

ORDINANCE NUMBER 513-96

AN ORDINANCE TO LEVY AN ADDITIONAL COURT COST TO BE PLACED IN A CORRECTIONS FUND AND USED FOR THE OPERATION AND MAINTENANCE OF MUNICIPAL JAILS OR COURT COMPLEXES PURSUANT TO SECTION 11-47-7.1, CODE OF ALABAMA, 1975.

WITNESSETH THESE RECITALS

WHEREAS, the Legislature of the State of Alabama has adopted legislation whereby a municipality can establish a special court cost in Municipal Court to be held in a corrections fund to be used exclusively for the operation and maintenance of municipal jails, other correctional facilities, juvenile detention centers or court complexes; and

WHEREAS, it is in the best interest of the City of Helena, Alabama, to establish this court cost as set out in Section 11-47-7.1, Code of Alabama, 1975, as amended; and

WHEREAS, the Attorney General of the State of Alabama in an opinion dated June 17, 1996, to the Town of Red Level, Alabama, opined that the Town of Red Level may increase its court costs to amounts which equal the court costs which are allowed to be charged by the District Court in like cases, all in accordance with Title 11-47-7.1, Code of Alabama, 1975; and

WHEREAS, the Attorney General of the State of Alabama in an opinion dated June 13, 1996, to the Town of Branchville, Alabama, opined that the term "operation and maintenance of the municipal jail...or any court complex" as used in Title 11-47-7.1, Code of Alabama, 1975, includes such expenses as salaries, office machines and repairs.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HELENA, ALABAMA, AS FOLLOWS:

SECTION I: That an additional Municipal Court cost of Thirty and 50/100 Dollars (\$30.50) shall be added to each Municipal Court traffic infraction case in the City of Helena Municipal Court; provided, however, the additional court cost to be added to each case of driving under the influence in violation of Title 32-5A-191, Code of Alabama, 1975, of appropriate ordinances of the City of Helena, shall be Twenty and 50/100 Dollars (\$20.50).

SECTION II: That an additional Municipal Court cost of Seventeen Dollars (\$17.00) shall be added to each Municipal Court misdemeanor case other than those described in Section I hereof.

SECTION III: That an account shall be established to be known as the City of Helena Corrections Fund and that all proceeds from this court cost shall be deposited into this fund.

SECTION IV: That the funds contained in the Corrections Fund shall be expended as

needed for the operation and maintenance of the municipal jail or jails, correctional facilities, juvenile detention center, or court complex, now existing or established after this date.

SECTION V: All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Helena, Alabama which are inconsistent with the provisions of this ordinance are hereby expressly repealed.

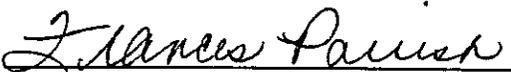
SECTION VI: If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance which shall continue in full force and effect notwithstanding such holding.

SECTION VII: This Ordinance is approved and adopted all in accordance with the authority of Title 11-47-7.1, Code of Alabama, 1975.

SECTION VIII: The provisions of this ordinance shall become effective immediately following the passage and approval thereof by the City Council of the City of Helena, Alabama, and the publication and/or posting thereof as required by Alabama law.

DONE, ORDERED APPROVED and ADOPTED, on this the 18 day of December, 1996.

ATTESTED BY:



Frances Parrish, City Clerk

APPROVED BY:



Charles Penhale, Mayor

CERTIFICATION:

I, Frances Parrish, as City Clerk of the City of Helena, Alabama, hereby certify that the above and foregoing copy is a true and correct copy of an ordinance that was duly adopted by the City Council of the City of Helena on the 18 day of November 1996, as same appears in the official records of said City.

Posted at City Hall, Police Dept, Library
and the Mayor's Office, City Hall, Helena, Alabama, all public places within the City limits of the City of Helena, this the 19 day of November, 1996.

Frances Parrish
Frances Parrish, City Clerk

ORDINANCE

NO. 158

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HELENA, ALABAMA, AS FOLLOWS:

Section 1. Establishment of Municipal Court. That there be and there is hereby established effective December 27, 1977, a Municipal Court for the Town of Helena, Alabama, pursuant to the provisions of Act 1205, 1975 Regular Session of the Alabama Legislature.

Section 2. Jurisdiction. The Municipal Court of the Town of Helena, Alabama, shall have jurisdiction of all prosecutions for the breach of ordinances of the municipality 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 municipality where such offenses have been made offenses against the municipality.

Section 3. Time and Place of Holding Court: The Municipal Court of the Town of Helena, Alabama, shall hold court at such time and place as the governing body may determine with the advice of the municipal judge.

Section 4. Provisions for Judge.

A. The Municipal Court shall consist of one municipal judge to be appointed by a vote of a majority of the members elected or appointed to the municipal governing body. The judge shall be appointed for a term of two 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 the State of Alabama and must be a qualified elector of the State of Alabama. No judge shall be otherwise employed in any capacity by the municipality 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 municipal governing body in the same manner as original appointments are made. Any person so appointed shall be eligible to serve two years from the date of appointment.

D. The municipal judge shall, before assuming office, take and sign the oath provided by the Constitution and a copy thereof shall be filed in the office of the Secretary of State, the Administrative Director of Courts and the Clerk of the Municipality.

E. The municipal judge shall be subject to all grounds of disqualification from hearing specific cases applicable to circuit court judges.

Section 5. Compensation of Judge. The annual salary of the municipal judge of the Town of Helena, Alabama, is hereby fixed at \$2,400.00 dollars and shall be payable in 24 equal installments. This salary shall not be diminished during the judge's term of office. Any general increase in the compensation of all or substantially all municipal employees shall be applied proportionately to the salary of the municipal judge.

Section 6. Powers of the Court.

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

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 judgement 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 judgement under the direction of the municipal authority allowing not less than ten dollars (\$10.00) for each day's service.

D. Upon each conviction in municipal court for a violation of any ordinance of the Town of Helena, Alabama, 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 fees imposed by the statutes of the State of Alabama, and the latter such costs and fees shall be remitted pursuant to the said statutes. All costs taxed for the town, as hereinabove provided, shall be paid into the town 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 personality payable within ninety days, upon non-payment of which execution may issue as upon judgements 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 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 Section 8-104 (f) of Act 1205, 1975 Regular Session.

I. The Municipal Judge may administer oaths, compel the attendance of witnesses and compel the production of books and papers, punish by fine not exceeding fifty dollars (\$50.00) and/or imprisonment not exceeding five 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 municipality.

Section 8. Appeals.

A. All appeals from judgements of the municipal court shall be to the circuit court of the circuit in which violation occurred for trial de novo.

B. The municipality may appeal within sixty days without bond, from a judgement of the municipal court holding a municipal ordinance invalid.

C. A defendant may appeal in any case within fourteen days from the entry of judgement of filing notice of appeal and giving bond with or without surety approved by the court or the clerk in an amount not more than \$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 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 municipality shall file the notice and other documents in the court to which the appeal is taken within fifteen days, failing which the municipality 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 might have imposed.

F. Upon failure of an appellant to appear in circuit court when the case is called for trial, unless good cause for such default is shown, the court shall dismiss the appeal and enter judgement of default on the appeal bond, and may also issue a warrant for arrest of the appellant. A copy of the order shall be delivered by the circuit clerk to the clerk of the municipal court. The circuit court may on motion of defendant made within thirty 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 arrest of the defendant, who may also be arrested without a warrant as an escape. Upon arrest the defendant shall be delivered to the municipal authorities and punished in accordance with the judgement of the municipal court.

H. If a judgement is entered against a defendant upon appeal, the circuit court shall remand the defendant to the municipal authorities for punishment in accordance with the judgement of the circuit court, unless, when the judgement is for fine and costs only, the judgement is paid or a judgement is conferred therefore in favor of the municipality with sureties or as otherwise provided for convictions under State law.

I. Upon receipt of payment of fines and costs upon appeals, the clerk of the circuit court shall within thirty days pay ninety percent of such fines and forfeitures, and ten percent of the costs, to the treasurer of the municipality. The circuit clerk shall be liable on his bond for such fines and costs plus a penalty of five percent per month for default in such payments.

J. From the judgement of the circuit court, the municipality, 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 municipality, 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 judgement of the appellate court, and failing to give bail he must be committed to the municipal jail; but he may give such bail at any time pending the appeal, and the judgement of conviction is affirmed or the appeal is dismissed, the defendant is bound by the undertaking of bail to surrender himself to the municipal authorities within fifteen 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 municipality, just 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 municipal authorities and the sentence must without delay be carried out as if no appeal has been taken. If bail is forfeited as herein provided, a conditional judgement must be rendered by the court in favor of the municipality and the same proceedings had thereon for the municipality as is authorized by law to be had in the name of the state in state cases.

Section 9. Warrants. The Municipal Judge is authorized to issue arrest and search warrants upon affidavit for municipal ordinance violations returnable to the municipal court and for violations of state law returnable to any state court.

Section 10. Magistrates. The Municipal Judge shall take steps to have a magistrate appointed for the Town of Helena, Alabama, 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 law or 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.

Section 11. Acting Municipal Judge. In the absence from the Town of Helena, Alabama, death, disability, or disqualification of a municipal judge, for any reason, the mayor of the municipality 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 municipality, 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 successive days or a total of sixty 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.

Section 12. The Municipal Judge shall report on the proceedings of the municipal court as required by law or rule.

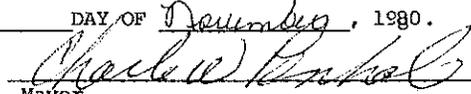
Section 13. The Municipal Judge shall be required to make a report to the council on the operation of the municipal court every month.

Section 14. Severability Clause. Each and every provision of this ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void and invalid for any reason shall not affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provisions which might have been invalid.

Section 15. Repealer. All ordinances or parts of ordinances inconsistent herewith and in force at the time this ordinance takes effect are hereby repealed.

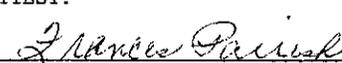
Section 16. Effective Date. This ordinance shall become effective on December 27, 1977, following its passage, approval and publication as required by law.

ADOPTED AND APPROVED THIS THE 3 DAY OF December, 1980.



Mayor

ATTEST:



Town Clerk