

MOBILE COUNTY
PROCESS AND PROCEDURE ORDINANCE

NO. 07-_____

AS AMENDED JUNE 14, 2010

The Mobile County Commission finds that the adoption and implementation of an ordinance establishing the process and procedure to be utilized in the operation, application and enforcement of ordinances adopted pursuant to the authority granted by the Alabama Limited Self Governance Act serves the public interest. Therefore, pursuant to the authority granted by the said Act, the following Process and Procedure Ordinance was adopted at the regular meeting of the Mobile County Commission convened on the ____ day of _____, 2007, and amendments thereto adopted on the 14th day of June, 2010.

BE IT ORDAINED BY THE COUNTY COMMISSION OF MOBILE COUNTY, ALABAMA:

SECTION 1. Short Title

This Ordinance shall be known and may be cited as the "Mobile County Process and Procedure Ordinance."

SECTION 2. Definitions

The following definitions shall apply in this and all other Mobile County Ordinances, as such term is defined hereafter:

(a) Board of Review: A committee consisting of the three citizens which shall have the authority set forth in this Ordinance. At the regularly scheduled meeting of the County Commission next following the effective date of this Ordinance, each commissioner shall name one (1) citizen to serve on the Board; thereafter, such citizens shall be named by each commissioner at the regularly scheduled meeting of the County Commission next following their election. Each citizen so named shall serve until his or her successor shall be named. Should any member of the Board die or resign, the Commissioner who named such member to the Board shall name his or her successor. The Board shall meet regularly and shall from time to time adopt rules to govern its proceedings and shall cause records to be maintained thereof. Each member shall be entitled to reasonable compensation for such services as may be established by the County Commission from time to time.

(b) County Commission: The County Commission of Mobile, Alabama.

(c) Enforcement officers: Those persons, sometimes also referred to as animal control officers and environmental patrol officers, employed or appointed by the County Commission to investigate and enforce Mobile County Ordinances; who are hereby authorized to issue warnings and citations for violations of such ordinances; and to carry out any other duties expressed or implied herein, in such ordinances, or in such officer's job description.

(1) Enforcement officers shall not have the power of arrest except as such power is extended to private citizens pursuant to Section 15-10-7, *Code of Alabama (1975)*, or, in the event such person has been appointed an animal control officer pursuant to Section 3-1-16, *Code of Alabama (1975)*, has been commissioned by the County Commission to be a law enforcement officer, has taken the oath of a deputy sheriff, and has been certified by the Alabama Peace Officers Standards and Training Commission.

(2) Should the County Commission and the Sheriff of Mobile County enter into an agreement whereby the sheriff and/or his deputies shall assist in the enforcement of Mobile County Ordinances, the sheriff and his deputies shall have all authority granted enforcement officers hereunder, which shall be in addition to such authority otherwise granted such officers by law.

(d) Mobile County Ordinances: This and all other ordinances promulgated pursuant to the authority granted by the Alabama Limited Self Governance Act.

(e) Owner: As used herein, such term shall have, as applicable, the definition set out in the Dog Control Ordinance, in the Junk Control Ordinance, or in any other Mobile County Ordinances hereafter promulgated, the enforcement of which is at issue.

(f) Person: A human being, a public or private corporation, an unincorporated association, a partnership, and any other entity having an ownership interest in any item which is regulated by any Mobile County Ordinance.

SECTION 3. Applicability

The provisions of this ordinance shall be applicable to all Mobile County Ordinances as though fully set out therein.

SECTION 4. Authority to Investigate

(a) Enforcement officers may patrol the unincorporated areas of the county in an effort to monitor compliance with Mobile County Ordinances. Additionally, they may investigate suspected violations of such Ordinances and may investigate citizen complaints relating to alleged violations of such Ordinances upon presentation of a sworn affidavit based upon personal knowledge; provided, enforcement officers shall investigate citizen complaints only when sufficient information is provided and the citizen provides his or her name, address, and telephone number, and agrees to sign a formal complaint or civil citation upon request.

(b) For the purpose of discharging the duties imposed by Mobile County Ordinances and to enforce their provisions, enforcement officers are empowered to enter upon any private premises upon which a violation of such Ordinances may exist, but only as necessary to investigate any alleged or suspected violation; to issue or serve citations; and to post notices as may be required by such Ordinances. Enforcement officers are further empowered to enter upon private premises for the purpose of seizing any dog as authorized by the Dog Control Ordinance.

(c) This section does not limit the authority of enforcement officers granted by state law to investigate and enforce the provisions of Alabama law.

SECTION 5. Authority to Resolve Violations; Issuance of Civil Citations

(a) In the enforcement of Mobile County Ordinances, enforcement officers shall have discretion to attempt to resolve violations through conference and advice; to issue a warning with no civil penalty; and to issue a civil citation when, based upon personal observation or investigation, the officer has reasonable grounds to believe that a violation of a Mobile County Ordinance has occurred.

(b) Civil citations shall be in the form prescribed by the County Commission, shall be signed by the enforcement officer, and shall provide the following information:

- (1) The date and time of issuance;
- (2) The date, time and method of service;
- (3) The name and address of the person to whom the citation is issued;
- (4) The provision of the Mobile County Ordinance alleged to have been violated;
- (5) The amount of the civil penalty imposed for the alleged violation;
- (6) The date, time and place of the alleged violation;
- (7) The procedure to be followed to pay the civil penalty or to appeal the citation.

(c) Civil citations shall be served on the person to whom issued in person by an enforcement officer, sheriff's deputy, or any county employee; or by posting prominently on any premises, including private premises, from which a dog was seized; or, in the enforcement of the Junk Control Ordinance, by posting prominently on any premises, including private premises, on which a violation of such ordinance is alleged to exist.

(d) All civil penalties shall be paid within fourteen (14) days of the service of a citation unless an appeal is taken as provided herein. Thereafter, a late fee of \$10.00 shall be assessed; the assessment of such fee shall not, however, serve to extend the time in which to appeal.

SECTION 6. Appeals

(a) Any person issued a civil citation may within fourteen (14) days of its service appeal to the County Commission through the Board of Review. Notice of appeal shall be in the form prescribed by the County Commission and shall be delivered to the office designated on the citation.

(b) Timely filed appeals will be placed on the agenda of the next regular meeting of the Board of Review. The appellant shall be notified of the time and place of the meeting by first class mail. The appellant shall appear and shall have the right to be heard and may, at his or her own expense, be represented by counsel. The enforcement officer who issued the civil citation shall also appear.

(c) Either party may request a continuance prior to the Board of Review meeting, which shall be granted for good cause; absent the granting of a continuance, however, the failure of an appellant to appear shall result in dismissal of the appeal and the civil penalty imposed for the violation shall be payable within fourteen (14) days.

(d) Upon hearing, the Board of Review shall decide by majority vote upon a recommendation to the County Commission for action at the next regularly scheduled Commission meeting. Such recommendation may include, but not be limited to, dismissal of the civil citation; full or partial waiver of the civil penalty upon correction of the violation; continuance of the hearing to a date certain upon agreement to correct the violation; or that the civil citation be sustained.

(e) The County Commission shall review the recommendation of the Board of Review, and may hear from the enforcement officer and the appellant. The County Commission shall not be bound by the recommendation of the Board of Review. If the civil citation is sustained, the civil penalty imposed for the violation shall be payable within fourteen (14) days.

SECTION 8. Court Remedies

(a) In the event a person to whom a civil citation has been issued fails to pay the civil penalty when due, the County Commission may file suit against such person to collect such unpaid penalty and late fee in the appropriate court of Mobile County, Alabama.

(b) Compliance with Mobile County Ordinances may also be pursued through civil or equitable action filed in the Circuit Court of Mobile County, Alabama seeking injunctive relief or other appropriate remedy.

SECTION 9. Severability

The provisions of this ordinance are severable. Should any provision be declared invalid for any reason, such invalidity shall not affect the validity of the remainder.

SECTION 6. Effective Date

This ordinance shall become effective on October 1, 2007; provided; amendments adopted on June 14, 2010 shall be effective immediately upon adoption.