

**PRE-MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL**

**CITY HALL COUNCIL CHAMBER (A108)
56 CHURCH STREET
MOUNTAIN BROOK, AL 35213**

AUGUST 8, 2022, 6:00 P.M.

As a matter of convenience, members of the public are invited to listen, observe and participate in public meetings by Internet video conference. Presenters and others interested in a particular matter for discussion are encouraged to attend the meeting in-person. The City is not responsible for technical issues that may occur that interfere with the virtual meeting. The City Council, at its sole discretion, may proceed with its in-person business meeting regardless of whether virtual attendees can hear and/or observe the proceedings. The City intends to make the meeting available by way of the Zoom app (re: Meeting ID 801-559-1126, password 08082022). Unvaccinated in-person attendees are asked to mask.

1. Dr. Michael Keller and Mr. Jim Hicks to discuss drainage issues between their homes at 301 and 307 Overbrook Road. (A video will be shown.)
2. Amendments to the Animal Control ordinance-Whit Colvin (See attached information. This item may be added to the formal agenda.)

ARTICLE III. DOGS

DIVISION 1. GENERALLY

Sec. 6-58. Definitions.

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

City pound means the place so designated by the city, or such other person with whom the city may contract from time to time for the maintenance or operation of such city pound, whether such city pound is located within the city or elsewhere in the county.

Dog means all members of the canine family who are three months old or more.

Dog warden means such person as may be so designated or employed by the city or such other person with whom the city may contract for the performance or enforcement of the provisions of this article.

Dog warden's assistants means all persons designated or employed by the city to assist the dog warden.

Poundmaster means the licensed veterinarian, individual, institution or agency with whom the city may from time to time contract for the operation of the city pound and the receipt of dogs and puppies impounded by the dog warden or dog warden's assistants pursuant to this article.

Puppy means all members of the canine family less than three months of age.

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

Run at large means all times and places when the animal is not confined or enclosed on the premises of the owner or person in charge in such manner as to effectively prevent its escape, or is not attached to a leash in the hands of such owner or person in charge.

“Service animal means a dog that is individually trained to work or to perform tasks for people with disabilities, such as guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure; reminding a person with mental illness to take prescribed medications, calming a person with post-traumatic stress disorder (PTSD). Service animals are working animals, not pets. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals.”

(Code 1996, § 3-2; Ord. No. 228, § 1; Ord. No. 702, § A; Ord. No. 838)

Sec. 6-59. Dog warden's authority on unenclosed premises.

For the purpose of discharging the duties imposed by this article and to enforce its provisions, the dog warden and the dog warden's assistants are each empowered to enter upon any unenclosed premises upon which a dog is running at large in violation of this article and in the presence of such dog warden or dog warden's assistants for the purpose of obtaining information for the issuance of a citation or of impounding such dog.

(Code 1996, § 3-17.7; Ord. No. 702, § A; Ord. No. 838)

Sec. 6-60. Interference.

No person shall interfere with, hinder or molest any dog warden or dog warden's assistant in the performance of any duty of such dog warden or dog warden's assistant or seek to release any dog or puppy in the custody of the dog warden, dog warden's assistants, the poundmaster or the poundmaster's assistants, except as provided in this article.

(Code 1996, § 3-17.9; Ord. No. 702, § A; Ord. No. 838)

State law reference(s)—Obstructing government operations, Code of Ala. 1975, § 13A-10-2.

Sec. 6-61. Dog warden

- (a) *Position established.* There is hereby established in the service of the city the position of dog warden. The person employed as dog warden shall be attired in a distinctive uniform to be provided by the city, of a type to be selected or approved by the city manager, and shall, at all times he is on duty, wear a badge showing him to be a dog warden of the city. The city may make available to the dog warden a motor vehicle suitable for incarcerating dogs therein and equipped with radio sending and receiving equipment capable of radio communication between the police department of the city and such motor vehicle.
- (b) *Duties.* The dog warden, under the supervision of the police department 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 dog warden shall pick up 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 police department as to the place where the dog was picked up and other pertinent facts relative to the violation.

(Code 1996, §§ 3-15, 3-16; Ord. No. 702, § A; Ord. No. 838)

Sec. 6-62. Keeping of vicious dog; prima facie evidence of viciousness.

It shall be unlawful for the owner or other person in charge thereof to harbor or keep in the city a vicious dog, unless such dog is securely confined or bound in such manner as to prevent such dog from biting or attacking a person or other animal. It shall be prima facie evidence that a dog is a vicious dog if it shall bite or fiercely attack any person, or any other animal, such person or other animal at the time of such biting or attack not being on the owner's premises.

(Code 1996, § 3-13; Ord. No. 288, § 9; Ord. No. 702, § A; Ord. No. 838)

State law reference(s)—Keeping of vicious animals, Code of Ala. 1975, § 3-1-3.

Sec. 6-63. Removal of collar or tags prohibited.

It shall be unlawful for any person to remove a collar or rabies tag from any dog that is not his own or under his charge or control.

(Code 1996, § 3-17.9; Ord. No. 702, § A; Ord. No. 838; Ord. No. 967, 3-28-1988)

Sec. 6-64. Prohibited in certain places.

- (a) The city council has determined that it is harmful to the health and safety of people who participate in, or attend, competitive sports events and/or practices for competitive sports events (singly, "event" and, collectively, "events") conducted on the playing fields of the public schools of the board of education of the city ("board"), (including any part of the sports complex (as hereinafter defined) at the Mountain Brook High

School), for dogs or puppies (collectively, "dogs") to be on said playing fields during, prior to, and after, events, or to be on any part of the sports complex at any time, regardless of whether the dogs are running at large or are under restraint, because of the resulting presence of canine feces and the risk that someone may be bitten or attacked by a dog.

~~(b) Any dog, whether or not such dog shall have attached to it a license tag and whether or not such dog is on a leash held by a person, which is on a public school playing field (other than the sports complex) during, within one-half hour prior to the commencement of, or within one-half hour after the conclusion of, any event shall be deemed to be a public nuisance and danger to the health and safety of the people who participate in, or attend, events, and shall be subject to being picked up, impounded in the city pound and disposed of as would a dog or puppy found running at large in the city, as provided in division 3 of this article.~~

(c) Any dog, whether or not such dog shall have attached to it a license tag and whether or not such dog is on a leash held by a person, which is, at any time, **on a public school playing field, including** ~~on~~ any part of the sports complex at the Mountain Brook High School ("high school") shall be deemed to be a public nuisance and danger to the health and safety of the people who participate in, or attend, events, and shall be subject to being picked up, impounded in the city pound and disposed of as would a dog or puppy found running at large in the city, as provided in division 3 of this article. As used in this section, **"public school playing fields"** ~~"sports complex"~~ shall mean and include:

(1) **All playing fields located at Mountain Brook Junior High, Crestline Elementary, Brookwood Forest Elementary, Mountain Brook Elementary and Cherokee Bend Elementary Schools.**

(2) **The "Sports Complex at Mountain Brook High School" to include:**

(i) The playing field at the high school that is used by the high school's baseball team for the playing and practice of baseball;

(ii) The six playing fields at the high school that are used for the playing and practice of softball and/or baseball;

(iii) The playing field at the high school that is used by the high school's football team for playing football games;

(iv) The track that is adjacent to the playing field referred to in subsection (c)(4) of this section;

(v) The playing field at the high school that is used by the high school's football team as a practice field;

(vi) The three playing fields at the high school that are used for the playing and practice of soccer and are located in the northwesterly part of the high school's campus;

(vii) All areas adjacent to and between the playing fields referred to **in this subsection** ~~subsections (c)(6) and (c)(7) of this section;~~ and

(viii) The playing field at the high school that is used for the playing and practice of soccer and is located in the southeasterly part of the high school's campus and all areas adjacent to, and within 100 feet of, said playing field; **and.**

(ix) All tennis courts.

(3) **All areas adjacent to and between the playing fields referred to in subsections (c)(1) and (c)(2) of this section, including, without limitation, the areas where spectators sit or stand, playgrounds and the concession stands.**

(d) The owner or other person in charge of any dog ("responsible person"), which is found, at any time, on any part of **the public school playing fields** ~~sports complex, and any responsible person whose dog is found on~~

~~any other playing fields of the public schools of the board during, within one-half hour before, or within one-half hour after, an event shall be subject to the penalties provided in section 1-9.~~

- (e) The dog warden or any police officer of the city shall serve upon any responsible person found to be in violation of this section, a citation to appear in the municipal court of the city at the time and date specified therein to answer the charge of such violation. Prior to the time such case is to be heard in the municipal court the responsible person charged in such citation, if he has not previously settled for, or been convicted of, six or more violations of this section within the period of 12 months prior to the date of such citation, may dispose of the citation by settlement in the following manner: pay to the clerk of the municipal court a fine for the offense charged in the amount of \$25.00, if the offense charged is the first such offense by such responsible person within such 12-month period; \$50.00 if the offense charged is the second such offense by such responsible person within such 12-month period; \$75.00 if the offense charged is the third such offense by such responsible person within such 12-month period; \$100.00 if the offense charged is the fourth such offense by such responsible person within such 12-month period; \$125.00 if the offense charged is the fifth such offense by such responsible person within such 12-month period; or \$150.00 if the offense charged is the sixth such offense by such responsible person within such 12-month period. If settlement of the charge set out in the citation is not made prior to 12:00 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 such charge has not otherwise been disposed of by such court, a \$20.00 penalty will be added to the violation. If a person receiving a citation as herein provided has within the period of 12 months prior to the date of such citation settled or been convicted of six or more such violations, he shall not be permitted to settle the instant alleged offense, but shall be required to stand trial in municipal court and shall be subject to the penalties provided in section 1-9.
- (f) **The provisions of this section to the contrary notwithstanding, service animals assisting persons with disabilities shall be permitted in all areas of the City of Mountain Brook where members of the public are allowed to go and, further, every person employed by an accredited school for training guide dogs shall have the right to be accompanied by a guide dog in training in any of the places listed in this section."**

~~The provisions of this section to the contrary notwithstanding every totally or partially blind person shall have the right to be accompanied by a guide dog, especially trained for the purpose, and every hearing-impaired person shall have the right to be accompanied by a hearing dog, especially trained for the purpose, and every person employed by an accredited school for training guide dogs shall have the right to be accompanied by a guide dog in training in any of the places listed in this section.~~

(Code 1996, § 3-17.10; Ord. No. 1352, 3-22-1999)

Sec. 6-65. Prohibited in certain public parks.

- (a) The city council has determined that it is harmful to the health and safety of people who visit, participate in, or attend events or functions at certain public parks ("restricted parks" as hereinafter defined) for dogs or puppies (collectively "dogs") to be in said restricted parks at any time, regardless of whether the dogs are running at large or are under restraint, because of the resulting presence of canine feces and the risk that someone may be bitten or attacked by a dog.
- (b) Any dog, whether or not such dog shall have attached to it a license tag and whether or not such dog is on a leash held by a person, which is, at any time, in any part of the restricted park, shall be deemed to be a public nuisance and danger to the health and safety of the people who visit or participate in or attend events. As used in this section, "restricted parks" shall mean and include:

Crestline Tot Lot on Church Street in Crestline Village; Overton Park, including the tennis courts; Canterbury Park
~~Crestline Tot Lot on Church Street in Crestline Village~~

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- (c) The owner or other person in charge of any dog ("responsible party"), which is found, at any time, in any part of the restricted park shall be subject to the penalties provided in section 1-9 of this Code.
- (d) The dog warden or any police officer of the city shall serve upon any responsible party found to be in violation of this section, a citation to appear in the municipal court of the city at the time and date specified therein to answer the charge of such violation. Prior to the time such case is to be heard in the municipal court the responsible party charged in such citation, if he has not previously settled for, or been convicted of, six or more violations of this section within the period of 12 months prior to the date of such citation, may dispose of the citation by settlement by paying to the clerk of the municipal court a fine for the offense charged in the following amounts:
- (1) \$25.00 if the offense charged is the first such offense by such responsible person within such 12-month period;
 - (2) \$50.00 if the offense charged is the second such offense by such responsible person within such 12-month period;
 - (3) \$75.00 if the offense charged is the third such offense by such responsible person within such 12-month period;
 - (4) \$100.00 if the offense charged is the fourth such offense by such responsible person within such 12-month period;
 - (5) \$125.00 if the offense charged is the fifth such offense by such responsible person within such 12-month period; or
 - (6) \$150.00 if the offense charged is the sixth such offense by such responsible person within such 12-month period.

If settlement of the charge set out in the citation is not made prior to 12:00 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 municipal court, or such charge has not otherwise been disposed of by such court, a \$20.00 penalty will be added to the violation. If a person receiving a citation as herein provided has within the period of 12 months prior to the date of such citation settled or been convicted of six or more such violations, he shall not be permitted to settle the instant alleged offense, but shall be required to stand trial in municipal court and shall be subject to the penalties provided in section 1-9 of this Code.

- (e) **The provisions of this section to the contrary notwithstanding, service animals assisting persons with disabilities shall be permitted in all areas of the City of Mountain Brook where members of the public are allowed to go and, further, every person employed by an accredited school for training guide dogs shall have the right to be accompanied by a guide dog in training in any of the places listed in this section.**

~~The provisions of this section to the contrary notwithstanding, every totally or partially blind person shall have the right to be accompanied by a guide dog, especially trained for the purpose, and every hearing-impaired person shall have the right to be accompanied by a hearing dog, especially training for the purpose, and every person employed by an accredited school for training guide dogs shall have the right to be accompanied by a guide dog in training in any of the places listed in this section.~~

(Ord. No. 1801, § 1, 7-20-2009)

Secs. 6-66—6-86. Reserved.

DIVISION 2. VACCINATION

Sec. 6-87. Required; amount of vaccine required.

- (a) It shall be unlawful for any person to possess, keep or harbor in the city any dog that has not been vaccinated as provided in subsection (b) of this section within the preceding 12 months.
- (b) In order to be sufficient hereunder, vaccination shall be accomplished in such manner as is required to comply with state law by a physician, surgeon or veterinarian duly licensed as such by the state board thereunto duly authorized, or shall be accomplished by a rabies inspector or deputy rabies inspector appointed pursuant to Code of Ala. 1975, § 3-7A-11.

(Code 1996, §§ 3-3, 3-4; Ord. No. 228, § 2; Ord. No. 702, § A; Ord. No. 838)

State law reference(s)—Rabies vaccinations, Code of Ala. 1975, § 3-7A-2 et seq.

Sec. 6-88. Collar and rabies tag required.

It shall be unlawful for any person to keep or harbor a dog within the city unless such dog shall have attached thereto a collar and a rabies tag.

(Code 1996, § 3-5; Ord. No. 702, § A; Ord. No. 838)

Sec. 6-89. Exemptions from article requirements.

The provisions of this article to the contrary notwithstanding, the person in charge or possession of dogs kept in a hospital, clinic or other place operated by a licensed veterinarian for the care and treatment of animals shall not be required to vaccinate any such dogs that are not the property of such person, to obtain collars therefor or to purchase licenses therefor.

(Code 1996, § 3-17.6; Ord. No. 702, § A; Ord. No. 838)

Secs. 6-90—6-106. Reserved.

DIVISION 3. RUNNING AT LARGE

Sec. 6-107. Prohibited.

It shall be unlawful for any person to permit or allow any dog or puppy owned by him or in his charge or control to run at large.

(Code 1996, § 3-12; Ord. No. 702, § A; Ord. No. 838)

Sec. 6-108. Dogs running at large declared nuisance.

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

(Code 1996, § 3-14; Ord. No. 228, § 10; Ord. No. 702, § A; Ord. No. 838)

State law reference(s)—Dogs running at large, Code of Ala. 1975, § 3-1-5.

Sec. 6-109. Issuance of citation to owner.

The dog warden or any police officer of the city shall 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 violations within 12 months from the date of such citation, may dispose of the citation by settlement in the following manner: pay to the clerk of the municipal court a fine for the offense charged in the amount of \$25.00, if the offense charged is the first such offense by the owner or person charged within 12 months from the date of such citation; \$75.00 if the offense charged is the second such offense by the owner or person charged within 12 months from the date of such citation. If settlement of the charge set out in the citation is not made prior to 12:00 p.m. of 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 \$20.00 penalty will be added to the violation. If a person receiving a citation as herein provided has within the preceding 12 months from the date of such citation settled or been convicted of two or more such violations, he shall not be permitted to settle the instant alleged offense, but shall be required to appear before the municipal judge in municipal court and, if convicted of a violation of this section, be punished by a fine of not less than \$150.00 nor more than \$500.00.

(Code 1996, § 3-17; Ord. No. 702, § A; Ord. No. 838; Ord. No. 967, 3-28-1988; Ord. No. 1813, § 1, 6-28-2010)

Sec. 6-110. Impoundment.

- (a) *Redemption; inoculation prior to release; handling of fees by poundmaster.* Any dog that is found running at large in the city or any puppy found running at large; or any dog, puppy or other animal suspected of infection with rabies, or any vicious dog not kept or confined as required by section 6-62, 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 dog warden and his assistants to take up and impound in the city pound such dog or puppy as provided by section 6-108. Any such dog or puppy so impounded may be retaken or redeemed from the pound by the owner thereof, up to ten days from the date of such impoundment, or at any time thereafter before sale or destruction thereof, by paying to the city a fine as specified in section 6-109, and the poundmaster board for such dog or puppy or other animal at the current rate as set forth in chapter 14, plus a fee as set forth in chapter 14 for rabies vaccination for dogs or cats, respectively, if required, and/or a fee as set forth in chapter 14 for bordetella ("kennel cough") vaccination for dogs, if required. Every such dog or puppy or other animal, which has remained in the pound and not been redeemed or retaken by the owner within ten working days after the posting of the notice required by subsection (b) of this section, shall be disposed of as provided in said subsection (b) of this section.

Poundmaster may charge owners or other persons authorized to redeem animals from the city pound for its services at the corresponding levels for them set forth in chapter 14.

- (b) *Disposal or adoption of tame dogs or cats after ten working days; notice; redemption from impoundment.* The poundmaster shall keep any unclaimed but tame dog, puppy or cat in the city pound for a minimum of ten working days. Following impoundment, the dog warden may post a notice on the city's internet web site that any such animal is subject to destruction and disposal or adoption by a third party not less than ten working days after the date of posting. The notice shall include the date of posting, a photograph and the estimated age, color, sex, weight and breed (if known) of the subject dog or cat, and if known to the dog warden or poundmaster, the name and address of its owner. The dog warden also shall provide poundmaster a copy of the aforesaid notice following posting.

If an impounded tame dog, puppy or cat is not reclaimed by its owner within the ten working day period after posting of the aforesaid notice, either of the following may occur after that period expires:

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- (1) Any person other than the owner may redeem and receive possession of the animal by paying poundmaster all impoundment or veterinary service charges for the animal's care that are contemplated in this article, in which event, the owner shall forfeit its right of redemption; or
 - (2) The poundmaster may destroy the animal in a merciful manner and dispose of it, or in its discretion, give the body of the deceased animal to proper authorities or hospitals for clinical or scientific use.

Saturdays, Sundays and legal holidays shall not be excluded in computing the ten working day periods referenced in this section.

Excluding tame dogs, puppies and cats, the poundmaster may destroy and dispose of wild animals (including feral cats) that are impounded at the city pound within 48 hours after impoundment without the provision of any notice.

(Code 1996, §§ 3-17.1, 3-17.2; Ord. No. 702, § A; Ord. No. 712, §§ A, B; Ord. No. 838; Ord. No. 967, 3-28-1988; Ord. No. 1019, 1-22-1990; Ord. No. 1026, 10-9-1990; Ord. No. 1583, § 1, 7-28-2003; Ord. No. 2095, §§ ii, iii, 12-14-2020)

State law reference(s)—Sterilization of impounded animals, Code of Ala. 1975, § 3-9-1 et seq.; authority of city to impound animals running at large, Code of Ala. 1975, § 11-47-110.

Secs. 6-111—6-133. Reserved.

DIVISION 4. FEMALES IN HEAT

Sec. 6-134. Confinement.

It shall be unlawful for the owner or other person in charge of a female dog to cause or permit such female dog during its period of estrus to run at large on or about any place, lot or premises or portion of the same within the city which is not provided and equipped with a wall, fence or other enclosure in such manner as to effectively prevent the escape of such dog; and while at large on or about such places, lot or premises or portion of the same during such period, such female dog shall be kept within the limits of such wall, fence or enclosure.

(Code 1996, § 3-17.3; Ord. No. 81, § 1; Ord. No. 702, § A; Ord. No. 838)

Sec. 6-135. Impoundment.

Whenever a female dog during its period of estrus is found in or about any street, thoroughfare, place, lot or premises contrary to the provisions of this article, it shall be the duty of the dog warden to take such animal into custody and remove or cause the same to be removed to and placed in the city pound.

(Code 1996, § 3-17.4; Ord. No. 81, § 3; Ord. No. 702, § A; Ord. No. 838)

Sec. 6-136. Disposal after ten working days; redemption from impoundment.

The poundmaster shall keep such dog in the pound for ten working days, and if it is not redeemed within such time the poundmaster shall destroy it in a merciful manner or otherwise sell or dispose of the same all as provided in section 6-110(b). The owner may redeem the dog from the pound at any time within such ten days or prior to the time it is destroyed, sold or otherwise disposed of; provided, that if the owner does not redeem such dog within ten working days from the impounding, any other person may redeem or purchase such dog after the

ten working days and after the expiration of the notice provided by section 6-110(b) and before the dog is dispatched or redeemed by the owner in which event the owner shall lose his right of redemption.

(Code 1996, § 3-17.5; Ord. No. 81, § 4; Ord. No. 702, § A; Ord. No. 712, § C; Ord. No. 838; Ord. No. 967, 3-28-1988)

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 6 OF THE CITY CODE

WHEREAS, the City Council of the City of Mountain Brook, Alabama (the "City Council") heretofore has adopted an ordinance ("Animal Control Ordinance") regulating the control of animals, including dogs, in the City of Mountain Brook ("City"); and

WHEREAS, the Animal Control Ordinance contains a prohibition against dogs being on the playing fields of the public schools at certain times and dogs being on the playing fields at the Mountain Brook Sports Complex and the Crestline Tot Lot at any time; and

WHEREAS, the presence of dogs and their impact has become an interference with the use and enjoyment of the playing fields at the public schools and some of the City's parks by students, participants in community athletic programs, spectators and members of the general public, as well as constituting a potential health hazard and a risk to the safety of those using those facilities; and

WHEREAS, the City Council has heretofore taken action to post signs requesting compliance with the Animal Control ordinance and installation of boxes with materials for dog owners to sanitarily remove pet waste but, despite those efforts, there continue to be unsanitary impacts as a result of dogs in such areas; and

WHEREAS, after receiving input from the community, the City Council has determined that it is in the public interest and in the interest of the students, athletic participants and community members that use the City's playing fields and parks, that dogs should be prohibited from such places; and

WHEREAS, the amendment of the City's Animal Control ordinance to prohibit the presence of dogs at all times in the enumerated areas will promote the public safety, health and general welfare of its students, athletic participants and coaches, community members and all other persons who use such areas.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mountain Brook as follows:

Section 1. Section 6-64 of the City Code is hereby repealed and replaced with the following:

"Sec. 6-64. – Prohibited in certain places.

- (a) The city council has determined that it is harmful to the health and safety of people who participate in, or attend, competitive sports events and/or practices for competitive sports events (singly, "event" and, collectively, "events") conducted on the playing fields of the public schools of the board of education of the city ("board"), (including any part of the sports complex (as hereinafter defined) at the Mountain Brook High School), for dogs or

puppies (collectively, "dogs") to be on said playing fields at any time, regardless of whether the dogs are running at large or are under restraint, because of the resulting presence of canine feces and the risk that someone may be bitten or attacked by a dog.

- (b) Any dog, whether or not such dog shall have attached to it a license tag and whether or not such dog is on a leash held by a person, which is, at any time, on a public school playing field, including any part of the sports complex at the Mountain Brook High School ("high school") shall be deemed to be a public nuisance and danger to the health and safety of the people who participate in, or attend, events, and shall be subject to being picked up, impounded in the city pound and disposed of as would a dog or puppy found running at large in the city, as provided in division 3 of this article. As used in this section, "public school playing fields" shall mean and include:

(1) All playing fields located at Mountain Brook Junior High, Crestline Elementary, Brookwood Forest Elementary, Mountain Brook Elementary and Cherokee Bend Elementary Schools.

(2) The "Sports Complex at Mountain Brook High School" to include:

(i) The playing fields at the high school that are used by the high school's baseball team for the playing and practice of baseball;

(ii) The six playing fields at the high school that are used for the playing and practice of softball and/or baseball;

(iii) The playing field at the high school that is used by the high school's football team for playing football games;

(iv) The track that is adjacent to the playing field referred to in subsection (b)(2)(iii) of this section;

(v) The playing field at the high school that is used by the high school's football team as a practice field;

(vi) The three playing fields at the high school that are used for the playing and practice of soccer and are located in the northwesterly part of the high school's campus;

(vii) All areas adjacent to and between the playing fields referred to in this subsection;

(viii) The playing field at the high school that is used for the playing and practice of soccer and is located in the southeasterly part of the high school's campus and all areas adjacent to, and within 100 feet of, said playing field; and

- (ix) All tennis courts.
- (3) All areas adjacent to and between the playing fields referred to including, without limitation, the areas where spectators sit or stand, playgrounds and concession stands.
- (d) The owner or other person in charge of any dog ("responsible person"), which is found, at any time, on any part of the public school playing fields, shall be subject to the penalties provided in section 1-9.
- (e) The dog warden or any police officer of the city shall serve upon any responsible person found to be in violation of this section, a citation to appear in the municipal court of the city at the time and date specified therein to answer the charge of such violation. Prior to the time such case is to be heard in the municipal court the responsible person charged in such citation, if he has not previously settled for, or been convicted of, six or more violations of this section within the period of 12 months prior to the date of such citation, may dispose of the citation by settlement by paying to the clerk of the municipal court a fine for the offense charged in the following amounts:
 - (1) \$25.00 if the offense charged is the first such offense by such responsible person within such 12-month period;
 - (2) \$50.00 if the offense charged is the second such offense by such responsible person within such 12-month period;
 - (3) \$75.00 if the offense charged is the third such offense by such responsible person within such 12-month period;
 - (4) \$100.00 if the offense charged is the fourth such offense by such responsible person within such 12-month period;
 - (5) \$125.00 if the offense charged is the fifth such offense by such responsible person within such 12-month period; or
 - (6) \$150.00 if the offense charged is the sixth such offense by such responsible person within such 12-month period.

If settlement of the charge set out in the citation is not made prior to 12:00 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 such charge has not otherwise been disposed of by such court, a \$20.00 penalty will be added to the violation. If a person receiving a citation as herein provided has within the period of 12 months prior to the date of such citation settled or been convicted of six or more such violations, he shall not

be permitted to settle the instant alleged offense, but shall be required to stand trial in municipal court and shall be subject to the penalties provided in section 1-9.

- (f) The provisions of this section to the contrary notwithstanding, service animals assisting persons with disabilities shall be permitted in all areas of the City of Mountain Brook where members of the public are allowed to go and, further, every person employed by an accredited school for training guide dogs shall have the right to be accompanied by a guide dog in training in any of the places listed in this section.”

Section 2. Section 6-65(b) of the City Code is hereby repealed and replaced with the following:

- “(b) Any dog, whether or not such dog shall have attached to it a license tag and whether or not such dog is on a leash held by a person, which is, at any time, in any part of the restricted park, shall be deemed to be a public nuisance and danger to the health and safety of the people who visit or participate in or attend events. As used in this section, "restricted parks" shall mean and include:

Crestline Tot Lot on Church Street in Crestline Village; Overton Park, including the tennis courts; Canterbury Park.”

Section 3. Section 6-65(e) of the City Code is hereby repealed and replaced with the following:

- “(e) The provisions of this section to the contrary notwithstanding, service animals assisting persons with disabilities shall be permitted in all areas of the City of Mountain Brook where members of the public are allowed to go and, further, every person employed by an accredited school for training guide dogs shall have the right to be accompanied by a guide dog in training in any of the places listed in this section.”

Section 4. Section 6-58 of the City Code shall be amended by adding the following definition:

“*Service animal* means a dog that is individually trained to work or to perform tasks for people with disabilities, such as guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure; reminding a person with mental illness to take prescribed medications, calming a person with post-traumatic stress disorder (PTSD). Service animals are working animals, not pets. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals.”

Section 5. This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

Section 6. 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 7. All other ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama which are inconsistent with the provisions of this ordinance are hereby expressly repealed.

Section 8. This ordinance shall be effective immediately after adoption and publication as provided by law.

ADOPTED: This ____ day of _____, 2022.

Virginia C. Smith, Council President

ADOPTED: This ____ day of _____, 2022.

Stewart Welch, Mayor