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Honorable Craig Ford
Member, House of Representatives
Post Office Box 8208
Gadsden, Alabama 35902

Municipalities - Animals - Municipal
Employees - Municipal Ordinances -
Etowah County

A municipality with a population of less than 5000 is not required to maintain an animal control service. A municipality with a population greater than 5000, however, is required to contribute a pro rata share for the maintenance of the county pound or establish and maintain its own pound.

A municipality may, by ordinance, establish regulations regarding animal control services and contract with an independent contractor to perform animal control services.

Dear Representative Ford:

This opinion of the Attorney General is issued in response to your request.

QUESTION ONE

Is a municipality required to provide animal control services?

FACTS AND ANALYSIS

It is the responsibility of every county to maintain a county pound. ALA. CODE § 3-7A-7 (1996). Section 3-7A-7 states, in pertinent part, as follows:

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It shall be the duty of each and every county in the state to provide a suitable county pound and impounding officer for the impoundment of dogs and cats found running in violation of the provisions of this chapter. Every municipality with a population over 5,000 in which the county pound is not located shall maintain a suitable pound or contribute their pro rata share to the staffing and upkeep of the county pound.

ALA. CODE § 3-7A-7 (1996).

This Office has previously opined that a municipality that has less than 5000 in population is not required by state law to maintain a pound or contribute to the upkeep of the county pound. Conversely, a municipality that has a population greater than 5000 is required to contribute a pro rata share for the maintenance of the county pound or establish and maintain its own pound. Opinion to Honorable Billy R. Waters, Mayor of the Town of Level Plains, dated June 26, 1990, A.G. No. 90-00308; Opinion to Honorable Jody Letson, Member of the House of Representatives, dated June 5, 2001, A.G. No. 2001-193.

CONCLUSION

A municipality with a population of less than 5000 is not required to maintain an animal control service. A municipality with a population greater than 5000, however, is required to contribute a pro rata share for the maintenance of the county pound or establish and maintain its own pound.

QUESTION TWO

If the first question is answered in the affirmative and the municipality is required to have such a service, should the municipality be required to have in its employ a full-time animal control officer, or may the municipality contract with a full-time animal control officer to provide the service?

FACTS AND ANALYSIS

Section 3-7A-1, *et seq.*, in no way interferes with the authority of a municipality to control and regulate animals within the municipality. *See* ALA. CODE § 3-7A-14 (1996). It should further be noted that every municipality has, within its police power, the authority to impound animals. ALA. CODE § 11-47-110 (1992). Section 11-47-110 states as follows:

All cities and towns of this state shall have the power to regulate and prevent the running at large on the streets of all animals and to pass all laws necessary for the impounding and sale of such animals and destruction of dogs and to regulate and prohibit the driving of livestock in droves through streets of a city or town.

ALA. CODE § 11-47-110 (1992). There is no duty, however, on a municipality, pursuant to section 11-47-110, to control animals. *Robertson v. City of Tuscaloosa*, 413 So. 2d 1064, 1066 (Ala. 1982).

This Office has previously opined that, in accordance with section 11-47-110, the appropriate method for a municipality to control animals is by ordinance. Opinion to Honorable Robert Hall, Police Chief of the Town of Valley Head, dated July 15, 1991, A.G. No. 91-00318. It has also been determined that the regulation and control of animals is a delegable duty. That is, a municipality may contract with an independent contractor to perform animal control services. *See Robertson*, 413 So. 2d at 1066.

CONCLUSION

A municipality may, by ordinance, establish regulations regarding animal control services and contract with an independent contractor to perform animal control services.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division