

## ORDINANCE NO. 2129

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**Section 1.** Section 6-64 of the City Code is hereby repealed and replaced with the following: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

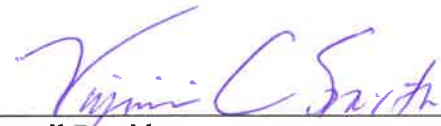
**Section 5.** This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

**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 12th day of September, 2022.

  
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Council President

**ADOPTED:** This 12th day of September, 2022.

  
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Mayor

#### **CERTIFICATION**

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, at its meeting held on this 12th day of September, 2022, as same appears in the minutes of record of said meeting, and published by posting copies thereof on September 13, 2022, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street  
Gilchrist Pharmacy, 2850 Cahaba Road

Overton Park, 3020 Overton Road  
Cahaba River Walk, 3503 Overton Road

  
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City Clerk