

Chapter 12 MUNICIPAL COURT ¹¹

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§ 12-1. Reestablishment of municipal court.

There be and there is hereby reestablished, effective February 3, 2003, a municipal court for the City of Fayette, Alabama, pursuant to the provisions of the Code of Ala. 1975, [Title 12, ch. 14.](#)

(Ord. No. 2002-03, § 1, 10-3-02)

§ 12-2. Jurisdiction.

The municipal court of the City of Fayette, Alabama, shall have jurisdiction of all prosecutions for the breach of ordinances of the municipality within its corporate limits and police jurisdiction, The 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.

(Ord. No. 2002-03, § 2, 10-3-02)

§ 12-3. Time and place of holding court.

The municipal court of the City of Fayette, Alabama, shall hold court at such time and place as the governing body may determine with the advice of the municipal judge.

(Ord. No. 2002-03, § 3, 10-3-02)

§ 12-4. Provisions for judge.

- (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 municipal governing body. 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 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 (2) 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 state court judges.

(Ord. No. 2002-03, § 4, 10-3-02)

§ 12-5. Compensation of judge.

The annual salary of the municipal judge of the City of Fayette, Alabama, shall be payable in twelve (12) equal monthly 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.

(Ord. No. 2002-03, § 5, 10-3-02)

§ 12-6. 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 an amount not to exceed one thousand dollars (\$1,000.00) 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 a municipal ordinance with a fine of not more than five hundred dollars (\$500.00) and/or a sentence of imprisonment or hard labor for a period not exceeding six (6) months except, when in the enforcement of the penalties prescribed in [Code of Ala. 1975,] § 35-5A-191 (DUI cases), such fine and sentence of imprisonment or hard labor shall not exceed the maximum fine and imprisonment authorized by that section. The penalty imposed on a corporation shall consist of a 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 municipal authority allowing not less than fifteen dollars (\$15.00) for each day's service.
- (d) Upon each conviction in municipal court for a violation of any ordinance of the City of Fayette, 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

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State of Alabama, and the latter such costs and fees shall be remitted pursuant to the said statutes. All costs taxed for the city, as herein above provided, 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 the personality, such fines and costs to be payable within ninety (90) days, upon nonpayment of which executions 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 competence 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 file procedures and conditions set out in Code of Ala. 1975, § 12-13-14.
- (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 (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 municipality.
- (k) The sheriff of the county and all law enforcement officers of the municipality shall obey the municipal judge having legal authority in faithfully executing the warrants and processes committed to them for service according to their mandates.

(Ord. No. 2002-03, § 6, 10-3-02)

§ 12-7. Powers of the mayor.

The mayor may remit fines and such costs as are payable to the municipality and commute sentences imposed by municipal judges or the court to which an appeal was taken for violations of municipal ordinances, and he shall report his action to the council or other governing body at the first regular meeting thereof in the succeeding month with his reasons therefore in writing.

(Ord. No. 2002-03, § 7, 10-3-02)

§ 12-8. 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 municipality may appeal within sixty (60) days, without bond, from a judgment of the municipal court holding a municipal ordinance invalid.
- (c) A defendant may appeal in any case within fourteen 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 not more than twice the amount of the fine and costs, as fixed by the court, or in the event no fine is levied the bond shall be in an amount not to exceed one thousand dollars (\$1,000.00), 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

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not be released from custody, but may obtain release at anytime 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 (15) day, 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 the circuit court when the case is called for trail, 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 municipal court and the judge of the municipal court may enter judgment of default on the appeal bond by utilizing the procedures set forth in [Code of Ala. 1975,] § 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 arrest of the defendant who may 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 judgment of the municipal court.
- (h) If a judgment is entered against a defendant on appeal, the circuit court shall remand the defendant to the municipal authorities for punishment in accordance with the judgment of the circuit court, unless, when the judgment is for fine and costs only, the judgment is paid or a judgment 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, 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 cost 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 (5) percent per month for default in such payments.
- (j) From the judgment 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 judgment of the appelland 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. 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 municipal authorities within fifteen (15) days from the date of such affirmance of 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, 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 municipal authorities, and the sentence must without delay be carried out as if no appeal had been taken. If bail is forfeited as herein provided, a conditional judgment must be entered 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 the name of the state in state cases.

(Ord. No. 2002-03, § 8, 10-3-02)

§ 12-9. 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.

(Ord. No. 2002-03, § 9, 10-3-02)

§ 12-10. Magistrates.

The municipal judge shall take steps to have magistrates appointed as needed for the City of Fayette, 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) Setting bail when issuing arrest warrants in accordance with the discretionary bail schedule; provided, however, that no magistrate shall set bail for any offense in excess of the maximum amount posted in the bail schedule, unless approved by the Supreme Court;
- (3) Approving surety bonds and receiving cash bail in municipal ordinance prosecutions;
- (4) Authorizing the release of defendants on their personal recognizance in misdemeanor prosecutions;
- (5) Receiving pleas of guilty in misdemeanor cases where a schedule of fines has been prescribed pursuant to Rule 20, Alabama Rules of Judicial Administration;
- (6) Accountability to the municipal court for all uniform traffic tickets and complaints, monies received and records of offenses; and
- (7) Such other authority as may be granted by law.

(Ord. No. 2002-03, § 10, 10-3-02)

§ 12-11. Acting municipal judge.

In the absence from the city, 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 (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 disqualifications.

(Ord. No. 2002-03, § 11, 10-3-02)

§ 12-12. Report on proceedings.

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

(Ord. No. 2002-03, § 12, 10-3-02)

§ 12-13. Report to the council.

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

(Ord. No. 2002-03, § 13, 10-3-02)

§ 12-14. Settlement of minor ordinance violations without trial.

(a) *Schedule of fines.* In the event a defendant in municipal court is charged with one of the offenses listed below and elects to plead guilty before a magistrate or pay a parking ticket without contesting it, the following schedule of fines shall apply:

(1) Traffic offenses:

- Crossing fire hose\$50.00
- Cutting across private property to avoid traffic-control device25.00
- Cutting into funeral procession10.00
- Driver's license not in possession10.00
- Driving on sidewalk20.00
- Driving on the wrong side of the road30.00
- Engine running in unattended vehicle30.00
- Failure to dim headlights10.00
- Failure to obey traffic-control device not specifically enumerated20.00
- Failure to stop at railroad crossing10.00
- Failure to transfer driver's license100.00
- Failure to use child restraint10.00
- Failure to wear safety belt10.00
- Failure to yield right-of-way20.00
- Failure to yield to a pedestrian20.00
- Following emergency vehicle50.00
- Following too closely20.00
- Going around barricade30.00
- Handicapped placard and decal—false representation500.00
- Improper backing20.00
- Improper brakes20.00
- Improper lane usage20.00
- Improper lights20.00
- Improper muffler10.00
- Improper or no rearview mirror20.00
- Improper passing20.00

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Improper signal	10.00
Improper tag	25.00
Improper tires	20.00
Improper turn	20.00
Improper use of dealer's tag	50.00
Improper window tinting	20.00
No helmet (motorcycle riders)	10.00
No insurance	250.00
Obstruction of driver's view or driving mechanism	20.00
Operating a motor vehicle without a driver's license	25.00
Other vehicle equipment violations not specifically enumerated	20.00
Oversize load	250.00
Proceeding where traffic obstructed	20.00
Refusal to weigh	300.00
Running red light	20.00
Running stop sign	20.00
Speeding:	
Less than 25 mph over posted speed limit	20.00
25 mph or over posted speed limit	40.00
Stopping on highway	30.00
Tag registered to another vehicle	100.00
Truck weight violations	100.00
Violating driver's license restriction or endorsement	10.00
Wrong way on a one-way street	30.00
Any other traffic offense prohibited by Title 32 of the Code of Alabama or Chapter 11 or 15 of this Code, except as provided in the next paragraph	30.00

No settlement amount or procedure shall apply to the following traffic offenses, each of which shall require a court appearance; offenses resulting in death, personal injury, or property damage; driving under the influence; reckless driving; felonies; driving while license is suspended, revoked or canceled; fleeing or attempting to elude a police officer; and/or any other offense prohibited by state law or rule from being on a schedule of fines.

(2) Public order offenses:

Violation of any provision of the noise ordinance	\$100.00
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(3) Animal control offenses:

- Permitting livestock to run at large25.00
- Permitting fowl to run at large25.00
- Failure to maintain required enclosure25.00
- Failure to maintain sanitary premises where animals are kept25.00
- Keeping swine in city limits25.00
- Failure to permit animal control inspection25.00
- Failure to comply with notice from animal control officer25.00
- Obstructing entry of animal control officer50.00
- Tethering dog near property line25.00
- Vicious dog at large (pound impoundment fee, if applicable)50.00
- Failure to have muzzle or leash for vicious dog100.00
- Barking or howling dogs25.00
- Keeping more than three (3) dogs50.00
- Failure to inoculate against rabies (plus impoundment fee, if applicable)25.00
- Failure to attach inoculation tag (plus impoundment fee, if applicable)25.00

(4) Littering offenses:

- Sweeping dirt, litter, etc. onto streets or sidewalks\$100.00
- Littering generally100.00
- Littering from motor vehicle100.00
- Unlawful to dump waste into waterways100.00
- Failure to cut weeds or remove trash and litter100.00
- Failure of persons in business of cutting trees, etc. to remove debris100.00
- Leaving debris on public street100.00
- Failure to maintain cleanliness at container site100.00
- Unlawful to remove refuse from container100.00
- Placement of advertisements, notices, political signs on utility poles100.00

(5) Fire code violations:

- Failure to comply with notice to eliminate dangerous conditions\$25.00
- Obstructing fire hydrant25.00
- Obstruction of exits:

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1. Assembly100.00
 2. Business25.00
 3. Educational100.00
- Overcrowding100.00
- Obstructed fire escapes100.00
- Encumbered fire escapes100.00
- Obstructed doors100.00
- No exit signs25.00
- Unilluminated exits25.00
- Tampering with fire equipment50.00
- Lack of access to buildings by fire apparatus50.00
- Failure to install and/or maintain fire protection systems and appliances50.00
- Inadequate spray finishing operations50.00
- Flammable and combustible liquids violation25.00
- Smoking where prohibited (fire code only)50.00
- Failure to post adequate no smoking signs (fire code only)50.00
- Bond fires and outdoor rubbish fire violation25.00
- Use of torches where prohibited25.00
- Failure to use approved materials, apparatus, equipment or methods25.00
- Obstructing fire hydrants25.00
- (6) Parking violations:
- Improper parallel parking:
- 1st offense\$5.00
 - 2nd or subsequent offense (within twelve (12) months)10.00
- Improper angle parking:
- 1st offense5.00
 - 2nd or subsequent offense (within twelve (12) months)10.00
- Parking prohibited in specified place generally:
- 1st offense10.00
 - 2nd or subsequent offense (within twelve (12) months)25.00

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Blocking traffic:

1st offense10.00

2nd or subsequent offense (within twelve (12) months)25.00

Blocking alley:

1st offense10.00

2nd or subsequent offense (within twelve (12) months)25.00

Parking prohibited on roadway for certain purposes:

1st offense10.00

2nd or subsequent offense (within twelve (12) months)25.00

Use of street for purposes of storage of vehicle:

1st offense10.00

2nd or subsequent offense (within twelve (12) months)25.00

Improper parking of semi-trailer truck:

1st offense10.00

2nd or subsequent offense (within twelve (12) months)25.00

Vehicle extending more than 18 feet from curb prohibited:

1st offense10.00

2nd or subsequent offense (within twelve (12) months)25.00

Handicapped parking:

1st offense100.00

2nd or subsequent offense (within twelve (12) months)150.00

Overtime parking:

1st offense5.00

2nd or subsequent offense (within twelve (12) months)10.00

Overtime limit in loading zone:

1st offense5.00

2nd or subsequent offense (within twelve (12) months)10.00

Parking in a fire lane:

1st offense25.00

2nd or subsequent offense (within twelve (12) months)50.00

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(7) Offenses related to the management and collection of garbage:

Failure to participate in mandatory garbage collection system\$25.00

Improper depositing of garbage, etc.25.00

Improper depositing of hazardous or medical waste, animal carcasses, etc.50.00

(8) Other offenses. A fine scheduled for any other offense not listed herein may be added by separate ordinance. The procedure provided herein shall apply to such ordinances; provided that unless otherwise indicated by such separate ordinances, the procedure applicable shall be the same as for public order, animal control, littering, fire code and garbage offenses.

(b) *Procedure for settlement:*

(1) Traffic offenses. The procedure for settling any of the enumerated traffic offenses shall be in accordance with state law or rule; provided that any person who has been convicted two (2) or more times in the preceding twelve (12) months of any offense listed in this section (excluding traffic offenses listed on Rule 20, Alabama Rules of Judicial Administration Schedule A) shall not be permitted to utilize the settlement procedure provided herein, but shall be required to appear in court.

(2) Public order, animal control, littering, fire code, garbage and other offenses. The procedure for settling such offenses shall be in accordance with state law or rule; provided that the fine shall be doubled if the defendant has settled or been convicted one (1) time of any offense (traffic and parking offenses excluded) within twelve (12) months prior to the date the current offense is alleged to have occurred. For two (2) or more such settlements or convictions within said twelve-month period, the settlement procedure herein shall not apply and a court appearance shall be required.

(3) Parking offenses. Parking tickets may be paid at the location designated by the mayor.

(c) *Court costs.* In addition to the fines set forth above, court costs shall be imposed on the defendant in the amount provided by law or ordinance, provided that no court costs shall be imposed for parking offenses unless a warrant or other process issues to collect unpaid fines.

(d) *Posting and distribution of schedule of fines.* The schedule of fines provided herein shall be posted in a prominent location in the offices of the municipal court clerk and shall be distributed by the court clerk to all law enforcement agencies and offices operating within the jurisdiction of the municipal court.

(e) *Repeal of prior schedules.* All prior schedules of fines or ordinance violation settlement sheets are hereby repealed.

(f) *Court appearance by persons eligible for special treatment.* Any person charged with an offense enumerated herein, traffic and parking offenses excluded who is eligible to apply for youthful offender or other special treatment shall not be permitted to utilize the settlement procedure, but shall be required to appear in court.

(g) *State law or rule not to be violated.* No settlement amount or procedure provided herein shall apply if state law or rule would thereby be violated.

(Ord. No. 2003-04, § 1, 1-23-03; Ord. No. 2005-02, § 2, 6-14-05)

FOOTNOTE(S):

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Editor's note— Ord. No. 2002-03, adopted Oct. 3, 2002, was not specifically amendatory of the Code. The editor has treated these new provisions as superseding Ch. 12, §§ 12-1—12-13, which contained similar provisions and which derived from Ord. of 12-27-77 and Ord. of 8-31-79. ([Back](#))