

# CODE OF ORDINANCES

CITY OF

## HELENA, ALABAMA

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GENERAL ORDINANCES OF THE CITY

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Published by Order of the City Council

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MUNICIPAL CODE CORPORATION

Tallahassee, Florida

1988

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OFFICIALS  
of the  
CITY OF HELENA, ALABAMA  
AT THE TIME OF THIS CODIFICATION

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Charles W. Penhale  
*Mayor*

---

Joel E. Bearden, Jr.  
Johnny Deviner  
C. W. Fulgham  
Jane Holmes  
Grady Wilson  
*City Commission*

---

Frank Ellis, Jr.  
*City Attorney*

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Frances Parrish  
*City Clerk*



## PREFACE

This Code is a codification of the ordinances of the Helena, Alabama of a general and permanent nature.

Source materials used in the preparation of the Code were the ordinances adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this volume, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order and the various sections within each chapter have been catchlined to facilitate usage. Footnotes which tie related sections of the Code together and which refer to relevant state law have been included.

### *Numbering System*

The numbering system used in this Code is the same system used in many state and municipal codes. Each section number consists of two component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter. Thus, the first section of Chapter 2 is numbered 2-1, and the second section of Chapter 3 is 3-2. Under this system, each section is identified with its chapter and at the same time new sections or even whole chapters can be inserted in their proper place simply by using the decimal system for amendments. By way of illustration: If new material consisting of three sections that would logically come between sections 3-1 and 3-2 is desired to be added, such new sections would be numbered 3-1.1, 3-1.2 and 3-1.3 respectively. New chapters may be included in the same manner. If the new material is to be included between Chapters 4 and 5, it will be designated as Chapter 4.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of

the article embracing the subject, the next successive number being assigned to the article or division.

### *Index*

The index of the Code has been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology, and still others in language generally used by municipal officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which he is interested.

### *Looseleaf Supplements*

A special feature of this Code to which the attention of the user is especially directed is the looseleaf system of binding and supplemental servicing for the Code. With this system, the Code will be kept up-to-date periodically. Upon the final passage of amendatory ordinances, they will be properly edited and the appropriate page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the Code, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Successfully keeping this Code up-to-date at all times will depend largely upon the holder of the volume. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

### *Acknowledgments*

The publication of this Code was under the direct supervision of Milton E. Lefkoff, Supervising Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Ms. Frances Parish, City Clerk, for her cooperation and assistance during the progress of the work on this Code. It is hoped that her efforts and those of the

**publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.**

**MUNICIPAL CODE CORPORATION**

**Tallahassee, Florida**



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# CODE OF ORDINANCES

## Chapter 1

### GENERAL PROVISIONS

#### **Sec. 1-1. How Code designated and cited.**

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Helena, Alabama," and may be so cited.

#### **Sec. 1-2. Rules of construction; definitions.**

In the construction of this Code, and of all ordinances of the city, the following rules shall be observed, unless the context clearly indicates otherwise:

*Alabama Code* or *Code of Alabama 1975*, shall refer to the Code of Alabama 1975, as amended, or the latest subsequent code of the state.

*Bond.* When a bond is required, an undertaking in writing is sufficient.

*City.* The words "the city" or "this city" shall mean the City of Helena, Alabama.

*Code.* The words "this Code" or "the Code" shall mean the Code of Ordinances, City of Helena, Alabama.

*Computation of time.* The time in which an act is to be done must be computed by excluding the first and including the last day, and, if the last day is a Sunday or legal holiday, that shall be excluded.

*Council.* The term "council" shall mean the mayor and councilmembers of Helena, Alabama.

*County.* The words "the county" or "this county" shall mean the County of Shelby, Alabama.

*Gender.* A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

*Health officer.* The term "health officer" shall mean the health officer of the County of Shelby, Alabama.

*Joint authority.* All words giving joint authority to three (3) or more persons or officers shall give such authority to a majority of such persons or officers, unless it is otherwise declared.

*Number.* Singular terms include the plural, and plural terms include the singular, if the context requires or admits such interpretation.

*Oath.* The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

*Officer or agency.* A designation of an officer or agency, without qualifying words, shall refer to such officer or agency of this city.

*Owner.* The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

*Person.* The word "person" shall include and be applied to associations, clubs, societies, firms, partnerships, trustees and other fiduciaries and bodies politic and corporate as well as to individuals.

*Personal property.* The term "personal property" shall include every species of property except real property.

*Property.* The word "property" shall include real and personal property.

*Real property.* The term "real property" shall include lands, tenements and hereditaments.

*Shall, may.* The word "shall" is mandatory; the word "may" is permissive.

*Signature or subscription.* A "signature" or "subscription" shall include a mark when a person cannot write.

*State.* The words "the state" or "this state" shall mean the State of Alabama.

*Streets.* The word "streets" shall mean streets, avenues, boulevards, roads, lanes, alleys, viaducts and other ways.

*Tense.* Words used in the present or past tense shall include the future as well as the present and past.

*Writing or written.* The word "writing" or "written" shall include typewriting and printing on paper.

*Year and month.* The word "year" shall mean a calendar year and the word "month" means a calendar month.

### **Sec. 1-3. Catchlines of sections.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be the titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

### **Sec. 1-4. Effect of repeal of ordinances.**

(a) The repeal of an ordinance shall not revive any repealed ordinance.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

### **Sec. 1-5. Severability of parts of Code.**

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, unenforceable or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, unenforceability or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

**Sec. 1-6. Amendments to Code.**

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the council to make the same a part hereof, shall be deemed to be incorporated herein, so that a reference to the Code shall be understood and intended to include such additions and amendments.

(b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Helena, Alabama, is hereby amended to read as follows." The new provisions may then be set out in full as desired.

(c) In the event a new section, article or chapter not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, City of Helena, Alabama, is hereby amended by adding a section (or article or chapter) to be numbered \_\_\_\_\_, which section (or article or chapter) reads as follows." The new section, article or chapter may then be set out in full as desired.

(d) All sections, articles, chapters or other provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

**Sec. 1-7. Ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;

- (2) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;
- (3) Any ordinance relating to specific persons or specific property;
- (4) Any ordinance fixing salaries of appointed officers or employees of the city;
- (5) Any appropriation ordinance;
- (6) Any right or franchise granted by the council to any person;
- (7) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the city;
- (8) Any ordinance establishing and prescribing the street grades of any street in the city;
- (9) Any ordinance providing for local improvements or assessing taxes therefor;
- (10) Any ordinance relating to any contract or obligation assumed by the city;
- (11) Any ordinance dedicating or accepting any plat or subdivision in the city, or providing regulations for the same;
- (12) Any ordinance annexing property to the city;
- (13) Any zoning ordinance;
- (14) Any flood damage prevention ordinance;
- (15) Any ordinance regulating traffic or parking at specific locations or on specific streets;
- (16) Any ordinance regulating cable television; and
- (17) Any temporary or special ordinance.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

**Sec. 1-8. Altering Code.**

It shall be unlawful for any person to change or amend, by addition or deletion, any portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with this Code in any manner which will cause the law of the city to be misrepresented.

**Sec. 1-9. General penalty; continuing violations.**

Subject to the limitations in section 2-26(b), whenever in this Code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance shall be punishable by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), and in addition may be punished by imprisonment or hard labor for the city for a period not exceeding six (6) months. However, in the enforcement of the penalties prescribed in Code of Alabama 1975, Section 32-5A-191, such fine shall not exceed five thousand dollars (\$5,000.00) and such sentence of imprisonment or hard labor shall not exceed one (1) year. Each day's violation of this Code or of any ordinance shall constitute a separate offense.

(Ord. No. 121, § 1, 10-17-77)

## Chapter 2

### ADMINISTRATION\*

- Art. I. In General, §§ 2-1-2-20  
Art. II. Municipal Court, §§ 2-21-2-32

#### ARTICLE I. IN GENERAL

##### Sec. 2-1. City council—Composition; elected at large.

The governing body of the city shall consist of a mayor and five (5) councilmembers, who shall be elected at large in the city.  
(Ord. No. 329, § 1, 1-16-84)

##### Sec. 2-2. Same—Places.

The places on the city council are hereby designated as place number one (1), place number two (2), place number three (3), place number four (4) and place number five (5).  
(Ord. No. 329, § 2, 1-16-84)

##### Sec. 2-3. Same—Candidates.

(a) Each candidate for a place on the city council shall in his announcement of his candidacy designate by number the place for which he is a candidate, and no person shall be a candidate for more than one (1) place.

(b) A qualification fee in the amount of fifty dollars (\$50.00) is hereby fixed and imposed upon all candidates seeking election as mayor.

(c) A qualification fee in the amount of twenty-five dollars (\$25.00) is hereby fixed and imposed upon all candidates seeking election as councilman, except as provided in subsection (d).

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\*Cross references—Emergency powers of mayor, § 6-7; dog control officer, § 6-73 et seq.; solid waste, Ch. 7; utilities, Ch. 8.

(d) Such qualification fee shall be paid to the city clerk and deposited to the general fund of the city, at or prior to the time of taking out qualification papers by any such candidate or candidates; however, any person desiring to qualify who is not financially able to pay the required fee may qualify, provided such prospective candidate delivers and furnishes to the city clerk an affidavit stating that he is financially unable to pay the required fee as fixed by this section.

(e) Subsections (b)—(d) are adopted pursuant to Code of Alabama 1975, Section 11-46-2 and shall be effective in all elections, both general and special.

(Ord. No. 115, §§ 1—4, 10-3-77; Ord. No. 329, § 3, 1-16-84)

#### **Sec. 2-4. Reserve police force.**

(a) A police reserve force (the "reserve") is hereby established within the police department. The reserve shall consist of not more than twenty (20) members, each of whom shall be in good physical condition, of good character and not less than twenty-one (21) years of age. Appointments to the reserve shall be made by the chief of police with the approval of the mayor. Such appointments shall be for two-year terms, except that any member of the reserve may be discharged without cause, and without hearing, by the chief of police with the approval of the mayor.

(b) All members of the reserve shall take and subscribe to the same oath as that required of regular police officers of the city, immediately upon accepting their appointment.

(c) The reserve shall function under the immediate direction of the chief of police, who shall provide for its organization and training. The chief of police is hereby authorized and directed to establish such rules and regulations as may be necessary for the efficient operation of the reserve.

(d) Each member of the reserve shall be issued an identification card, signed by the chief of police and the mayor, which he shall carry with him at all times. Whenever a member of the reserve shall be called to active duty, he shall be issued a badge and a cap, which he shall wear in the manner prescribed by the chief of police at all times while on active duty. Upon completion of each tour of active duty, members of the reserve shall turn in their badges and caps at the police headquarters.

(e) The general duties, rights, privileges and authority of each member of the reserve shall, during his hours of active duty, be the same as those of the regular police force of the city. On each tour of active duty, members of the reserve shall serve for the hours and within the limits and for the purposes prescribed by the chief of police. Each member during his time on active duty shall have the right to carry a concealed gun about his person, to make arrests, and otherwise to perform the duties of a regular police officer.

(f) Members of the reserve shall be called to active duty by the chief of police with the written consent of the mayor.

(g) No member of the reserve shall receive compensation for time required by reserve rules and regulations while not on active duty. Members of the reserve may be compensated for any reasonable expense incurred in the performance of official duties while on active duty on approval of an expense voucher by the chief of police. Each member of the reserve may be compensated for any official use of his privately owned automobile at the rate of ten cents (\$0.10) per mile while on active duty. All vouchers for compensation for expense shall be sworn to by the member of the reserve seeking reimbursement before it shall be considered for payment.

(h) It shall be a misdemeanor for any person not a member of the reserve to wear, carry, or display a reserve identification card, badge, or cap, or in any way to represent himself to be connected with the reserve.

(Ord. No. 101A, §§ 1—8, 10-21-74)

### **Sec. 2-5. Emergency management organization.**

(a) As used in this section, the term "emergency management" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake or other natural cause. These functions include, without limitation, fire-fighting services; police services; medical and health services; rescue, engineering, air raid warn-

ing services; communications; radiological, chemical and other special weapons of defense; evacuation of persons from stricken areas; emergency welfare services (civilian war aid); emergency transportation; plant protection; temporary restoration of public utility services; and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

(b) The city emergency management organization shall:

- (1) Develop an emergency management operational survival plan. This plan shall provide for the effective mobilization of all resources of the city, both private and public.
- (2) Prepare and recommend, for consideration by the city council, ordinances necessary to implement the emergency management operational survival plan.
- (3) Consider and recommend to the city council for approval all mutual aid plans and agreements.
- (4) Perform other functions determined by the council.

(c) There is hereby created the office of emergency management director. Such officer shall be nominated by the mayor and approved by the council. The director shall:

- (1) Represent the mayor on all matters pertaining to emergency management.
- (2) During periods of emergency, direct the services of all city emergency management forces.
- (3) Obtain and utilize the cooperation of city officials in the preparation and implementation of all emergency management operational survival plans.
- (4) During periods of emergency, obtain vital supplies and equipment needed for the protection of life and property.

(d) Officers and employees of the city, with volunteer forces enrolled to aid during an emergency, and all groups, organizations and persons who make the agreements on operation of law shall be charged with the duties necessary for the protection of life and property in the city during an emergency, as members of the emergency management organization.

(e) All persons, other than officers and employees of the city, volunteering in service in compliance with this section, shall serve with or without compensation. While engaged in such service, they shall have the same immunities as employees of the city performing similar duties.

(Ord. No. 81, §§ I—V, 4-19-62)

**Secs. 2-6—2-20. Reserved.**

## ARTICLE II. MUNICIPAL COURT

**Sec. 2-21. Established.**

There is hereby established a municipal court for the city, pursuant to the provisions of Act No. 1205, 1975 regular session of the Alabama legislature, as amended.

(Ord. No. 158, § 1, 11-3-80)

**Sec. 2-22. Jurisdiction.**

The municipal court shall have jurisdiction of all prosecutions for the breach of ordinances of the city within its corporate limits and police jurisdiction. This jurisdiction shall also extend to all prosecutions for violations of state misdemeanors committed within the corporate limits and police jurisdiction of the city where such offenses have been made offenses against the city.

(Ord. No. 158, § 2, 11-3-80)

**Sec. 2-23. Time and place of holding court.**

The municipal court shall hold court at such time and place as the council may determine with the advice of the municipal judge.

(Ord. No. 158, § 3, 11-3-80)

**Sec. 2-24. Judge generally.**

(a) The municipal court shall consist of one (1) municipal judge, to be appointed by a vote of a majority of the members elected or appointed to the council. The judge shall be appointed for a term of two (2) years. The municipal judge shall be eligible for reappointment upon the expiration of his term. He shall hold office until his successor is appointed and qualified.

(b) The municipal judge must be licensed to practice law in this state and must be a qualified elector of the state. No judge shall be otherwise employed in any capacity by the city during his term of office.

(c) The office of the municipal judge shall be vacant if he dies, resigns, or is removed, and vacancies shall be filled by the council in the same manner that original appointments are made. Any person so appointed shall be eligible to serve two (2) years from the date of appointment.

(d) The municipal judge shall, before assuming office, take and sign the oath provided by the state constitution, and a copy thereof shall be filed in the offices of the secretary of state, the administrative director of courts and the city clerk.

(e) The municipal judge shall be subject to all grounds of disqualification from hearing specific cases that are applicable to circuit court judges.

(Ord. No. 158, § 4, 11-3-80)

#### **Sec. 2-25. Compensation of judge.**

The annual salary of the municipal judge shall not be diminished during the judge's term of office. Any general increase in the compensation of all or substantially all city employees shall be applied proportionately to the salary of the municipal judge.

(Ord. No. 158, § 5, 11-3-80)

#### **Sec. 2-26. Powers.**

(a) The municipal judge shall admit to bail any person charged with the violation of any city ordinance by requiring an appearance bond, with good security, to be approved by the municipal judge or his designee, in an amount not to exceed five hundred dollars (\$500.00), and may, in his discretion, admit to bail such person on a personal recognizance bond, conditioned on the appearance of such person before him on a day named therein to answer the charges preferred against him.

(b) The municipal judge shall have the authority to punish any person convicted of violating any municipal ordinance with a fine of not more than five hundred dollars (\$500.00) and/or a sentence

of imprisonment of hard labor for a period not exceeding six (6) months; provided, however, that no fine or sentence of imprisonment shall exceed the maximum fine or sentence provided by the city ordinance violated, nor shall the fine or sentence exceed the maximum fine and sentence provided for violation of a substantially similar offense under state law. The penalty imposed on a corporation shall consist of the fine only, plus costs of court.

(c) The municipal judge in his judgment may provide that if a fine and costs are not paid within the time prescribed, the defendant, unless indigent, shall work out the amount of the judgment under the direction of the city authority, allowing not less than ten dollars (\$10.00) for each day's service.

(d) Upon each conviction in the municipal court for a violation of any ordinance of the city, there shall be taxed against the defendant as court costs the sum of ten dollars (\$10.00), and there shall also be taxed as costs the additional costs and charges imposed by the statutes of the state. The latter such costs and charges shall be remitted pursuant to the statutes. All such costs taxed for the city shall be paid into the city treasury.

(e) Upon conviction, the court may, upon a showing of inability to make immediate payment of fines and costs, accept defendant's bond with or without surety and with waiver of exemptions as to personalty, such fines and costs to be payable within ninety (90) days and, upon nonpayment of which, execution may issue upon the bond as upon judgments in state courts.

(f) The municipal judge shall have the authority to continue the case from time to time to permit the fine and costs to be paid; remit fines, costs and fees; impose intermittent sentences; establish work release programs; require attendance of educational, corrective or rehabilitative programs; suspend driving privileges for such times and under such conditions as provided by law; and order hearings to determine the competency of the defendant to stand trial; provided further, that the judge may enter an order authorizing the defendant to drive under the conditions set forth in the order.

(g) All cases in the municipal court shall be tried by a municipal judge without a jury.

(h) The municipal judge may suspend execution of sentence and place a defendant on probation for varying periods of time, not to exceed two (2) years, under the procedures and conditions set out in Code of Alabama 1975, Section 12-14-13.

(i) The municipal judge may administer oaths, compel the attendance of witnesses, compel the production of books and papers, and punish by fine not exceeding fifty dollars (\$50.00) and/or imprisonment not exceeding five (5) days any person found and adjudged to be in contempt of court, and shall have power coextensive with the jurisdiction of the district court to issue writs and other process and to approve and declare bonds forfeited. The municipal judge shall designate any other municipal officers who shall be authorized to approve appearance and appeal bonds.

(j) The municipal court shall take judicial notice of the ordinances of the city.  
(Ord. No. 158, § 6, 11-3-80)

### **Sec. 2-27. Appeals.**

(a) All appeals from judgments of the municipal court shall be to the circuit court of the circuit in which the violation occurred for trial de novo.

(b) The city may appeal within sixty (60) days, without bond, from a judgment of the municipal court holding a city ordinance invalid.

(c) A defendant may appeal in any case within fourteen (14) days from the entry of judgment by filing notice of appeal and giving bond, with or without surety, approved by the court or the clerk in an amount of not more than five hundred dollars (\$500.00) and costs, as fixed by the court, conditioned upon defendant's appearance before the circuit court. The municipal court may waive appearance bond upon a satisfactory showing that the defendant is indigent or otherwise unable to provide a surety bond. If an appeal bond is waived, a defendant sentenced to imprisonment shall not be released from custody but may obtain release at any time by filing a bond approved by the municipal court. If the defendant is not released, the prosecutor shall notify the circuit clerk, and the case shall be set for trial at the earliest practicable time.

(d) When an appeal has been taken, the city shall file the notice and other documents in the court to which the appeal is taken within fifteen (15) days, failing which the city shall be deemed to have abandoned the prosecution, the defendant shall stand discharged and the bond shall be automatically terminated.

(e) Upon trial or plea of guilty in the circuit court on appeal, the court may impose any penalty or sentence which the municipal court could have imposed.

(f) Upon failure of an appellant to appear in the circuit court when the case is called for trial, unless good cause for such default is shown, the court shall dismiss the appeal and upon the expiration of thirty (30) days from such date, unless the dismissal is set aside, the circuit clerk shall return the file, with a copy of the order of dismissal, to the clerk of the court from which the appeal was taken and the judge of such court may enter judgment of default on the appeal bond by utilizing the procedures set forth in Code of Alabama 1975, Section 15-13-81. The circuit court may, on motion of the defendant made within thirty (30) days of the order of dismissal, set aside the dismissal and other orders and reinstate the appeal on such terms as the court may prescribe, for good cause shown by the defendant.

(g) Upon receipt of notice of dismissal of an appeal, the municipal court may issue a warrant for the arrest of the defendant, who may also be arrested without a warrant as an escapee. Upon arrest, the defendant shall be delivered to the city authorities and punished in accordance with the judgment of the municipal court.

(h) If a judgment is entered against a defendant upon appeal, the circuit court shall remand the defendant to the city authorities for punishment in accordance with the judgment of the circuit court, except when the judgment is for fine and costs only, the judgment is paid or a judgment is conferred therefor in favor of the city with sureties or as otherwise provided for convictions under state law.

(i) Upon receipt of the payment of fines, forfeitures and costs upon appeals, the clerk of the circuit court shall within thirty (30) days pay ninety (90) percent of such fines and forfeitures and ten

(10) percent of the costs to the treasurer of the city. The circuit clerk shall be liable on his bond for such fines and costs plus a penalty of five (5) percent per month for default in such payments.

(j) From the judgment of the circuit court, the city, in a case holding invalid an ordinance, or the defendant in any case, may appeal to the court of criminal appeals in like manner as in cases of appeals for convictions of violation of the criminal laws of the state. If the appeal is taken by the city, it shall not be required to give surety for the cost of the appeal. When taken by the defendant, he may give bail with sufficient sureties, conditioned that he will appear and abide by the judgment of the appellate court; and, failing to give bail, he must be committed to the city jail, but he may give such bail at any time pending the appeal. When an appeal is taken by the defendant, bail is given pending the appeal and the judgment of conviction is affirmed or the appeal is dismissed, the defendant is bound by the undertaking of bail to surrender himself to the city authorities within fifteen (15) days from the date of such affirmance or dismissal; and, if he shall fail to do so, the clerk of the circuit court from which the appeal is taken, upon motion of the city, must endorse the bail bond forfeited, and a writ or writs of arrest must be issued by the clerk to the sheriff. Upon arrest the defendant shall be delivered to the city authorities, and the sentence must without delay be carried out as if no appeal has been taken. If bail is forfeited as provided in this section, a conditional judgment must be entered by the court in favor of the city and the same proceedings had thereon for the city as is authorized by law to be had in the name of the state in state cases.

(Ord. No. 158, § 8, 11-3-80)

### **Sec. 2-28. Warrants.**

The municipal judge is authorized to issue arrest and search warrants upon affidavit for city ordinance violations returnable to the municipal court and for violations of state law returnable to any state court.

(Ord. No. 158, § 9, 11-3-80)

**Sec. 2-29. Magistrates.**

The municipal judge shall take steps to have a magistrate appointed for the city pursuant to Rule 18 of the Alabama Rules of Judicial Administration. The powers of the magistrate shall be limited to:

- (1) Issuance of arrest warrants;
- (2) Granting of bail in minor misdemeanor prosecutions;
- (3) Receiving of pleas of guilty in minor misdemeanors where a schedule of fines has been prescribed by rule;
- (4) Accountability to the municipal court for all uniform traffic tickets and complaints, monies received and records of offenses; and
- (5) Such other authority as may be granted by law.

(Ord. No. 158, § 10, 11-3-80)

**Sec. 2-30. Acting municipal judge.**

In the event of the absence from the city, death, disability, or disqualification of a municipal judge for any reason, the mayor shall have the authority to designate a person, licensed to practice law in the state and a qualified elector of the state, not otherwise employed in any capacity by the city, to serve as acting municipal judge with all power and authority of a duly appointed municipal judge. No such acting judge may serve for more than thirty (30) successive days or a total of sixty (60) days in any calendar year; provided, that when the duly appointed municipal judge is disqualified pursuant to the constitution, the time of service limitations for acting judges shall not apply during such disqualification.

(Ord. No. 158, § 11, 11-3-80)

**Sec. 2-31. Reports—By city.**

The city shall report on the proceedings of the municipal court as required by law or rule.

(Ord. No. 158, § 12, 11-3-80)

**Sec. 2-32. Same—By judge.**

The municipal judge shall make a report to the council on the operation of the municipal court every month.

(Ord. No. 158, § 13, 11-3-80)

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