INTRODUCTION

State law changes in Alabama impact many provisions in the ordinance codes of Alabama cities and towns. This pamphlet is intended to assist city and town attorneys in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this pamphlet is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinance codes of Alabama cities and towns.

This pamphlet is current through Act No. 2019-540.

Not all provisions of this pamphlet will apply to your Code, nor does this pamphlet purport to include all state laws that may somehow affect the language of your Code.

The provisions of this pamphlet are intended to assist city and town attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this pamphlet to provide legal advice. An attorney admitted to practice in Alabama must be consulted as to the applicability of a given statute or case to a particular situation.

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GENERAL PROVISIONS

1. Population acts. Alabama Constitution amendment 389 provides that general laws of local application based upon population that was enacted before January 13, 1978, apply forever to the municipalities to which they applied on January 13, 1978, and no other, despite changes in population. See Official Recompilation of Constitution of Alabama, as amended, § 106.01.

2. General law classification. For purposes of general law and per Code of Ala. 1975, § 11-40-12, there are eight classes of municipalities based upon the population certified by the 1970 federal census, as follows:
   a. Class 1: All cities with a population of 300,000 inhabitants or more;
   b. Class 2: All cities with a population of not less than 175,000 and not more than 299,999 inhabitants;
   c. Class 3: All cities with a population of not less than 100,000 and not more than 174,999 inhabitants;
   d. Class 4: All cities with a population of not less than 50,000 and not more than 99,999 inhabitants;
   e. Class 5: All cities with a population of not less than 25,000 and not more than 49,999 inhabitants;
   f. Class 6: All cities with a population of not less than 12,000 and not more than 24,999 inhabitants;
   g. Class 7: All cities with a population of not less than 6,000 and not more than 11,999 inhabitants;
   h. Class 8: All cities and towns with a population of 5,999 inhabitants or less.

Any municipality incorporated after June 28, 1979, is placed in one of the above classes according to the population of the municipality at the time of its incorporation.

3. Penalty for ordinance violations. Subject to numerous exceptions and qualifications, the maximum fine that may be provided for an ordinance violation is $500.00 and the maximum term of hard labor or imprisonment that may be provided for an ordinance violation is six months. See Code of Ala. 1975, § 11-45-9.


5. Police jurisdiction. The application of ordinances adopted after September 1, 2015 to the police jurisdiction is subject to certain notice requirements. In addition, application of ordinances to police jurisdictions created by certain annexations is restricted. See Code of Ala. 1975, § 11-40-10.

ADMINISTRATION

1. Open meetings. Open meeting (and notice requirements) are found in Code of Ala. 1975, § 36-25A-1 et seq.


BUILDINGS AND BUILDING REGULATIONS


5. **Condominiums.** A building code may not impose any requirements upon any structure in a condominium which it would not impose upon a physically identical structure under a different form of ownership. See Code of Ala. 1975, § 35-8A-106.

### BUSINESSES


3. **Collective bargaining.** The entire field of regulation touching in any way upon collective bargaining under federal labor laws or the wages, leave, or other employment benefits provided by an employer to an employee, class of employees, or independent contractor is preempted to the state. See Code of Ala. 1975, § 27-7-45.

4. **Employee vacations or leave.** Subject to certain exceptions, a municipality may not enact or administer an ordinance requiring an employer to provide any employee or any class of employees with vacation or other forms of leave from employment, paid or unpaid, that is not required by state or federal law, and may not require an employer to compensate an employee for any vacation or other forms of leave for which state or federal law does not require the employee to be compensated. Code of Ala. 1975, § 11-80-16.

5. **Auctioneers.** Political subdivisions may not license or tax auctioneers. See Code of Ala. 1975, § 34-4-6.

### EMERGENCY MANAGEMENT AND EMERGENCY SERVICES

1. **Local emergency management organizations.** Political subdivisions must establish local emergency management organizations. See Code of Ala. 1975, § 31-9-10. Such statute also grants and restricts certain emergency powers.


3. **Alarm system installers.** Local regulation of alarm system installers is restricted. See Code of Ala. 1975, § 34-1A-8.

### ENVIRONMENT AND NATURAL RESOURCES

1. **Fertilizers.** Subject to certain exceptions, municipalities may not adopt or continue in effect any ordinance, rule, or resolution regulating the registration, packaging, labeling, sale, distribution, transportation, storage, or application of fertilizers. See Code of Ala. 1975, § 11-80-15.

2. **Surface coal mining operations.** Local regulation of surface coal mining operations is preempted. See Code of Ala. 1975, § 9-16-106.

### HEALTH

OFFENSES AND MISCELLANEOUS PROVISIONS

1. **Firearms.** Subject to certain exceptions, the entire field of regulation touching in any way upon firearms, ammunition, and firearm accessories is preempted to the state. See Code of Ala. 1975, § 13A-11-61.3.

2. **Blasting.** Local ordinances regulating blasting are preempted. See Code of Ala. 1975, § 8-17-251.

3. **Over-the-counter ephedrine or pseudoephedrine.** Local ordinances or regulations governing the sale or purchase of over-the-counter products containing ephedrine or pseudoephedrine are preempted. See Code of Ala. 1975, § 20-2-190.


5. **Seeds.** Regulation of the cultivation, harvesting, production, processing, registration, labeling, marketing, sale, storage, transportation, distribution, possession, notification of use, planting, or other use of seeds is preempted to the state. See Code of Ala. 1975, § 2-26-3.1.

TAXATION

1. **Sales and use taxes.** Municipal sales and use taxes are subject to all exemptions from the state sales and use taxes. See Code of Ala. 1975, §§ 11-51-201, 11-51-203.

2. **Business license taxes.** Business licenses are governed by Code of Ala. 1975, § 11-51-90 et seq.

3. **Business license for transients.** A business license is not required for a person travelling through a municipality on business if the person is not operating a branch office as provided in Code of Ala. 1975, § 11-51-90, or doing business in the municipality. See Code of Ala. 1975, § 11-51-90.2(a)(3).


5. **Aviation fuel.** Beginning October 1, 2012, no city or town may levy or impose a new or additional excise or license tax on the sale, distribution, storage, use, or consumption of gasoline or any substitute therefor which is consumed as aviation fuel. Code of Ala. 1975, § 40-17-357.

TRAFFIC

1. **Local regulations.** Local regulation of traffic is restricted. See Code of Ala. 1975, § 32-5-1.


3. **Automated commercial motor vehicles and teleoperation systems.** Subject to certain exceptions, a municipality may not impose requirements, including taxes or performance standards, related specifically to the operation of a teleoperation system or automated commercial motor vehicle. See Code of Ala. 1975, § 32-9B-2.


ZONING

1. **Group homes.** Certain group homes for mentally retarded or mentally ill persons are considered a multi-family use for purposes of zoning ordinances. See Code of Ala. 1975, § 11-52-75.1.

2. **Condominium.** No zoning, subdivision, or other real estate use law, ordinance, or regulation may prohibit the condominium form of ownership or impose any requirement upon a condominium which it would not impose upon a physically identical development under a different form of ownership. See Code of Ala. 1975, § 35-8A-106.