

fdORDINANCE NUMBER 2265

AN ORDINANCE REPEALING ORDINANCE NUMBER 2098 AND ESTABLISHING THE REGULATION OF ANIMALS AND FOWL FOR THE PREVENTION OF RABIES AND THE CONTROL OF ANIMALS IN THE CITY OF VESTAVIA HILLS, ALABAMA, AND TO PRESCRIBE PENALTIES FOR THE VIOLATION OF THE SAME

WITNESSETH THESE RECITALS

WHEREAS, the City of Vestavia Hills, Alabama, has heretofore adopted the following Ordinances for the prevention of rabies and the control of dogs in the City of Vestavia Hills, Alabama: Ordinance No. 30, adopted on October 20, 1954; Ordinance No. 66, adopted on February 20, 1961; Ordinance No. 163, adopted on April 7, 1969; Ordinance No. 367, adopted on February 22, 1977; Ordinance No. 602, adopted on February 1, 1982; Ordinance No. 608, adopted on February 17, 1982; Ordinance No. 612, adopted on April 19, 1982; and Ordinance No. 821 adopted on April 7, 1986; and adopted Ordinance Number 2098 on July 18, 2005; and

WHEREAS, the governing body has determined that it will be in the best public interest to repeal Ordinance Number 2098 in its entirety and establish regulation of animals and fowl for the prevention of rabies and the control of animals in the City of Vestavia Hills and to prescribe penalties for the violation of the same.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 2098 IS REPEALED; and

BE IT FURTHER ORDAINED TO ESTABLISH REGULATION OF ANIMALS AND FOWL FOR THE PREVENTION OF RABIES AND CONTROL OF ANIMALS IN THE CITY OF VESTAVIA HILLS, AS FOLLOWS:

Section 1: Definitions: The following terms shall be defined as follows for the purposes of this chapter:

Animal: Any organism of the kingdom animalia other than a human being, including but not limited to mammals, birds, and reptiles but not including fish.

Animal control officer shall mean the person(s) so designated by the city to supervise the enforcement of this article and to perform other duties as required by said city.

Cat: Any member of the domestic feline family.

City: Within the corporate limits of the City of Vestavia Hills.

City pound or rabies control center shall mean the place so designated by the city or by the Jefferson or Shelby County Department of Health, or such other person, firm, corporation, or organization or agency with which the city may contract for the maintenance or operation of said city pound, whether such city pound is located within the limits of the city or elsewhere in Jefferson or Shelby Counties, Alabama.

Complaint shall mean a formal accusation that an incident or condition in violation of this article has occurred. A complaint must be reduced to writing on an incident report and said incident report must bear the signature(s) of the complaining party(ies) to be recognized as a complaint for purposes of this article.

Dog shall mean all members of the domestic canine family who are at least three (3) months old.

Cages shall mean any structure or enclosure made predominately of wire, metal bars, glass or plastic designed and used for confining birds or small animals other than dogs or cats.

Exotic/Wild animal: Exotic/wild animals include, but are not limited to, raccoons, bobcats, coyotes, wolves, piranhas, barracudas, sharks, scorpions, tarantulas, tigers, hybrid wolves, monkeys, squirrels or chipmunks. Exotic/wild animals shall also include any poisonous, venomous, or inherently dangerous member of the reptile or amphibian family (including but not limited to rattlesnakes, other pit vipers, cobras, poisonous frogs, crocodiles and alligators, or any snake longer than five feet in length). Unless otherwise defined above, this definition shall not include animals customarily used in Alabama as domestic farm animals, fish confined in an aquarium, birds or insects.

Incident report shall include the specific details of the complaint, the signature of the responding police officer, the signature of the complaining party(ies) attesting the alleged violation and shall be written on an Alabama Uniform Incident/Offense Report form or other such successor form.

Owner shall mean any person having a right of property in an animal or who has care of it or acts as its custodian or who keeps it, allows it food and refuge on or about any premises occupied by that person or persons or who harbors it in any manner.

Public nuisance: Any animal or any condition resulting from an animal that unreasonably annoys human beings, endangers the lives or health of other animals or persons or substantially interferes with the rights of citizens, other than its owners, to enjoyment of life or property.

Rabies tag: A serially numbered tag required by the state law to be furnished to the owner of any cat or dog inoculated against rabies by the person who performs such inoculation.

Run at large shall include all times and places when the animal is not confined or enclosed within a wall, fence or other enclosure including electronic wireless fencing or wired "invisible fencing" with appropriate battery backup power sources located on the premises of the owner or person in charge in such manner as to effectively prevent escape of the animal, or is not attached to a leash in the hands of said owner or person in charge.

Vicious animal: Any animal:

1. With known history:
 - a. To attack unprovoked,
 - b. To chase humans,
 - c. To approach or threaten persons in public areas with apparent attitude of attack,
 - d. To cause injury to, or to otherwise endanger the safety of humans or other domestic animals, or
2. Found to attack a human being or other domestic animal without provocation, whether or not such animal has previously actually bitten or attacked a person or other domestic animal.
3. A vicious animal does not include:
 - a. An animal assisting a peace officer engaged in law enforcement duty, or
 - b. An animal that attacks or inflicts bites upon a trespasser of a fully enclosed building or enclosed within a wall or fence. ~~or other enclosure including electronic wireless fencing or wired "invisible fencing" with~~

~~appropriate battery backup power sources located on the premises of the owner or person in charge in such manner as to effectively prevent escape of the animal.~~

Section 2. Offenses Related to Animals.

a. Authority and enforcement.

The provisions of this chapter are enforceable by any city animal control officer, law enforcement officer, or other duly designated agent or employee of the city. Said officer has the right to go onto private property when necessary to apprehend an animal in violation of this chapter.

b. Vicious animals.

It shall be unlawful for any person to own, keep, or harbor a vicious animal in the city. In addition to the penalties provided in Section 3, the court may order that the vicious animal or animals be removed from the city. Should the defendant fail and/or refuse to remove the animal from the city as ordered, the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the vicious animal.

~~c. Limitation on number of animals.~~

~~It shall be unlawful for any person or persons to keep, possess, or maintain more than five (5) animals that are over six (6) months of age on premise and are not routinely confined in cages. Any person who is in violation of this section has sixty (60) days in which to come into compliance.~~

c. Interfere with officer.

It shall be unlawful for any person or owner of an animal to interfere with, hinder, molest, prevent, or obstruct an animal control officer, officer, employee, or agent of the City of Vestavia Hills or of the county health office, or any authorized health officer, engaged in the enforcement of this chapter or in the performance of their duties as set forth in this chapter.

d. Chaining of animals.

Animals shall not be tied or chained in a manner that presents a hazard to themselves or to the general public.

e. Keeping exotic/wild animals; keeping vicious and/or poisonous animals; keeping venomous reptiles.

- (1) It shall be unlawful for any owner or person in charge to keep any wild or exotic animal on his/her premises in the City of Vestavia Hills
- (2) It shall be unlawful for a private individual to keep, maintain or house a venomous reptile.
- (3) It shall be unlawful for the owner or person in charge to keep or permit to be kept ~~of~~ on any premises in the City of Vestavia Hills any vicious or poisonous animal for display or for exhibition purposes either gratuitously or for a fee.
- (4) The provisions of this section shall not apply to lawfully operated and located pet shops, zoological gardens, scientific research laboratories, circuses, veterinarians harboring such animals for purposes of providing professional medical treatment, or wildlife rehabilitators with proper permits. The confinement of wild or exotic animals must meet the regulations promulgated by the state wildlife commission, the minimum standards under the animal welfare act and all applicable rules promulgated by the United States Department of Agriculture. In addition to meeting these minimum standards, all such venomous reptiles and all such wild or exotic animals shall be confined, restrained and controlled in fully enclosed quarters and in such manner that the physical safety or property of any person lawfully entering the premises shall not be endangered, and so as to prevent escape of any such animal.

f. Duty of owner for removal of feces.

- (1) ~~It~~ shall be the duty of the owner or person in charge of any animal to remove and dispose of any ~~and all~~ feces deposited by the animal upon the grounds of any public park or public place, upon any residential ~~or commercial~~ lot of another occupied for human habitation, or upon any adjacent right-of-way,

and will be done on demand by the owner or occupant or any police officer, code enforcement officer or animal control officer.

(2) So as to not endanger the health, safety or welfare of the public, and to prevent annoyances that are offensive or unwholesome, it shall be the duty of the owner or person in charge of any animal to safely remove and dispose (so as to not endanger the health, safety or welfare of the public) of any and all feces deposited by the animal on or in any property owned, rented, leased or otherwise occupied, including the adjacent right-of-way, by the owner or person in charge of any animal upon the demand of any police officer, code enforcement officer or animal control officer.

(2 3) It shall be unlawful for any person to fail or refuse to remove such feces; however, no prosecution shall be commenced and no arrest made pursuant to this section except upon affidavit made before and warrant issued by a municipal judge or magistrate.

g. Collar or harness and display of rabies tag required on dogs and proof of inoculation required on cats and ferrets.

It shall be unlawful for any person to own, keep, maintain, possess, harbor, or have any property interest in any dog within the corporate limits of the City of Vestavia Hills unless such dog shall have attached to it a collar or harness and shall have a rabies tag attached to such collar or harness as provided by section 3-7-4 of the Code of Alabama as presently required or as hereinafter provided.

It is further unlawful for any person to own, keep, maintain, possess, harbor or have any property interest in any cat and/or ferret unless such cat and/or ferret shall have been immunized pursuant to Section 3-7A-1 through 3-7A-15, Code of Alabama, 1975 and shall be able to produce documentation of said immunization upon request by the Animal Control Officer or his designee or any law enforcement officer.

h. Confinement of animal that has bitten or injured a human being.

It shall be the duty of the owner or person in charge of any animal which has bitten or otherwise injured a human being to immediately notify the animal control officer or Police Department of such fact upon learning thereof, and it shall thereupon be

the duty of such owner or person in charge to securely confine such animal, at an approved licensed veterinary clinic in the City of Vestavia Hills at the owners expense, for not less than ten (10) days.

i. Possession of animal exposed to rabies or that is rabid or thought to be rabid.

It shall be unlawful for any person to keep, harbor, or maintain on or about any place or premises in the city limits of the City of Vestavia Hills, an animal which is known to have or reasonably suspected of having rabies or which has been or reasonably suspected to have been bitten or otherwise injured by or in contact with another animal afflicted with or suspected of being afflicted with rabies in such a manner as to permit further transmission of such disease, unless such animal or other animal so bitten, injured, or in contact, shall be securely confined with a licensed veterinarian as designated by the city.

j. Vaccination--Required.

It shall be unlawful for any person to possess, keep or harbor in the city or the police jurisdiction thereof any ferret, dog or cat that has not been vaccinated as provided in the following section within the preceding thirty six (36) months.

k. Procedure--Vaccination compliance.

- (1) In order to be sufficient under this article, every owner of a ferret, dog or cat shall cause said ferret, dog or cats to be immunized pursuant to Code of Ala. 1975, §§ 3-7A-1 through 3-7A-15. Such vaccination shall be evidenced by a tag attached to such dog or documentation of said immunization for said ferret or cat showing that such ferret, dog or cat has been vaccinated for rabies as required by the laws of the state within the preceding thirty-six (36) months.
- (2) The inoculation of ferrets, dogs or cats pursuant to the requirements of this article must be made in accordance with the law of the state which is set forth specifically in Code of Ala. 1975, §§ 3-7-1 through 3-7-13; by virtue of the express authority of § 11-45-1 of said Code, the state law relative to rabies control as set forth in Code of Ala. 1975, §§ 3-7A-1 through 3-7A-

15 is adopted by reference and made a part of this article as though set out fully herein.

l. Quarantine and impoundment to control rabies.

The animal control officer, Police Officers, or county health officer shall have authority to quarantine or require confinement of any or all animals in any part or all of the city for such period of time and in such manner as he may determine whenever he considers same necessary for the control of rabies and the protection of the public health, safety and welfare.

m. Confinement of animals for observation.

The animal control officer, Police Officers, or county health officer shall have the right, at any time, to move or cause to be moved to a place designated by either of them for observation or examination any animal which is reasonably suspected to be afflicted with rabies or which has bitten or otherwise injured a human being in such manner as would permit or favor the transmission of the virus or rabies. It shall be unlawful for any person to hinder, obstruct, or interfere with the animal control officer, police officer, or county health officer in the exercise of the authority herein conferred upon him. It shall be the duty of the animal control officer, police officer, or county health officer to destroy or cause to be destroyed any animal found to be afflicted with rabies pursuant to the provisions of this article.

n. Summons and complaint procedure for violations of certain sections, voluntary settlement procedure.

- (1) Any citizen wishing to make a complaint pursuant to any section of this article, may present himself or herself to the city magistrate to commence proceedings against the person in violation thereof. The complaining citizen must swear under oath that the violation occurred and, if the magistrate has probable cause to believe that the offense as described constitutes a violation of this article, a summons and complaint may be issued to the accused. Any city animal control officer or law enforcement officer of the City of Vestavia Hills shall be authorized to serve a summons and complaint on any person charged with a violation of this article in the manner prescribed by law.

- (2) Any animal control officer or Police Officer of the City of Vestavia Hills shall be authorized to enforce the provisions of this article, and ~~to any~~ **Police Officer of the City of Vestavia Hills** can make arrests for any violation(s) thereof.
- (3) Upon service of the summons and complaint issued, the officer shall take the name and address of said person and any other information required by law and shall then issue the summons and complaint to the individual. The accused individual shall not be taken into custody upon his written promise to appear in court at the designated time and place as evidenced by his signature. The signing of the summons and complaint shall serve as adequate bond for the accused. If the accused refuses to provide his or her written recognizance to appear by signing the summons and complaint, the authorized officer shall place him into custody and bring him before any officer or official authorized to approve a bond.
- (4) When a person is charged with a violation of any section of this article, and that person has not been convicted or plead guilty to a violation of any of those sections within the past twelve (12) months, then that person may elect to personally appear before the municipal court magistrate not less than seventy-two (72) hours before the court date specified in the summons and complaint, and at the discretion of the magistrate may be permitted to enter a plea of guilty, and pay a settlement fine plus applicable court costs. Upon such payment, no further prosecution for that specific violation shall be instituted or maintained in any court. A plea of guilty shall only be accepted by the magistrate after the defendant has executed a notice and waiver of rights form. If a person charged with a violation of the offenses set out in this chapter and who meets the qualifications set out in this section elects not to plead guilty, such person shall appear at the time and place as set out in the summons and complaint before the municipal judge for a trial of the charges set out in said summons and complaint.

- (5) If the defendant fails to appear as specified in the summons and complaint described in sections (a), (c), and (d) above, then the judge or magistrate having jurisdiction of the offense may issue a warrant for his arrest commanding that he be brought before the court to answer the charge contained on the summons and complaint. In addition, any person who willfully violates his written promise to appear as set out in the summons and complaint, given in accordance with this section, shall be guilty of the separate offense of failing to appear, regardless of the disposition of the charge upon which he was originally arrested.
- (6) Any person charged with the violation of any section of this ordinance, who elects not to execute a written promise to appear in court at the designated time and place as evidenced by his signature on the summons and complaint, or any person who is charged with a violation of this article, shall be required to appear before a magistrate and to post bond as required by the magistrate for such offenses. A municipal court or magistrate shall receive and issue receipt for such bond from such persons who wish to be heard in the court, and enter the time of their appearance on the court docket and notify all parties of the date and time of the trial of the charges against such persons in a municipal court of the city.

Section 3. Penalties for violations.

(a) Any person who violates any of the provisions of this article except Dogs Running at Large and Noisy Dogs or fails to comply with any of its requirements upon conviction thereof, unless otherwise provided in this article, shall be fined not more than ~~five hundred dollars (\$500.00) dollars~~ the maximum amount allowed for a misdemeanor in the State of Alabama or shall be imprisoned for not more than one hundred ninety (190) days, or both. In addition, said person shall pay all costs and expenses incurred in the case, including court costs and other charges as defined by this article. Each day such violation continues shall be considered a separate offense. Nothing herein contained

shall prevent the city from taking such other action as necessary to prevent a remedy to any violation.

(b) In addition to the penalties provided by section (a) above, the municipal judge shall have the following additional legal authority in connection with this article and the enforcement thereof:

- (1) Upon commencement of a criminal proceeding based on any alleged violation of this article, and upon a sworn complaint being made by a citizen, a duly authorized municipal officer or employee, or a Law Enforcement Officer of the City of Vestavia Hills to the magistrate that the animal at issue is a continuing danger or threat to the safety of the citizens of Vestavia Hills, the court shall be authorized to issue an order directing the seizure, impoundment, and/or the delivery of said animal to the city's impoundment center, pending the trial or resolution of the underlying case.
- (2) Upon the trial and conviction of an owner for a violation of any provision of this article, the municipal court shall have the authority to issue the following orders, in addition to all other penalties, powers, and authority conferred by law:
 - (a) To impose on the defendant a requirement that the animal be removed from the city limits if the animal is deemed to present a danger to citizens or the public safety;
 - (b) To impose as a specific condition on the defendant reasonable conditions and restrictions, relating to the possession and/or control of the animal in the city;
 - (c) Order that the animal be destroyed in the manner approved by the county department of health if the animal is deemed to present a danger to citizens or the public safety;
 - (d) Where applicable, assess all costs or expenses of the victim, including restitution, against said owner or responsible person; and
 - (e) Such other terms and conditions within the law as the court may deem proper under the circumstances.

Section 4. Running at large.

It shall be unlawful for the owner or person in charge of a dog to cause or permit such dog to run at large or be upon a street, sidewalk, thoroughfare or public place within the city, unless such dog is attached to a leash in the hands of said owner or person in charge of said dog.

Section 5. Dogs running at large declared nuisance.

Any dog or any puppy, whether or not such dog or puppy shall have attached to it a rabies tag, running at large shall be deemed to be a nuisance and menace to the health and safety of the citizens, and shall be subject to being apprehended and impounded as provided in this article, and the owner or person in charge thereof subject to the penalties herein provided.

Section 6. Issuance of citation/penalties to owner for dog running at large.

Police Officers, animal control officer or any of his assistants are authorized to serve upon the owner or person in charge or control of any dog or puppy found running at large in violation of this article a citation to appear in the municipal court of the city at a time and date specified thereon to answer the charge of such violation; provided, however, that prior to the time such case is to be heard in the municipal court such owner or person charged in such citation, if he has not previously settled for or been convicted of two or more such violations within twelve (12) months from the date of such citation, may dispose of the citation by settlement in the following manner: Pay to the city's finance department a fine for the offense charged in the amount of thirty-five dollars (\$35.00) if the offense charged is the first such offense by the owner or person charged within twelve (12) months from the date of such citation; one hundred dollars (\$100.00) if the offense charged is the second such offense by the owner or person charged within twelve months (12) from the date of such citation. If settlement of the charge set out in the citation is not made prior to 3:00 p.m. on the date the case is set for trial in municipal court and if the party charged fails to appear and answer such charge in the municipal court or it has not otherwise been disposed of by such court, a warrant shall be issued charging such party with the violation set out in the citation, which warrant shall be

obtained, served and tried as provided by law for the arrest and trial of offenses involving violations of ordinances of the city. If a person receiving a citation as herein provided has, within the preceding twelve (12) months from the date of such citation settled or been convicted of more than two (2) such violations, then in such event he shall not be permitted to settle the instant alleged offense, but shall be required to stand trial in municipal court.

Section 7. Impoundment--Authorized.

Any dog found running at large in the city or its police jurisdiction may be impounded in the shelter designated as a rabies control center or City pound and may be there confined in a humane manner. The animal control officer shall be responsible for impounding dogs found running at large. In the event the animal control officer is not available and due to the emergency circumstances relating to the dog running at large, the police department will attempt to impound the dog running at large. If the officer can safely take control of the dog (safely for the officer and the dog) the dog will be placed in the rear of a police patrol vehicle equipped with a prisoner screen. The dog will be transported to an approved rabies control center animal clinic in the city as soon as possible following apprehension. The officer will complete an incident offense report and "notice of impoundment" ticket maintained in the communications dispatch. (The white copy of the notice of impoundment shall be posted at the rabies control center, the yellow will be forwarded to the animal control officer by dispatch to be posted at public works and the pink will remain in the dispatch office.) Redemption of the dog will be the same procedure detailed in Section 10.

Section 8. Notice of impoundment.

- (1) Immediately upon the apprehension and impoundment of any dog, the animal control officer and the supervisor of the rabies control center, or any duly authorized employee thereof, shall make a reasonable effort to notify the owner of any such dog so impounded and inform such owner of the conditions under which he may regain custody of such dog.

- (2) When the animal control officer or any duly authorized representative of the county health office and/or the city completes a day's tour of duty in the city, he is required to file a written report with the city. The report will include the following information:
 - (a) The names of the owners or persons in charge of such dog, if known.
 - (b) The date and time of day said dog was apprehended.
 - (c) The location and street address where said dog was apprehended.
 - (d) A description of any dog apprehended or about which a notice of violation was given to its owner or the person in charge of the dog.
 - (e) The dog's description shall include the color, breed, sex, weight and tag information, if available.
 - (f) The animal control officer shall include in the report all information regarding his efforts to locate the owner of said dog.
- (3) These reports shall be kept in the public works department and shall be maintained there for a period of three (3) years.
- (4) Public notice of the impounding of dogs shall be given by posting one (1) copy of the animal control officer's report at the rabies control center and one (1) copy of such report at the public works facility. Both reports shall remain posted for a period of five (5) consecutive days immediately following the apprehension of the dogs described in the report.
- (5) Public notice shall also be given by posting a photo of the impounded dog along with a brief description and the date of apprehension on the City's website. Said information shall be posted for a minimum period of five (5) consecutive days following apprehension of the dog.

Section 9. Impoundment--General procedures.

The animal control officer shall follow these steps in the impoundment of dogs:

- (1) All dogs caught running at large and in violation of this article shall be placed in a cage attached to the motor vehicle operated by the city.

- (2) The caged motor vehicle shall transport and deliver the apprehended dog to the city pound or rabies control center as soon as possible following capture of dog, if the animal control officer is unable to successfully locate said owner.
- (3) The report described in subsection (2) of the preceding section shall then be delivered to the public works department, where the animal control officer shall post a copy of said report on the bulletin board.

Section 10. Redemption of apprehended or impounded dogs.

The owner shall be entitled to resume possession of an apprehended or impounded dog or puppy, as follows:

- (1) Prior to impoundment, an owner may redeem a dog from the animal control officer prior to transport and delivery to the city pound or rabies control center immediately following capture of the dog after he has proven ownership and compliance with the rabies inoculation requirements of this ordinance to the reasonable satisfaction of the animal control officer. The animal control officer shall issue a citation for violation to the owner after ownership of the dog has been established. The owner shall pay to the city's finance department, in settlement of the alleged offense, the sum of thirty-five dollars (\$35.00). The owner shall receive a receipt for said payment. The animal control officer shall then deliver possession of the apprehended dog to the owner. A second offense by said owner of allowing a dog to run at large within a twelve-month period shall require a settlement payment to the city finance department in the amount of one hundred dollars (\$100.00). In the event of such payment, no prosecution for the alleged offense shall thereafter be instituted or maintained in the municipal court. For subsequent violations within said twelve-month period, the owner or person in charge of the dog shall be summoned to appear in the municipal court and, upon conviction, such person shall be subject to the fines and penalties prescribed by the state for a misdemeanor offense, plus court costs.
- (2) Upon impoundment, the owner shall be entitled to resume possession of any impounded dog or puppy from the rabies control center, provided the owner shall have first:

- (a) Paid to the city's finance department the citation violation payment as described in paragraph (1) of this section, and all other charges imposed by the rabies control center relating to boarding, medical treatment or rabies inoculation fees.
 - (b) Executed the bond as required by paragraph (3) of this section, should the owner contest the alleged violation, and:
- (3) The owner may contest the alleged violation of this article and demand a trial to the question of his guilt or innocence of such charge. If after receiving a citation for violation of this article from the animal control officer or a "notice of impoundment" issued by any law enforcement officer, an owner may, in lieu of a voluntary settlement payment, as aforesaid, sign and deliver to said municipal court clerk a bond, to appear in the municipal court, in the penal amount of one hundred dollars (\$100.00), together with such surety as said municipal court clerk may reasonably require; or the alleged offender may demand that he be brought promptly before the municipal court. Upon the execution of said bond by the owner, the animal control officer shall deliver the apprehended dog to said owner.

Section 11. Inoculation prior to release; handling of fees by city pound.

Any dog or puppy which is found running at large in the City, or other animal suspected of infection with rabies or any vicious dog not kept or confined as required is hereby declared to be a public nuisance and danger to the health and safety of the community and it shall be the duty of the animal control officer and his assistants to take up and impound in the city pound such dog or puppy as provided by Section 7. Any such dog or puppy so impounded may be retaken or redeemed from pound by the owner thereof, pursuant to compliance with Section 10. All expenses incurred by the city pound or authorized rabies control center related to boarding, vaccination or medical treatment shall be paid by the owner directly to the city pound or authorized rabies control center. Every such dog or puppy which has remained in the city pound or authorized rabies control center and not been redeemed or retaken by the owner shall be disposed of as provided in Section 12.

Section 12. Detention period, transfer, destruction of dogs.

After a legal detention period of five (5) calendar days has expired and an impounded dog or puppy has not been claimed by its owner; the city, through its animal control officer or its duly authorized agent of the rabies control center shall serve public notice not less than an additional five (5) calendar days that said unclaimed dog or puppy is subject to destruction, sale or disposal. Such public notice shall be placed upon the public bulletin board located in the Vestavia Hills Public Works facility and the City's website. Public notice of the pending destruction, sale or disposal of said unclaimed dog or puppy shall contain a description of the dog or puppy; its age, or if not known, its estimated age; color; sex; weight; breed; owner name and address, if determined. After the legal detention period of five (5) calendar days and no sooner than the conclusion of the additional five (5) calendar days of public notice of pending destruction, sale or disposal of the unclaimed dog or puppy, the supervisor or duly authorized employees of the rabies control center may transfer title to and give ownership of any unclaimed dog or puppy in the rabies control center to the humane society or to any person deemed by the supervisor to be a responsible and suitable owner, who will agree to comply with the provisions of this article, including inoculation and payment of the fee or fees herein required. In the alternative, the rabies control center may, after the minimum five (5) calendar day legal detention period and additional five (5) calendar day public notice has expired, destroy an impounded dog pursuant to the expressed authority of Code of Ala. 1975, § 11-47-110. The intent of this section is such that no impounded dog or puppy shall be destroyed, sold or otherwise disposed of within any time period less than ten (10) calendar days from the impoundment date, unless such dog or puppy is in a medical condition such that efforts to sustain its life would be deemed impractical by a licensed veterinary doctor. If the name and address of the owner is known to the city or animal control officer, or if the city clerk can ascertain such name and address from the city's records, the animal control officer shall make a reasonable effort to contact such owner not less than four (4) days prior to such destruction, sale or disposal of the impounded dog or puppy. Saturdays, Sundays and legal holidays shall not be counted in computing the four (4) days required for such notice. The owner may redeem the dog or puppy from the pound at any time during impoundment of the dog or puppy prior to the time it is destroyed, sold or otherwise disposed of.

Any other person may redeem or purchase such dog after the five-day legal detention period and after expiration of the additional five-day public notice of pending destruction, sale or disposal as hereinabove provided and before the dog is destroyed or redeemed by the owner, in which event, the owner shall have been deemed to forfeit his right of redemption. Any such person redeeming or purchasing any such dog or puppy shall pay to the city pound or authorized rabies control center for the lodging and board of said dog, plus a fee for vaccination, if required and said dog or puppy shall be released from impoundment.

Section 13. Noisy dogs.

It shall be unlawful for any person to confine, harbor or keep at any place or on any premises within the city and the police jurisdiction thereof any dog which frequently and habitually makes or emits sounds or noises of such volume, nature or extent as to be a public nuisance by reason of interfering with the customary use and enjoyment of property of ordinary persons in that neighborhood. In keeping with the spirit of communities, persons within the corporate boundaries of the city are encouraged to address concerns of alleged violations of this section with the dog owner prior to seeking assistance from the city. Complaints regarding noisy dogs must be filed with the Vestavia Hills Police Department. The procedure for abatement of a noisy dog shall be incorporated into this article as follows:

- (1) Upon first complaint to the police department of a noisy dog, the responding police officer shall complete an incident report relating the facts of the complaint to be signed by the complaining party(ies). As it relates to noisy dogs, multiple complaints within a single twenty-four-hour period will constitute a single complaint.
 - (a) After completing a signed complaint, the officer shall also attempt to notify the owner of the dog to advise said owner that the dog is alleged to be in violation of this section and shall issue a verbal warning detailing the complaint. The responding officer shall also advise said owner that an incident report detailing said complaint will be filed with the police records division of the Vestavia Hills Police Department. Said incident

report shall remain on file at the department for a minimum period of two (2) years and that subsequent complaints may result in mandatory mediation and/or appearance in municipal court.

- (b) If the responding officer is unable to contact said owner at such time the complaint is made, in such an event, the Vestavia Hills Police Department shall send a written warning in the U.S. mail, first-class postage prepaid, certified mail return receipt requested within ten (10) business days of said incident. The most recent record on file in the Jefferson County Tax Assessor's office shall determine said owner. Said warning shall detail the complaint and advise the dog owner that subsequent complaints may result in mandatory mediation and/or appearance in municipal court.
- (2) Upon a second complaint of a noisy dog within any continuous ninety-day period which includes a prior complaint, the responding police officer shall complete a subsequent incident report signed by the complaining party(ies) upon which the municipal court clerk shall summons both the complaining party(ies) and alleged offending party to mandatory mediation at a date to be determined and set by the municipal court clerk.
- (3) Upon a third complaint of a noisy dog within any continuous ninety-day period which includes two (2) prior signed complaints, the responding officer shall complete an incident report and the complaining party(ies) shall file with the municipal court clerk a sworn deposition and signed complaint charging such alleged offending party with the violation of this section. Municipal court clerk shall issue a summons, which shall be obtained, served and tried in the municipal court as provided by law. Failure to answer summons by the court date as set forward by the municipal court clerk shall result in the issuance of a warrant charging such alleged offending party with the violation as set forth in the complaint. Such warrant shall be obtained and served and the alleged offending party shall be arrested and required to post bond, as provided by law for the arrest and adjudication of offenses involving violations of ordinances of the city and the alleged offending party shall be required to answer to said offense in municipal

court. Convictions for violation of this article are subject to the fines and penalties prescribed by the state for a misdemeanor offense, plus court costs.

- (4) At any time, the complaining party(ies) may file with the municipal court clerk a sworn complaint detailing violations of this section to which the municipal court clerk shall issue a summons charging such alleged offending party with the violation set out in the complaint, which summons shall be obtained, served and tried as provided by law. Failure to answer summons by court date as established by the municipal court clerk shall result in the issuance of a warrant charging such party with the violation described in the complaint and summons and shall be obtained, served and tried as provided by law for the arrest and trial of offenses involving violations of ordinance[s] of the city and violating party shall be required to stand trial in municipal court. Convictions for violation of this article are subject to the fines and penalties prescribed by the state for a misdemeanor offense, plus court costs.

State law references: Power of city to abate nuisances, Code of Ala. 1975, § 11-47-117 at seq.

Section 14. Penalties. Dogs Running at Large and Noisy Dogs

It shall be unlawful to violate any of the terms and provisions of this article. Any person, firm or corporation violating any of the said terms and provisions of this article upon conviction shall be punished by fines as follows:

- (a) For the first offense within twelve (12) calendar months, the fine shall be thirty-five dollars (\$35.00).
- (b) For the second offense within twelve (12) calendar months, the fine shall be one hundred dollars (\$100.00).
- (c) For any subsequent offense within twelve (12) calendar months a court appearance shall be mandatory, and upon conviction, such person firm or corporation shall be subject to the fines and penalties prescribed by the state for a misdemeanor offense, plus court costs.

Section 15. Animal control officer--Position established.

There is hereby established in the service of the city the position of "animal control officer". The person(s) employed as animal control officer(s) shall be attired in a distinctive uniform to be provided by the city of a type to be selected or approved by the public works director, and shall at all times he is on duty wear a badge showing him to be a animal control officer of the city. The city may make available to the animal control officer a motor vehicle suitable for incarcerating dogs therein and equipped with radio sending and receiving equipment capable of radio communication between the police department and/or public works facility of the city and such motor vehicle. Said animal control officer and the animal control officer assistants shall complete the course offered at the Animal Control Academy at the University of Alabama in Tuscaloosa, or a like and similar course at another institution prior to assuming their duties under this article.

Section 16. Duties of animal control officer.

The animal control officer, under the supervision of the public works director of the city, shall proceed to locate or attempt to locate any dog which is alleged to be running at large in violation of this article or otherwise in violation hereof, and if such dog is located the animal control officer shall apprehend and impound such dog and deliver it to the city pound which may be the animal clinic, shelter or facilities of a veterinarian, individual, institution or agency with whom the city contracts for such service, and he shall also file a report with the public works director as to the place where the dog was picked up and other pertinent facts relative to the violation.

Section 17. Animal control officer's authority on premises.

For the purposes of discharging the duties imposed by this article and to enforce its provision, the animal control officer, the animal control officer's assistants, and any police officer of the city are empowered to enter upon any premises upon which an animal is running at large in violation of this article and in the presence of such animal control officer, animal control officer's assistants, or police officer of the city for the purpose of obtaining information for the issuance of a summons and complaint or of impounding such animal or necessary for the enforcement of any provision of this article.

Section 18. Severability.

The provisions of this Ordinance are hereby declared severable. If any provision or portion of this Ordinance is for any reason held to be unconstitutional or invalid for any reason, such provision or portion shall be deemed a separate and independent provision and such holding shall not affect the validity of the remainder thereof. All other terms and provisions of said Ordinance shall continue to remain in full force and effect notwithstanding such holding.

Section 19. Effective Date.

The provisions of this Ordinance shall become effective immediately upon the passage and approval thereof by the City Council of the City of Vestavia Hills, Alabama and the publication and/or posting thereof as required by Alabama law.

DONE, ORDERED, APPROVED and ADOPTED, this the 10th day of August, 2009.

David Carrington
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2265 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 10th day of August, 2009, as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library, and Vestavia Hills Recreational Center this the _____ day of _____, 2009.

Rebecca Leavings
City Clerk