

1 SB20  
2 125482-1  
3 By Senator Ward  
4 RFD: Judiciary  
5 First Read: 01-MAR-11  
6 PFD: 01/31/2011

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8 SYNOPSIS: Under existing law, in municipalities  
9 having a population of 2,000 or more, after the  
10 passage of an ordinance of a general or permanent  
11 nature, a copy of the ordinance is required to be  
12 published in a newspaper of general circulation in  
13 the municipality. If a newspaper is not published  
14 in the municipality or if the municipality has a  
15 population of less than 2,000 persons, the  
16 ordinance may be posted at three places in the  
17 municipality, one of which is required to be the  
18 post office or the mayor's office or the ordinance  
19 may be published in a newspaper published in the  
20 county. An ordinance that is published in a  
21 newspaper is effective immediately and an ordinance  
22 published by posting is effective five days after  
23 posting.

24 This bill would provide that after an  
25 ordinance relating to planning or zoning or the  
26 licensing of businesses is adopted by any  
27 municipality having a population of 2,000 or more,

1           either a copy of the ordinance or notice of the  
2           substance of the ordinance may be published in a  
3           newspaper published in the municipality.

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5                           A BILL  
6                           TO BE ENTITLED  
7                           AN ACT

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9           Relating to municipalities; to amend Section 11-45-8  
10          of the Code of Alabama 1975, relating to the publishing of an  
11          ordinance after passage by the municipal governing body, to  
12          further provide for the publication by certain municipalities  
13          of a notice of the substance of an ordinance relating to  
14          planning or zoning or the licensing of businesses in a  
15          newspaper under certain conditions.

16          BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17                        Section 1. Section 11-45-8 of the Code of Alabama  
18          1975, is amended to read as follows:

19                        "§11-45-8.

20                        "(a) All ordinances shall as soon as practicable  
21          after their passage be recorded in a book kept for that  
22          purpose and be authenticated by the signature of the clerk.

23                        "(b) (1) All ordinances of a general or permanent  
24          nature, except as provided in subdivision (2) and in  
25          subsection (d) of this section, shall be published in some  
26          newspaper of general circulation published in the  
27          municipality, but if no such newspaper is published in the

1 municipality such ordinances may be published by posting  
2 ~~copies thereof~~ a copy of the ordinance in three public places  
3 within the municipality, one of which shall be at ~~the post~~  
4 ~~office or~~ the mayor's office in ~~such~~ the city or town. In the  
5 event there is no newspaper published in the municipality and  
6 there is a newspaper published in the county in which the  
7 municipality is located having general circulation in the  
8 municipality, at the option of the governing body of such  
9 municipality the ordinance may be published in ~~such~~ that  
10 newspaper. In towns having a population of less than 2,000  
11 inhabitants as shown by the 1950 federal census, the governing  
12 body of such town shall have the option of publication of the  
13 ordinance by posting as above provided or in a newspaper  
14 published in the town or in the county having a general  
15 circulation in the town.

16 "(2) All ordinances of a general and permanent  
17 nature relating to planning or zoning or the licensing of  
18 businesses, as an alternative to the publishing requirements  
19 of subdivision (1), may be published in a synopsis form in  
20 some newspaper of general circulation published in the  
21 municipality provided that the synopsis, at a minimum,  
22 includes the following information:

23 "a. A summary of the purpose and effect of the  
24 ordinance.

25 "b. If the ordinance relates to planning or zoning,  
26 a general description of the property or properties affected  
27 by the ordinance including the common name by which the

1 property or properties are known and the substance of the  
2 ordinance.

3 "c. If the ordinance relates to the licensing of  
4 businesses, the categories of businesses affected by the  
5 ordinance and the substance of the ordinance.

6 "d. The date upon which the ordinance was passed  
7 and, if different from the date of publication, the effective  
8 date of the ordinance.

9 "e. A statement that a copy of the full ordinance  
10 may be obtained from the office of the city or town clerk  
11 during normal business hours.

12 "(3) When the ordinance or notice of the substance  
13 of an ordinance is published in the newspaper it shall take  
14 effect from and after the time it shall first appear therein,  
15 and when published by posting it shall take effect five days  
16 thereafter. When an ordinance is published by posting, the  
17 municipality shall take reasonable steps to maintain the  
18 posting for not less than 30 days. In addition, if the  
19 municipality maintains an Internet website, the municipality,  
20 at a minimum, shall include a copy of the ordinance or notice  
21 of the substance of an ordinance on its website for 30 days.

22 "(4) Immediately following the record of any  
23 ordinance, the clerk shall append a certificate stating  
24 therein the time and manner of publication, which certificate  
25 shall be presumptive of the facts stated therein.

1           "(5) All ordinances granting a franchise shall be  
2 published at the expense of the party or parties to whom the  
3 franchise is granted.

4           "(c) Ordinances may adopt by reference thereto,  
5 without setting the same out at length in the ordinance,  
6 rules, and regulations which have been printed as a code in  
7 book or pamphlet form for any of the following:

8           "(1) The construction, erection, alteration, or  
9 improvement of buildings;.

10           "(2) Installation of plumbing or plumbing fixtures;.

11           "(3) Installation of electric wiring or lighting  
12 fixtures;.

13           "(4) Installation of gas or gas fixtures;.

14           "(5) Fire prevention;.

15           "(6) Health and sanitation;.

16           "(7) Milk and milk products;.

17           "(8) Parks;.

18           "(9) Airports;.

19           "(10) Waterworks and sewers;.

20           "(11) Traffic;.

21           "(12) Mechanical;.

22           "(13) Swimming pools;.

23           "(14) Housing;.

24           "(15) Standard code for elimination and repair of  
25 unsafe buildings;~~and.~~

26           "(16) Other like codes.

1 If, before adopting ~~such~~ the code in book or pamphlet form,  
2 the governing body of the city or town shall by resolution  
3 hold a public hearing of which there shall be at least 15  
4 days' notice of the time, place, and purpose of ~~such~~ the  
5 hearing by publication of the resolution once a week for two  
6 successive weeks or by posting notices of ~~such~~ the hearing for  
7 ~~such~~ the length of time, as the case may be, under subsection  
8 (b) of this section, ~~such~~ the resolution shall provide that  
9 not less than three copies of ~~such~~ the code shall be filed for  
10 not less than 15 days prior to the holding of the public  
11 meeting for use and examination by the public in the office of  
12 the city or town clerk.

13 "Amendments to such rules or regulations adopted as  
14 a code thereafter shall be adopted by ordinances published as  
15 provided in subsection (b) of this section.

16 "(d) The following shall not be deemed ordinances of  
17 a general or permanent nature requiring publication:

18 "(1) Ordinances authorizing or ratifying contracts  
19 with public utilities for utility services for a specified  
20 term.

21 "(2) Ordinances authorizing the issuance or sale or  
22 security of bonds, debentures, notes, warrants and other  
23 obligations, whether full faith and credit obligations or  
24 payable from general revenues or special taxes or from  
25 revenues of a utility or other property of a municipality.

26 "(e) The provisions of this section shall not apply  
27 to the adoption of a code for the revision and codification of

1 the ordinances of a municipality and the adoption of such code  
2 by ordinances as provided in Section 11-45-7."

3 Section 2. This act shall become effective on the  
4 first day of the third month following its passage and  
5 approval by the Governor, or its otherwise becoming law.