

**Vestavia Hills
City Council Agenda
June 13, 2016
5:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – Jim St. John, Vestavia Hills Fire Chief
4. Pledge Of Allegiance
5. Candidates, Announcements and Guest Recognition
6. City Manager’s Report
7. Councilors’ Reports
8. Approval of Minutes – May 16, 2016 (Work Session) and May 23, 2016 (Regular Meeting)

Old Business

9. Resolution Number 4840 - Authorizing The City Manager To Execute And Deliver Agreements With Various Entities For Design Services And Construction Specifications For The Western Entrance To The Proposed Recreational Fields Located On The Former Altadena Valley Country Club (*public hearing*)

New Business

10. Resolution Number 4842 – A Resolution Approving A License For Ironstone Concepts LLC D/B/A Ironstone Pizzaworks For A 040 On Or Off Premise Beer License And A 060 Retail Table Wind (On Or Off Premises); John W. McPherson, Jr. And Thomas G. Gresham, Executives (*public hearing*)
11. Resolution Number 4843 – A Resolution To Appoint A Member To The Birmingham-Jefferson County Transit Authority
12. Resolution Number 4844 – A Resolution Authorizing The Mayor And City Manager To Enter Into A Remediation Agreement Regarding Property Located At 2216 Brookdale Lane, Vestavia Hills, Alabama 35216
13. Resolution Number 4845 – A Resolution Setting A Public Hearing For Adoption Of Various 2014 & 2015 National And International Building Codes With Amendments

New Business (Requesting Unanimous Consent)

First Reading (No Action Taken At This Meeting)

14. Resolution Number 4846 – A Resolution Ordering The Demolition Of A Building Or Structure Located At 1756 Indian Creek Drive, Vestavia Hills, Al 35243, Parcel Id# 28-00-20-4-004-015.000, In Compliance With Sections 11-40-30 Through 11-40-36, Sections 11-53b-1 Through 11-53b-16, Inclusive, Of The *Code Of Alabama, 1975*, And In Compliance With Ordinance Number 2382 Of The City Of Vestavia Hills, Alabama; And Calling For The City To Cause Said Demolition To Be Performed And Directing The City Attorney And The City Clerk To Cause The Cost Of Such Demolition To Be Charged Against The Land On Which The Building Or Structure Exists As A Municipal Lien Or Cause Such Cost To Be Recovered In A Suit At Law Against The Owner Or Owners (*public hearing*)
15. Resolution Number 4847 – A Resolution Authorizing The City Manager To Allow Use Of Overtime And The Hiring Of A Temporary, Part-Time Employee To Supplement Fire Department And Building Department Inspections (*public hearing*)
16. Citizens Comments
17. Motion For Adjournment

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

WORK SESSION

MAY 16, 2016

The City Council of Vestavia Hills met in special work session on this date at 5:00 PM following posting/publication as required by Alabama law. The Mayor called the meeting to order and the Deputy City Clerk checked the roll with the following:

MEMBERS PRESENT:

Mayor Alberto C. Zaragoza, Jr.
Steve Ammons, Mayor Pro-Tem
George Pierce
John Henley
Jim Sharp

OTHER OFFICIALS PRESENT:

Jeff Downes, City Manager
Wendy Dickerson, Deputy City Clerk
Dan Rary, Police Chief
Jason Hardin, Captain, Police Dept.
Shane Ware, Lieutenant, Police Dept.
Jim St. John, Fire Chief

The Mayor indicated that there are only a few items to discuss. The first was Let's Play Vestavia. He explained why the campaign was started and how it is no longer valuable for progress of the parks. Discussion ensued about how it was operated, how it only brought in a few events during the year, and how it took away from the residents' needs of the parks.

The Mayor stated that the second issue consists of the authority of the Parks and Recreation Board. He explained the responsibility they have and their authority.

The Mayor stated that the third issue is if a Council member has comments or concerns about different issues about a Board, he needs to go to the Council member who is on the Board discuss it.

Mr. Downes reported that he has several items to address. He explained that the first item is an ongoing issue concerning feral cats. Two more colonies that were previously found consist of around 40 cats where before it was thought to be smaller. He

is working with Mountain Brook on one of the colonies. The cost that was originally determined will increase with the two colonies.

Mr. Downes stated that the second item is that HealthSouth wants to annex and de-annex portions of their recently acquired property.

Discussion ensued on the following:

1. Maddox property
2. Meadowlawn Estates
3. SHAC Bids

Mr. Killan Duran, General Manager for Cajun Seafood, announced that on June 18th they will have their 2nd Annual Crawfish Boil.

At 6:05 PM, all business concluded and the Mayor adjourned the work session.

Alberto C. Zaragoza, Jr
Mayor

ATTESTED BY:

Wendy Dickerson
Deputy City Clerk

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

MAY 23, 2016

The City Council of Vestavia Hills met in regular session on this date at 5:00 PM. The Mayor called the meeting to order and the City Clerk called the roll with the following:

MEMBERS PRESENT:

Mayor Alberto C. Zaragoza, Jr.
Steve Ammons, Mayor Pro-Tem
George Pierce
John Henley
Jim Sharp

OTHER OFFICIALS PRESENT:

Jeff Downes, City Manager
Patrick H. Boone, City Attorney
Wendy Dickerson, Deputy City Clerk
Dan Rary, Police Chief
Police Capt. Kevin York
Police Capt. Jason Hardin
Police Officer Jimmy Coleman
Marvin Green, Deputy Fire Chief
Brian Davis, Public Services Director
Melvin Turner, Finance Director
George Sawaya, Asst. City Treasurer
Taneisha Tucker, Library Director
Christopher Brady, City Engineer

Invocation was given by Brian Davis, Vestavia Hills Public Services Director, followed by the Pledge of Allegiance.

ANNOUNCEMENTS, GUEST RECOGNITION, CANDIDATES

- Mr. Pierce recognized the following people being in attendance from the Chamber of Commerce:
 - Kristin Tunnell
 - Gary Jordan

- Mr. Pierce announced that I Love America Day is Thursday, June 30 at Wald Park.
- Mr. Henley recognized the following teams from the Vestavia Hills High School:
 - “We the People” Team, who won the State competition this year and placed 4th in Nationals in Washington.
 - The Girls Tennis Team won the State Championship this year.
 - The Girls Soccer Team won the State Championship this year.
 - The Girls Softball Team placed 3rd in the State Championship.
 - Individuals who won State Titles:
 - Walter Thomas, Shot Put
 - Henry Barrett, Pole Vault
 - Will McCoy, Javelion
 - Austin Coggin, 7A Golf
 - Anna Moers, 100 Yard Backstroke
- Mr. Henley recognized the staff and supporters there to support the team and individuals during the championships and throughout the season.
- Mr. Ammons recognized the Lacrosse Team who made it to the State Championship.
- Mr. Henley said that the Board of Education announced the upcoming President, Mark Hogewood, and Nancy Corona, Vice President.
- Mr. Henley stated that the Hoover Board of Education voted last week to de-annex the old Berry Middle School.
- Jason Han, Troop 1, Southminster Presbyterian Church, Communications Badge

CITY MANAGER’S REPORT

- Mr. Downes updated the Council on new and existing projects:
 - Pilot Sidewalk Project
 - Merryvale Road extending to West Elementary
 - Willoughby Circle
 - Dolly Ridge Road in Cahaba Heights extending from Green Valley Road in the direction of Crosshaven Drive

Mr. Sharp asked about the electrical box.

Mr. Brady stated that we are working with property owner to get an easement to go around the AT&T box.

- Meadowlawn Park Project – The City is disappointed with progress. Charter will be splicing lines and will take the fiber optic wires off the poles. Erosion control measures will be in place soon.

Mr. Brady stated that the contractor will begin some work this week with full mobilization by June 13th.

Mr. Downes stated that there will be 120 days to completion of the project.

- Rocky Ridge Road Improvement Project - Mr. Downes stated that ALDOT stated 2 weeks ago that they would begin work today. They did but it was not paving. They laid pipe on the Lorna Road section for drainage improvements. They are going to explore beginning the paving work of Vestavia Hills before the pipes are in place.
- Feral Cat Project – Working with the Greater Birmingham Humane Society. There have been 79 cats impounded and placed in custody of the Humane Society and to find out about their medical needs. Another colony is located at the Shell Station at Fairhaven Drive and the City of Mountain Brook will handle it. We will continue working with the Greater Birmingham Humane Society to drive the process.

Mr. Downes has been made aware of a situation on Dolly Ridge Road for ongoing construction of the sidewalk adjacent to the upcoming PT Orthodontics location. The staff worked with the contractor to place cones to provide a barrier for the children who walk to and from school in that area. We are continuing to work with the contractor to try and make it a safe environment for the school children.

Mr. Ammons stated that next Wednesday is the bid opening for SHAC Phase II.

Mr. Pierce asked for an update of Liberty Parkway and site planning of the new HealthSouth building.

Mr. Downes stated that there are convoluted city lines and he would like to try and clean this up with the City of Birmingham and the City of Vestavia Hills. The goal is to create clean jurisdictional lines. The engineers will present to the Council the de-annexation and annexation of the areas.

Mr. Sharp asked if they are going to four-lane the road.

Mr. Downes stated that at the staff meeting it was asked, and nothing is being done that will preclude to a four-lane road in this process.

Mr. Downes stated that City Hall will be closed Monday in observance of Memorial Day.

COUNCILORS' REPORTS

- Mayor stated that there have been complaints about people parking on the sidewalks. There is a \$75 fine for parking on the sidewalk. An article will be in the newsletter. The Police Department will be looking into the matter.

Chief Rary stated that the police policy is for the 1st time offense. We ask them to move and for the 2nd offense, we will write a citation.

Mr. Ammons asked if it includes debris.

Chief Rary stated that the ordinance addresses parking only.

Mayor stated that Keep Vestavia Hills Beautiful was out this weekend and it is great they are running again.

Mr. Henley is working with the Board of Education and the Drug Task Force. It has merged with Leadership Vestavia Hills – Help the Hills project.

Mr. Ammons stated that the Community Night Out has worked with Drug Task Force and will hold its annual event on October 11, 2016 at City Hall.

FINANCIAL REPORTS

Mr. Turner presented the financial reports for the month ending April 2016. He read and explained the balances and answered any questions from the City Council.

APPROVAL OF MINUTES

The minutes of May 9, 2016 (Regular Meeting) were presented for approval.

MOTION Motion to dispense with the reading of the minutes of May 9, 2016 (Regular Meeting) and approve them as presented was by Mr. Henley and second by Mr. Pierce. Roll call vote as follows:

Mr. Pierce – yes

Mr. Henley – yes

Mr. Sharp – yes

Mr. Ammons – abstain

Mayor Zaragoza – yes

Motion carried.

OLD BUSINESS

Mr. Henley explained that item 1-17 is the 90-day finalization of the annexation of the properties from the overnight annexations previously passed and the compatible rezoning of the property. Item 18 did not have an overnight annexation, so this will be the 90-day final and the compatible rezoning of the property.

Mr. Sharp stated that the approvals were unanimously recommended by the Planning and Zoning Commission.

ORDINANCE NUMBER 2655

Ordinance Number 2655 – Annexation – 90-Day Final – 2425 Kenvil Circle; Lot 37, Resurvey of Lots 18-20, 33-37 & 46-48, Buckhead, 2nd Sector; Anna and Brandon Rooks (*public hearing*)

MOTION Motion to approve Ordinance Number 2655 was by Mr. Henley and second was by Mr. Pierce.

The Mayor opened the floor for a public hearing. There being no one to address the Council regarding the request, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	Motion carried.

ORDINANCE NUMBER 2656

Ordinance Number 2656 – Rezoning – 2425 Kenvil Circle; Lot 37, Resurvey of Lots 18-20, 33-37 & 46-48, Buckhead, 2nd Sector; Rezone from Jefferson County E-2 to Vestavia Hills R-1; Anna and Brandon Rooks (*public hearing*)

MOTION Motion to approve Ordinance Number 2656 was by Mr. Sharp and second was by Mr. Ammons.

The Mayor opened the floor for a public hearing. There being no one to address the Council regarding the request, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	Motion carried.

ORDINANCE NUMBER 2657

Ordinance Number 2657 – Annexation – 90-Day Final – 3425 Jones Drive, Ralph and Alison McCall (*public hearing*)

MOTION Motion to approve Ordinance Number 2657 was by Mr. Henley and second was by Mr. Pierce.

The Mayor opened the floor for a public hearing. There being no one to address the Council regarding the request, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mr. Pierce – yes
Mr. Sharp – yes
Mayor Zaragoza – yes

Mr. Henley – yes
Mr. Ammons – yes

Motion carried.

ORDINANCE NUMBER 2658

Ordinance Number 2658 – Rezoning – 3425 Jones Drive; Rezone from JC E-2 to VH R-1; Ralph and Alison McCall (*public hearing*)

MOTION Motion to approve Ordinance Number 2658 was by Mr. Sharp and second was by Mr. Ammons.

The Mayor opened the floor for a public hearing. There being no one to address the Council regarding the request, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mr. Pierce – yes
Mr. Sharp – yes
Mayor Zaragoza – yes

Mr. Henley – yes
Mr. Ammons – yes

Motion carried.

ORDINANCE NUMBER 2659

Ordinance Number 2659 – Annexation – 90-Day Final – 2510 & 2512 Dolly Ridge Road; Lots 21 & 22, Dolly Ridge Estates; Don and Kristie Garrett and Todd and Leeba Strong (*public hearing*)

MOTION Motion to approve Ordinance Number 2659 was by Mr. Henley and second was by Mr. Pierce.

The Mayor opened the floor for a public hearing. There being no one to address the Council regarding the request, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mr. Pierce – yes
Mr. Sharp – yes
Mayor Zaragoza – yes

Mr. Henley – yes
Mr. Ammons – yes

Motion carried.

ORDINANCE NUMBER 2660

Ordinance Number 2660 – Rezoning - 2510 & 2512 Dolly Ridge Road; Lots 21 & 22, Dolly Ridge Estates; Rezone from JC E-2 to VH R-1; Don and Kristie Garrett and Todd and Leeba Strong (*public hearing*)

MOTION Motion to approve Ordinance Number 2660 was by Mr. Sharp and second was by Mr. Ammons.

The Mayor opened the floor for a public hearing. There being no one to address the Council regarding the request, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	Motion carried.

ORDINANCE NUMBER 2661

Ordinance Number 2661 – Annexation – 90-Day Final – 2611 Alta Vista Circle; Lot 7, Altadena Valley Country Club Sector, Chad Speegle (*public hearing*)

MOTION Motion to approve Ordinance Number 2661 was by Mr. Henley and second was by Mr. Pierce.

The Mayor opened the floor for a public hearing. There being no one to address the Council regarding the request, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	Motion carried.

ORDINANCE NUMBER 2662

Ordinance Number 2662 – Rezoning – 2611 Alta Vista Circle; Lot 7, Altadena Valley Country Club Sector; Rezoning from SC E-1 to VH E-2; Chad Speegle (*public hearing*)

MOTION Motion to approve Ordinance Number 2662 was by Mr. Sharp and second was by Mr. Ammons.

The Mayor opened the floor for a public hearing. There being no one to address the Council regarding the request, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	Motion carried.

ORDINANCE NUMBER 2663

**Ordinance Number 2663 – Annexation – 90-Day Final – 4705 Caldwell Mill Road;
David Acton Building Corporation (*public hearing*)**

MOTION Motion to approve Ordinance Number 2663 was by Mr. Henley and second was by Mr. Pierce.

The Mayor opened the floor for a public hearing. There being no one to address the Council regarding the request, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	Motion carried.

ORDINANCE NUMBER 2664

Ordinance Number 2664 – Rezoning – 4705 Caldwell Mill Road; Rezone from JC E-2 To VH R-1; David Acton Building Corp (*public hearing*)

MOTION Motion to approve Ordinance Number 2664 was by Mr. Sharp and second was by Mr. Ammons.

The Mayor opened the floor for a public hearing. There being no one to address the Council regarding the request, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	Motion carried.

NEW BUSINESS

RESOLUTION NUMBER 4836

Resolution Number 4836 – A Resolution Declaring A Weed And Other Vegetation Nuisance Pursuant To Ordinance Number 2567 And Directing The City Manager To Abate Said Nuisance (*public hearing*)

MOTION Motion to approve Resolution Number 4836 was by Mr. Ammons and second was by Mr. Sharp.

Mr. Downes explained that this is an abatement request by the Code Enforcement Officer, Jimmy Coleman.

Officer Coleman stated that the request is for 1524 Blind Brook Lane. He stated that he has been working with the owner for several months to get the property cleaned up. He indicated it has extremely overgrown bushes. Mr. Pratt is here. He came to him at 4 pm and stated that it has been fixed, but he does not think it has been.

Mr. Henley stated that this has been an ongoing issue.

Mr. Pratt explained he has attempted to clean it up but that he has a disabled wife and works nights. He stated that it does need to be cleaned up. He stated that it can sometimes be difficult to juggle everything that needs to be done.

Mayor asked if the work was being performed by him alone.

Mr. Pratt stated the he and his daughter are working on cleaning it up.

Mr. Pierce stated that it may not be something he can handle.

Mr. Coleman waited because of his situation. It will take some equipment to get it back in shape.

Mr. Pierce asked about giving 2 weeks to clean it up and then be cited.

Mr. Coleman stated that the Council can give authority to do that. The previous abatement was given 2 weeks to have the property cleaned up. He did have to have the last one abated.

Mr. Pratt stated that he would like 3 weeks. He is having minor surgery Friday which will put him out for a few days.

The Mayor asked if he is going to be able to do the work.

Mr. Pratt stated that he will get with Officer Coleman to see what needs to be done. He will probably get someone else to help.

Discussion ensued about postponing or giving additional time.

Mr. Boone stated that Section 3E of the City's ordinance allows the Council to postpone this hearing to a certain date.

The Mayor stated that the City's next meeting is on June 13 and asked if the work could be completed by then. Mr. Pratt stated that he would work with Mr. Coleman to try and get it addressed.

MOTION Motion to amend the effective date of Resolution Number 4836 to June 13, 2016 in order to allow the property owner three additional weeks to bring the property into compliance and failure to do so will approve the

property abatement pursuant to Ordinance 2567 was by Mr. Henley and second was by Mr. Ammons. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	Motion carried.

Mr. Henley reiterated that Mr. Coleman can hire the contractors to abate the nuisance if the property is not cleared in that 3-week extension.

The Mayor opened the floor for a public hearing. No one was present in regard to this issue. The Mayor closed the public hearing.

The Mayor called for the question.

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	Motion carried.

RESOLUTION NUMBER 4837

Resolution Number 4837 – A Resolution Declaring A Weed And Other Vegetation Nuisance Pursuant To Ordinance Number 2567 And Directing The City Manager To Abate Said Nuisance (*public hearing*)

MOTION Motion to approve Resolution Number 4837 was by Mr. Ammons and second was by Mr. Pierce.

Mr. Downes explained that this is an abatement request by the Code Enforcement Officer, Jimmy Coleman.

Officer Coleman stated that the request is 4421 Dolly Ridge Road. He stated that he has been working with the owner for several months to years to get the property cleaned up. He indicated it has extremely overgrown bushes.

Ms. Aryes stated that she sent an objection. The police report said that several letters had been sent. She stated that she responded to all letters she received. She has a problem with drainage. She stated that there is a sinkhole on the property and gullies throughout the property. The water runs against the house. She has spoken to the City and County for years. She let the Council see more pictures of the property.

Mr. Sharp asked Mr. Brady if he had looked at this.

Mr. Brady stated that he was not aware of any issues. He had not heard from her about drainage issues until she came in late last week. The drainage system in the area functions. He has not walked the property. Nor has he been aware of any drainage issues on the property.

Mrs. Aryes stated that Vestavia Hills covered a grate that helped with the drainage. She stated that the water goes up the driveway 6 feet. She stated that she has pictures that show the water going up the driveway 6 feet. She stated that the drainage problem is behind the trees and that there are gullies on the property from the drainage problems. The vegetation helps the drainage problems she has.

The Mayor stated that we are not asking her to take out the vegetation, but instead clean the property up and comply with the ordinance.

Mrs. Aryes stated again that the water goes up the driveway 6 feet. There are tire marks in the yard where it puddles. There is a sinkhole on the property.

Mr. Ammons stated that the house is on a hill. He has a problem with how 6 feet of water can come up the driveway. He stated that the pictures look like weeds.

The Mayor asked Mr. Brady if the City blocked the grate.

Mr. Brady stated that he has not observed a grate. They have run cameras. If there is a grate, it is not a part of the drainage system.

Mr. Henley asked if this is surrounding the entire house.

Mr. Coleman stated that it is surrounding the entire house.

Ms. Aryes stated that she has boards up in back for the water to have somewhere to go. She also has a private issue with the neighbors harassing her.

Mr. Pierce stated that the lot is overgrown.

Ms. Aryes stated that she has pictures of the water problems, but did not bring them.

Discussion ensued about the property, and about postponing or giving additional time.

The Mayor stated that the City's next meeting is on June 13th and asked if the work could be completed by then. Mrs. Aryes stated that she would work with Mr. Coleman and Mr. Brady to try and get it addressed.

MOTION Motion to amend the effective date of Resolution Number 4836 to June 13, 2016 in order to allow the property owner three additional weeks to bring the property into compliance and failure to do so will approve the property abatement pursuant to Ordinance 2567 was by Mr. Ammons and second was by Mr. Henley. Roll call vote as follows:

Mr. Pierce – yes

Mr. Henley – yes

Mr. Sharp – yes
Mayor Zaragoza – yes

Mr. Ammons – yes
Motion carried.

The Council reiterated that Mr. Coleman can hire the contractors to abate the nuisance if the property is not cleared in that 3-week extension.

The Mayor opened the floor for a public hearing. No one was present in regard to this issue. The Mayor closed the public hearing.

The Mayor called for the question.

Mr. Pierce – yes
Mr. Sharp – yes
Mayor Zaragoza – yes

Mr. Henley – yes
Mr. Ammons – yes
Motion carried.

RESOLUTION NUMBER 4838

Resolution Number 4838 – A Resolution Determining That Certain Personal Property Is Not Needed For Public Or Municipal Purposes And Directing The Sale/Disposal Of Said Surplus Property

MOTION Motion to approve Resolution Number 4838 was by Mr. Ammons and second was by Mr. Henley. Ammons, Henley

Mr. Downes explained that this Resolution allows for the surplus of equipment and vehicles no longer needed by the City.

The Mayor called for the question.

Mr. Pierce – yes
Mr. Sharp – yes
Mayor Zaragoza – yes

Mr. Henley – yes
Mr. Ammons – yes
Motion carried.

RESOLUTION NUMBER 4839

Resolution Number 4839 – Approving An Alcohol License For Jacquelines, Inc. (2nd Annual Crawfish Boil Event), At The Parking Lot Of 2531 Rocky Ridge Road For The On-Premise Sale Of 140 – Special Event Retail; Maria Adan, Executive (*public hearing*)

MOTION Motion to approve Resolution Number 4839 was by Mr. Sharp and second was by Mr. Henley.

Mr. Downes explained that this Resolution allows the sale of alcohol for the 2nd Annual Crawfish Boil.

Chief Rary stated that events will have extra officers. There will be officers working off duty.

The Mayor opened the floor for a public hearing. No one was present in regard to this issue. The Mayor closed the public hearing.

The Mayor called for the question.

Mr. Pierce – yes

Mr. Henley – yes

Mr. Sharp – yes

Mr. Ammons – yes

Mayor Zaragoza – yes

Motion carried.

FIRST READING (NO ACTION TO BE TAKEN AT THIS MEETING)

The Mayor stated that the following Resolutions and/or Ordinances will be presented at a public hearing at the Council's next regularly scheduled meeting on June 13, 2016 at 5 PM.

- Resolution Number 4840 - Authorizing The City Manager To Execute And Deliver Agreements With Various Entities For Design Services And Construction Specifications For The Western Entrance To The Proposed Recreational Fields Located On The Former Altadena Valley Country Club (*public hearing*)

CITIZEN COMMENTS

None.

At 6:47 PM, Mr. Ammons made a motion to adjourn; seconded by Mr. Henley. Meeting adjourned at 6:47 PM.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Wendy Dickerson
Deputy City Clerk

RESOLUTION NUMBER 4840

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AND DELIVER AGREEMENTS WITH VARIOUS ENTITIES FOR DESIGN SERVICES AND CONSTRUCTION SPECIFICATIONS FOR THE WESTERN ENTRANCE TO THE PROPOSED RECREATIONAL FIELDS LOCATED ON THE FORMER ALTADENA VALLEY COUNTRY CLUB

WHEREAS, on December 28, 2015, the City Council of the City of Vestavia Hills approved and adopted Ordinance Number 2626 authorizing the purchase of property from Jefferson County for an alternate entrance to the proposed recreational fields to be located at the former Altadena Valley Country Club; and

WHEREAS, on April 18, 2016, the City Council of the City of Vestavia Hills approved Resolution Number 4820 authorizing the purchase of property from International Park Meisler-Keith, LLC, an Alabama limited liability company for an alternate entrance to the proposed recreational fields to be located at the former Altadena Valley Country Club; and

WHEREAS, the City Manager has determined that design services and construction bid specifications will be needed for the proposed western entrance of the former Altadena Valley Country Club ; and

WHEREAS, the City Manager has received a proposal for design services and construction bid specifications from Engineering Design Group (EDG), a copy of which is marked as “Exhibit A” attached to and incorporated into the Resolution Number 4840 as though written fully therein in an amount not to exceed \$50,000.00; and

WHEREAS, the City Manager has received a proposal for construction management services from Caprine Engineering, a copy of which is marked as “Exhibit A” attached to and incorporated into the Resolution Number 4840 as though written fully therein in an amount not to exceed \$15,000.00; and

WHEREAS, the City Manager has identified certain third party services that will also be needed including, but not limited to geotechnical reports, etc., associated and needed for the design services and development of construction specifications from third party associates in an amount not to exceed \$25,000.00; and

WHEREAS, the Mayor and City Council feel it would be in the best public interest to accept said proposals in order to begin development of an alternate entrance to the proposed recreational fields located on the former Altadena Valley Country Club

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. The City Manager is hereby authorized to execute and deliver any and all documents and agreements associated with the aforesaid proposals for design services, construction specification services, construction management services and various third party services for construction of the western entrance to the Altadena Valley Country Club in an amount not to exceed \$90,000.00; and
2. A copy of said agreements shall be attested by the City Clerk filed in the Office of the City Clerk for record; and
3. This Resolution Number 4840 shall be effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 13th day of June, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



May 20, 2015

The City of Vestavia Hills, Alabama
1032 Montgomery Highway
Vestavia Hills, AL 35216
Attn: Jeff Downes, City Manager

Re: Proposal of Survey and Civil Engineering Services for a New Access Road into the City of Vestavia Hills' Park at Altadena

Dear Jeff,

Engineering Design Group, LLC is pleased to submit this proposal of land survey and civil engineering services for the above-referenced project. Our scope of services is based on a conceptual layout plan we developed for the site. This plan includes a new roadway to access the City of Vestavia's new park along the Cahaba River (formerly the Altadena Valley Country Club golf course). A copy of this plan is attached to this proposal as "Exhibit A." The proposed road will utilize an existing connection point to Acton Road. Generally, our scope of services includes civil engineering design, and survey stake-out services for the construction of the roadway. Our scope of services is described in detail on the following pages.

Thank you for the opportunity to present our proposal. We look forward to working with the City of Vestavia Hills on this project.

Attachments: Exhibit A-Conceptual Site Plan

1.0 Civil Engineering Construction Documents

1.1 Civil Construction Documents

We will develop a set of civil construction documents for the site improvements shown on the attached concept drawing. We will submit the Construction Documents to the Cities of Hoover and Vestavia Hills for the purpose of obtaining a land disturbance permit. We will meet with City Officials as needed to work through any design issues that arise during the permitting process. The Construction Documents will include the following design information, at a minimum:

- a. Roadway Plan and Profiles-Plans will provide horizontal and vertical control for the layout and construction of the proposed road.
- b. Site Grading and Drainage Plan-Plan will include existing and finished contours, and storm water drainage facilities.

- c. Storm Drainage Profiles-We will provide necessary profiles for storm drainage pipes associated with the roadway.
- d. Erosion Control Plan-Plan will include the necessary structural BMP devices for the control of sedimentation at the site.
- e. Permitting Services-We will submit final civil construction plans and permit applications to the City of Hoover for the purpose of obtaining a land disturbance permit. We have budgeted two (2) meetings with City officials. We will address one (1) round of comments and resubmit plans for final approval. Additional revisions or submittals will be billed at our standard hourly rates as Additional Services.
- f. Notes and Details-We will provide standard notes and details which pertain to the site's specific construction requirements.

1.2 Alabama Department of Environmental Management NPDES Permit

Effective April 1, 2011, ADEM established General Permit No. ALR 100000 for discharges associated with regulated construction activity that will result in land disturbance equal to or greater than one acre or from construction activities involving less than one acre and which are part of a common plan of development or sale equal to or greater than one acre. Construction site operators/owners seeking coverage under this general permit must submit a Notice of Intent (NOI) in accordance with the permit requirements. Operators/owners of all regulated construction sites must implement and maintain effective erosion and sediment controls in accordance with a Construction Best Management Practices Plan (CBMPP) prepared and certified by a Qualified Credentialed Professional (QCP). Engineering Design Group will create the CBMPP Plan and submit it, along with the NOI, to ADEM for the purpose of obtaining the NPDES permit.

1.3 Best Management Practices (BMP) Field Inspections

As a requirement of the ADEM NPDES permit, inspections of structural BMP devices (erosion control measures) are required at least monthly, or after each $\frac{3}{4}$ " rainfall event. Engineering Design Group will monitor rainfall amounts at the site and provide these inspections. A report of our findings will be issued to you and your site contractor. The report will include site photographs, and recommendations for maintenance of any failing BMP devices.

1.4 Design Phase Meetings and Coordination

This project will be under the We will be available during the design phase to meet with the Owner, Municipality, General Contractor and other sub-consultants for coordination of design and/or permitting items. As the site lies within multiple jurisdictions (City of Hoover and City of Vestavia Hills), and accesses a Jefferson County Roadway, we will coordinate with these jurisdictions, provide project-related data as-requested, and attend meetings as needed. We have provided an estimated fee for this task item as shown in section 2.0.

1.5 Construction Administration

We will provide bid documents (plans and specifications) and aid the City of Vestavia Hills during the bidding process. Additionally, we will be available during

the construction phase to answer questions or provide clarifications to the project team. We will meet with the Contractor and/or the City as necessary during construction. We have not anticipated a full-time on-site inspector. We have provided an estimated fee for this task item as shown in section 2.0.

1.6 Additional Services

Any service need that arises and is required but has not been included in our original scope of services will be performed on an hourly basis according to the fee schedule included in this proposal. We will discuss with the Client any additional service before performing the service and will not proceed with additional work without the Client's approval.

Exclusions

Items specifically **NOT INCLUDED** in this scope of work include: Construction Stake-Out, Geotechnical Engineering, Geotechnical Testing, Corps of Engineers Permitting, Structural Design of Retaining Walls, Landscape Design, Storm Water Monitoring, Utility Main Relocation and any Off-Site Improvements other than those included within the scope of services. If any of these items becomes necessary, we will perform those tasks as Additional Services or help you to contract with an entity which provides that service.

Your signature on the following page will serve as our formal notice to proceed with the above-described scope of services. Again, we appreciate the opportunity to present our proposal of professional services and we look forward to a successful project.

2.0 Compensation and Payment for Services:

Engineering Design Group, LLC's fee for the scope of services outlined in Part 1.0 is as follows:

2.1 Civil Construction Documents	\$30,000.00 Lump Sum
2.2 ADEM NPDES Permit	\$ 2,500.00 Lump Sum
2.3 BMP Field Inspections	\$ 180.00 Per Inspection
2.5 Meetings and Coordination	\$ 2,000.00 Budget Estimate
2.6 Construction Administration	\$15,000.00 Budget Estimate
2.7 Additional Services	Hourly, if Required
Reimbursables	\$ 1,000.00 Budget

Engineering Design Group, LLC can commence work immediately upon receipt of your written authorization to proceed. If this proposal is acceptable, please authorize Engineering Design Group, LLC to proceed with the above Scope of Services by signing in the appropriate location and returning a copy to Engineering Design Group, LLC.

Sincerely,

Engineering Design Group, LLC



David T. Stovall P.E.,
Alabama License #23414

"This cost proposal is accepted as written and Engineering Design Group LLC is hereby authorized to commence the work as described in the above Scope of Services"

Authorization by: _____

Title: _____ Date: _____

HOURLY RATE SCHEDULE AND REIMBURSABLE EXPENSES:

Personnel time for additional services covered under this agreement will be invoiced based on the following Rate Schedule. These Rates are subject to adjustment on January 1st of each year.

Engineering Rate Schedule

- Principal in Charge \$125.00 per hour
- Project Manager \$115.00 per hour
- Senior Design Engineer \$105.00 per hour
- Project Engineer \$ 95.00 per hour

Surveying Rate Schedule

- Field Crew \$135.00 per hour
- Professional Land Surveyor \$115.00 per hour
- Senior Drafter \$ 95.00 per hour
- Drafter \$ 75.00 per hour

Reimbursable Expenses

Expenses incurred for work covered under this contract will be invoiced at cost plus 15 percent. These expenses include, but are not limited to:

- Printing
- Shipping
- Permitting and Application Fees
- Outside Consultants
- Travel – (Travel will be reimbursed at \$0.58 per mile)

Payment

Services rendered in accordance with this proposal will be invoiced monthly based on work completed. Invoices are due upon receipt and will be considered delinquent if not received within 30 days after receipt. Engineering Design Group LLC may, without legal consequence, suspend services until payment is received.

Client agrees that payment for services rendered shall not be contingent or dependent upon any conditions or any action or undertaking of the Client other than those conditions, if any, specifically set forth in this agreement.

TERMS AND CONDITIONS:

1. **CONTRACT** - These Contract Provisions and the accompanying Proposal constitute the full and complete Agreement between the parties and may be changed, amended, added to, superseded, or waived only if both parties specifically agree in writing to such amendment of the Agreement. In the event of any inconsistency between these Contract Provisions and any proposal, contract, purchase order, requisition, notice to proceed, or like document, these Contract Provisions shall govern.
2. **RIGHT OF ENTRY** - When entry to property is required for the CONSULTANT to perform its services, the Client agrees to obtain legal right-of-entry on the property.
3. **DOCUMENTS** - All reports, notes, drawings, specifications, data, calculations, and other documents, including those in electronic form, prepared by CONSULTANT are instruments of CONSULTANT's service that shall remain CONSULTANT's property. The Client agrees not to use CONSULTANT-generated documents for marketing purposes, for projects other than the project for which the documents were prepared by CONSULTANT, or for future modifications to this project, without CONSULTANT's express written permission.

Any reuse or distribution to third parties without such express written permission or project-specific adaptation by CONSULTANT will be at the Client's sole risk and without liability to CONSULTANT or its employees, subsidiaries, independent professional associates, subconsultants, and subcontractors. Client shall, to the fullest extent permitted by law, defend, indemnify, and hold harmless CONSULTANT from and against any and all costs, expenses, fees, losses, claims, demands, liabilities, suits, actions, and damages whatsoever arising out of or resulting from such unauthorized reuse or distribution.

4. **DISPOSAL OF SAMPLES** - CONSULTANT will discard samples upon completion of the work covered under this Agreement, unless the Client instructs otherwise in writing.
5. **HAZARDOUS MATERIALS** - The scope of CONSULTANT's services for this Agreement does not include any responsibility for detection, remediation, accidental release, or services relating to waste, oil, asbestos, lead, or other hazardous materials, as defined by Federal, State, and local laws or regulations.
6. **CONSTRUCTION PHASE SERVICES** - If CONSULTANT performs any services during the construction phase of the project, CONSULTANT shall not supervise, direct, or have control over Contractor's work. CONSULTANT shall not have authority over or responsibility for the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of the Contractor. CONSULTANT does not guarantee the performance of the construction contract by the Contractor and does not assume responsibility for the Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
7. **STANDARD OF CARE** - CONSULTANT and its employees, subsidiaries, independent professional associates, subconsultants, and subcontractors will exercise that degree of care and skill ordinarily practiced under similar circumstances by design professionals providing similar services. Client agrees that services provided will be rendered without any warranty, express or implied.

CONSULTANT shall exercise usual and customary professional care in its efforts to comply with applicable codes, regulations, laws, rules, ordinances, and such other requirements in effect as of the date of execution of this Agreement.

8. **OPINION OF PROBABLE COSTS** - When required as part of its work, CONSULTANT will furnish opinions of probable cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions, and utilitarian considerations of operations and maintenance costs prepared by CONSULTANT hereunder will be made on the basis of CONSULTANT's experience and qualifications and will represent CONSULTANT's judgment as an experienced and qualified design professional. However, users of the probable cost opinions must recognize that CONSULTANT does not have control over the cost of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices or performing the work.
9. **SUSPENSION OF WORK** - The Client may, at any time, by written notice, suspend further work by CONSULTANT. The Client shall remain liable for, and shall promptly pay CONSULTANT for all services rendered to the date of suspension of services, plus suspension charges, which shall include the cost of assembling documents, personnel and equipment, rescheduling or reassignment, and commitments made to others on Client's behalf.

Client shall pay CONSULTANT pursuant to the rates and charges set forth in the Proposal. CONSULTANT will submit monthly

invoices to Client for services rendered and expenses incurred. If Client does not pay invoices within thirty (30) days of submission of invoice, CONSULTANT may, upon written notice to the Client, suspend further work until payments are brought current. The Client agrees to indemnify and hold CONSULTANT harmless from any claim or liability resulting from such suspension.

10. **CHANGES OR DELAYS** - Unless the accompanying Proposal provides otherwise, the proposed fees constitute CONSULTANT's estimate to perform the services required to complete the Project. Required services often are not fully definable in the initial planning; accordingly, developments may dictate a change in the scope of services to be performed. Where this occurs, changes in the Agreement shall be negotiated and an equitable adjustment shall be made.

Costs and schedule commitments shall be subject to renegotiation for unreasonable delays caused by the Client's failure to provide specified facilities, direction, or information, or if CONSULTANT's failure to perform is due to any act of God, labor trouble, fire, inclement weather, act of governmental authority, failure of transportation, accident, power failure, or interruption or any other cause beyond the reasonable control of CONSULTANT. Temporary work stoppage caused by any of the above may result in additional cost beyond that outlined in the accompanying Proposal.

11. **LIABILITY** - To the fullest extent permitted by law, the total liability, in the aggregate, of CONSULTANT and CONSULTANT's officers, directors, employees, agents, and consultants to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to CONSULTANT's services, the Project or this Agreement, from any cause or causes whatsoever, including but not limited to, negligence, strict liability, breach of contract or breach of warranty shall not exceed the total compensation received by CONSULTANT under this Agreement.
12. **CONFLICTS OF INTEREST** - This assignment may involve parties with adverse interests to clients with whom CONSULTANT has current or past relationships. It is CONSULTANT policy to make reasonable attempts to identify such relationships prior to acceptance of a professional assignment, but CONSULTANT cannot assure that conflicts or perceived conflicts will not arise, and CONSULTANT does not accept responsibility for such occurrences.
13. **REIMBURSABLE EXPENSES** - CONSULTANT will bill direct non payroll expenses at cost plus 10%. Direct expenses include all reasonable expenses resulting from required responses to subpoenas or court orders related to work under the Contract.
14. **MISCELLANEOUS** - Governing Law: The laws of the state in which the CONSULTANT office executing this Agreement is located shall govern the validity and interpretation of this Agreement.

Invalid Terms: In the event any of these Contract Provisions are found to be illegal or otherwise unenforceable, the unenforceable Contract Provision will be stricken. Striking such a Contract Provision shall have no effect on the enforceability of the remaining Contract Provisions and those remaining Contract Provisions shall continue in full force and effect as if the unenforceable Contract Provision were never included in the Agreement.

Mediation: The Client and CONSULTANT agree to submit all claims and disputes arising out of this Agreement to non-binding mediation prior to the initiation of legal proceedings. This provision shall survive completion or termination of this Agreement; however, neither party shall seek mediation of any claim or dispute arising out of this Agreement beyond the period of time that would bar the initiation of legal proceedings to litigate such claim or dispute under the applicable law.

CONSULTANT Reliance: CONSULTANT shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's consultants and contractors, and information from public records, without the need for independent verification.

Certifications: CONSULTANT shall not be required to sign any documents, no matter by whom requested, that would result in CONSULTANT's having to certify, guaranty, or warrant the existence of conditions that CONSULTANT cannot ascertain.

Third Parties: Nothing contained In this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or CONSULTANT. CONSULTANT's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against CONSULTANT because of this Agreement or CONSULTANT's performance of services hereunder.

Consequential Damages: Neither the Client nor the CONSULTANT shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.



CAPRINE

PLANNING • CIVIL ENGINEERING • CONSULTING

May 20, 2016

Mr. Jeff Downes, City Manager
City of Vestavia Hills
1032 Montgomery Hwy.
Vestavia Hills, AL 35216

**Re: Proposal for Client Representation and Consulting Services for
The Old Altadena Valley Country Club - Western Entrance Design - Vestavia Hills, AL**

Dear Jeff,

Thank you for the opportunity to propose on-going consulting services for the infrastructure elements for the Old Altadena Valley Country Club project. We hope you find this proposal consistent with your expectations and our previous conversations.

We understand our role in the progression of the western entrance roadway design and public bid process is to represent the unbiased interests of the City of Vestavia Hills and represent those to the design team, coordinate with the design engineer throughout the design and the public bid process, and report to and consult with the City of Vestavia Hills as the roadway design and bid process progresses.

Client Representation and Consulting Services

Fee = Budget \$14,700 @ \$120/hr.

- Represent the City of Vestavia Hills' interests as required
 - Project meetings
 - Agency meetings
 - Design review meetings
- Report to and coordination with City of Vestavia Hills
- Coordination with design engineer employed by the City of Vestavia Hills
- Review of roadway design and project manual as it progresses
- Site visits as required

Clarifications

- We recommend a budget of \$300 be held for reimbursables associated with vehicle mileage, reprographics, and other customary reimbursables should they occur.

Please let me know if this proposal meets your expectations or if you have any questions about the scope of work. We appreciate the opportunity to be of service to you and look forward to the successful implementation of this project.

Sincerely,
CAPRINE ENGINEERING, LLC

Accepted by Client:
City of Vestavia Hills

E. Chris Eckroate, PE, LEED GA
President

Date: _____

PATRICK H. BOONE
ATTORNEY AND COUNSELOR AT LAW
NEW SOUTH FEDERAL SAVINGS BUILDING, SUITE 705
215 RICHARD ARRINGTON, JR. BOULEVARD NORTH
BIRMINGHAM, ALABAMA 35203-3720

TELEPHONE (205) 324-2018
FACSIMILE (205) 324-2295

May 24, 2016

By Hand Delivery

City Manager Jeffrey D. Downes
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

In Re: Resolution Number 4840
Agreement Between City and Engineering Design Group, LLC ("EDG")

Dear Mr. Downes:

Resolution Number 4840 authorizing the execution and delivery of an Agreement by and between the City of Vestavia Hills, Alabama ("City") and Engineering Design Group, LLC ("EDG") hereinafter referred to as "Agreement" was introduced for a first reading at the May 23, 2016 regularly scheduled City Council meeting at 5:00 p.m.

In substance, the Agreement provides that EDG will perform land survey and civil engineering services for construction of a new roadway to access the City's new park along the Cahaba River (formerly the Altadena Valley Country Club Golf Course) in consideration of an amount not to exceed \$50,000.00. It is my understanding that the City Council will consider approval of Resolution Number 4840 at its first regularly scheduled monthly meeting on June 13, 2016. You have requested that I review the Agreement and provide you with my written legal opinion. The purpose of this letter opinion is to comply with your request.

**I. LEGAL OPINION REGARDING
RECOMMENDED DELETIONS FROM THE PROPOSED AGREEMENT**

From a legal standpoint, I cannot approve the Agreement as written because it contains requirements that municipalities in Alabama cannot agree to. In order for me to do so, the following language should be deleted from said Agreement:

A. INDEMNITY PROVISION: All language requiring the City to indemnify EDG specifically including the language in sections 3, 9 and 14 should be deleted.

B. LIMITATION OF LIABILITY: Section 11 limiting the liability of EDG should be deleted in its entirety.

C. **WARRANTIES:** The last sentence of paragraph 1 of section 7 reading "Client agrees that services provided will be rendered without any warranties expressed or implied" should be deleted.

D. **COMPLIANCE WITH APPLICABLE LAWS:** The second paragraph of section 7 should be deleted in its entirety.

E. **GOVERNING LAW:** The Agreement must be amended so as to provide that the laws of Alabama shall govern the validity and interpretation of said Agreement.

II. **BASIS FOR LEGAL OPINION**

I base my legal opinion upon the following Alabama laws.

A&B. **INDEMNITY and LIMITATION OF LIABILITY:**

(1) **MUNICIPALITIES CANNOT SPEND PUBLIC FUNDS TO INDEMNIFY THIRD**

PARTIES:

(a) **Constitution of Alabama of 1901:** Section 94, as amended by Amendments 112 and 558, of the Constitution of Alabama provides as follows:

"The Legislature shall not have power to authorize any county, city, town or other subdivision of this state to lend its credit or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever."

In my opinion, it would be a violation of Article IV, Section 94(a) of the *Constitution of Alabama* for the City to indemnify a third party for actions, costs, expenses, damages and liabilities.

(b) **Limits of Liability of Municipalities:** Section 11-93-2, *Code of Alabama, 1975*, establishes the maximum amount of damages recoverable against governmental entities. The recovery of damages under any judgment against a city shall be limited to \$100,000.00 for bodily injury or death for one person in any single occurrence and to \$300,000.00 in the aggregate where more than two persons have claims or judgments on account of bodily injury or death arising out of any single occurrence. This statute also provides in pertinent part that recovery of damages under any judgment against a city shall be limited to \$100,000.00 for damage or loss of property arising out of any single occurrence.

It is my opinion that if the City agreed to indemnify a third party, then in such event said indemnity agreement could waive the statutory maximum limits of liability set forth in Title 11-93-2, *Code of Alabama, 1975*.

(c) **Public Officers Are Entitled to Discretionary Function Immunity:** Public officials and employees who act within the scope of their authority in performing functions involving discretion are entitled to discretionary function immunity. *Woods v. Wilson*, 539 So.2d 224 and *Hillard v. Huntsville*, 585 So.2d 889.

It is my opinion that if the City agreed to indemnify a third party, then in such event such indemnity agreement could waive the discretionary function immunity for its public employees.

(d) **Joint Liability:** Title 11-47-191(b), *Code of Alabama, 1975*, provides as follows:

“(b) When a judgment shall be obtained against a municipality and the other party liable as provided in subsection (a) of this section, execution shall issue against the other defendant or defendants in the ordinary form and shall not be demandable of the city or town unless the other defendants are insolvent and the same cannot be made out of their property, and the city or town shall pay only so much of the said judgment as cannot be collected from the other defendants.”

If the City indemnified a third party, then in such event it would violate the above statute.

(e) **Municipalities in Alabama May Spend Public Funds Only for Public Purposes:** Municipalities in Alabama may spend public funds only for public purposes. The Supreme Court of Alabama has interpreted the language of Sections 93 and 94 of the *Constitution of Alabama* to allow appropriations of public funds when the appropriation is used for public purposes. *Alabama Constitution* amend. 93; *Alabama Constitution* amend. 94; *Slawson v. Alabama Forestry Comm’n*, 631 So.2d 953 (Ala.1994). *Opinion of the Justices No. 269*, 384 So.2d 1051 (1980); *Stone v. State*, 251 Ala. 240 (1948).

In my opinion, the payment of public funds to indemnify a third party would not constitute a “public purpose.”

(2) **MUNICIPALITIES MAY BE LIABLE FOR THE NEGLIGENT ACTS OF ITS EMPLOYEES ACTING IN THE LINE AND SCOPE OF THEIR EMPLOYMENT:**

(a) Title 11-47-190, *Code of Alabama, 1975*, reads as follows:

“No city or town shall be liable for damages for injury done to or wrong suffered by any person or corporation, unless such injury or wrong was done or suffered through the neglect, carelessness or

unskillfulness of some agent, officer or employee of the municipality engaged in work therefor and while acting in the line of his or her duty, or unless the said injury or wrong was done or suffered through the neglect or carelessness or failure to remedy some defect in the streets, alleys, public ways or buildings after the same had been called to the attention of the council or other governing body or after the same had existed for such an unreasonable length of time as to raise a presumption of knowledge of such defect on the part of the council or other governing body and whenever the city or town shall be made liable for damages by reason of the unauthorized or wrongful acts or negligence, carelessness or unskillfulness of any person or corporation, then such person or corporation shall be liable to an action on the same account by the party so injured. However, no recovery may be had under any judgment or combination of judgments, whether direct or by way of indemnity under Section 11-47-24, or otherwise, arising out of a single occurrence, against a municipality, and/or any officer or officers, or employee or employees, or agents thereof, in excess of a total of \$100,000 per injured person up to a maximum of \$300,000 per single occurrence, the limits set out in the provisions of Section 11-93-2 notwithstanding.”

(b) **Joint Liability**: Title 11-47-191(b), *Code of Alabama, 1975*, provides as follows:

“(b) When a judgment shall be obtained against a municipality and the other party liable as provided in subsection (a) of this section, execution shall issue against the other defendant or defendants in the ordinary form and shall not be demandable of the city or town unless the other defendants are insolvent and the same cannot be made out of their property, and the city or town shall pay only so much of the said judgment as cannot be collected from the other defendants.”

(c) **Defense of Municipal Employees Sued for Damages:** Title 11-47-24(a), *Code of Alabama, 1975*, provides as follows:

“(a) Whenever any employee of a municipal corporation of the State of Alabama shall be sued for damages arising out of the performance of his official duties, and while operating a motor vehicle or equipment engaged in the course of his employment, such government agency shall be authorized and required to provide defense counsel for such employees in such suit and to indemnify him from any judgment rendered against him in such suit. In no event shall a municipal corporation of the state be required to provide defense and indemnity for employees who may be sued for damages arising out of actions which were either intentional or willful or wanton.”

(d) **Liability Insurance:** Title 11-47-24(b), *Code of Alabama, 1975*, provides as follows:

“(b) All municipal corporations of the State of Alabama are hereby authorized to contract at governmental expense for policies of liability insurance to protect employees in the course of their employment.”

(e) **The City has Liability Insurance Coverage for Employees:** At the present time, the City has general comprehensive liability insurance issued by States Self-Insurers Risk Retention Group written by Berkly Risk Administrators Company, LLC.

(f) **Prejudice the Rights of the City General Comprehensive Insurance Carrier and Jeopardize Coverage:** Based upon Title 11-47-191(b), *Code of Alabama, 1975*, it is my legal opinion that if the City agreed to the indemnity language, that it would prejudice the rights of the City general comprehensive liability insurance carrier and jeopardize coverage under the policy.

C&D. COMPLIANCE WITH APPLICABLE LAWS AND WARRANTIES: The City expects EDG to perform its work in a good and workmanlike manner and to comply with the provisions of the labor law and all state, federal and local laws, statutes, codes, rules, regulations and ordinances that are applicable to the performance of this Agreement between the City and EDG.

E. **GOVERNING LAW:** In 1912, the Court of Civil Appeals of Alabama decided the case of *Hirsch & Spitz Mfg. Co. v. City of Enterprise*, 59 So. 315, 5 Ala.App. 387, and held that the right of a municipal corporation to contract must be construed by the laws of the state irrespective of where a contract is made.

III. RECOMMENDED ADDITIONS TO THE AGREEMENT

I recommend that section 15 entitled "Other Provisions" be added to and incorporated into the Agreement as follows:

"15. **OTHER PROVISIONS:** Notwithstanding anything contained in the Agreement to the contrary, the City and Engineering Design Group, LLC agree to add the following terms, provisions and conditions to the said Agreement as Section 15 to said Agreement:

15.1. **PREPARATION OF CONSTRUCTION CONTRACT:** The EDC shall prepare the Construction Contract for acceptance and execution by the Contractor and Owner and the forms for the Performance Bond and the Labor and Materials Bond as required by the Public Works Law set forth in Title 39-1-1, et seq., *Code of Alabama, 1975*.

15.2 **ADVERTISEMENT FOR BID:** EDG shall prepare the advertisement for bids and have it appropriately published in newspapers all in accordance with the requirements of the Alabama Public Works Law set forth at Title 39-2-2, *Code of Alabama, 1975*.

15.3 **PREQUALIFICATION OF BIDDERS:** EDG shall prequalify contractors who wish to bid on the work.

15.4 **IMMIGRATION:** By signing this Agreement, the contracting parties affirm, for the duration of the Contract, that they will not violate federal immigration law or knowingly employ, hire for employment or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

15.5 **INDEPENDENT CONTRACTOR:** Engineering Design Group, LLC is an independent contractor for purposes of this Agreement. Nothing contained in the Agreement shall be construed to mean that said Engineering Design Group, LLC is the servant, agent or employee of the City of Vestavia Hills, Alabama.

15.6 **WORKER'S COMPENSATION:** EDG shall carry Worker's Compensation insurance for all of its employees and those of its subcontractors engaged in the work at the site in accordance with the State of Alabama Worker's Compensation Law.

15.7 LIABILITY INSURANCE: EDG shall carry Public Liability Insurance with limits of Three Hundred Thousand Dollars (\$300,000.00), per person, and One Million Dollars (\$1,000,000.00), per occurrence, to cover and protect the City and EDG and its subcontractors against claims or injury to or death of one or more than one person because of accidents which may occur or result from operations under the Agreement. The City of Vestavia Hills, Alabama shall be added as “an additional insured” to the general comprehensive liability insurance policy of EDG.

15.8 INDEMNITY: EDG shall indemnify and save harmless the City of Vestavia Hills, Alabama, its Mayor, City Manager, individual members of the City Council, servants, agents, employees or representatives from any and all claims, demands, controversies, actions, causes of action, liabilities of action, lawsuits, liabilities and damages arising out of or resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result of work performed by the EDG under this Agreement.

15.9 PROFESSIONAL ENGINEER: EDG represents, covenants and warrants that it is a licensed professional engineer within the meaning of Title 34-11-1(3), *Code of Alabama, 1975*, in good standing with the State of Alabama Board of Licensure for Professional Engineers and Land Surveyors.

15.10 WARRANTIES AND COMPLIANCE WITH APPLICABLE LAWS: EDG shall perform its work in a good and workmanlike manner and to comply with the provisions of the labor law and all state, federal and local laws, statutes, codes, rules, regulations and ordinances that are applicable to the performance of this Agreement between the City and Engineering Design Group, LLC.

15.11 ARBITRATION; MEDIATION; ALTERNATE DISPUTE RESOLUTION: The City agrees to arbitrate disputes or to engage in alternate dispute resolution (ADR) if arbitration or ADR is required by the agreement as a means of resolving disagreements arising thereunder or is a precondition to the pursuit of other legal remedies, but only to the extent (a) the rights and remedies available under such arbitration rules or processes do not afford the EDG greater relief (e.g., attorney’s fees, damages, etc.) than would be available under otherwise applicable law, (b) the venue for the arbitration or mediation proceeding is in Jefferson County, Alabama, and (c) the costs of such proceedings (including the fees of the arbitrator or mediator) are divided evenly between the parties.

15.12 ATTORNEY’S FEES; COURT COSTS; LITIGATION EXPENSES: The City shall not be liable for attorney’s fees, court costs, litigation expenses, and like charges except and to the extent such fees, costs and charges would be assessed against the City under applicable law in the absence of any contractual provision imposing or assigning liability therefor.

15.13 INDEMNIFICATION; HOLD HARMLESS; RELEASE; WAIVER; LIMITATIONS OF LIABILITY OF REMEDIES: The City shall not and does not indemnify, hold harmless or release the EDG or any other person, firm, or legal entity for, from or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the Agreement or the performance or nonperformance thereof; nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the EDG or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the EDG or any person, firm or entity in privity therewith or acting on EDG's behalf. Any limitation or restriction regarding the type, nature, form, amount or extent of any right, remedy, relief or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the Agreement, and void."

15.14 GOVERNING LAW: This Agreement shall be governed by the laws of the State of Alabama. The jurisdiction and venue for the resolution of any dispute shall be in Jefferson County, Alabama.

From a legal standpoint, I approve the Agreement provided the modifications set forth in this legal opinion are made.

Please call me if you have any questions regarding this matter.

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

RESOLUTION NUMBER 4842

**A RESOLUTION APPROVING ALCOHOL LICENSE
FOR IRONSTONE CONCEPTS LLC D/B/A
IRONSTONE PIZZAWORKS; JOHN W.
MCPHERSON, JR. AND THOMAS G. GRESHAM,
EXECUTIVES**

WHEREAS, the City Council of the City of Vestavia Hills, Alabama, approves the alcohol license for Ironstone Concepts LLC d/b/a Ironstone Pizzaworks, located at 632 Montgomery Highway, Vestavia Hills, Alabama, for the sale of 040 Beer (On or Off Premises) and 060 Retail Table Wine (On or Off Premises); John W. McPherson, Jr. and Thomas G. Gresham, executives.

APPROVED and ADOPTED this the 13th day of June, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

INTEROFFICE MEMORANDUM

DATE: June 8, 2016

TO: Dan Rary, Acting Police Chief

FROM: Rebecca Leavings, City Clerk


RE: Alcohol License Request – 040 Beer (On or Off Premises) and 060 Retail Table Wine (On of Off Premises)

Please find attached information submitted by John W. McPherson, Jr. and Thomas G. Gresham who request an alcohol license to sell 040 Beer (On or Off Premises) and 060 Retail Table Wine (On of Off Premises) at the Ironstone Concepts LLC d/b/a Ironstone Pizzaworks, 632 Montgomery Highway, Vestavia Hills, Alabama.

I am scheduling this case to be heard by the City Council on 13th day of June, 2016 at 5:00 PM (Monday). Please advise me of your recommendation for this license. If you have any questions, please contact me.

Reply

I have reviewed the available background information on the above referenced applicant and submit the following to the City Council:

	<i>Application cleared by P.D. This indicates that there are NO convictions for drug trafficking, convictions regarding arrest involving danger to children, weapon charges, violent felony crimes against persons, felony sexual offenses or habitual alcohol related arrests</i>
	<i>Needs further review. This indicates that the Police Chief has found records of some convictions of alcohol related arrests</i>
	<i>Does not recommend. This indicates that the Police Chief has found records of convictions for drug trafficking, convictions regarding arrest involving danger to children, weapon charges, violent felony crimes against persons, felony sexual offenses or habitual alcohol related arrests</i>

Reviewed: 



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20160513082151136



Type License: 040 - RETAIL BEER (ON OR OFF PREMISES) State: \$150.00 County: \$75.00

Type License: 060 - RETAIL TABLE WINE (ON OR OFF PREMISES) State: \$150.00 County: \$75.00

Trade Name: IRONSTONE PIZAWORKS Filing Fee: \$100.00

Applicant: IRONSTONE CONCEPTS LLC Transfer Fee:

Location Address: 632 MONTGOMERY HWY VESTAVIA HILLS, AL 35216

Mailing Address: 632 MONTGOMERY HWY VESTAVIA HILLS, AL 35216

County: JEFFERSON Tobacco sales: NO Tobacco Vending Machines:

Type Ownership: LLC

Book, Page, or Document info: 1079754

Date Incorporated: 11/16/2015 State incorporated: MS County Incorporated: SUNFLOWER

Date of Authority: 03/18/2016 Alabama State Sales Tax ID: R009415377

Name: Title: Date and Place of Birth: Residence Address:

JOHN WILLIAM MCPHERSON JR 802094356 - MS	PRESIDENT	12/31/1958 GREENVILLE MISSISSIPPI	100 BARBERRY LANE INDIANOLA, MS 38751
THOMAS GEORGE GRESHAM 800392185 - MS	SECRETARY AND TREASURER	01/10/1958 GREENWOOD MISSISSIPPI	105 E GRESHAM ST INDIANOLA, MS 38751

Has applicant complied with financial responsibility ABC RR 20-X-5-.14? YES

Does ABC have any actions pending against the current licensee? NO

Has anyone, including manager or applicant, had a Federal/State permit or license suspended or revoked? NO

Has a liquor, wine, malt or brewed license for these premises ever been denied, suspended, or revoked? NO

Are the applicant(s) named above, the only person(s), in any manner interested in the business sought to be licensed? YES

Are any of the applicants, whether individual, member of a partnership or association, or officers and directors of a corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this act? NO

Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage, or distilled liquors permit or license issued under authority of this act? NO

Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate or other licensee, or from any firm, association or corporation operating under or regulated by the authority of this act? NO

Contact Person: JIM WALSH
 Business Phone: 601-248-2751
 Fax:

Home Phone: 662-207-0290
 Cell Phone: 601-248-2751
 E-mail: JHWALSH@IRONSTONEPIZZA.COM

PREVIOUS LICENSE INFORMATION:

Trade Name:
 Applicant:

Previous License Number(s)
 License 1:
 License 2:



**STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD**



**ALCOHOL LICENSE APPLICATION
Confirmation Number: 20160513082151136**

If applicant is leasing the property, is a copy of the lease agreement attached? **YES**
 Name of Property owner/lessor and phone number: **EXCEL VESTAVIA LLC 858-613-1800**
 What is lessors primary business? **PROPERTY MANAGEMENT**
 Is lessor involved in any way with the alcoholic beverage business? **N/A**
 Is there any further interest, or connection with, the licensee's business by the lessor? **N/A**

Does the premise have a fully equipped kitchen? **YES**
 Is the business used to habitually and principally provide food to the public? **YES**
 Does the establishment have restroom facilities? **YES**
 Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? **YES**

Will the business be operated primarily as a package store? **NO**
 Building Dimensions Square Footage: **3800** Display Square Footage:
 Building seating capacity: **108** Does Licensed premises include a patio area? **YES**
 License Structure: **SHOPPING CENTER** License covers: **PORTION OF**
 Location is within: **CITY LIMITS** Police protection: **CITY**

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of any law violation(s)?

Name:	Violation & Date:	Arresting Agency:	Disposition:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20160513082151136



Initial each

JW
 JW
 JW

In reference to law violations, I attest to the truthfulness of the responses given within the application.
 In reference to the Lease/property ownership, I attest to the truthfulness of the responses given within the application.
 In reference to ACT No. 80-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.
 In reference to Special Retail or Special Events retail license, I agree to comply with all applicable laws and regulations concerning this class of license, and to observe the special terms and conditions as indicated within the application.

In reference to the Club Application information, I attest to the truthfulness of the responses given within the application.

In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.

In accordance with Alabama Rules & Regulations 20-X-5-.01(4), any social security number disclosed under this regulation shall be used for the purpose of investigation or verification by the ABC Board and shall not be a matter of public record.

JW

The undersigned agree, if a license is issued as herein applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages.

The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the license premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him or her in connection with said licensed premises. The undersigned hereby understands that he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

JW

I hereby swear and affirm that I have read the application and all statements therein and facts set forth are true and correct, and that the applicant is the only person interested in the business for which the license is required.

Applicant Name (print): **John W. McPherson, Jr.**

Signature of Applicant: *John W. McPherson, Jr.*

Notary Name (print): **Lisa Ann Johnson**

Notary Signature: *Lisa Ann Johnson*

Commission expires: **Aug. 19, 2016**



Application Taken: **App. Inv. Completed:**
 Submitted to Local Government:
 Received in District Office: **Reviewed by Supervisor:**

Forwarded to District Office:
 Received from Local Government:
 Forwarded to Central Office:

Receipt Confirmation Page

Receipt Confirmation Number: 20160513082151136
Application Payment Confirmation Number: 25066492

Payment Summary	
Payment Item	Fee
Application Fee for License 040 and License 060	\$100.00
Total Amount to be Charged	\$100.00

License Payment Confirmation Number:

Payment Summary			
Payment Item	County Fee	State Fee	Total Fee
040 - RETAIL BEER (ON OR OFF PREMISES)	\$75.00	\$150.00	\$225.00
060 - RETAIL TABLE WINE (ON OR OFF PREMISES)	\$75.00	\$150.00	\$225.00
Total Amount to be Charged	\$150.00	\$300.00	\$450.00

Application Type

Application Type: APPLICATION

Applicant Information

License Type 1: 040 - RETAIL BEER (ON OR OFF PREMISES)
License Type 2: 060 - RETAIL TABLE WINE (ON OR OFF PREMISES)
License County: JEFFERSON
Business Type: LLC
Trade Name: IRONSTONE PIZZAWORKS
Applicant Name: IRONSTONE CONCEPTS LLC
Location Address: 632 MONTGOMERY HWY
VESTAVIA HILLS, AL 35216
Mailing Address: 632 MONTGOMERY HWY
VESTAVIA HILLS, AL 35216
Contact Person: JIM WALSH
Contact Home Phone: 662-207-0290
Contact Business Phone: 601-248-2751
Contact Fax:
Contact Cell Phone: 601-248-2751
Contact Email Address:
Contact Web Address:

RESOLUTION NUMBER 4843

**A RESOLUTION TO APPOINT A MEMBER TO THE
BIRMINGHAM-JEFFERSON COUNTY TRANSIT AUTHORITY**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
VESTAVIA HILLS, ALABAMA, AS FOLLOWS:**

1. Donald Harwell is hereby appointed as a member of the Birmingham-Jefferson County Transit Authority to represent the City of Vestavia Hills; and
2. Said appointment shall begin immediately and continue until May 14, 2018;
3. This Resolution Number 4843 shall become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 13th day of June, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

**CITY OF VESTAVIA HILLS
INTER-DEPARTMENT MEMO**

June 8, 2016

TO: City Clerk Rebecca Leavings

FROM: Mayor Alberto C. Zaragoza, Jr. *A.C.Z.*

Re: Birmingham-Jefferson County Transit Authority Appointment

Resolution Number 4292 appointed Andrew Edwards to the Birmingham-Jefferson County Transit Authority to represent the City of Vestavia Hills. Mr. Edwards has resigned this position, effective immediately.

It is my recommendation that Donald Harwell be appointed to fill this unexpired term, which will end May 14, 2018.

Please include this in the June 13, 2016 Council agenda for consideration:

Birmingham-Jefferson County Transit Authority
Donald Harwell

RESOLUTION NUMBER 4844

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY
MANAGER TO ENTER INTO A REMEDIATION AGREEMENT
REGARDING PROPERTY LOCATED AT 2216 BROOKDALE LANE,
VESTAVIA HILLS, ALABAMA, 35216.**

WHEREAS, on January 28, 2016, Keith Blanton, the Building Inspector for the City of Vestavia Hills, Alabama determined that the property located at 2216 Brookdale Lane, Vestavia Hills, Alabama, 35216 (“Subject Property”) was unsafe to the extent that it is a public nuisance; and

WHEREAS, Stephen M. O’Neill (“Mr. O’Neill”) and Amina O’Neill (“Mrs. O’Neill”) are the owners of the Subject Property and USAmeriBank, formerly known as Aliant Bank (“the Bank”) is also an interested party holding a mortgage on the Subject Property (Mr. O’Neill, Mrs. O’Neill, and the Bank altogether, “Petitioners”); and

WHEREAS, the City of Vestavia Hills, Alabama (“the City”) desires to enter into a Remediation Agreement with the Petitioners; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Vestavia Hills, Alabama, while in regular session on Monday, June 13, 2016, as follows:

1. The Mayor and City Manager are hereby authorized to execute a Remediation Agreement with the Petitioners along substantially the same terms as those provided in Exhibit 1 attached hereto; and
2. This Resolution Number 4844 shall become effective immediately upon adoption.

ADOPTED and APPROVED this the 13th day of June, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY

Rebecca Leavings
City Clerk

CERTIFICATION OF CITY CLERK

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, Rebecca Leavings, City Clerk of the City of Vestavia Hills, Alabama, do hereby certify that the above and foregoing is a true and correct copy of a Resolution duly and legally adopted by the City Council of the City of Vestavia Hills, Alabama, on the 13th day of June, 2016 while in regular session, and the same appears of record in the minute book of said date of said City.

Witness my hand and seal of office this _____ day of June, 2016.

Rebecca Leavings, City Clerk

Exhibit 1

REMEDIATION AGREEMENT

COME NOW, **Stephen M. O'Neill** (individually, "Mr. O'Neill"), **Amina O'Neill** (individually, Mrs. O'Neill"), **USAmeriBank, formerly known as Aliant Bank, a corporation organized and existing under the laws of the State of Florida** (individually, "the Bank") (Mr. O'Neill, Mrs. O'Neill, and the Bank altogether, "Petitioners"), who have an interest in the Subject Property as defined herein, and the **City of Vestavia Hills, Alabama** ("City"), to enter into this Remediation Agreement ("Agreement") as of the 13th day of June, 2016. The "Subject Property" referred to in this Agreement shall include the following described real property and the personal property thereon:

STREET ADDRESS:

2216 Brookdale Lane, Vestavia Hills, Alabama 35216

LEGAL DESCRIPTION:

Lot 5, Block 1, according to the Survey of Southridge Addition to Vestavia Hills, as recorded in Map Book 42, page 13, in the Probate Office of Jefferson County, Alabama, Birmingham Division.

PARCEL IDENTIFICATION NUMBER:

29-00-25-1-010-011.000.

Mr. O'Neill agrees that he will make certain improvements to the Subject Property, including the following:

1. That the premises of the Subject Property shall be immediately maintained in accordance with all laws governing grass and weeds and remain so at all times;
2. That the Subject Property—in its entirety, both improvements and land—shall be brought into compliance with all applicable technical, building, and safety codes adopted by the City for the Subject Property's intended use and occupancy no later than October 15, 2016; and
3. That the improvements to the Subject Property shall include, at a minimum, the scope of work contemplated by the schedule attached hereto as Exhibit A hereof (Items 1-3

altogether “the Timeline”).

Mr. O’Neill agrees that he will satisfy all provisions of the Timeline. In the event that Mr. O’Neill satisfies all provisions of the Timeline, then the City will not demolish or otherwise remediate the Subject Property and the City will not assess costs for the enforcement of its rights relative to the abatement of nuisances on the Subject Property through the date that the provisions of the Timeline are satisfied.

In the event that Mr. O’Neill should fail to meet any provision of the Timeline, then the Bank may, at its sole discretion and election, either demolish the Subject Property or any part thereof or complete the repair of the Subject Property as contemplated by the Timeline, and the Bank shall be afforded till November 30, 2016 (“the Extended Timeline”), to do so. To make the election for the Extended Timeline contemplated by this paragraph, the Bank must provide written notice to the City by personally serving the City Clerk with the same on or before October 15, 2016. If the Bank makes the Extended Timeline election contemplated by this paragraph, then the Bank shall jointly and severally together with Mr. O’Neill assume all obligations of Mr. O’Neill under this Agreement. Mr. O’Neill shall not be relieved of any of his obligations under this Agreement by the Bank making the Extended Timeline election contemplated by this Agreement.

In the event that the Petitioners should fail to meet any provision of the Timeline or the Extended Timeline, as applicable, then the City may, at its sole discretion and election, either demolish the Subject Property or any part thereof without further notice to the Petitioners or complete the repair of the Subject Property as contemplated by the Timeline.

The Petitioners agree that until all of the provisions of the Timeline have been completed by the Petitioners, the Petitioners will not sell, transfer, mortgage, lease, encumber, or otherwise dispose of the Subject Property without the express written permission of the City.

In the event of a breach of this Agreement, Mr. O’Neill agrees to be responsible for any expenses (including attorneys’ fees and costs actually incurred) associated with the City’s enforcement of its rights pursuant to this Agreement, including, but not limited to, demolition of the Subject Property by the City and/or repair of the Subject Property by the City for the Petitioners’ failure to meet any provision of the Timeline or Extended Timeline, as applicable, and/or prosecution related to the condition of the Subject Property, and the Petitioners authorize the City to file an assessment and lien against the Subject Property for the same.

The Petitioners agree to assume the risk of making any improvements to the Subject Property or investing any money therein and acknowledge the risk that the Subject Property may be demolished and/or subjected to a lien if the Petitioners fail to strictly comply with the Timeline or the Extended Timeline, as applicable, whether or not the Subject Property could have otherwise been demolished under any provision of law. The Petitioners agree to hold harmless and hereby release the City and its agents, officers, employees, attorneys, contractors, and subcontractors from any and all types of claims that they had, now have, or in the future may have related to the Subject Property. The Petitioners agree to indemnify and defend the City and its agents, officers, employees, attorneys, contractors, and subcontractors for and from any and all types of claims at any time related to the Subject Property that may be asserted by any party and to indemnify the City for any expenses (including attorneys’ fees and costs actually incurred) as the result of any breach of this Agreement

including, but not limited to, failure to strictly comply with the Timeline and/or the Extended Timeline, as applicable.

Petitioners acknowledge that as consideration for this Agreement the City has determined not to proceed with the demolition of the Subject Property before October 15, 2016, and/or November 30, 2016, as expressly set forth in this Agreement, and the Petitioners acknowledge the receipt and sufficiency of this consideration. Except as expressly provided herein, this is in no way a waiver of any right or remedy that the City may have existing on or after October 15, 2016 and/or November 30, 2016, as applicable. However, the Petitioners consent to the City Council of the City immediately ordering the demolition and/or repair of the Subject Property, subject to and limited by the terms of this Agreement, and Petitioners agree not to appeal such order of the City Council as it is expressly contemplated by this Agreement.

This Agreement is contractual in nature and not mere recital. This Agreement is fully enforceable in all respects as a contract. This Agreement is made and entered into in the State of Alabama, and shall in all respects be interpreted, enforced, and governed under the laws of said State. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. Should any provision of this Agreement be declared or be determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term, or provision shall be deemed not to be a part of this Agreement. The Petitioners assert that they have the authority to enter into this Agreement and to burden the Subject Property with the provisions of this Agreement, and they acknowledge that the City is relying upon this as a material representation. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

[SIGNATURES APPEAR ON THE FOLLOWING FOUR (4) PAGES.
THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]

Stephen M. O'Neill

STATE OF _____)
COUNTY OF _____)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Stephen M. O'Neill, an individual, whose name is signed to the foregoing Remediation Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal this _____ day of _____, 2016.

Notary Public
My commission expires: _____

Amina O'Neill

STATE OF _____)
COUNTY OF _____)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Amina O'Neill, an individual, whose name is signed to the foregoing Remediation Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal this _____ day of _____, 2016.

Notary Public
My commission expires: _____

USAMERIBANK, FORMERLY KNOWN
AS ALIANT BANK

BY (signature): _____
PRINTED NAME: _____
ITS: _____

STATE OF _____)
COUNTY OF _____)

I, the undersigned, a notary public in and for said county in said state, hereby certify that _____, whose name as _____ of USAmeriBank, formerly known as Aliant Bank, a corporation organized and existing under the laws of the State of Florida, is signed to the foregoing Remediation Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she executed the same voluntarily for and as the act of said corporation on the day the same bears date.

GIVEN under my hand and official seal this _____ day of _____, 2016.

Notary Public
My commission expires: _____

CITY OF VESTAVIA HILLS, ALABAMA

BY (signature): _____
Alberto C. Zaragoza, Jr.
ITS: Mayor

BY (signature): _____
Jeffrey D. Downes
ITS: City Manager

ATTEST: _____
Rebecca Leavings, City Clerk

EXHIBIT A
TO THE REMEDIATION AGREEMENT



May 12, 2016

Stephen O'neil Timeline
2216 Brookdale Lane
Vestavia, AL

Week 1. Acquire permits. Show attn to any framing that needs to be addressed for inspection.

Week 2. Roof house. Get outside eaves finished. Put hardiboard on exterior and start paint on outside. Start electrical, plumbing and HVAC rough.

Week 3. Finish rough in on electrical, plumbing and HVAC and get inspected.

Week 4. Hang and finish Sheetrock.

Week 5. Install cabinets. Start trim. Start tile in bathrooms.

Week 6. Finish trim and Finish Tile in bathrooms

Week 7. Paint

Week 8. Finish paint and start install on flooring.

Week 9. Finish flooring, set out electrical, set out plumbing, finish HVAC

Week 10. Attn to anything on inside and outside of home that needs to be finished.

Week 11. Pour driveway. Landscaping

Week 12. Walk through with homeowner and address anything that needs attn. finish on week 12 or 13 and get final inspection.

Thanks,

Casey Wheeler
Wheeler Construction
(205) 422-1334

8343 DOGWOOD LANE • MORRIS, ALABAMA 35116 • Phone: (205) 422-1334

1. Inspect for rotten wood. (Replace as needed: 3 sheets 4x8 1/2" cdx plywood.
2. Install ice and water shield self-sealant around protrusions.
3. Install new flashing and step flashing as needed.
4. Install all new 15# felt.
5. Install new plumbing boots on all penetrations.
6. Install 25 year 3 tab shingles on roof.
7. Install drip edge at perimeter.
8. Caulk and seal and paint any protuberance.
9. Magnetic sweep and clean roofing debris from job site and disposal.
4. Install purlins on bottom side of soffit for installation of soffit material.
5. Wrap all exposed LVLs cantilevers with ice & water shield bituthene water barrier.
6. Wrap all exposed LVLs with coil stock, like fascia.

2. Install ice and water shield self-sealant around protrusions.
3. Install new flashing and step flashing as needed.
4. Install all new 15# felt.
5. Install new plumbing boots on all penetrations.
6. Install 25 year 3 tab shingles on roof.
7. Install drip edge at perimeter.
8. Caulk and seal and paint any protuberance.
9. Magnetic sweep and clean roofing debris from job site and disposal.
4. Install purlins on bottom side of soffit for installation of soffit material.
5. Wrap all exposed LVLs cantilevers with ice & water shield bituthene water barrier.
6. Wrap all exposed LVLs with coil stock, like fascia.

Week 3

7-14 Days

HVAC

1. Complete HVAC rough in as required.
2. Install (1) owner provided condenser.
3. Furnish and install one additional unit and condenser.
4. Perform duct blast test on existing duct work for current energy code requirements.
5. Furnish and install make-up air kit for hood; required by code.
6. Complete any/all duct work connections.
7. Furnish and install all registers and diffusers.
8. Furnish and install typical residential thermostats that fit units.

Plumbing

Kitchen

1. Install 1 Sink
2. Install 1 Dishwasher
3. Install Cold water line for refrigerator
4. Install 1 Salad Sink
5. Install 1 Gas outlet for cook top

Bedroom #3 Bath

1. Install 1 Toilet
2. Install 2 Lavatories
3. Install 1 Spa Tub with tempering valve

Laundry

1. Install 1 Washing machine outlet

Bedroom #2 Bath

1. Install 1 Tub/shower
2. Install 1 Lavatory
3. Install 1 Toilet

Master Bath

1. Install 1 Toilet
2. Install 2 Lavatories
3. Install 1 Shower with (1) ¾" valve, (1) diverter valve, (1) hand held, (1) head
4. 1 Tub with tempering valve

Powder Room

1. Install 1 Toilet
2. Install 1 Lavatory

Gas Outlets

1. Install 2 Furnace outlets
2. Install 2 Water heater outlets
3. Install 1 Fireplace outlets
4. Install 1 Cook top outlet (included in kitchen)
5. Install log lighter in outdoor fireplace.

Week 4

7-14 Days

Other Plumbing Items

1. Furnish and Install two (2) 50 gallon gas water heaters
2. All pex water piping
3. Hose bibs are existing
4. Connect to existing sewer in crawl space
5. Connect to existing cold water in crawl space
6. License, permit, insurance and inspections included for City of Vestavia

7. Replace waste line from house to street.

Week 5

7-14 Days

Electric

-The electrical plans have been altered to comply with NEC code requirements.

-Work to be 2014 Energy Code & NEC compliant

Master Bathroom

1. Install four 120v GFCI protected outlet
2. Install nine S1 control switch
3. Install eight 6" recess, white trim & LED bulb
4. Install one Recess fan combo
5. Install three Wall sconce (Note: Client to supply fixtures).

Bedroom No.2

1. Install nine 120v outlet
2. Install four S1 control switch
3. Install one 6" recess, white trim & LED bulb
4. Install one Ceiling light (Client to furnish fixture)
5. Install one Ceiling fan (Client to furnish fan)
6. Install one Smoke Detection Device

Bedroom No.3 Bathroom

Install two 120v GFCI protected outlet

3. Install four 6" recess, white trim & LED bulb
4. Install two Wall sconce (Client to furnish fixtures)
5. Install one Recess fan combo
6. Install wiring for one Spa Tub

Hall off Foyer

1. Install one 120v outlet
2. Install two S3 control switch
3. Install three 6" recess, white trim & LED bulb
4. Install one Door Bell Chime
5. Install one Smoke Detection Device

Bathroom off Foyer Hall

1. Install one 120v GFCI protected outlet
2. Install four S1 control switch
3. Install one 6" recess, white trim & LED bulb
4. Install one Recess fan combo
5. Install one Wall sconce (Client to furnish fixture)

Mechanical Room

1. Install two 120v outlet
2. Install two S1 control switch
3. Install one Wall sconce in brick (Client to furnish fixture)
4. Install two Ceiling light (Client to furnish fixtures)

Side Entry

1. Install two S1 control switch
2. Install two Wall sconce Flood light in brick
3. Install one Wall sconce in brick (Client to furnish fixture)

Great Room/Den

1. Install twelve 120v outlet
2. Install two S1 control switch
3. Install eight S3 control switch
4. Install nine 6" recess, white trim & LED bulb
5. Install two 6" recess wall washer with LED bulb
6. Install one Ceiling Fan (Client to furnish fixture)
7. Install tow LED lighting system

Wet Bar Area in Den

1. Install seven 120v outlet
2. Install two S1 control switch
3. Install two LED lighting system
4. Install one Micro Wave

Back Entry

1. Install two 120v GFCI protected outlet in brick
2. Install two S3 control switch3. Install two Wall sconce in brick (Client to furnish fixture)
3. Install four 6" recess, white trim & LED bulb
4. Install two Wall sconce (Client to furnish fixtures)
5. Install one Recess fan combo
6. Install wiring for one Spa Tub

Foyer & Front

1. Install three 120v outlet
2. Install one S1 control switch
3. Install two S3 control switch
4. Install one Ceiling light (Client to furnish fixture)
5. Install two Wall sconce in brick (Client to furnish fixture)
6. Install one Door Bell Button

Stairwell Up

1. Install one 120v outlet

2. Install two S3 control switch
3. Install three Wall sconce

Loft

1. Install ten 120v outlet
2. Install one S1 control switch
3. Install two S3 control switch
4. Install ten Ceiling light
5. Install one Smoke Detection Device

Other

1. Wire two Air Conditioner
2. Wire one Electrical Heating Unit
3. Wire one Gas Heating Unit
4. Install 400 amp Electrical Panel System (AL Power underground utility) Includes:1-200 amp panel in the Mechanical room.
1-200 amp panel in the Laundry Room
1-100 amp panel in the Loft

Kitchen

1. Kitchen Install six 120v GFCI protected outlet
2. Install two S1 control switch
3. Install two S3 control switch
4. Install nine 6" recess, white trim & LED bulb
5. Install one Single oven provided by homeowner
6. Wire and install one Range & Hood provided by homeowner
7. Wire and install one Dish Washer
8. Wire and install one Refrigerator provided by homeowner
9. Wire and install one Disposal

Hall by Laundry Room

1. Install one 120v outlet
2. Install two S3 control switch
3. Install two 6" recess, white trim & LED bulb
4. Install one Smoke Detection Device

Closet off Hall by Laundry

1. Install one S1 control switch
2. Install one Ceiling light (Client to furnish fixture)

Laundry Room

1. Install two 120v GFCI protected outlet
2. Install one S1 control switch
3. Install one Ceiling light (Client to furnish fixture)
4. Wire for one Washer

5. Wire for one Dryer

Burglar Alarm and Audio Visual

Owner to supply all labor and materials for low voltage work: alarm and audio visual wiring and installation.

Week 6

7-14 Days

Insulation

1. Install ventilation troughs from exterior wall to upper soffit on highest roof elevation.
2. Install R-38 Batt insulation in upper roof plane.
3. Install open cell spray foam insulation in lower roof plane where there is no provision for ventilation.
4. Install 6 mil poly over brick in front bedroom as vapor barrier.
5. Install open cell spray foam insulation in wall where exterior brick is exposed on interior.
6. Install R-13 insulation on all exterior walls.
7. Install R-19 insulation of ceiling/floor of loft for sound only.
8. Install R-30 insulation between floor joists in crawl space.
9. Install R-11 insulation in all interior bathroom walls for sound only.

Week 7

7-14 Days

Drywall

1. Install 1/2" green board in all bathrooms, except in shower and tub surrounds where cement board and tile will be installed and finish for paint.
2. Install 1/2" drywall on all ceilings and walls and finish for paint.
3. Finishing for paint includes tape, mud, sand, recoats, and prepping

Week 8

7-14 Days

Tile

Master Bath

1. Install pre-slope for shower and mud bed.
2. Install 1/2 concrete board on shower walls and floor and water proof as required.
3. Install niche in shower, location to be determined by client.
4. Install tile on shower walls and tub deck.
5. Install tile on shower floor.
6. Install tile on bathroom floor.

Powder Room

1. Install concrete board on floor.
2. Install tile on floor.

Bedroom 2 Bath

1. Install concrete board for shower surround and waterproof as required.
2. Install concrete board on floor.

3. Install tile on shower surround.
4. Install tile on floor
5. Install niche exact location to be determined by client.

Bedroom 3 Bath

1. Install concrete board for shower surround and waterproof as required.
2. Install concrete board on floor.
3. Install tile on shower surround.
4. Install tile on floor.
5. Install niche exact location to be determined by client

Week 9

7-14 Days

Kitchen Cabinets and Bathroom Vanities

1. Install client furnished kitchen cabinets and cabinet trim.
2. Install client furnished bathroom vanities and trim in master bath, powder room, bathroom 2nd and 3rd bathroom.

Counter Tops Kitchen

1. Furnish, fabricate and install category two granite counter tops with standard edge.
1. Furnish, fabricate and install category two granite counter tops with standard edge, cutout for under mount sinks, cutouts for faucets.

Tile Backsplash

Install tile backsplash in kitchen, grout and seal installed tile. Client to furnish tile, grout and sealer.

Week 10

7-14 Days

Wood Flooring

1. Install prefinished wood flooring in bedrooms and loft

Shower Glass

1. Measure for and install 3/8" thick clear tempered glass for 3 showers.

Trim

1. Furnish and install 7 interior doors. Flush birch or equivalent paint grade.
2. Furnish and install 5 pocket doors. Flush birch or equivalent paint grade.
3. Furnish and install 3 sets of bi-fold doors. Flush birch or equivalent paint grade.
4. Furnish and install 1 x 4 casing around all windows and doors.
5. Furnish and install 1 x 6 base board.
6. Furnish and install 1x material for jamb extensions throughout house on doors and windows.
7. Furnish and install paint grade shoe molding on all tile surfaces.

Note: Shoe molding included in hardwood for those areas. 1x4 and 1x6 to be all wood, pre-primed sharp edge S4S trim boards.

Week 11

7 Days

Painting

1. Sand and prep all drywall and trim as required for painting.
2. Prime all drywall.
3. Prime any raw/exposed wood.
4. Fill nail holes and caulk as required.
5. Paint two finish coats of flat latex on all ceilings.
6. Paint two finish coats of eggshell latex on all walls.
7. Paint two finish coats on all trim with oil base gloss or satin.
8. Paint exterior of house.

Week 12

7-14 Days

Pool

1. Install pool equipment and lighting
2. Apply new coat of epoxy
3. Backfill with sand and pavers

Driveway

1. Pour Driveway

Landscaping

Final Inspection

RESOLUTION NUMBER 4845

A RESOLUTION GIVING NOTICE OF A PUBLIC HEARING FOR THE ADOPTION OF VARIOUS 2014 AND 2015 NATIONAL AND INTERNATIONAL BUILDING CODES FOR THE CITY OF VESTAVIA HILLS

WHEREAS, Section 11-45-8, Code of Alabama, 1975, states that prior to adoption of a technical code the City shall provide a minimum of 15 days notice of the time, place and purpose of such hearing by publishing/posting as required with not less than three copies of the proposed codes will be open for use and examination by the public in the Office of the City Clerk; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to adopt certain 2015 International Building, Mechanical, Plumbing, etc. codes; and

WHEREAS, the Vestavia Hills Building Safety and Inspections Department has recommended adoption of said Codes, as amended, in the proposed Ordinance Numbers 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, and 2673.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. Notice is hereby given that proposed Ordinance Numbers 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, and 2673 will be presented by the Vestavia Hills City Council for a public hearing at the regularly scheduled meeting of July 11, 2016 beginning at 5:00 PM in the City Council Chamber, City of Vestavia Hills City Hall, 1032 Montgomery Highway, Vestavia Hills, Alabama 35216; and
2. Not less than three copies of the proposed Codes will be open for use and examination by the public in the Office of the City Clerk, City of Vestavia

Hills, 1032 Montgomery Highway, Vestavia Hills, Alabama not less than 15 days prior to the holding of the public hearing; and

3. Said Resolution Number 4053 shall become effective immediately upon adoption and approval by the City of Vestavia Hills.

ADOPTED and APPROVED this the 13th day of June, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 2665

AN ORDINANCE AMENDING ORDINANCE NUMBER 2329 AND SECTION 5-71 OF THE VESTAVIA HILLS CODE OF ORDINANCES ADOPTING THE 2015 INTERNATIONAL BUILDING CODE FOR THE CITY OF VESTAVIA HILLS, ALABAMA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 2329 AND SECTION 5-71 OF THE VESTAVIA HILLS CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

“Sec. 5-71. International Building Code adopted.

- (a) A certain document, a copy of which is on file in the Office of the Department of Building Safety of the City being marked and designated as the *International Building Code*, 2015 edition, including appendix chapters B-E, F, G, H, I, J and K, as published by the International Code Council, be and is hereby adopted as the *Building Code of the City of Vestavia Hills*, in the State of Alabama, for regulating and governing the conditions essential to provide that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said *Building Code* on file in the Office of the Department of Building Safety, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in subsection (b)
- (b) The following sections are added or hereby revised in its entirety to read as follows:

101.1. Title. These regulations shall be known as the *Building Code of the City of Vestavia Hills, Alabama*, hereinafter referred to as "this code."

101.4.4 Property Maintenance. This section shall be deleted in its entirety.

101.4.8 Electrical. The current published edition provisions of the *National Electrical Code* shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment appliances, fixtures, fittings and appurtenances thereto.

105.2 Work Exempt From Permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

6. Sidewalks. not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of any accessible route
7. Painting
8. Temporary motion picture, television and theater stage sets and scenery
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18 925 L) and are installed entirely above ground
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems
11. Swings and other playground equipment accessory to detached one- and two-family dwellings
13. Non-fixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height

107.1 General. Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted in two or more sets with each permit application. An electronic set of documents shall also be submitted on a CD saved as a PDF file. The construction documents shall be prepared by a registered design professional present to section 107.1.1 where required by the City of Vestavia Hills. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

107.1.1 All Building Plans Shall Be Prepared by a Design Professional. The design professional shall be an architect or engineer legally registered under the laws of the State of Alabama regulating the practice of architecture or engineering and shall affix his/her official seal to said drawings. Engineered plans shall be submitted for electrical, mechanical and plumbing work including specifications and accompanying data. All group occupancies excluding R-3 (single family homes) shall be designed by an architect.

109.2 Fee Schedule. See ARTICLE III. FEES.

109.6 Fee Refunds. See ARTICLE III. FEES.

1013.1.1 Exit Signs. Exit signs shall not be located more than 4 feet above the exit door.

TABLE 1020.1
CORRIDOR FIRE RESISTANCE RATING

REQUIRED FIRE-RESISTANCE RATING (hours)			
OCCUPANCY	OCCUPANT LOAD SERVED BY CORRIDOR	WITHOUT SPRINKLER SYSTEM	WITH SPRINKLER SYSTEM ^{c,d}
H-1, H-2, H-3	All	Not Permitted	1
H-4, H-5	Greater than 30	Not Permitted	1
A, B, E, F, M, S, U	Greater than 30	1	0 ^d
R	Greater than 10	Not Permitted	0.5
I-2 ^a , I-4	All	Not Permitted	0
I-1, I-3	All	Not Permitted	1 ^b

^aFor requirements for occupancies in Group I-2, See Sections 407.2 and 407.3.

^bFor a reduction in the fire-resistance rating for occupancies in Group I-3, See Section 408.8.

^cBuildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 where allowed.

^d Group A, B & E occupants in a building exceeding 3000 square feet gross area and/or buildings of any occupancy group occupied by two or more tenants where the Common path of egress travel is through corridors, lobbies, shafts or open vertical exit enclosures shall be protected with walls in accordance with Section 711 (smoke partitions)

1210.2.2.1 Surrounding Material. Tile or sealed masonry shall be required in Group A, E, M, and B occupancies. Approved alternate material may be used in business occupancies less than 1500 square feet in area.

1612.3 Establishment of Flood Hazard Areas. To establish flood hazard areas, the applicable governing authority shall adopt a flood hazard map and support data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for City of Vestavia Hills, Alabama," dated September 3, 2010 or current effective date, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard Map and Supporting Data as amended or revised are hereby adopted by reference and declared to be a part of this section."

SEVERABILITY:

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.

EFFECTIVE DATE:

This Ordinance Number 2665 shall become effective immediately following adoption and publishing/posting pursuant to Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this 11th day of July, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2665 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 11th day of July, 2016, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, and Vestavia Hills Recreational Center this the ___ day of _____, 2016.

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 2666

AN ORDINANCE AMENDING ORDINANCE NUMBER 2329 AND SECTION 5-81 OF THE VESTAVIA HILLS CODE OF ORDINANCES ADOPTING THE 2015 INTERNATIONAL ENERGY CONSERVATION CODE FOR THE CITY OF VESTAVIA HILLS, ALABAMA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 2329 AND SECTION 5-81 OF THE VESTAVIA HILLS CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

“Sec. 5-81. – International Energy Conservation Code adopted.

(1) A certain document, a copy of which is on file in the Office of the Department of Building Safety of the City of Vestavia Hills, being marked and designated as the *International Energy Conservation Code*, 2015 edition, as published by the International Code Council, be and is hereby adopted as the *Energy Conservation Code of the City of Vestavia Hills*, in the State of Alabama, for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said *Energy Conservation Code* on file in the Department of Building Safety, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section with the additions, insertions, deletions and changes, if any, prescribed in Section 2.

(2) The following sections are added or hereby revised in their entirety to read as follows:

101.1 Title. This code shall be known as the *International Energy Conservation Code of the City of Vestavia Hills*, and shall be cited as such. It is referred to herein as “this code.”

101.1.1 The Alabama Energy and Residential Codes Board. The State of Alabama Energy and Residential Codes Board (AERC) current adoption and amendments shall be enforced.

C107.1 Fee Schedule. See ARTICLE III. FEES.

R107.1 Fee Schedule. See ARTICLE III. FEES.

C107.3 Violation Penalties. See ARTICLE I ADMINISTRATION.

R107.3 Violation Penalties. See ARTICLE I ADMINISTRATION.

C108 Stop Work Orders. See ARTICLE I ADMINISTRATION.

R108 Stop Work Orders. See ARTICLE I ADMINISTRATION.”

SEVERABILITY:

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.

EFFECTIVE DATE:

This Ordinance Number 2666 shall become effective immediately following adoption and publishing/posting pursuant to Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this 11th day of July, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Proposed Ordinance

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2666 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 11th day of July, 2016, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, and Vestavia Hills Recreational Center this the ___day of _____, 2016.

Rebecca Leavings
City Clerk

Proposed
Ordinances

ORDINANCE NUMBER 2667

AN ORDINANCE AMENDING ORDINANCE NUMBER 2329 AND SECTION 5-91 OF THE VESTAVIA HILLS CODE OF ORDINANCES ADOPTING THE 2015 INTERNATIONAL EXISTING BUILDING CODE FOR THE CITY OF VESTAVIA HILLS, ALABAMA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 2329 AND SECTION 5-91 OF THE VESTAVIA HILLS CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

“Sec. 5-91. – International Existing Building Code adopted.

- (a) A certain document, a copy of which is on file in the office of the Department of Building Safety of the City of Vestavia Hills being marked and designated as the *International Existing Building Code*, 2015 edition, including Appendix Chapters A, B, C, and Resource A as published by the International Code Council, be and is hereby adopted as the *Existing Building Code of the City of Vestavia Hills*, in the State of Alabama, for regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said *Existing Building Code* on file in the Office of the City of Vestavia Hills are hereby referred to, adopted, and made a part hereof, as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section (b).
- (b) The following sections are added or hereby revised in its entirety to read as follows:

101.1 Title. These regulations shall be known as the *Existing Building Code of the City of Vestavia Hills*, hereinafter referred to as “this code.”

108.2.1 Fee Schedule. See ARTICLE III. FEES.

113.4 Violation Penalties. See ARTICLE I ADMINISTRATION.

114.3 Stop Work Orders. See ARTICLE I ADMINISTRATION.

1302.8 General. A building or part of any building shall not be moved through or across any sidewalk, street, alley or highway within the corporate limits without first obtaining a permit from the Department of Building Safety.

1302.8.1 Written Application. Any person desiring to move a building shall first file with the Building Official a written application setting forth the following information:

1. Type and kind of building to be moved
2. The original cost of such building
3. The extreme dimensions of the length, height and width of the building
4. Its present location and proposed new location by lot, block, subdivision and street numbers
5. The approximate time such building will be upon the streets, and contemplated route that will be taken from present to new location

1302.8.2 Permit Refusal. If in the opinion of the Building Official, Engineering Department, or Police Department the moving of any building will cause serious injury to persons or property or serious injury damage to the streets or other public improvements, or the building has deteriorated more than 50 percent of its current value by fire or other element, or the moving of the building will violate any of the requirements of this code or of the zoning regulations, the permit shall not be issued and the building shall not be moved over the streets. Any building being moved for which a permit was granted, shall not be allowed to remain in or on the streets for more than 48 hours and shall not block any street, road or thoroughfare.

1302.8.3 Bond Required. The Building Official, as a condition precedent to the issuance of such permit, shall require a bond to be executed by the person desiring such removal permit with corporate surety to his satisfaction. Such bond shall be made payable to the City of Vestavia Hills for the amount of Ten Thousand Dollars (\$10,000.00). It shall indemnify the City against any damage caused by the moving of such building to streets, curbs, sidewalks, shade trees, highways and any other property which may be affected by the moving of a building. Such surety bond shall also be conditioned upon and liable for strict compliance with the terms of said permit, as to route to be taken and limit of time in which to effect such removal and to repair or compensate for the repair and to pay said applicable governing body as liquidated damages an amount not exceeding \$50.00 to be prescribed by the Building Official for each and every day of delay in completing such removal or in repairing any damages to property or public improvement or in clearing all public streets, alleys or highways of all debris occasioned thereby. The contractor shall provide Certificate of Liability Insurance in the amount of a \$1 million (\$1,000,000.00).

1302.8.4 Notice of Permit. Upon the issuance of said moving permit, the Building Official shall cause notice to be given to the Engineering Department, Chief of Fire and Chief of Police. The Engineering Department and Police Department shall set forth in all notices the route that will be taken, time started, and approximate time completion.

1302.8.5 Public Safety Requirements. Every building which occupies any portion of public property after sundown shall have sufficient lights continuously burning between sunset and sunrise for the protection of the public.

There shall be a minimum of five red lights placed on each street side of the building. Such red lights shall be attached to the building in such a fashion as to indicate extreme width, height, and size.

In addition to the red lights on the building, flares shall be placed at regular intervals for a distance of 200 ft (61 m) up to the street on each side of the building.

When more than 50 percent of the street, measured between curbs, is occupied at night by the building, or when, in the opinion of the Building Official, flagmen are necessary to divert or caution traffic, the owner or person moving such building shall employ at his expense, two flagmen, one at each street intersection beyond the building. Such flagmen shall in accordance with City Ordinance and remain at these intersections diverting or cautioning traffic from sunset to sunrise. Red lights shall be employed in flagging traffic at night.

1302.8.6 Improvements by Owner. The owner of any house, building, or structure proposed to be moved shall make all necessary improvements required in order for said house, building or structure to comply with the requirements of this Code within 90 days from the date of the issuance of the moving permit. Extensions of such time as deemed reasonable may be granted by the Building Official upon a showing of delay caused by matters beyond the control of the owner or house mover. The application for the moving permit, accompanied by complete plans and specifications showing the changes or conditions of said house, building, or structure as the same is proposed to be when moving, and all contemplated improvements, signed by the owner or the owner's agent.

1401.2 Applicability. Structures existing prior to July 16, 1952 in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 5 through 13. The provisions of Sections 1401.2.1 through 1401.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, I-2, M, R, and S. These provisions shall not apply to buildings with occupancies in Group H or I-1, I-3 or I-4.”

SEVERABILITY:

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.

EFFECTIVE DATE:

This Ordinance Number 2667 shall become effective immediately following adoption and publishing/posting pursuant to Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this 11th day of July, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2667 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 11th day of July, 2016, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, and Vestavia Hills Recreational Center this the ___ day of _____, 2016.

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 2668

AN ORDINANCE AMENDING ORDINANCE NUMBER 2329 AND SECTION 5-101 OF THE VESTAVIA HILLS CODE OF ORDINANCES ADOPTING THE 2015 INTERNATIONAL RESIDENTIAL CODE FOR THE CITY OF VESTAVIA HILLS, ALABAMA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 2329 AND SECTION 5-101 OF THE VESTAVIA HILLS CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

“Sec. 5-101. – International Residential Code adopted.

- (a) A certain document, a copy of which is on file in the office of the Department of Building Safety of the City of Vestavia Hills, being marked and designated as the *International Residential Code*, 2015 edition, including appendix chapters A, B, C, D, E, F G, H, J, K, M, N, O and P as published by the International Code Council, be and is hereby adopted as the *Residential Code of the City of Vestavia Hills*, in the State of Alabama, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three (3) stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said residential code on file in the Office of the Department of Building Safety are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in Section (b).
- (b) The following sections are added or hereby revised in their entirety to read as follows:

R101.1 Title. These provisions shall be known as the *Residential Code for One- and Two-Family Dwellings of the City of Vestavia Hills*, and shall be cited as such and will be referred to herein as "this code."

R105.2 Work Exempt From Permit. Exemption from permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

5. Sidewalks
6. Painting, papering, flooring, and carpeting
7. Prefabricated swimming pools that are less than 24 inches (610 mm)

- 8. deep Swings and other playground equipment

R106.1.5 Construction Plans.

An electronic set of construction documents shall be submitted for review on a CD saved as a PDF file along with one set of paper construction documents.

R108.2.1 Fee Schedule. See ARTICLE III. FEES.

R113.5 Violation Penalties. See ARTICLE I ADMINISTRATION.

R114.3 Stop Work Orders. See ARTICLE I ADMINISTRATION.

R203 Sleeping Room. Rooms that have a closet shall be classified as a sleeping room and shall meet all emergency egress safety requirements out of that room. The building official or his/her designee may grant exceptions if a room, by its design, cannot function as a sleeping room. Sewing rooms, dens, studios, lofts, game rooms, and any other conditioned room along an exterior wall which is 70 square feet or greater in size will be considered to be sleeping rooms unless the room is specifically exempted. If a home office, library or similar room is proposed, it may be exempted from being considered a sleeping room if there is no closet and at least one of the following is present: a) permanently built-in bookcases, desks and other feature that encumber the room in such a way that it cannot be used as a sleeping room; b) a minimum 4 foot opening, without doors, into another room; or c) a half wall (4 foot maximum height) between the room and another room.

Table R301.2(1) CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

GROUND SNOW LOAD	WIND DESIGN				SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP	ICE BARRIER UNDERLAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX	MEAN ANNUAL TEMP
	Speed (mph)	Topographic effects	Special wind region	Wind-borne debris zone		Weathering	Frost line depth	Termite					
5	115	No	No	No	B	Moderate	12 in.	Very Heavy	21°F	No	9/3/2010	96	62°F

R302.6.1 Alternate provisions. As an alternate to R302.6, the structure shall be protected by an approved NFPA 13d fire sprinkler system. Installation of said system shall be approved by the Fire Marshal. Sprinkler heads shall be installed in the following locations:

1. Two sprinkler heads in attached garages and basements in each automobile parking space
2. One sprinkler head over each water heater and furnace area if located in basement or garage
3. Two sprinkler heads in the kitchen

4. One sprinkler head in-laundry rooms
5. Unsprinklered areas of the basement must be separated from the garage with 1/2" gypsum wallboard applied to the garage side and with opening protection as required by Section R302.5.1

R309.5 Fire Sprinklers. This section shall be deleted in its entirety.

R312.2.3 Window opening control devices limitations. Window opening control device shall not be used in a bedroom on new construction of residential homes, 2nd story additions and bedroom additions to existing homes.

R313.2 One-and Two-Family Dwellings Automatic Fire Systems. This section shall be deleted in its entirety.

R314.3 Smoke Alarms. Smoke alarms shall be installed in the following locations:

1. In each sleeping room
2. Outside each separate sleeping area, in the immediate vicinity of the bedrooms
3. On each additional story of the dwelling including stairway access attics
4. In each garage and subdivided basement area

When more than one smoke alarm is required to be installed within an individual dwelling unit, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual dwelling.

R401.1 Application. The provisions of this chapter shall control the design and construction of the foundation and foundation spaces for all buildings to include extensive renovations and the addition of stories to an existing structure. Existing footings for additional stories shall comply with section R403.1.1.1. In addition to the provisions of this chapter, the design and construction of foundations in areas prone to flooding as established by Table R301.2 (1) shall meet the provisions of Section R322. Wood foundations shall be designed and installed in accordance with AWC & PWF.

Exception: The provisions of this chapter shall be permitted to be used for wood foundations only in the following situations:

1. In buildings that have no more than two floors and a roof
2. When interior basement and foundations wall are constructed at intervals not exceeding 50 feet (15 240mm)

Wood foundations in Seismic Design Category D^o, D¹, or D², shall be designed in accordance with accepted engineering practice.

R401.4.3 Foundation. Footings and foundations for new constructions and additions installed on a lot or parcel that has an average grade slope exceeding 1/3 shall be designed by a State of Alabama licensed engineer. A geotechnical engineer shall be required to evaluate the site and inspect the footings and foundations.

R403.1.1 Minimum Size Required on All Footings. The minimum size for concrete footings and reinforcement shall be:

Exterior Walls: 10" thick by 24" width with 2 #4 rods continuous
Interior Piers: 12" thick by 24" square width with 4 #4 rods
Interior Grade Beams: 8" thick by 18" width with 2 #4 rods continuous

N1101.1.1 The Alabama Energy and Residential Codes Board. The State of Alabama Energy and Residential Codes Board (AERC) current adoption and amendments to Chapter 11 shall be enforced.

P2603.6.1 Sewer Depth. Building sewers that connect to private sewage disposal systems shall be a minimum of 6 inches (152 mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 6 inches (152 mm) below grade.

P2801.9 Water Heaters Installed in Attics. Attics containing a water heater shall be provided with an opening and unobstructed passageway large enough to allow removal of the water heater. The passageway shall not be less than 30 inches (762 mm) high and 22 inches (559 mm) wide and not more than 20 feet (6096 mm) in length when measured along the centerline of the passageway from the opening to the water heater. The passageway shall have continuous solid flooring not less than 24 inches (610 mm) wide. A level service space at least 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present at the front or service side of the water heater. The clear access opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm) where such dimensions are large enough to allow removal of the water heater. An automatic shutoff valve and water sensor shall be installed to protect rooms below.

P3002.1.1 Pipe installed under slabs. Drain and waste pipe install in the ground and under slabs shall be Polyvinyl chloride (PVC) plastic pipe schedule 40 or better.

P3103.1 Roof Extension. All open vent pipes which extend through a roof shall be terminated at least 6 inches (152 mm) above the roof or 3 inches (76 mm) above the anticipated snow accumulation, except that where a roof is to be used for any purpose other than weather protection, the vent extension shall be run at least 7 feet (2134 mm) above the roof.

P3114.2 Installation of Air Admittance Valves. The air admittance valves shall be approved by the Building Official before installation. The valves shall not be

used in new construction or additions where a vent thru the roof is available. If the valve is approved, it shall be installed in accordance with the requirements of this section and the manufacturer's installation instructions. Air admittance valves shall be installed after the DWV testing required by Section P2503.5.1 or P2503.5.2 has been performed."

SEVERABILITY:

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.

EFFECTIVE DATE:

This Ordinance Number 2668 shall become effective immediately following adoption and publishing/posting pursuant to Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this 11th day of July, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2668 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 11th day of July, 2016, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, and Vestavia Hills Recreational Center this the ___day of _____, 2016.

Rebecca Leavings
City Clerk

Proposed
Ordinances

ORDINANCE NUMBER 2669

AN ORDINANCE AMENDING ORDINANCE NUMBER 2329 AND SECTION 5-111 OF THE VESTAVIA HILLS CODE OF ORDINANCES ADOPTING THE 2015 INTERNATIONAL PLUMBING CODE FOR THE CITY OF VESTAVIA HILLS, ALABAMA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 2329 AND SECTION 5-111 OF THE VESTAVIA HILLS CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

“Sec. 5-111. – International Plumbing Code adopted.

- (a) A certain document, one (1) copy of which are on file in the office of the Department of Building Safety of the City of Vestavia Hills, being marked and designated as the *International Plumbing Code*, 2015 edition, including Appendix Chapters B, C, D, and E as published by the International Code Council, be and is hereby adopted as the *Plumbing Code of the City of Vestavia Hills*, in the State of Alabama, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code on file in the office of the Department of Building Safety are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section (b).
- (b) The following sections are added or hereby revised in its entirety to read as follows:

101.1 Title. These regulations shall be known as the *International Plumbing Code of the City of Vestavia Hills* hereinafter referred to as “this code.”

106.6.2 Fee Schedule. See ARTICLE III. FEES.

106.6.3 Fee Refund. See ARTICLE III. FEES

108.4 Violation Penalties. See ARTICLE I ADMINISTRATION.

108.5 Stop Work Orders. See ARTICLE I ADMINISTRATION.

305.4.1 Sewer Depth. Building sewers that connect to private sewage disposal systems shall be a minimum of 6 inches below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 6 inches below grade.

702.2.1 Pipe installed in the ground and under slabs. Cellular Core PVC pipe shall not be installed as drain and waste pipe in the ground or under slabs. PVC pipe shall be schedule 40 or better.

903.1 Roof Extension. All open vent pipes that extend through a roof shall be terminated at least 6 inches above the roof, except where a roof is to be used for any purpose other than weather protection. Then the vent extensions shall be run at least 7 feet (2134mm) above the roof.

918.2 Installation of Air Admittance Valves. The air admittance valves shall be approved by the Building Official before installation. The valves shall not be used in new construction or additions where a vent thru the roof is available. If the valve is approved, it shall be installed in accordance with the requirements of this section and the manufacturer's installation instructions. Air admittance valves shall be installed after the DWV testing required by Section 312.2 or 312.3 has been performed."

SEVERABILITY:

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.

EFFECTIVE DATE:

This Ordinance Number 2669 shall become effective immediately following adoption and publishing/posting pursuant to Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this 11th day of July, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2669 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 11th day of July, 2016, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, and Vestavia Hills Recreational Center this the ___ day of _____, 2016.

Rebecca Leavings
City Clerk

Proposed Ordinances

ORDINANCE NUMBER 2670

AN ORDINANCE AMENDING ORDINANCE NUMBER 2329 AND SECTION 5-121 OF THE VESTAVIA HILLS CODE OF ORDINANCES ADOPTING THE 2015 INTERNATIONAL MECHANICAL CODE FOR THE CITY OF VESTAVIA HILLS, ALABAMA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 2329 AND SECTION 5-121 OF THE VESTAVIA HILLS CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

“Sec. 5-121. – International Mechanical Code adopted.

- (a) A certain document, one (1) copy of which are on file in the office of the Department of Building Safety of the City of Vestavia Hills, being marked and designated as the *International Mechanical Code*, 2015 edition, as published by the International Code Council, be and is hereby adopted as the *Mechanical Code of the City of Vestavia Hills*, in the State of Alabama regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code on file in the office of the Department of Building Safety are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section (b).
- (b) The following sections are added or hereby revised in its entirety to read as follows:

101.1 Title. These regulations shall be known as the *Mechanical Code of the City of Vestavia Hills*, hereinafter referred to as “this code.”

106.5.2 Fee Schedule. See ARTICLE III. FEES.

106.5.3 Fee Refund. See ARTICLE III. FEES

108.4 Violation Penalties. See ARTICLE I ADMINISTRATION.

108.5 Stop Work Orders. See ARTICLE I ADMINISTRATION.”

SEVERABILITY:

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.

EFFECTIVE DATE:

This Ordinance Number 2670 shall become effective immediately following adoption and publishing/posting pursuant to Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this 11th day of July, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2670 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 11th day of July, 2016, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, and Vestavia Hills Recreational Center this the ___ day of _____, 2016.

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 2671

AN ORDINANCE AMENDING ORDINANCE NUMBER 2329 AND SECTION 5-131 OF THE VESTAVIA HILLS CODE OF ORDINANCES ADOPTING THE 2015 INTERNATIONAL FUEL GAS CODE FOR THE CITY OF VESTAVIA HILLS, ALABAMA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 2329 AND SECTION 5-131 OF THE VESTAVIA HILLS CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

“Sec. 5-131. – International Fuel Gas Code adopted.

- (a) A certain document, one (1) copy of which are on file in the office of the Department of Building Safety of the City of Vestavia Hills, being marked and designated as the *International Fuel Gas Code*, 2015 edition, including Appendix Chapters A, B, and C (see International Fuel Gas Code Section 101.3, 2015 edition), as published by the International Code Council, be and is hereby adopted as the *Fuel Gas Code of the City of Vestavia Hills*, in the State of Alabama for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code on file in the office of the Department of Building Safety are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section (b).
- (b) The following sections are added or hereby revised in its entirety to read as follows:

101.1 Title. These regulations shall be known as the *Fuel Gas Code of the City of Vestavia Hills*, hereinafter referred to as “this code.”

106.6.2 Fee Schedule. See ARTICLE III. FEES.

106.6.3 Fee Refund. See ARTICLE III. FEES.

108.4 Violation Penalties. See ARTICLE I ADMINISTRATION.

108.5 Stop Work Orders. See ARTICLE I ADMINISTRATION. “

SEVERABILITY:

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.

EFFECTIVE DATE:

This Ordinance Number 2671 shall become effective immediately following adoption and publishing/posting pursuant to Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this 11th day of July, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Proposed Ordinances

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2671 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 11th day of July, 2016, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, and Vestavia Hills Recreational Center this the ___ day of _____, 2016.

Rebecca Leavings
City Clerk

Proposed
Ordinances

ORDINANCE NUMBER 2672

AN ORDINANCE AMENDING ORDINANCE NUMBER 2329 AND SECTION 5-141 OF THE VESTAVIA HILLS CODE OF ORDINANCES ADOPTING THE 2014 NATIONAL ELECTRICAL CODE FOR THE CITY OF VESTAVIA HILLS, ALABAMA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 2329 AND SECTION 5-141 OF THE VESTAVIA HILLS CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

“Sec. 5-141. – National Electrical Code adopted.

A certain document, one (1) copy of which is on file in the office of the City Clerk of the City of Vestavia Hills, the Vestavia Hills Library and the Vestavia Hills Building Inspections Department, being marked and designated as the 2014 National Electrical Code be and is hereby adopted as the Electrical Code of the City of Vestavia Hills in the State of Alabama regulating and governing the design, construction, quality of materials, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Electrical Code on file in the above mentioned locations in the City of Vestavia Hills are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed below.

(1) Exceptions to Permit Requirements.

No permit shall be required for the following installations or repairs:

- (a) Minor repairs
- (b) The installation of wiring, devices or equipment for telephone, telegraph, district messenger or telautograph systems, or any signaling systems (other than commercial radio systems) operating at fifty (50) volts or less when installed by a public utility subject to regulations as such by the Alabama Public Service Commission
- (c) For the installation, maintenance or repair of electrical service of a public utility corporation regulated by the Alabama Public Service Commission

(2) Unsafe Electrical Installations--Generally.

All electrical installations, regardless of type, which are unsafe or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety by reason of inadequate maintenance, dilapidation,

obsolescence or abandonment are, severally in contemplation of this section, Unsafe Electrical Installations. All such unsafe electrical installations are hereby declared illegal and shall be abated by repair or removal. Where, in the opinion of the Building Official, the hazard involved is sufficient to warrant disconnection of electricity, he shall then disconnect or order the utility company to disconnect immediately.

(3) Existing Installations.

The Department of Building Safety shall inspect or cause to be inspected at regular intervals existing electrical installations in all buildings where a high life hazard exists, such as places of public assembly and education occupancies.

(4) Qualification of Electricians.

Any person who desires to install electrical wiring within the City that is not exempt from a permit shall produce good and sufficient evidence to the Building Official that he/she is competent to do the work. Sufficient evidence shall be the following:

Master electrical license from The State of Alabama

(5) Electrical Permit--Required.

No person or homeowner shall install any wiring, device or equipment for the transmission, distribution or utilization of electrical energy for light, heat, power or radio, or the alteration, repair or addition to any existing wiring, the installation of which is regulated by this article, or shall cause any such work to be done, without first making application to the Department of Building Safety and obtaining a permit. Only competent individuals with sufficient evidence under "Qualification of Electricians" shall be permitted to perform electrical work within the City of Vestavia Hills.

(6) Copper Wiring

Copper wiring shall be used within a structure in the city, including wiring of ranges, washing machines and dryer circuits, with the exception that aluminum conductors may be used from the meter socket to the panel.

334.12.1 Nonmetallic-Sheathed Cable. Nonmetallic-Sheathed Cable shall not be used in wood framed commercial type buildings with the exception of inside individual apartment units.

410.36 (B) (1) Means of Support. Luminaires shall be supported on all corners of the fixture independent from ceiling grid.

(7) Emergency Backup Power.

- a) *[Required.]* Emergency backup power will be required in all new buildings built under the International Building Code for retirement and assisted living establishments and Institutional Group I-1, I-2, I-3, I-4 [day care] and all residential R2 that are classified independent senior living; and
- b) *[Capabilities.]* All backup power shall have the capability to handle all emergency life safety equipment listed in the International Building and Fire Codes including, but not limited to:
 - a. Emergency lighting
 - b. Exit lights
 - c. Telephone system
 - d. Fire alarm systems
 - e. Minimum one (1) elevator egress for facilities two (2) stories or more
 - f. Room smoke detectors or corridor smoke detectors
 - g. Means of illuminated egress [corridors and stairs]
 - h. Standby power shall be permanently installed and capable of automatic transfer without loss of services other than transfer time and approved for location
 - i. One (1) heated area in a central area for cold weather emergencies
- c) *[Installation and maintenance.]* All requirements must meet the most recently adopted International Building and Fire Codes for installation and maintenance requirements; and
- d) *[Exception.]* An exception shall be granted to I-4 [day care] occupancies with written and implemented policies in place for emergency pickup; and
- e) *[Remedial compliance.]* Emergency backup power will be required in all existing retirement and assisted living establishments including institutional group I-1, I-2, I-3, I-4 [day care] and all residential R2 that are classified independent senior living. The Ordinance creating this section [Ordinance Number 2080] is hereby declared to be remedial with compliance required within three (3) years of the effective date of this section [March 7, 2005].
- f) *[Violation penalties.]* Persons who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Building Official, or of a permit or certificate used under provisions of this Code, shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not exceeding six (6) months, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
- g) *[Abatement of violation.]* In addition to the imposition of the penalties herein described, the Fire Code Official is authorized to institute appropriate action to prevent unlawful

construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.”

SEVERABILITY:

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.

EFFECTIVE DATE:

This Ordinance Number 2672 shall become effective immediately following adoption and publishing/posting pursuant to Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this _____ day of _____, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Proposed Ordinances

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2672 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 25th day of April, 2016, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, and Vestavia Hills Recreational Center this the ___ day of _____, 2016.

Rebecca Leavings
City Clerk

Proposed
Ordinances

ORDINANCE NUMBER 2673

AN ORDINANCE AMENDING ORDINANCE NUMBER 2329 AND SECTION 5-151 OF THE VESTAVIA HILLS CODE OF ORDINANCES ADOPTING THE 2015 INTERNATIONAL SWIMMING POOL AND SPA CODE FOR THE CITY OF VESTAVIA HILLS, ALABAMA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT ORDINANCE NUMBER 2329 AND SECTION 5-151 OF THE VESTAVIA HILLS CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

“Sec. 5-151. – International Swimming Pool and Spa Code adopted.

(a) A certain document, a copy of which is on file in the office of the Department of Building Safety of the City of Vestavia Hills, being marked and designated as the *International Swimming Pool and Spa Code*, 2015 edition, as published by the International Code Council, be and is hereby adopted as the *Swimming Pool and Spa Code of the City of Vestavia Hills*, in the State of Alabama, for regulating and governing the design, construction, alteration, movement, renovation, replacement, repair and maintenance of swimming pools, spas, hot tubs, aquatic facilities and related equipment as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Pool and Spa Code on file in the office of the Department of Building Safety are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section (b).

(b) The following sections are added or hereby revised in its entirety to read as follows:

101.1 Title. These regulations shall be known as the Swimming Pool and Spa Code of the City of Vestavia Hills, hereinafter referred to as “this code.”

105.6.2. Fee Schedule. See ARTICLE III. FEES.

105.6.3. Fee Refund. See ARTICLE I ADMINISTRATION.

107.4. Violation Penalties. See ARTICLE I ADMINISTRATION.

107.5. Stop Work Orders. See ARTICLE I ADMINISTRATION.

305.8 Swimming Pool Barriers. The permit holder for the installation of a swimming pool shall be required to comply with all of the Barrier Requirements in section 305.”

SEVERABILITY:

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.

EFFECTIVE DATE:

This Ordinance Number 2673 shall become effective immediately following adoption and publishing/posting pursuant to Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this 11th day of July, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Proposed Ordinances

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2673 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 11th day of July, 2016, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, and Vestavia Hills Recreational Center this the ___ day of _____, 2016.

Rebecca Leavings
City Clerk

Proposed
Ordinances

RESOLUTION NUMBER 4846

A RESOLUTION ORDERING THE DEMOLITION OF A BUILDING OR STRUCTURE LOCATED AT 1756 INDIAN CREEK DRIVE, VESTAVIA HILLS, AL 35243, PARCEL ID# 28-00-20-4-004-015.000, IN COMPLIANCE WITH SECTIONS 11-40-30 THROUGH 11-40-36, SECTIONS 11-53B-1 THROUGH 11-53B-16, INCLUSIVE, OF THE *CODE OF ALABAMA*, AND IN COMPLIANCE WITH ORDINANCE NUMBER 2382 OF THE CITY OF VESTAVIA HILLS, ALABAMA; AND CALLING FOR THE CITY TO CAUSE SAID DEMOLITION TO BE PERFORMED AND DIRECTING THE CITY ATTORNEY AND THE CITY CLERK TO CAUSE THE COST OF SUCH DEMOLITION TO BE CHARGED AGAINST THE LAND ON WHICH THE BUILDING OR STRUCTURE EXISTS AS A MUNICIPAL LIEN OR CAUSE SUCH COST TO BE RECOVERED IN A SUIT AT LAW AGAINST THE OWNER OR OWNERS

WHEREAS, the Appropriate Municipal Officials of the City of Vestavia Hills, Alabama (“the City”), determined that the condition of the building or structure located at 1756 Indian Creek Drive, Vestavia Hills, AL 35243, Alabama, Parcel I.D. Number 28-00-20-4-004-015.000, is in such a condition as to make it dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants;

WHEREAS, contemporaneously with the filing of “Finding of Public Nuisance, Notice and Order to Remedy and Notice of Lis Pendens” on May 5, 2016, a copy of same was sent via certified mail, properly addressed and postage prepaid, to:

A. All person or persons, firms, associations, or corporations last assessing the subject property for state taxes to the address on file in the Jefferson County Tax Collector’s Office;

B. The record property owner or owners (including any owner or owners of an interest in the subject property) as shown from a search of records of the office the Judge of Probate of Jefferson County, Alabama, at the owner or owners’ last known address and at the address of the subject property;

C. All mortgagees of record as shown from a search of the records of the office of the Judge of Probate of Jefferson County, Alabama, to the address set forth in the mortgage or, if no address for the mortgagee is set forth in the mortgage, to the address determined to be the correct address by the Appropriate Municipal Officials;

D. All lien holders of record as shown from a search of the records of the office of the Judge of Probate of Jefferson County, Alabama, to the address set forth in the statement of lien or, if no address for the lien holder is set forth in the statement of lien, to the address determined to be the correct address by the Appropriate Municipal Officials; and

E. Such other persons who are otherwise known to the City Clerk or to the Appropriate Municipal Officials who could have an interest in the subject property;

WHEREAS, contemporaneously with the filing of the “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of Lis Pendens,” a copy of the same was posted at or within three feet of an entrance to the building on the subject property and posted in three public places located within the City: 1.) at Vestavia Hills City Hall, 2.) at the Vestavia Hills Library in the Forest, and 3.) at the Vestavia Hills Civic Center;

WHEREAS, notice that the Appropriate Municipal Officials have made a finding that the subject property is a dangerous building because it is unsafe to the extent that it is a public nuisance and is subject to demolition and that a public hearing would be held on a certain date was also given to all interested parties and to the public at large by publication in the *Alabama Messenger*;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Vestavia Hills, Alabama, while in regular session on Monday, June 27, 2016, as follows:

Section 1. A Public Hearing was held on Monday, June 27, 2016, at 5:00 p.m. and after due deliberation the Council of the City of Vestavia Hills, Alabama, finds that the structure standing at 1756 Indian Creek Drive, Vestavia Hills, AL 35243, Parcel ID# 28-00-20-4-004-015.000, is unsafe to the extent of becoming a public nuisance to the citizens of the City and is due to be demolished in compliance with Sections 11-40-30 through 11-40-36 and Sections 11-53B-1 through 11-53B-16, inclusive, of the Code of Alabama (1975), and Ordinance Number 2382 of the City;

Section 2. That the City shall cause said demolition to be performed by its own employees and/or by contractor(s); and

Section 3. That the City Attorney and the City Clerk are hereby directed to cause the cost of such demolition to be charged against the land on which the building or structure is located and shall constitute a lien on the property for the amount of the assessment or cause such cost to be recovered in a suit at law against the owner or owners.

ADOPTED and APPROVED this the 27th day of June, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY

Rebecca Leavings
City Clerk

CERTIFICATION OF CITY CLERK

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, Rebecca Leavings, City Clerk of the City of Vestavia Hills, Alabama, do hereby certify that the above and foregoing is a true and correct copy of a Resolution duly and legally adopted by the City Council of the City of Vestavia Hills, Alabama, on the 27th day of June, 2016 while in regular session, and the same appears of record in the minute book of said date of said City.

Witness my hand and seal of office this ____ day of June, 2016.

Rebecca Leavings, City Clerk

IN THE PROBATE COURT OF JEFFERSON COUNTY, ALABAMA

CITY OF VESTAVIA HILLS, ALABAMA)
)
 v.)
)
 JAMES D. REINHARDT;)
 DEBORAH REINHARDT;)
 COMPASS BANK;)
 ABINGDON GREEN HOMEOWNERS)
 ASSOCIATION, INC.;)
 JEFFERSON COUNTY SEWER SERVICE)
 OFFICE;)
 BIRMINGHAM WATER WORKS;)
)
 Lot 15, according to the survey of Abingdon)
 Green, as recorded in Map Book 152, page 85, in)
 the Probate Office of Jefferson County,)
 Alabama.)

County Division Code: AL040
 Inst. # 2016043741 Pages: 1 of 10
 I certify this instrument filed on
 5/5/2016 8:53 AM Doc: LN
 Alan L. King, Judge of Probate
 Jefferson County, AL. Rec: \$43.00
 Clerk: NICOLE

**FINDING OF PUBLIC NUISANCE, NOTICE AND ORDER TO REMEDY,
 AND NOTICE OF LIS PENDENS**

TAKE NOTICE that:

COMES NOW, the City of Vestavia Hills, Alabama (“the City”), by and through its Appropriate Municipal Officials, its City Clerk, and its Attorney to provide notice pursuant to Ordinance No. 2382 of the City that the Appropriate Municipal Officials have made a finding that a building located within the City is a dangerous building because it is unsafe to the extent that it is a public nuisance and subject to demolition. The building is located on the following described property, to wit, which will be described hereafter as “the Subject Property”:

STREET ADDRESS:

1756 Indian Creek Drive, Vestavia Hills, AL 35243

LEGAL DESCRIPTION:

Lot 15, according to the survey of Abingdon Green, as recorded in Map Book 152, page 85, in the Probate Office of Jefferson County, Alabama.

PARCEL IDENTIFICATION NUMBER:

28-00-20-4-004-015.000

The City provides further notice as follows:

1. In *Ellis v. City of Montgomery*, the United States District Court for the Middle District of Alabama stated that, in cases such as this where a municipality seeks the demolition of building by use of its police powers, “A simple *lis pendens* filing after sending notice to the current owner of a property would place subsequent purchasers on record notice that demolition could occur.” *Ellis v. City of Montgomery*, 460 F.Supp.2d 1301, 1307 (M.D. Ala. 2006). Here, the City is invoking the procedure recommended by the District Court.

2. By the filing of this Notice, the City is not claiming any right, title, or interest in the subject property. Rather, the purpose of this Notice is to put all interested parties on notice of the City’s intent to exercise its authority provided by law and specifically by the City’s ordinances.

3. Ordinance No. 2382 of the City is “An Ordinance to Amend the Official Policies and Procedures of the City of Vestavia Hills, Alabama, Regarding Unsafe Structures and Dangerous Buildings.” The below-signed Appropriate Municipal Officials are the persons designated to exercise the authority and perform the duties delegated by Ordinance No. 2382.

4. The Appropriate Municipal Officials find that the building located on the Subject Property is a “dangerous building” within the meaning of Ordinance No. 2382 because of the following defects:

- (1) Exclusive of the foundation, the building shows thirty-three (33) percent, or more, of damage or deterioration of one (1) or more supporting members, or fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering;
- (2) The building has improperly distributed loads upon the floors or roofs, or in which the same are overloaded, or has insufficient strength to be reasonably safe for the purpose used;

- (3) The building has become or is so damaged, dilapidated, decayed, unsafe, unsanitary, lacking in maintenance, vermin or rat infested, containing filth or contamination, lacking proper ventilation, lacking sufficient illumination, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness or disease, so as to work injury to the life, health, property, morals, safety, or general welfare of the public or the occupants;
- (4) The building has inadequate facilities for egress in case of fire or panic, or has insufficient stairways, elevators, fire escapes, or other means of ingress and egress to and from said building;
- (5) The building does not provide minimum safeguards to protect or warn occupants in the event of fire;
- (6) The building is so damaged, decayed, dilapidated, structurally unsafe, or of such fault construction or unstable foundation that partial or complete collapse is possible;
- (7) The building has parts thereof which are so attached that they may fall and damage property or injure the public or the occupants;
- (8) The building, or any portion thereof, is clearly unsafe for its use or occupancy;
- (9) The building is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children who might play in or on the building, structure, part of building or structure, party wall, or foundation to their danger, has become a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building, structure, part of building or structure, party wall, or foundation for committing a nuisance or an unlawful act; and
- (10) The building is, because of its condition, unsafe, unsanitary, or dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants.

5. The Appropriate Municipal Officials find that the building on the Subject Property is substantially damaged or decayed, or deteriorated from its original value or structure (not including the value of the land).

6. The Appropriate Municipal Officials find that the building on the Subject Property is a fire hazard existing in violation of the terms of the terms of the City's ordinance, as amended, governing unsafe structures and dangerous buildings.

7. The Appropriate Municipal Official finds that the building on the Subject Property is unsafe to the extent that it is a public nuisance.

8. Notice is hereby given to remedy the unsafe or dangerous condition by demolition of the building on the Subject Property within forty-five (45) days of the date of this Notice to the Appropriate Municipal Officials' satisfaction. In the event the owner does not comply within the time specified herein to the Appropriate Municipal Officials' satisfaction, the demolition shall be accomplished by the City and the cost thereof assessed against the Subject Property and such cost shall constitute a lien against the Subject Property.

9. The Appropriate Municipal Officials find that the building on the Subject Property is in such condition as to make it dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants. Therefore, the Appropriate Municipal Officials order that the building on the Subject Property be and remain vacated until demolished.

10. A public hearing as provided for by Section 5-146(a) set forth in Ordinance No. 2382 shall be held on the finding of the Appropriate Municipal Officials in the Council Chambers at the Vestavia Hills City Hall, 1032 Montgomery Highway, Vestavia Hills, AL 35216, on the 27th day of June, 2016, at 5:00 p.m. At that time, the City Council shall hold a public hearing to receive any objections to the finding by the Appropriate Municipal Officials that the building or structure is unsafe to the extent of becoming a public nuisance. A written request for a public hearing is not necessary. At the public hearing, the City Council shall also receive any written objections to the finding by the Appropriate Municipal Officials. Any such written objection must be submitted to the City Clerk prior to the start of the City Council meeting at which the public hearing is held. No action shall be taken on the finding of the Appropriate Municipal Officials until determination thereon is made by the City

Council. Upon holding the hearing, the City Council shall determine whether or not the building or structure is unsafe to the extent that it is a public nuisance. If it is determined by the City Council that the building or structure is unsafe to the extent that it is a public nuisance, the City Council shall order demolition of the building at the expense of the City and assess the expenses of the move or demolition on the land on which the building stands or to which it is attached. Any person aggrieved by the decision of the City Council at the hearing may, within ten (10) days thereafter, appeal to the Circuit Court of Jefferson County, Alabama, Birmingham Division, upon filing with the Clerk of the Circuit Court of Jefferson County, Alabama, Birmingham Division, notice of the appeal and bond for security of costs in the form and amount to be approved by the Circuit Clerk. For further particulars, see Ordinance No. 2382.

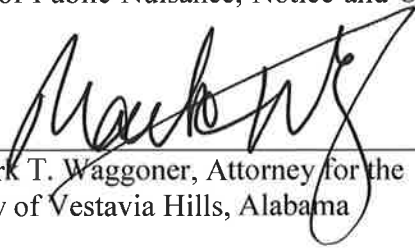
11. A failure by the Vestavia Hills City Council to act on the findings of the Appropriate Municipal Officials within ninety (90) days from the date of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" shall constitute an abdication of the Appropriate Municipal Officials' findings. However, this shall in no way prevent the City from reinitiating the proceedings authorized by Ordinance No. 2382 at any time so long as all the requirements of Ordinance No. 2382 are satisfied anew. Furthermore, this does not require that the ordered demolition take place within ninety (90) days from the date of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*." A failure by the City to accomplish the demolition of the building within one hundred eighty (180) days of the passage of the resolution by the City Council ordering the same shall constitute an abdication of the City Council's order unless certain conditions further explained in Ordinance No. 2382 are satisfied. For further particulars, see Ordinance No. 2382. Anyone interested in the status of these proceedings should inquire with the Vestavia Hills City Clerk at (205) 978-0184 or at 1032 Montgomery Highway, Vestavia Hills, AL 35216.

12. It is unlawful for any person, or for any agent, servant or employee of such person, to obstruct or interfere with the Appropriate Municipal Officials in carrying out the purposes of Ordinance No. 2382.

13. It is unlawful for any person, or for any agent, servant or employee of such person, to mutilate, destroy, tamper with this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*."

14. It is unlawful for any person to enter, access, or be upon the building that the Appropriate Municipal Officials have ordered to be vacated pursuant to this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" except for the purposes of demolishing the same.

15. It is unlawful for any person who has received this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" to sell, transfer, mortgage, lease, encumber, or otherwise dispose of the building that is the subject of the same to another until such person shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" and shall furnish to the Appropriate Municipal Officials a signed and notarized statement from the grantee, transferee, mortgagee, or lessee acknowledging the receipt of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" and fully accepting the responsibility without condition for making the corrections or repairs required by this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*."



Mark T. Waggoner, Attorney for the
City of Vestavia Hills, Alabama

OF COUNSEL:

Hand Arendall LLC
2001 Park Place North, Suite 1200
Birmingham, AL 35203
E-mail: mwaggoner@handarendall.com
Phone: (205) 324-4400 Fax: (205) 322-1163

VERIFICATION OF THE APPROPRIATE MUNICIPAL OFFICIALS

We, the undersigned, Keith Blanton and Scott Key state as follows: We are the Building Official and Fire Marshal, respectively, for the City of Vestavia Hills, Alabama, and for purposes of administering Ordinance No. 2382, we are the "Appropriate Municipal Officials." We hereby offer the findings made in this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," make such orders as are offered herein, and provide such notice as is specified herein.

DONE this the 5th day of May, 2016.



Keith Blanton, Building Official and
Appropriate Municipal Official
City of Vestavia Hills, Alabama



Scott Key, Fire Marshal and
Appropriate Municipal Official
City of Vestavia Hills, Alabama

This Instrument Prepared By:

Mark T. Waggoner
Hand Arendall LLC
2001 Park Place North, Suite 1200
Birmingham, AL 35203
E-mail: mwaggoner@handarendall.com
Phone: (205) 324-4400
Fax: (205) 322-1163

CERTIFICATE OF SERVICE

Contemporaneously with the filing of this “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*,” a copy of the same has been sent via certified mail, properly addressed and postage prepaid to all of the following persons on this the 5th day of May, 2016:

A. The person or persons, firm, association, or corporation last assessing the Subject Property for state taxes to the address on file in the Jefferson County Tax Collector’s Office:

James D. & Deborah Reinhardt
1756 Indian Creek Drive
Vestavia Hills, AL 35243

B. The record property owner or owners (including any owner or owners of an interest in the Subject Property) as shown from a search of the records of the office of the Judge of Probate of Jefferson County, Alabama, at the owner or owners’ last known address and at the address of the Subject Property:

Deborah Reinhardt
1756 Indian Creek Drive
Vestavia Hills, AL 35243

C. All mortgagees of record as shown from a search of the records of the office of the Judge of Probate of Jefferson County, Alabama, to the address set forth in the mortgage or, if no address for the mortgagee is set forth in the mortgage, to the address determined to be the correct address by the Appropriate Municipal Official:

Compass Bank
3960 Crosshaven Drive
Vestavia Hills, AL 35243

D. All lien holders of record as shown from a search of the records of the office of the Judge of Probate of Jefferson County, Alabama to the address set forth in the statement of lien or, if no address for the lien holder is set forth in the statement of lien, to the address determined to be the correct address by the Appropriate Municipal Official:

There are no lien holders of record.

E. Such other persons who are otherwise known to the City Clerk or to the Appropriate Municipal Official who could have an interest in the Subject Property:

Abingdon Green Homeowners Association, Inc.
c/o David P. Bruno
1764 Indian Creek Drive
Vestavia Hills, AL 35243

Jefferson County Sewer Service Office
Room 800
Jefferson County Courthouse
716 Richard Arrington Jr. Blvd. North
Birmingham, AL 35203
Attention: Alicia

Birmingham Water Works
3600 First Avenue North
Birmingham, AL 35233
Attention: Macaroy "Mac" Underwood

No other person is otherwise known to the City Clerk or to the Appropriate Municipal Official to have an interest in the Subject Property.

Contemporaneously with the filing of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," a copy of the same has been posted at or within three feet of an entrance to the building on the Subject Property.

Contemporaneously with the filing of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," a copy of the same has been posted in three public places located within the City: 1.) at Vestavia Hills City Hall, 2.) at the Vestavia Hills Library in the Forest, and 3.) at the Vestavia Hills Civic Center.

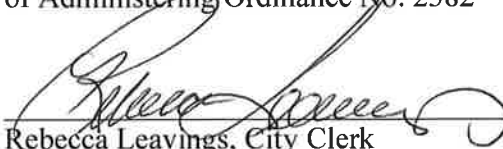
Notice that the Appropriate Municipal Official has made a finding that the Subject Property is a dangerous building because it is unsafe to the extent that it is a public nuisance and is subject to demolition and that a public hearing will be held on the date assigned herein will also be given to all interested parties and to the public at large by publication in the *Alabama Messenger*.



Keith Blanton, City of Vestavia Hills, Alabama Building
Official and Appropriate Municipal Official for Purposes
of Administering Ordinance No. 2382



Scott Key, Fire Marshal for City of Vestavia Hills,
Alabama and Appropriate Municipal Official for Purposes
of Administering Ordinance No. 2382



Rebecca Leavings, City Clerk
City of Vestavia Hills, Alabama

RESOLUTION NUMBER 4847

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ALLOW USE OF OVERTIME AND THE HIRING OF A TEMPORARY, PART-TIME EMPLOYEE TO SUPPLEMENT FIRE DEPARTMENT AND BUILDING SAFETY INSPECTIONS

WHEREAS, the City Manager has identified a need within the Fire Department and Building Safety inspections which have a temporary increase causing a 2-to-5 day delay in responding to inspections requests; and

WHEREAS, the City Manager, detailed said need to the City Council requesting an additional \$32,000 to be appropriated from the General Fund to allow the use of overtime and hiring of a temporary, part-time employee to supplement Fire Department and Building Safety inspections. A detailed explanation is attached to and incorporated into this Resolution Number 4847 as though written fully therein; and

WHEREAS, the Mayor and City Council feel it is in best public interest to accept the City Manager's recommendation and appropriate an additional \$32,000 from the General Fund as requested.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. The City Manager is hereby authorized to use overtime and hire a temporary, part-time inspector to assist with inspections in an amount not to exceed \$32,000; and
2. This Resolution Number 4847 shall become effective immediately upon approval and adoption.

ADOPTED and APPROVED this the 27th day of June, 2016.

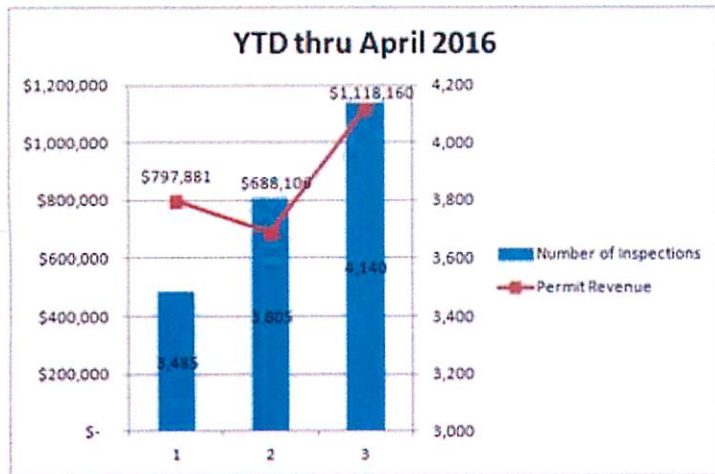
Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

1. An additional \$32,000 General Fund supplemental appropriation (see attached justification) to allow use of overtime, and hiring of a temporary, part time employee to supplement Fire Department and Building Department inspections. The number of inspections and permit revenue are both up significantly. In addition, Keith Blanton has and will be assisting in supervision of City facility enhancements/construction resulting in more pressures on his inspection time. This is resulting in a 2-5 day delay in responding to inspection requests. Your approval will shorten these delays and assist with the demands on inspections services. I have included a chart explaining this below.

FY thru April	Number of Inspections	Permit Revenue *	Number of Inspectors	Number of Work Days	Inspections per Day per Inspector
2014	3,485	\$ 797,881	3	140	8.30
2015	3,805	\$ 688,106	4	140	6.79
2016	4,140	\$ 1,118,160	3.5	140	8.45



Revenue Differential 2015 to 2016 thru April \$ 430,054
 Change in Number of Inspections 2015 to 2016 thru April 335

** Permit Revenue Includes New Construction Permits, Renovation Permits and Contractor's Licenses