

1 HB377
2 167579-4
3 By Representatives Johnson (R) and Hurst
4 RFD: County and Municipal Government
5 First Read: 31-MAR-15

1 Section 1. Sections 11-40-10, 11-51-91, 11-51-206,
2 and 11-52-30 of the Code of Alabama 1975, are amended to read
3 as follows:

4 "§11-40-10.

5 "(a) The police jurisdiction in ~~cities~~
6 municipalities having 6,000 or more inhabitants shall cover
7 all adjoining territory within three miles of the corporate
8 limits, and in ~~cities~~ municipalities having less than 6,000
9 inhabitants and in towns, ~~such the~~ police jurisdiction shall
10 extend also to the adjoining territory within a mile and a
11 half of the corporate limits of ~~such city~~ the municipality or
12 town.

13 "(b) Ordinances of a city or town enforcing police
14 or sanitary regulations and prescribing fines and penalties
15 for violations thereof shall have force and effect in the
16 limits of the city or town ~~and in the police jurisdiction~~
17 ~~thereof~~ and on any property or rights-of-way belonging to the
18 city or town. In order for an ordinance to have force and
19 effect in a police jurisdiction of a municipality or town, the
20 municipal governing body shall provide a 30-day notice that
21 the ordinance shall be effective in the police jurisdiction.
22 The notice given shall be the same as required for adoption of
23 an ordinance under Section 11-45-8. The notice may include any
24 or all ordinances in effect in the municipality or town at the
25 time the notice is given. Additionally, the notice shall be
26 posted on the Atlas Alabama state website or any successor
27 state-operated website providing information to businesses and

1 the notice shall be posted in a newspaper of general
2 circulation in the affected counties, if available. No
3 ordinance may be enforced against an individual or entity
4 affected by the ordinance until and unless the municipality
5 has complied with the notice requirements provided for in this
6 section.

7 "(c) The police jurisdiction of any municipality
8 which pursuant to this section extends to include part of any
9 island which has water immediately offshore adjacent to the
10 boundary of the State of Florida, upon approval of the council
11 of the municipality, shall extend to include the entire island
12 including the water adjacent to the island extending to the
13 existing police jurisdiction of the municipality and extending
14 to the Florida state boundary where applicable.

15 "(d) Any alterations to a police jurisdiction based
16 upon the annexation or deannexation of property shall be
17 effective only once a year on the first day of January and
18 shall take effect for any annexation or deannexation which was
19 finalized on or before the preceding first day of October. No
20 later than the first day of January in each year, a map
21 showing the boundaries of the municipal limits and police
22 jurisdiction of the municipality shall be posted on the Atlas
23 Alabama state website or any successor state-operated website
24 providing information to businesses and the notice shall be
25 posted in a newspaper of general circulation in the affected
26 counties, if available. No ordinance, license, permit, or tax
27 levy may be enforced against an individual or entity included

1 in the alteration of the municipal limits or the police
2 jurisdiction unless the municipality has complied with the
3 notice requirements provided for in this section.

4 "(e) The annexation of property by general or local
5 law may not extend the police jurisdiction of a municipality
6 except as expressly provided in the general or local law. Any
7 extension of a police jurisdiction expressly provided for in a
8 general or local law is subject to subsection (d) and shall
9 take effect only on the next January 1 following the enactment
10 of the general or local law.

11 "(f) When any noncontiguous property has been
12 annexed or is annexed into a municipality, the municipal
13 governing body by resolution may elect not to exercise any
14 jurisdiction or authority in any portion of the police
15 jurisdiction extended as a result of the annexation,
16 notwithstanding any other law to the contrary.

17 "§11-51-91.

18 "(a) Any municipality may adopt an ordinance to fix
19 and collect licenses for any business, trade, or profession
20 done within the police jurisdiction of ~~such~~ the municipality
21 but outside the corporate limits thereof; provided, that the
22 amount of ~~such~~ the licenses shall not be more than one half
23 the amount charged and collected as a license for like
24 business, trade, or profession done within the corporate
25 limits of ~~such~~ the municipality, fees and penalties excluded;
26 and provided further, that the total amount of ~~such~~ the
27 licenses shall not be in an amount greater than the cost of

1 services provided by the municipality within the police
2 jurisdiction. All licenses adopted pursuant to this section
3 shall be assessed to all businesses, trades, or professionals
4 within the police jurisdiction. No license shall take effect
5 until a 30-day notice has been given of the adoption of the
6 ordinance; provided, however, that no license may be imposed
7 under this section in an expanded police jurisdiction until
8 the police jurisdiction expansion is effective under
9 subsection (d) of Section 11-40-10. The notice given shall be
10 the same as required for adoption of an ordinance under
11 Section 11-45-8. Additionally, the 30-day notice shall be
12 provided for posting on the Atlas Alabama state website or any
13 successor state-operated website providing information to
14 businesses and the notice shall be posted in a newspaper of
15 general circulation in the affected counties. No ordinance may
16 be enforced against an individual or entity affected by the
17 ordinance unless the municipality has complied with the notice
18 requirement provided in this section.

19 "(b) No calculation ~~is~~ shall be required to be made
20 by the municipal officials or license officer for the cost of
21 services to any particular business or classification of
22 businesses within the police jurisdiction so long as the total
23 amount of revenues from ~~such~~ the licenses collected in the
24 police jurisdiction ~~shall not be in~~ is not an amount greater
25 than the cost of services provided by the municipality to the
26 police jurisdiction. Each municipality shall prepare an annual
27 report which shall include an accounting of all license

1 revenues collected pursuant to this section and provide a list
2 of the services provided by the municipality and a list of
3 providers within the police jurisdiction. A copy of the annual
4 report, which shall be completed within 90 days of the close
5 of the fiscal year, shall be forwarded to the Office of
6 Examiners of Public Accounts and shall be made available to
7 the public.

8 "(c) When the place at which any ~~such~~ business,
9 trade, or profession is done or carried on is within the
10 police jurisdiction of two or more municipalities which levy
11 the licenses thereon authorized by this section, ~~such the~~
12 licenses shall be paid to, issued, and collected by that
13 municipality only whose boundary measured to the nearest point
14 thereof is closest to ~~such the~~ business, trade, or profession.
15 ~~Provided further, that this~~ This section shall not have the
16 effect of repealing or modifying the limitations in this
17 ~~division article~~ relating to railroad, express companies,
18 sleeping car companies, telegraph companies, telephone
19 companies, and public utilities and insurance companies and
20 their agents. This section shall be given a liberal
21 construction to effectuate its purpose and meaning.

22 "§11-51-206.

23 "The council or other governing body shall have the
24 authority to levy and assess by ordinance within the police
25 jurisdiction of any ~~said city~~ municipality or town all taxes
26 authorized by this article; provided, that said levy and
27 assessment shall not exceed one-half the amount levied and

1 assessed for like businesses, sales or uses conducted within
2 the corporate limits, fees and penalties excluded. All taxes
3 adopted pursuant to this section shall be levied and assessed.
4 No levy or assessment shall take effect until a 30-day notice
5 has been given of the adoption of the ordinance; provided,
6 however, that no tax levy or assessment may be imposed under
7 this section in an expanded police jurisdiction until the
8 police jurisdiction expansion is effective under subsection
9 (d) of Section 11-40-10. The notice given shall be the same as
10 required for adoption of an ordinance in Section 11-45-8.
11 Additionally, the 30-day notice shall be provided for posting
12 on the Atlas Alabama state website or any successor
13 state-operated website providing information to businesses and
14 the notice shall be posted in a newspaper of general
15 circulation in the affected counties, if available. Each
16 municipality shall prepare an annual report which shall
17 include an accounting of all revenues collected pursuant to
18 this section and provide a list of the services provided by
19 the municipality and a list of providers within the police
20 jurisdiction. A copy of the annual report, which shall be
21 completed within 90 days of the close of the fiscal year,
22 shall be forwarded to the Office of Examiners of Public
23 Accounts and shall be made available to the public.

24 "§11-52-30.

25 "(a) Except as otherwise provided herein, the
26 territorial jurisdiction of any municipal planning commission
27 shall include all land located in the municipality and all

1 land lying within five miles of the corporate limits of the
2 municipality and not located in any other municipality; except
3 that, in the case of any nonmunicipal land lying within five
4 miles of more than one municipality having a municipal
5 planning commission, the jurisdiction of each municipal
6 planning commission shall terminate at a boundary line
7 equidistant from the respective corporate limits of such
8 municipalities; ~~provided further, that in.~~ Any alterations of
9 a municipal planning commission based upon annexation or
10 deannexation of property within the corporate limits of a
11 municipality shall occur once a year on the first day of
12 January and shall take effect for any annexations which were
13 finalized on or before the preceding first day of October. In
14 all counties having a population of 600,000 or more according
15 to the 1950 federal census or any succeeding decennial federal
16 census, the county planning and zoning commission shall be
17 invested with the authority, except and unless the
18 municipality or municipalities in question are actively
19 exercising zoning jurisdiction and control within the police
20 or five mile jurisdiction or, in the case of a municipality
21 subsequently incorporated, within 180 days from the date of
22 its incorporation; provided, further, that in all counties
23 having a population of 600,000 or more inhabitants according
24 to the 1950 federal census or any succeeding decennial federal
25 census, the county commission of the county may establish
26 minimum specifications and regulations governing the lay-out,
27 grading, and paving of all streets, avenues, and alleys and

1 the construction or installation of all water, sewer, or
2 drainage pipes or lines in any subdivision lying wholly or
3 partly in areas outside the corporate limits of any
4 municipality in the counties and relating to subdivisions
5 lying within the corporate limits of any municipality in the
6 counties which has declined or failed to exercise zoning
7 jurisdiction and control as provided in this section.

8 "(b) A municipal planning commission, by resolution
9 properly adopted ~~regulation~~ no later than the first day of
10 October of any year, may provide that, effective on the first
11 day of January, the territorial jurisdiction of the municipal
12 planning commission shall include all land lying within a
13 radius less than the five miles permitted by this section. The
14 ~~regulation~~ resolution shall establish the territory within
15 which the municipal planning commission will exercise
16 jurisdiction to a boundary line equidistant from the corporate
17 limits of the municipality, except, that in the case of any
18 nonmunicipal land lying within the territorial jurisdiction of
19 more than one municipality with a municipal planning
20 commission exercising jurisdiction outside the municipal
21 corporate limits, the jurisdiction of each municipal planning
22 commission shall terminate at a boundary line equidistant from
23 the respective corporate limits of each municipality. A copy
24 of the resolution altering the territorial jurisdiction shall
25 be forwarded to the county commission within five days of
26 adoption. Additionally, nothing in this subsection shall be
27 construed to alter the provisions of Article 5 of Chapter 49,

1 which require a municipality to assume responsibility for
2 roads annexed into the municipality under certain
3 circumstances.

4 "(c) (1) If a county commission has adopted
5 subdivision regulations pursuant to Chapter 24, those
6 subdivision regulations shall apply to the development of
7 subdivisions within the territorial jurisdiction of a
8 municipal planning commission outside the corporate limits of
9 a municipality and shall be regulated and enforced by the
10 county commission in the same manner and to the same extent as
11 other subdivision development governed by the county's
12 subdivision regulations. Notwithstanding the foregoing, a
13 county commission and the municipal planning commission may
14 enter into a written agreement providing that the municipal
15 planning commission shall be responsible for the regulation
16 and enforcement of the development of subdivisions within the
17 territorial jurisdiction of the municipal planning commission
18 under the terms and conditions of the agreement. In order to
19 be effective, the agreement shall be approved by a resolution
20 adopted by the county commission, the municipal governing
21 body, and the municipal planning commission of the
22 municipality, respectively.

23 "(2) In those counties in which the county
24 commission has adopted subdivision regulations pursuant to
25 Chapter 24 and the municipal planning commission has been
26 unsuccessful in reaching an agreement to exercise its
27 jurisdiction as provided in subdivision (1), the governing

1 body of the municipality and the municipal planning commission
2 may override the county's enforcement of the regulation of
3 subdivisions within the planning jurisdiction by fully
4 complying with all of the following requirements:

5 "a. The municipal governing body and the municipal
6 planning commission shall each adopt separate resolutions
7 expressing intent to exercise jurisdiction over the
8 construction of subdivisions initiated after the effective
9 date of the resolutions, despite the county commission's
10 objections to the exercise of that authority.

11 "b. The municipal planning commission shall at all
12 times thereafter employ or contract with a licensed
13 professional engineer who shall notify the county commission
14 of the initiation of subdivisions; conduct inspections of the
15 construction of the subdivision; and shall certify, in
16 writing, the compliance with the subdivision regulations
17 governing the development of the subdivision.

18 "c. The county commission shall retain the authority
19 to require a performance and maintenance bond from the
20 developer, consistent with the requirements for the bonds in
21 the county subdivision regulations, which shall be payable to
22 the county.

23 "d. The county commission shall retain the authority
24 to execute on the bond to make necessary improvements to the
25 public roads and drainage structures of the subdivision while
26 it remains in the unincorporated area of the county.

1 "e. The municipal governing body and the municipal
2 planning commission exercising the authority granted in this
3 subsection may thereafter withdraw their exercise of
4 jurisdiction over future subdivisions located outside the
5 corporate limits of the municipality after not less than six
6 months' notice to the county commission. After withdrawal, the
7 municipal planning commission of the municipality may not
8 reinstate the authority granted in this subsection for 24
9 months after the effective date of its withdrawal.

10 "(d) If a county commission has not adopted
11 subdivision regulations pursuant to Chapter 24, the municipal
12 planning commission shall have sole jurisdiction for the
13 regulation and enforcement of the development of subdivisions
14 within the territorial jurisdiction of the municipal planning
15 commission.

16 "(e) If the municipal planning commission accepts
17 responsibility for the development of a subdivision within its
18 territorial jurisdiction as provided in subsection (c), the
19 county commission shall not accept any roads or bridges within
20 the subdivision for county maintenance unless the county
21 engineer certifies to the county commission that the road or
22 bridge meets the minimum road and bridge standards of the
23 county. This section shall not apply to any roads or bridges
24 which the county has accepted for maintenance prior to October
25 1, 2012.

26 "(f) If the county commission is responsible for the
27 regulation and enforcement of a subdivision development within

1 the territorial jurisdiction of a municipal planning
2 commission outside the corporate limits of a municipality, the
3 recording of any map or plat related to the subdivision shall
4 be governed by Chapter 24.

5 "(g) If the municipal planning commission is
6 responsible for the regulation and enforcement of a
7 subdivision development within the territorial jurisdiction of
8 the municipal planning commission outside the corporate limits
9 of the municipality, no map or plat of any subdivision shall
10 be recorded, and no property shall be sold referenced to the
11 map or plat, until and unless it has been first submitted to
12 and approved by the municipal planning commission, pursuant to
13 Section 11-52-32 and its adopted procedures, and then
14 certified by the county engineer or his or her designee as
15 follows within 30 days of being submitted to the county
16 engineer: "The undersigned, as County Engineer of the County
17 of _____ of Alabama, hereby certifies on this _____ day
18 of _____, 20____, that the _____ Planning Commission
19 approved the within plat for the recording of same in the
20 Probate Office of _____ County, Alabama."

21 "(h) Approval by the county engineer pursuant to
22 this subsection shall not constitute approval in lieu of or on
23 behalf of any municipality with respect to subdivision
24 development regulated and enforced by the municipal planning
25 commission, wherein all maps or plats must be first submitted
26 to and approved by the municipal planning commission or other

1 appropriate municipal agency exercising jurisdiction over the
2 subdivision.

3 "(i) Nothing in this section shall be interpreted as
4 allowing a municipal planning commission or a municipality to
5 exercise the power of eminent domain outside of its corporate
6 limits.

7 "(j) Nothing in this section shall be interpreted as
8 allowing a municipal planning commission or a municipality to
9 levy taxes or fees outside of its corporate limits.

10 "(k) Nothing in this section shall limit or impair
11 the authority of a municipality to regulate the construction
12 of buildings within the police jurisdiction of the
13 municipality, including, but not limited to, the issuing of
14 building permits, the inspection of building construction, and
15 the enforcement of building codes by a licensed inspector.

16 "(l) Nothing in this section shall be construed to
17 grant the county commission or county engineer the authority
18 to regulate subdivision development or approve maps or plats
19 for any developments within the corporate limits of a
20 municipality."

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on County and Mu-
nicipal Government..... 31-MAR-15

Read for the second time and placed
on the calendar with 1 substitute
and 1 amendment..... 16-APR-15

Read for the third time and passed
as amended..... 23-APR-15

Yeas 67, Nays 20, Abstains 5

Jeff Woodard
Clerk