

ORDINANCE NO. ³⁶⁸~~126~~ (AMENDED)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HELENA, ALABAMA, AS FOLLOWS:

SECTION 1. For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this Section, to-wit:

Dog. Such term shall include either male or female dogs and shall mean and include pet foxes, wolves and members of the canine family; provided that no such animal shall be deemed to be a dog within the terms of this Ordinance unless it is three (3) months old or over.

Owner. Any person owning, harboring or keeping a dog within the City, or who has right of property in a dog or who has a dog in his care or acts as its custodian or who permits a dog to remain on or about the premises occupied by him.

Vicious Dog. The term is hereby defined as a dog which has bitten or which without provocation, shall bite or fiercely attack any person or other animal. It shall be prima facie evidence that a dog is a vicious dog if it shall without provocation bite or shall fiercely attack any person or any other animal.

Keeping. "Keeping" shall include harboring or confining.

SECTION 2. The City Council shall appoint a Dog Control Officer who shall be an employee of the City of Helena and shall be paid such salary as the City Council shall prescribe. The expenses of such Dog Control Officer, in the performance of his duties, together with his salary, shall be paid from the general fund of the City, as may be necessary. It shall be the duty of the Dog Control Officer to enforce the provisions of this Ordinance; to attempt to rid the City of stray, homeless, unclaimed and diseased dogs; to coordinate the functions of the humane officer with the work of the county rabies inspector and the Shelby

County Health Department; and to perform such other duties as may be prescribed by the City Council.

SECTION 3. It shall be unlawful for any person to own, possess, keep or harbor a dog within the City limits without first paying a \$1.00 fee and registering and identifying said dog with the Dog Control Officer. Each dog shall be identified by name, breed, age, and owner's name and address. Upon the registration of said dog and the payment of said \$1.00 fee by the owner, the Dog Control Officer shall issue to the owner an identification tag for said dog, the identification tag to be worn by said dog at all times. The Dog Control Officer shall maintain the identification and registration records for said City, and the records shall be open for public inspection.

SECTION 4. Animal 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 annually for rabies, as required by Title 3, Section 7-2 of the 1975 Code of Alabama, as amended.

SECTION 5. Inoculation Tag - Required on Dogs at Large. In addition to the identification and tag requirements as provided in Section 3, it shall be unlawful for any person to permit to run or be upon a street, alley, sidewalk, thoroughfare or public place within the City, unless secured by a suitable leash, any dog which does not have attached to it a dog inoculation tag, as required by Title 3, Section 7-4 of the 1975 Code of Alabama, as amended. Nothing contained 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 thereof.

SECTION 6. 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 his charge or control to wear a dog inoculation tag issued for a different dog.

SECTION 7. Impounding of Dogs at Large not Bearing Current Inoculation Tag. Any dog which is found at large on any street, alley, sidewalk, thoroughfare or public place in the City of Helena after the effective date of this Ordinance and which does not have attached to it identification tag and an inoculation tag duly issued for it for the then current year, after vaccination, as prescribed in this Ordinance, in such then current year, is hereby declared to be a public nuisance, and it shall be the duty of the Dog Control Officer and his assistants, or the Police Department, to take up and impound in the City Pound every such dog. Any such dog, so impounded may be retaken or redeemed from the pound by the owner thereof within five (5) days from impoundment thereof, or at any time thereafter before sale or destruction thereof, by paying to the poundmaster a fee of FIVE AND NO/100 (\$5.00) DOLLARS, plus cost of keeping such dog in the pound, at the prevailing rate per day. Every such dog which has remained in a pound for five (5) days and which has not been redeemed or retaken by the owner within such time shall be sold by the poundmaster, 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; provided, that no such dog shall be sold at a price of less than FIVE AND NO/100 (\$5.00) DOLLARS, plus the cost of keeping, at the rate hereinabove prescribed. No such dog shall be released from a pound, either to the owner or to the purchases, unless and until the same shall have been inoculated, as prescribed, shall have been issued therefor. Dogs not redeemed or purchased as herein provided shall be destroyed by the poundmaster in a humane manner. Diseased or injured dogs impounded under this Section shall be destroyed by the poundmaster in a humane manner without delay.

SECTION 8. Dog Retention Period - Authority to Designate; Notice; Confinement Period. In order to determine which

dogs in the City are stray or homeless dogs, the designated officer of the City is hereby authorized to set apart and designate a period of seven (7) days whenever he deems it necessary, in which all owners in the City shall be required to keep their dogs on their own premises unless fastened to a suitable leash not more than eight (8) feet in length. Such period shall be known as the "Dog Retention Period". During such period it shall be unlawful for any person to permit any dog to run at large in the City. In designating such period, the designated officer shall give notice of the seven day notice designated by him as the Dog Retention Period and shall publish such notice in some newspaper of general circulation in the City at least once a week for two (2) consecutive weeks prior to such period and shall also give notice of the same in such other manner as he may deem appropriate.

SECTION 9. Dog Retention Period - Impounding of Dogs at Large During Period. During any dog retention period, all dogs found running at large or off the premises of the owner thereof, unless secured by a suitable leash of not more than eight (8) feet in length, shall be impounded and shall be kept in the City Pound for a period of five (5) days, the owner of any dog may claim the same by paying the board bill and impounding fee of FIVE AND NO/100 (\$5.00) DOLLARS; provided that no such dog shall be released from the pound until it has been inoculated for rabies and the fee for such inoculation has been paid. All dogs remaining unclaimed at the end of such five day period shall be sold or disposed by the poundmaster in a humane manner.

SECTION 10. Collar or Harness Required; Tag to be Attached; Removal, etc., Prohibited. Every dog over the age of three (3) months shall wear a substantial durable collar or harness, to which the identification tag and the inoculation tag provided for in this Ordinance shall be attached. It shall be unlawful to attach such tags by wire, rope or other inhumane means. No person shall remove the collar or

harness or the identification and inoculation tags from any dog without the consent of its owner.

SECTION 11. Female Dogs in Heat. It shall be unlawful for the owner or keeper of any female dog to permit the same to run at large in the streets, alleys, thoroughfares or public places of the City while in heat. Any female dog in heat found running at large in the streets, alleys, thoroughfares or public places of the City, whether she has attached an inoculation tag or not, is hereby declared to be a public nuisance and shall be impounded by the Dog Control Officer, the humane officer or any Police Officer. Such female dog may be redeemed by the owner thereof under the same terms and conditions set forth in Section 6 of this Ordinance.

SECTION 12. Inhumane Treatment of Dogs Prohibited. 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.

SECTION 13. Dogs on Premises Other than 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, by written sworn statement, be impounded by the Dog Control Officer or the humane officer, or any Police Officer, and the owner thereof, 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 same as provided for in Section 6. Such dog may be redeemed upon payment of an impounding fee of FIVE AND NO/100 (\$5.00) DOLLARS, plus the cost of keeping. If not redeemed by the owner thereof within five (5) days, the dog shall be subject to disposition as provided for in Section 6 of this Ordinance.

SECTION 14. Officers Authorized to go on Premises. The Dog Control Officer or any Police Officer of the City shall have

the right for the public health, welfare and safety, to enter upon any property within the City or its Police Jurisdiction for the purpose of capturing any dog running 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. No person shall hinder, molest or interfere with any such officer who is authorized or empowered to perform any duty under this Ordinance.

SECTION 15. Rabid Dogs. When any dog is apparently suffering from rabies, the Dog Control Officer or any Police Officer may lawfully destroy such dog in a humane manner wherever such dog is apprehended, without the necessity of impounding the same.

SECTION 16. Dog Biting a Person - Impoundment. Whenever the Police Department or Dog Control Officer or Rabies Inspector shall receive information that any person has been bitten by a dog, the Police Department, Rabies Inspector or Dog Control Officer shall have the said dog confined under the direct care, custody, control and supervision of a licensed veterinarian for a period of ten (10) days. It shall be unlawful for any person having knowledge that any person has been bitten by any such dog to refuse to notify promptly one 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 said recommendation made by the Dog Control Officer, Rabies Inspector or Police Department in any particular case. It shall be unlawful for the owner of any such dog to refuse to deliver possession of any such dog to any of said officers demanding possession of said dog, and the Police Department, Rabies Inspector or Dog Control Officer shall have the right to go upon the premises of the owner of said dog and forcibly take said dog and place said dog with a licensed veterinarian. Any expenses incurred in the handling of any such dog, including the fees of the licensed veterinarian and board of said dog, shall be borne by the owner, and said dog shall not be returned to

the owner until said fees are paid to said licensed veterinarian; if the owner refuses to pay said fees to the licensed veterinarian and said dog is determined not to be rabid by the licensed veterinarian, then the said veterinarian shall deliver said dog to the pound pen and said 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 said fees, the said dog shall be disposed of as proved for in Section 6 of this Ordinance. The veterinarian under whose care a dog has been committed shall report the results of his observations of said dog to the person bitten or his physician or, in the case of a minor, to the parent or physician of the minor, or custodian or guardian of the minor.

SECTION 17. Vicious Dog - Confinement Required. It shall be unlawful for the owner or other person in charge thereof to keep in the City a vicious dog, unless the same 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.

SECTION 18. Enclosures for Vicious Dogs - Posting of Premises. Whenever a vicious dog is permitted to run at large within a wall, fence, or other structure, 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 conspicuous posting of a written or printed notice at every unlocked entrance to such enclosure.

SECTION 19. Enclosure of Vicious Dogs - Authority of Dog Control Officer when Enclosure Determined Inadequate.

Whenever a vicious dog is not properly or securely confined, the Dog Control Officer or the Police Department 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 Dog Control Officer is adequate. Until an enclosure is provided, which the Dog Control Officer determines to be adequate, the Dog Control Officer or the

Police Department may order confinement of such dog with such person or organization as the Dog Control Officer shall determine, or may impound said dog in the City Dog Pound. 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 Dog Control Officer determines to be adequate within thirty (30) days, such dog may be disposed of by extermination or by whatever method selected by the humane officer or the dog may be disposed of as directed by the Dog Control Officer.

SECTION 20. Reporting of Vicious Dogs - Sworn Statement; Procedure Upon First Indication of Viciousness. Whenever any person claims that a dog is vicious, he shall make a sworn statement before an officer authorized to administer oaths in the City, and in said sworn statement shall set forth the reasons for the dog to be vicious. Such sworn statement shall be delivered to the Dog Control Officer or the Police Department. Upon receipt of such sworn statement, the Dog Control Officer or Police Department shall immediately make an investigation. If, in the opinion of the Dog Control Officer or the opinion of the Chief of Police, the dog is vicious, and if he further finds that the incident reported is the first incident or indication of viciousness on the part of the dog, the Dog Control Officer or the Chief of Police shall order such dog confined. If the owner of the dog does not immediately provide a proper enclosure, the Dog Control Officer or Police Department shall confine such dog with such person or organization as the Dog Control Officer or Police Department shall determine or said dog may be impounded in the City Pound for a period not exceeding thirty (30) days. If the owner of such dog fails to provide an enclosure which the Dog Control Officer or Police Department determines to be adequate within thirty (3) days, such dog may be disposed of by extermination or by whatever method selected by the humane officer or the dog may be otherwise disposed of as directed by the Dog Control Officer.

SECTION 21. Liability of Owner of Vicious Dog. A person owns or keeps a vicious dog in the City at his own risk. If a vicious dog escapes from his enclosure or injures any person outside of the enclosure, the owner of such dog shall be criminally liable, whether such escape or injury occurred with or without the negligence of the owner, the keeper or any other person.

SECTION 22. Noise. It shall be unlawful for any person to confine, harbor or keep at any place or on any premises within the City limits any dog which habitually, continuously or intermittently makes or emits sounds or noises of such volume, nature or extent as to be a public nuisance by reason of being obnoxious or annoying to the ordinary persons in that neighborhood.

SECTION 23. Penalties - Fines. A violation of any of the provisions of this Ordinance by any person shall constitute a misdemeanor. Any person who shall violate any of the provisions of this Ordinance shall be fined not less than \$10.00 nor more than \$200.00, and may be imprisoned or sentenced to jail or hard labor for a period not exceeding six (6) months, or both, at the discretion of the Judge.

SECTION 24. Effective Date. This Ordinance shall become effective immediately upon publication after adoption by the City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF HELENA, ALABAMA, on this, the 3 day of January, 1989.

Charles W Penhall
Mayor

ATTEST:

James P. Davis, CMC
Clerk