

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD
August 19, 2013**

The City Council of Muscle Shoals, Alabama met at the Muscle Shoals City Hall Auditorium in said City at 6:25 p.m. on the 19th day of August, 2013 being the scheduled time and approved place for said meeting. The meeting was called to order by James Holland, President of the Council. The invocation was given by Bill Howard. On roll call the following members were found to be present or absent, as indicated:

PRESENT: JOE PAMPINTO, NEAL WILLIS, MIKE LOCKHART,
 JAMES HOLLAND, ALLEN NOLES
ABSENT: NONE

James Holland, President of the Council, presided at the meeting and declared that a quorum was present and that the meeting was convened and opened for the purposes of transaction of business. Richard Williams, City Clerk, was present and kept the minutes of the meeting.

Upon motion duly made by Council Member Willis seconded by Council Member Noles and unanimously adopted, the Council waived the reading of the minutes of the previously held regular meeting and work session of August 5, 2013 meeting and approved the minutes as written.

President Holland announced that the next item of business was a public hearing to consider the vacation of portions of Florence Avenue between Harding Street and Firestone Street.

President Holland noted that proper notice of the date, time and place of said hearing had been given and the matter was before the Council.

President Holland stated that the Council would hear from those persons in support of the vacation as well as those opposed.

There being no one wishing to speak, President Holland stated that approval of the vacation was before the Council. Council Member Willis introduced the following resolution and moved for its adoption:

STATE OF ALABAMA
COLBERT COUNTY

PETITION

WHEREAS, the Irby Development Company is in the process of purchasing certain property within the city limits of Muscle Shoals City, Alabama;

WHEREAS, the Irby Development Company wishes to construct apartment units upon the property which is presently being used as a location for mobile homes which are serving as residences;

WHEREAS, the Irby Development Company wishes to vacate Florence Avenue between Firestone and Harding Streets;

WHEREAS, Florence Avenue between Firestone and Harding Streets has not been developed, used as, or opened as a public street;

WHEREAS, that part of Florence Avenue which the Petitioner wishes to vacate is located within and is a part of the way designated Muscle Shoals City, all of which is designated according to maps and plats recorded in the Office of the Judge of Probate of Colbert County, Alabama;

WHEREAS, convenient and reasonable means of ingress and egress to and from other property located within the city is afforded to all other property owners and further the desired vacation shall not deprive any property owners of a convenient and reasonable means of ingress and egress to and from their property;

WHEREAS, that portion of Florence Avenue, the subject of this vacation request, is not currently being used as a public street, and, to the best of the Petitioner's knowledge, information and belief, there are no facilities or equipment such as utility lines, both aerial or buried with public right-of-way of the street, or portions thereof, proposed to be vacated;

WHEREAS, the Petitioner seeks and requests assent to the vacation by the governing body of Muscle Shoals City, Alabama and that this assent be evidenced by a resolution duly adopted by the governing body and certified by the Clerk;

NOW, THEREFORE, the Petitioner request that the governing body of the City of Muscle Shoals set a hearing for the vacation of Florence Avenue between Harding Street and Firestone Street, lying within the limits of the City and that proper notice of this proposed vacation be given.

Dated this the 8th day of July, 2013.

Respectfully Submitted,
/s/Leslie G. Johnson
Attorney for Petitioner
1847 North Wood Avenue
Florence, AL 35630
256-766-3131

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2632 - 13

WHEREAS, Irby Development Company has presented to the City Council of Muscle Shoals, Alabama, a written petition, duly executed and acknowledged, setting forth that it is in the process of purchasing certain property within the city limits of Muscle Shoals, Alabama, with said property abutting the block(s), street(s), and alley(s) hereinafter set forth;

WHEREAS, the City Council of Muscle Shoals, Alabama has been requested to assent to the vacation and the annulment of the dedication of the below described portions of the below described block(s), street(s), and alley(s) to the use of the public; and

WHEREAS, the City Council of Muscle Shoals, Alabama does hereby find that reasonable means of ingress and egress to and from other property located within the city is afforded to all other property owners and further the desired vacation of the block(s), street(s), and alley(s) described hereinafter shall not deprive any property owners of a convenient and reasonable means of ingress and egress to and from their property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Muscle Shoals, Alabama that the act of Irby Development Company in vacating and annulling the below described portions of the below described block(s), street(s), and alley(s) be, and the same is hereby ratified, approved and confirmed, and its assent is hereby given, with said block(s), street(s), and alley(s) being described to wit:

All that portion of Eason Avenue, which is also known as Florence Avenue, as shown on the plat of Barry's Business Center, Block C, according to the plat thereof as recorded in the Office of the Judge of Probate of Colbert County, Alabama in Plat Book 2, Page 473 (Cabinet A, Slide 73), lying Eastwardly of Harding Avenue and Westwardly of Firestone, which is also known as Florence Avenue

BE IT FURTHER RESOLVED that the City of Muscle Shoals, Alabama remise, release, and quitclaim to Irby Development Company whatever right, title and interest the City of Muscle Shoals may have acquired in and to the above described block(s), street(s), and alley(s) and that the Mayor, David H. Bradford, is hereby authorized to execute a quitclaim deed to Irby Development Company for and on behalf of the City of Muscle Shoals, Alabama. Also, the City Council of Muscle Shoals, Alabama authorizes its Mayor, David H. Bradford to execute a quitclaim deed to Irby Development Company for the North ½ of Florence Avenue lying between Harding Avenue and Firestone. Further, the City Council of Muscle Shoals, Alabama authorizes its Mayor, David H. Bradford to execute a quitclaim deed to Arbor Village, LLC for the South ½ of Florence Avenue lying between Harding Avenue and Firestone.

Council Member Noles seconded the motion and upon said motion being put to a vote all voted "AYE" and "NAYS" were none.

President Holland announced that the resolution had been approved.

President Holland announced that the next item of business was the scheduling of a public hearing to consider the issuance of a Lounge Retail Liquor License, Class II (Package) to Good Spirits Inc. dba Good Spirits, located at 601 Buena Vista Avenue.

President Holland announced that at a public hearing to be held at the City Hall in said City at 6:00 pm on the 3rd day of September, 2013, the Council will consider the issuance of the Lounge Retail Liquor License, Class II (Package). At said time and place, all persons who desire to do so shall have the opportunity of being heard in opposition to or in favor of the approval of such license.

President Holland announced that the next item of business was the scheduling of a public hearing to consider the issuance of a Restaurant Retail Liquor License to Heath & Kelley Inc. dba Kels Family Restaurant, located at 4127 Sportsplex Drive.

President Holland announced that at a public hearing to be held at the City Hall in said City at 6:00 pm on the 3rd day of September, 2013, the Council will consider the issuance of the Restaurant Retail Liquor License. At said time and place, all persons who desire to do so shall have the opportunity of being heard in opposition to or in favor of the approval of such license.

President Holland announced that the next item of business was the consideration of a resolution to award a contract for engineering services for CDBG Project LR-ED-PF-13-002 (North American Lighting drainage) and to authorize the Mayor to enter into the contract with Williams Engineering Group, LLC.

Council Member Noles introduced following resolution and moved for its adoption:
STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2633 - 13

RESOLUTION AUTHORIZING THE SELECTION OF AN ENGINEER FOR CDBG PROJECT LR-ED-PF-13-002 (NAL DRAINAGE)

WHEREAS, the City of Muscle Shoals has completed review of engineering qualifications submitted for CDBG Project # LR-ED-PF-13-002; and

WHEREAS, the City of Muscle Shoals has satisfied all CDBG rules, regulations and guidelines in selecting an engineer for the project; now

THEREFORE BE IT RESOLVED that the City of Muscle Shoals does hereby authorize the **Williams Engineering Group, LLC** to provide engineering services; and

BE IT FURTHER RESOLVED that the City of Muscle Shoals authorizes the Mayor of the City of Muscle Shoals to enter into a contract with the **Williams Engineering Group, LLC** to provide said services for a fee not to exceed \$ **23,000.00** for project LR-ED-PF-13-002.

Council Member Lockhart seconded the motion and upon said motion being put to a vote all voted “AYE” and “NAYS” were none.

President Holland announced that the resolution had been approved.

President Holland announced that the next item of business was the consideration of a resolution to award a contract for administrative services for CDBG Project # LR-ED-PF-13-002 (North American Lighting drainage) and to authorize the Mayor to enter into the contract with the Northwest Alabama Council of Local Governments (NACOLG).

Council Member Lockhart introduced following resolution and moved for its adoption:
STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2634 - 13

RESOLUTION AUTHORIZING THE NORTHWEST ALABAMA COUNCIL OF LOCAL GOVERNMENTS TO ADMINISTER PROJECT LR-ED-PF-13-002

WHEREAS, the City of Muscle Shoals has received a CDBG grant to provide drainage improvements adjacent to the North American Lighting manufacturing plant in the Shoals Research Airpark, now

THEREFORE BE IT RESOLVED that the City of Muscle Shoals does hereby authorize the Northwest Alabama Council of Local Governments to provide administration services for the project as provided for under ADECA Policy Letter 1 (Revision 9), and

BE IT FURTHER RESOLVED that the City of Muscle Shoals authorizes the Mayor of the City of Muscle Shoals to enter into a contract with the Northwest Alabama Council of Local Governments to provide said services for a fee not to exceed \$11,000.00.

Council Member Pampinto seconded the motion and upon said motion being put to a vote all voted “AYE” and “NAYS” were none.

President Holland announced that the resolution had been approved.

President Holland announced that the next item of business was the consideration of a resolution to award a contract for administrative services for CDBG Project # LR-ED-PF-13-008 (CBC INGS America) and to authorize the Mayor to enter into the contract with the Northwest Alabama Council of Local Governments (NACOLG).

Council Member Pampinto introduced following resolution and moved for its adoption:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2635 - 13

**RESOLUTION AUTHORIZING THE NORTHWEST ALABAMA COUNCIL OF
LOCAL GOVERNMENTS TO ADMINISTER PROJECT LR-ED-PF-13-008**

WHEREAS, the City of Muscle Shoals has received a CDBG grant to provide water/sewer improvements in the Shoals Research Airpark, now

THEREFORE BE IT RESOLVED that the City of Muscle Shoals does hereby authorize the Northwest Alabama Council of Local Governments to provide administration services for the project as provided for under ADECA Policy Letter 1 (Revision 9), and

BE IT FURTHER RESOLVED that the City of Muscle Shoals authorizes the Mayor of the City of Muscle Shoals to enter into a contract with the Northwest Alabama Council of Local Governments to provide said services for a fee not to exceed \$ 25,000.00.

Council Member Willis seconded the motion and upon said motion being put to a vote all voted "AYE" and "NAYS" were none.

President Holland announced that the resolution had been approved.

President Holland announced that the next item of business was the consideration of a resolution to award a contract for engineering services for CDBG Project # LR-ED-PF-13-008 (CBC INGS America) and to authorize the Mayor to enter into the contract with Williams Engineering Group, LLC.

Council Member Willis introduced following resolution and moved for its adoption:
STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2636 - 13

**RESOLUTION AUTHORIZING THE SELECTION OF AN ENGINEER
FOR CDBG PROJECT LR-ED-PF-13-008 (CBC INGS America)**

WHEREAS, the City of Muscle Shoals has completed review of engineering qualifications submitted for CDBG Project # LR-ED-PF-13-008; and

WHEREAS, the City of Muscle Shoals has satisfied all CDBG rules, regulations and guidelines in selecting an engineer for the project; now

THEREFORE BE IT RESOLVED that the City of Muscle Shoals does hereby authorize the **Williams Engineering Group, LLC** to provide engineering services; and

BE IT FURTHER RESOLVED that the City of Muscle Shoals authorizes the Mayor of the City of Muscle Shoals to enter into a contract with the **Williams Engineering Group, LLC** to provide said services for a fee not to exceed **\$38,379.00** for project LR-ED-PF-13-008.

Council Member Noles seconded the motion and upon said motion being put to a vote all voted “AYE” and “NAYS” were none.

President Holland announced that the resolution had been approved.

President Holland announced that the next item of business was the consideration of an ordinance to amend current ordinances regulating public nuisances.

Council Member Lockhart introduced the following ordinance in writing and moved for a suspension of the rules for its immediate consideration:

ORDINANCE NO. 1452 - 13
AN ORDINANCE REPEALING ORDINANCE NUMBERS 1202-99, 1207-99 AND 1271-02 AND 1427-10 OF THE CITY OF MUSCLE SHOALS, ALABAMA AND PROVIDING FOR AND PERTAINING TO THE CLEARING OF TRASH AND DEBRIS AND CUTTING OF WEEDS, REMOVAL OF JUNK AND NONCONFORMING VEHICLES WITHIN THE CITY OF MUSCLE SHOALS, ALABAMA

BE IT ORDAINED by the Council of the City of Muscle Shoals, Alabama as follows: ORDINANCE NUMBERS 1202-99, 1207-99, 1271-02 and 1427-10 and the provisions thereof heretofore adopted by the Council of the City of Muscle Shoals, Alabama are hereby repealed effective upon the enactment of the foregoing ordinance.

BE IT FURTHER ORDAINED by the Council of the City of Muscle Shoals, Alabama as follows:

Section 1. DEFINITIONS:

The following words, terms and phrases, when used in this section, shall have the following meanings:

Junk means any metals, machinery, plumbing fixtures, vehicle part(s) (including, but not limited to, mechanical parts, auto body parts, engine parts, mufflers, bumpers, truck caps and shells, truck storage boxes, box truck cargo areas, and trailer boxes), boat part(s), trailer part(s), mechanical part(s), rubber tire(s), appliance(s), furniture, machinery, equipment, building material, wire, cable, bearings, valves, pipes, pipe fittings, wood, or other items which are either in a wholly or partially rusted, wrecked, disabled, discarded, dismantled, or inoperative condition.

Litter means rubbish, refuse, waste material, garbage, dead animals or fowl, offal, paper, glass, cans, bottles, trash, scrap metal, debris, or any foreign substance of whatever kind and description, and whether or not it is of value. As used herein, "litter" shall also include fallen or cut limbs, tree cuttings, fallen or cut trees, vegetation cuttings, and yard waste. Any agricultural product in its natural state that is unintentionally deposited on a public highway, road, street, or public right-of-way shall not be deemed litter.

Nonconforming vehicle means any vehicle or trailer (including, but not limited to, cars, trucks, boats, motorcycles, and recreational vehicles) that is inoperable in that one or more of its major mechanical components including, but not limited to, engine, transmission, drive train, or wheels is or are missing or not functional. A nonconforming vehicle shall also include an automobile or motorcycle that may not be legally operated on a public street due to the absence of a current license tag, unless such vehicle:

- (a) Is on real property owned or leased by and in the control of an automobile dealer who is properly licensed to sell new or used vehicles at said property, and
- (b) Said vehicle is held and offered for sale as shown by a sign or other physical indication on the vehicle.

Overgrown grasses and weeds means any growth of grasses or weeds favorable to the harboring of mosquitoes or other insects, rats, snakes, or rodents or reptiles of like kind, and every such growth of grasses or weeds more than 12" inches in height shall be deemed favorable to the harboring of mosquitoes or other insects, rats, snakes, or rodents or reptiles of like kind, within the meaning of this ordinance.

Section 2. DUTY TO KEEP PROPERTY CLEAR AND FREE FROM LITTER AND JUNK.

(a) *Residential and other noncommercial properties.* Any owner, lessee, or person in control of any property used for residential or noncommercial purposes shall keep any and all portions of the property that are not located inside a fully enclosed structure clear and free from litter and junk. This duty shall extend to all porches, patios, decks, sidewalks, driveways, alleyways, and rights-of-way (other than public roadways) lying adjacent to said residential property.

(b) *Commercial properties.* Any owner, proprietor, or person in control of any property used for commercial purposes shall keep and maintain any and all portions of the property that are not located inside a fully enclosed structure clear and free from litter and junk. As used herein, the phrase "the property on which the business is conducted" shall include, but is not limited to, all premises, parking lots, and loading/unloading areas that are owned, leased or utilized by the business. This duty shall also extend to all porches, patios, decks, sidewalks, parking lots, driveways, alleyways, and rights-of-way (other than public roadways) lying adjacent to said property.

(c) *[Exceptions.]* There is no violation of this section where:

(1) The condition relates to the placement of litter or junk (that would otherwise constitute a violation of this section) on the property for collection in a manner that adheres to all

applicable requirements of Chapter 94 (Solid Waste and Garbage) of the Code of Ordinances of the City of Muscle Shoals, Alabama; or

(2) With respect to property used for commercial purposes, the condition relates to materials, goods, and/or supplies (not including vehicle(s), trailer(s), or vehicle and/or trailer part(s)) that are normally stored, displayed, or kept outside on the premises of duly licensed building supply companies, lumberyards, plumbing supply companies, nurseries, and similar commercial establishments, so long as the materials, goods and/or supplies (i) are not wholly or partially rusted, wrecked, ruined for their intended purpose or dismantled, disabled, or inoperative, and (ii) are stored in such a manner so as to prevent overgrowth with grass and/or weeds or the harboring of rats, mice, insects, reptiles, or other vermin; or so located as to prevent any health, fire or safety hazard;

(3) With respect to property used for commercial purposes, agricultural equipment, industrial equipment, and/or lawn and garden equipment that are displayed for sale on the premises of establishments that are duly licensed for the sales of such items, so long as they are stored in such a manner so as to prevent overgrowth with grass and/or weeds or the harboring of rats, mice, insects, reptiles, or other vermin; or so stored as to prevent any health, fire or safety hazard;

(4) The condition relates to fallen or cut limbs, tree cuttings, fallen or cut trees, and/or vegetation cuttings (other than grass cuttings) that are:

i. On any property or part thereof which remains in its natural condition. For purposes of this subsection, once property has been cleared, plowed, or developed in any manner, the property or part thereof is no longer in its natural condition;

ii. On any property that is used for agricultural purposes excluding those parts of said property that are within 50 feet from the abutting property lines of any and all abutting property used for residential or commercial purposes;

iii. Not visible from public rights of way or adjacent properties owned by a person or entity different from the owner of the property with the condition;

iv. The result of timber or logging operations, and are removed from the property within 30 days after the condition is created;

v. The result of activities to remove or alter vegetation in connection with the improvement or development of the property for business, governmental, residential use, and are removed from the property within 30 days after the condition is created; or

vi. On the premises as the result of storm or wind, and are removed from the property within 30 days after the condition is created.

(5) The condition relates to building materials located on a premises where a valid permit is in existence for construction or repairs;

(6) The condition relates to the operations of a public utility. Any property or part thereof which remains in its natural condition.

(d) Violations; Penalties.

Any person found guilty of violating this section shall:

(1) Upon that person's first violation be punished by a fine of \$100.00; provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the city's schedule of fines if the magistrate has received certification from a code enforcement officer of the city that the property conditions supporting the violation no longer exist or have been cured; and

(2) Upon that person's second violation within twelve(12) months, be punished by a fine of \$300.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months.

(3) Upon that person's third or subsequent violation within twenty-four (24) months, be punished by a fine of \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months.

(e) A corrective notice shall be issued to any person who is allegedly in violation of this section, and who has not previously been issued a corrective notice in connection with a violation of this section concerning the property that is the site of the violating condition. The corrective notice may be issued by any code enforcement officer of the city or any city employee or agent that is authorized to do so by the Mayor. The corrective notice may be either hand-delivered to the person, or mailed to the person by First Class Mail with postage prepaid through the United States Postal Service. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this section. The corrective notice shall also provide that the violating condition must be remedied within fourteen (14) calendar days from its issuance, and no action shall be instituted hereunder until the said fourteen (14) day period has expired.

Section 3. DUTY TO KEEP PROPERTY CLEAR AND FREE FROM
NONCONFORMING VEHICLES.

(a) Residential and other noncommercial properties.

Any owner, lessee, or person in control of any property used for residential or noncommercial purposes shall keep any and all portions of such property that are not located inside a fully enclosed and roofed structure clear and free from nonconforming vehicles. This duty shall extend to all sidewalks, driveways, alleyways, and rights-of-way lying adjacent to said property.

(b) Commercial properties.

Any owner, proprietor, or person in control of any property used for commercial purposes shall keep and maintain any and all non-screened portions of the property on which the business is conducted clear and free from nonconforming vehicles.

(c) [Nonscreened portions.]

As used in subsection (b), the phrase "non-screened portions" shall refer to those portions of the property that are not located inside (i) a fully enclosed structure, (ii) a nontransparent vertical wall or fence, and/or (iii) natural objects/plantings, any and all of which are of a minimum height of eight feet and in good, neat, and orderly condition and repair, such that the interior contents are completely shielded from the ground level view of adjacent public or private property, including any public right of way.

(d) [Property on which the business is conducted.]

As used in subsection (b), the phrase "the property on which the business is conducted" shall include, but is not limited to, all parking lots, and loading/unloading areas that are owned, leased or utilized by the business. This duty shall also extend to all porches, patios decks, sidewalks, parking lots, driveways, alleyways, and rights-of-way lying adjacent to said property.

(e) [Exceptions.] There is no violation of this section where:

(1) The condition relates to the placement of junk and litter (that would otherwise constitute a violation of this section) on the property for collection in a manner that adheres to all applicable requirements of Chapter 94 (Solid Waste and Garbage) of the Code of Ordinances of the City of Muscle Shoals, Alabama;

(2) With respect to any property on which a properly lawfully licensed vehicle repair or towing business is operating, the condition relates to a particular vehicle(s), trailer(s), vehicle part(s), and/or trailer part(s) that is in violation of subsection (b);

(3) The condition relates to a storage place or depository lawfully maintained by duly constituted law-enforcement officers or under the control of the municipality or its agencies; or

(f) Any person found guilty of violating this section shall:

(1) Upon that person's first violation be punished by a fine of \$100.00 provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the city's schedule of fines if the magistrate has received certification from a code enforcement officer of the city that the property conditions supporting the violation no longer exist or have been cured; and

(2) Upon that person's second violation within twelve (12) months, be punished by a fine of \$300.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months.

(3) Upon that person's third or subsequent violation within twenty-four (24) months, be punished by a fine of \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months.

(g) A corrective notice shall be issued to any person who is allegedly in violation of this section, and who has not previously been issued a corrective notice in connection with a violation of this section concerning the property that is the site of the violating condition. The corrective notice may be issued by any code enforcement officer of the city or any city employee or agent that is authorized to do so by the mayor. The corrective notice may be either hand-delivered to the person or mailed to the person by First Class Mail with postage prepaid through the United States Postal Service. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this section. The corrective notice shall also provide that the violating condition must be remedied within fourteen (14) calendar days from its issuance, and no action shall be instituted hereunder until the said fourteen (14) period has expired.

Section 4.- DEBRIS FROM CONSTRUCTION, DEMOLITION, ALTERATIONS
OR REPAIR.

(a) Any person engaging in the business of, or being hired for the purpose of, constructing, demolishing, remodeling, repairing, roofing, or altering, any building or other structure within the city shall:

(1) Within ten (10) days after completion of the job or construction project, remove any debris, concrete, lumber, roofing material, dirt, sand, gravel, concrete blocks, bricks or any other building material resulting or relating to such job and/or project; and,

(2) Provide on-site receptacles for litter, and ensure that litter is properly placed in such containers, to prevent scattering of such litter by wind or rain if such litter is not otherwise properly disposed of on a daily basis.

(b) Where the job or construction project referenced in subsection (a)(1) is such that a certificate of occupancy would be issued by the city upon the completion thereof, the reference herein to the time of "completion" shall mean the time of issuance of a certificate of occupancy by the city.

(c) Any person found guilty of violating subsection (a) shall:

(1) Upon that person's first violation be punished by a fine of \$100.00; provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the city's schedule of fines if the magistrate has received certification from a code enforcement officer of the city that the property conditions supporting the violation no longer exist or have been cured; and

(2) Upon that person's second violation within twelve (12) months, be punished by a fine \$300.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months.

(3) Upon that person's third or subsequent violation within twenty-four (24) months, be punished by a fine of \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months.

(d) A corrective notice shall be issued to any person who is allegedly in violation of this section, and who has not previously been issued a corrective notice in connection with a violation of this section concerning the property that is the site of the violating condition. The corrective notice may be issued by any code enforcement officer of the city or any city employee or agent that is authorized to do so by the mayor. The corrective notice may be either hand-delivered to the person or mailed to the person by First Class Mail with postage prepaid through the United States Postal Service. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this section. The corrective notice shall also provide that the violating condition must be remedied within fourteen (14) calendar days from its issuance, and no action shall be instituted hereunder until the said fourteen (14) period has expired.

Section 5. OVERGROWN GRASSES AND WEEDS.

(a) Any person, owner, tenant, occupant or person having charge of any residential, commercial or industrial premises in the City of Muscle Shoals, Alabama shall keep the same free of any growth of grasses or weeds favorable to the harboring of mosquitoes or other insects, rats, snakes, or rodents or reptiles of like kind, and every such growth is hereby declared to be a

nuisance, and every such person who shall allow any such growth of grasses and weeds, on the premises which such person owns or of which he is in charge, shall be in violation of this section of the ordinance.

(b) Any growth of grass or weeds or other vegetation more than 12" inches in height shall be deemed favorable to the harboring of mosquitoes or other insects, rats, snakes, or rodents or reptiles of like kind, within the meaning of this ordinance.

(c) It shall be unlawful for any person owning, possessing, residing, or having charge or control of any real property within the city to allow any other vegetation, including but not limited to jimson, ragweed, cocklebur, kudzu, vines, or underbrush to become overgrown to such an extent that the same may create favorable conditions to the harboring of mosquitoes or other insects of like kind and/or rodents or reptiles or otherwise constitutes a public nuisance or a danger to the public health, safety and welfare.

(d) The owner or person having charge of any such premises within the City of Muscle Shoals, who having been served with the corrective notice provided in Section (g) hereof, and not having previously been issued a corrective notice, and who shall fail to comply with the corrective notice to remedy the violation by the cutting and/or removal of such grasses and weeds, shall be guilty of violation of this section, and on conviction shall be punished as provided in this ordinance.

(e) Any property within the City of Muscle Shoals, Alabama which has as its purpose the planting and harvesting of crops, with the exception of hay; farm land; timber land; and pasture land; hedgerows; fence rows; and buffers and copse shall be exempted from the provisions of this ordinance. The planting and harvesting of hay shall be limited to areas of a minimum of three (3) acres, which shall be contiguous, in size and the planting, cultivating and harvesting of hay shall be no closer than fifty (50) feet from a residential, commercial or industrial building or structure, other than said structures which are owned or leased by the person or entity planting and harvesting the hay in said area, unless the person or entity planting or harvesting the hay has the written permission of the owners of said buildings or structure to do so.

The hay crop shall be cut at such time as it reaches 36" in height and once cut, whether baled or not, shall be removed from the premises with fourteen (14) calendar days from the date of the commencement of the cutting of the hay.

(f) Violations; Penalties.

Any person found guilty of violating this section shall:

(1) Upon that person's first violation be punished by a fine of \$100.00; provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the city's schedule of fines if the magistrate has received certification from a code enforcement officer of the city that the property conditions supporting the violation no longer exist or have been cured; and

(2) Upon that person's second violation within twelve(12) months, be punished by a fine of \$300.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months.

(3) Upon that person's third or subsequent violation within twenty-four (24) months, be punished by a fine of \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months.

(g) A corrective notice shall be issued to any person who is allegedly in violation of this section, and who has not previously been issued a corrective notice in connection with a violation of this section concerning the property that is the site of the violating condition. The corrective notice may be issued by any code enforcement officer of the city or any city employee or agent that is authorized to do so by the Mayor. The corrective notice may be either hand-delivered to the person or mailed to the person by First Class Mail with postage prepaid through the United States Postal Service. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this section. The corrective notice shall also provide that the violating condition must be remedied within ten (10) calendar days from its issuance, and no action shall be instituted hereunder until the said ten (10) day period has expired.

Section 6. Procedure.

(a) Except as otherwise set forth herein, the city's code enforcement officers or municipal employees may enforce this division without first having issued any warning notice. The magistrate shall issue a summons and complaint to any person charged with violating any part of this ordinance, in lieu of placing such persons under custodial arrest.

(b) The summons and complaint must contain:

- (i) The name of the court;
- (ii) The name of the defendant;
- (iii) A description of the offense, including the municipal ordinance number;
- (iv) The date and time of the offense;
- (v) The place of the offense;
- (vi) Signature of the magistrate issuing the citation;
- (vii) The scheduled court date and time;
- (viii) A signature block for the magistrate to sign upon the code enforcement officer's oath and affirmation given prior to trial.

Section 7. Miscellaneous Provisions.

(a) In addition to any fines and penalties contained herein for violation of any provision of this Ordinance, if the owner or person having in charge any premises whereof there exists any growth of grasses and weeds and/or hay shall fail to cut and remove the grasses and weeds and hay within the time provided for in the corrective notice described in Section 5 (g), upon a finding of a violation of Section 5, the municipal court shall enter an Order authorizing the City of Muscle Shoals, Alabama, acting through an agent, servant or employee, to enter upon said premises, and at the expense of such person shall proceed to cut and/or remove said grasses and weeds and/or hay, and the City Clerk shall thereafter submit a statement to the owners at their last known address or to the person in charge of the property, showing the charge for the cutting and/or removal of weeds which shall be One Hundred Twenty-five (\$125.00) per hour with a minimum charge of One Hundred Twenty-five (\$125.00) per lot or accumulation.

(b) In addition to any fines and penalties contained herein for violation of any provision of this Ordinance, if the owner or person having in charge any premises whereof there exists any junk, litter and/or non-conforming vehicles shall fail to remove or remedy the offending items or

otherwise comply with the provisions of said Ordinance pertaining to same, within the time period provided for in the corrective notice described in Section 2 (e), Section 3 (g) and/or Section 4 (d) upon a finding of a violation of Section 2, Section 3 and/or Section 4 of this Ordinance, the municipal court shall enter an Order authorizing the City of Muscle Shoals, Alabama, acting through an agent, servant or employee, to enter upon said premises, and at the expense of such person, remove the junk, litter or non-conforming vehicle and the City Clerk shall thereafter submit a statement to the owners at their last known address or to the person in charge of the property, showing the charge for the removal of junk, litter and/or non-conforming vehicles which shall be calculated at the sum of One Hundred Fifty Dollars (\$150.00) per hour plus the costs of disposal at a sanitary landfill or otherwise and or any storage fees incurred, with a minimum charge of One Hundred Fifty Dollars (\$150.00).

(c) The charges for cutting and/or removal, and removal of junk, litter and/or non-conforming vehicles, if incurred by the City, shall be a claim, judgment and/or lien against the owner or person in charge of the property found in violation of any provision of this Ordinance and a lien on the property so assessed for the cutting and/or removal of weeds, junk, litter and non-conforming vehicles, which lien may be enforced and collected as any other debt or lien or assessed as restitution to the City or taxed as costs of court.

Section 8. Severability.

If any section or provision of this ordinance shall be held invalid, such holding shall not affect the validity of any other section or provision thereof which is not of itself invalid.

Section 9. Effective Date.

The Ordinance, and its provisions, shall become effective on the 1st day of October 2013 upon publication or posting pursuant to law or as otherwise provided for by law.

Council Member Pampinto seconded the motion and upon said motion being put to a vote the following vote was recorded:

AYES: Council Member Pampinto, Council Member Willis, Council Member Lockhart
Council Member Holland, Council Member Noles

NAYS: None

President Holland announced that the motion for immediate consideration had been approved. Council Member Lockhart moved that the Ordinance be approved as presented. Council Member Pampinto seconded the motion and upon said motion being put to a vote, a roll call was had and the vote was recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Lockhart
Council Member Holland

NAYS: Council Member Noles

President Holland announced the vote and declared that the Ordinance was approved.

President Holland announced that the next item of business was the consideration of a resolution to convey an easement to the Tennessee Valley Authority and authorize the Mayor to execute any necessary documents.

Council Member Pampinto introduced following resolution and moved for its adoption:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2637 - 13

WHEREAS, the City Council of the City of Muscle Shoals, Alabama has received and reviewed a request from representatives of the Tennessee Valley Authority for the grant of an easement for the erection and operation of a transmission line easement to the United States of America; and

WHEREAS, the City Council has determined that the grant of the easement will not interfere with current or future use of the property by the City; and

WHEREAS, the City Council finds that certain instruments and related documents may be required in connection with said transfer and is desirous of authorizing the execution and delivery of other instruments and related documents to the United States of America in connection with the grant of the easement;

BE IT HEREBY RESOLVED that the City Council of the City of Muscle Shoals does hereby approve the grant of an easement unto the United States of America for the erection and operation of a transmission line as described in that certain instrument styled Grant of Transmission Line Easement and Additional Structure Rights Easement.

BE IT FURTHER RESOLVED that the City Council of the City of Muscle Shoals, Alabama, does hereby authorize and direct the Mayor of the City, David H. Bradford, for and on behalf of the City to execute the above-described instrument pertaining to the grant of an easement to the United States of America for the erection and operation of a transmission line.

BE IT FURTHER RESOLVED that the Mayor of the City, David H. Bradford, be, and hereby is, authorized to execute and deliver any other instruments and related documents in connection with the said easement to the United States of America.

Council Member Willis seconded the motion and upon said motion being put to a vote all voted "AYE" and "NAYS" were none.

President Holland announced that the resolution had been approved.

There being no further business to come before the meeting, upon the motion duly made, seconded and unanimously carried, the meeting was adjourned.

CITY OF MUSCLE SHOALS, ALABAMA
a Municipal Corporation

COUNCIL MEMBER - PLACE ONE

COUNCIL MEMBER - PLACE TWO

COUNCIL MEMBER - PLACE THREE

COUNCIL MEMBER - PLACE FOUR

COUNCIL MEMBER - PLACE FIVE

ATTEST:

CITY CLERK