALDWIN COUNTY HIGHWAY 54; THENCE RUN SOUTH 89°34'12" EAST, ALONG THE SOUTH RIGHT-OF-WAY OF SAID BALDWIN COUNTY HIGHWAY 54, A DISTANCE OF 60.00 FEET TO 1/2" CAPPED REBAR (CA-1109) AT THE NORTHWEST CORNER OF LOT 1 OF AVALON PHASE 1A, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2104-A, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA;

THENCE RUN SOUTH 00°06'23" WEST, A DISTANCE OF 630.25 FEET TO A 1/2" CAPPED REBAR ON THE WEST MARGIN OF LOT 73 OF AVALON, PHASE 3, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2220-D AND 2220-E, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00°23'53" WEST, ALONG THE WEST MARGIN OF SAID AVALON, PHASE 3, A DISTANCE OF 663.68 FEET TO A 1/2" CAPPED REBAR; THENCE RUN SOUTH 88°35'21" EAST, A DISTANCE OF 7.96 FEET TO 5/8" CAPPED REBAR (CA-728); THENCE RUN SOUTH 00°08'21" WEST, CONTINUING ALONG THE WEST MARGIN OF SAID AVALON, PHASE 3, A DISTANCE OF 669.18 FEET TO A 1/2" CAPPED REBAR (CA-1109);

THENCE RUN NORTH 89°48'48" WEST, A DISTANCE OF 6.93 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN SOUTH 00°03'05" WEST, A DISTANCE OF 668.95 FEET TO A 1/2" CAPPED REBAR (CA-1109); THENCE RUN SOUTH 00°11'04" WEST, ALONG AND WITH A BARBWIRE FENCE, A DISTANCE OF 1319.23 FEET TO A 1/2" CAPPED REBAR (CA-1109) AT A FENCE CORNER AT THE "LOCALLY ACCEPTED" SOUTHEAST CORNER OF TRACT 4 IN SECTION 36 OF SAID HIGHLAND FARMS; THENCE RUN SOUTH 89°55'01" WEST, A DISTANCE OF 1326.54 FEET TO A 2" OPEN END PIPE AT A FENCE CORNER AT THE "LOCALLY ACCEPTED" SOUTHWEST CORNER OF TRACT 4 IN SECTION 36 OF SAID HIGHLAND FARMS; THENCE RUN NORTH 00°55'29" EAST, A DISTANCE OF 1323.76 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 361.55 ACRES, MORE OR LESS, AND LIES IN SECTIONS 25, 26 AND 36, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

SECTION FOUR: MAP OF PROPERTY

The property hereby annexed into the City of Daphne, Alabama is set forth and described in Exhibit "A" and attached hereto a map of the property (*Exhibit "B"*) showing its relationship to the corporate limits of the municipality of the City of Daphne and made a part of this ordinance.

SECTION FIVE: PUBLICATION

This Ordinance shall be published as required by Section 11-42-21 Code of Alabama 1975, as amended, and the property described herein shall be annexed into the corporate limits of the City of Daphne, and a certified copy of the same shall be filed with the Office of the Judge of Probate of Baldwin County, Alabama as required by Section 11-42-21, Code of Alabama 1975, as amended.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY
OF DAPHNE, ALABAMA, THIS _____ day of _____, 2017.**

Dane Haygood, Mayor

ATTEST:

Candace G. Antinarella, City Clerk

CITY OF DAPHNE, ALABAMA
ORDINANCE 2017-84
ADDITIONAL APPROPRIATION: THE PORCH: DAPHNE PUBLIC LIBRARY
– ARCHITECT FEES FOR THE CONSTRUCTION PHASE

WHEREAS, Ordinance 2017-77 approved and adopted the Fiscal Year 2018 Budget on October 2, 2017; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2018 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2018 budget; and

WHEREAS, The Porch: Daphne Public Library project bids have been received and staff has reviewed the bids for Porch: Daphne Public Library and determined that the low bid as presented is reasonable; and

WHEREAS, the Daphne Library Foundation, a non-profit corporation, pledges to donate \$75,000, and the Friends of the Daphne Public Library, Inc. a non-profit corporation, pledges to donate \$65,000 for Porch: Daphne Public Library project; and

WHEREAS, LSTA (Library Services and Technology Act) grant monies in the amount of \$15,000 are available for technology equipment with the City's match of \$5,000 included in the FY2018 Budget; and

WHEREAS, The City of Daphne appropriated \$125,000 in the FY2017 Budget in Ordinance 2016-56 for The Porch project, however additional funding of \$20,000 is needed for Architect fees for the construction phase;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that

1. Funds in the amount of **\$20,000** from the **Capital Reserve Fund** are appropriated and made a part of the Fiscal Year 2018 budget for the Architect fees for the construction phase of The Porch project.
2. The Mayor is hereby authorized to execute any and all documents required in order for the City of Daphne to participate in such project.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE ALABAMA this ____ day of _____, 2017.

Attest:

Dane Haygood, Mayor

Candace G. Antinarella, City Clerk