

## Chapter 28 - OFFENSES AND NUISANCES<sup>11</sup>

### Footnotes:

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**State Law reference**— State criminal code generally, Code of Ala. 1975, § 13A-1-1 et seq.; fines for classes of misdemeanors, Code of Ala. 1975, § 13A-5-12; limitation on authority of municipalities to regulate handguns, Code of Ala. 1975, § 11-45-1.1; municipal authority to adopt and enforce ordinances consistent with state law, Code of Ala. 1975, § 11-45-1; penalties for ordinance violations, Code of Ala. 1975, § 11-45-9; issuance of summons and complaint in lieu of arrest for violation of certain ordinances, Code of Ala. 1975, § 11-45-9.1.

### ARTICLE I. - IN GENERAL

#### Sec. 28-1. - Limitation of prosecutions; when must be commenced.

All prosecutions for violating any law or ordinance of the city shall be commenced within 60 days of the commission of the offense.

(Code 1942, § 285)

#### Sec. 28-2. - Police jurisdiction.

All provisions of this Code and other city laws and ordinances relating to police or sanitary regulations shall have full force and effect within the full police jurisdiction of the city and on all property or rights-of-way belonging to the city.

(Code 1942, § 290)

#### Sec. 28-3. - Corporations.

- (a) *Prosecutions against.* When any corporation violates any law or ordinance of the city, it shall be the duty of the police chief to institute criminal proceedings against such corporation by the making of an affidavit as in other cases. Such affidavit may also be made by any other person as in other cases. Upon the making of any affidavit or complaint charging a corporation with an offense against the laws of the city, the municipal judge shall issue notice to such corporation that such affidavit has been made, which notice, with a copy of the affidavit or complaint, shall be served upon an officer or agent of the corporation authorized by law to accept service of civil process, which notice and copies must be served five days before the date of trial before the municipal judge and ex-officio recorder.
- (b) *Failure to appear.* If any corporation upon whom notice is served, as provided in the subsection (a) of this section, fails to appear, the court shall require a plea of not guilty to be entered for it, and the cause shall proceed as if the corporation had appeared and pleaded not guilty. In such case, proof shall be made to the court that the person upon whom notice was served was an officer or agent of the corporation authorized to accept service for and on behalf of the corporation.
- (c) *Judgments against.* Upon conviction of a corporation for violating any ordinance or law of the city, whether such corporation appears to defend or not, judgment shall be rendered against it by the municipal judge or recorder for any fine assessed, together with the costs of the prosecution. Execution shall issue on such judgment if the same is not satisfied within 30 days, which execution shall be levied upon any property of the corporation; and the same proceedings shall be had as to the sale thereof as in other cases relating to executions, their levy and collection.

(Code 1942, §§ 286—289)

Sec. 28-4. - State misdemeanors, violations and offenses adopted; penalties.

- (a) Any person committing an offense within the corporate limits of the city or within the police jurisdiction thereof which is declared by state law to be a misdemeanor shall be guilty of an offense against the city punishable as provided in section 1-14.
- (b) Any person committing an offense within the corporate limits of the city or within the police jurisdiction thereof which is declared by state law to be a violation shall be guilty of an offense against the city punishable as provided in section 1-14.
- (c) Any person committing within the corporate limits of the city or within the police jurisdiction thereof an offense defined by Code of Ala. 1975, § 13A-1-2 which offense is declared by state law to be a misdemeanor or violation shall be guilty of an offense against the city punishable as provided in section 1-14.
- (d) Any person found to be in violation for the commission of an offense as defined in Code of Ala. 1975, § 32-5A-191 shall upon conviction be punished in accordance with the provisions of that statute to the extent permitted for violation of city ordinances.
- (e) Notwithstanding any other provision of this section or of the law, the maximum fine for every person either convicted for violating any of the following misdemeanor offenses adopted as in this Code or adjudicated as a youthful offender shall be \$1,000.00:
  - (1) Criminal mischief in the second degree, Code of Ala. 1975, § 13A-7-22.
  - (2) Criminal mischief in the third degree, Code of Ala. 1975, § 13A-7-23.
  - (3) Theft of property in the third degree, Code of Ala. 1975, § 13A-8-5.
  - (4) Theft of lost property in the third degree, Code of Ala. 1975, § 13A-8-9.
  - (5) Theft of services in the third degree, Code of Ala. 1975, § 13A-8-10.3.
  - (6) Receiving stolen property in the third degree, Code of Ala. 1975, § 13A-8-19.
  - (7) Tampering with availability of gas, electricity, or water, Code of Ala. 1975, § 13A-8-23.
  - (8) Possession of traffic sign; notification; destruction, defacement, etc., of traffic sign or traffic control device; defacement of public building or property, Code of Ala. 1975, §§ 13A-8-71 and 13A-8-72.
  - (9) Offenses against intellectual property, Code of Ala. 1975, § 13A-8-102.
  - (10) Theft by fraudulent leasing or rental, Code of Ala. 1975, §§ 13A-8-140 through 13A-8-144.
  - (11) Charitable fraud in the third degree, Code of Ala. 1975, § 13A-9-75.
  - (12) Illegal possession of food stamps in the third degree, Code of Ala. 1975, § 13A-9-91.
- (f) In all cases where the same offense is made punishable or is created by different clauses or sections of this Code or of an ordinance, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, the revocation of a license or permit, or the abatement of a nuisance and the assessment of the cost thereof, shall not be considered a recovery or penalty so as to bar the enforcement of any other penalty.
- (g) Without limiting the generality of the foregoing, the following section of Code of Ala. 1975, as they now exist and as they may be amended from time to time, and only to the extent they constitute misdemeanors, violations and offenses, are specifically adopted and incorporated in this chapter:

Statute No.	Topic
Code of Ala. 1975, § 13A-4-1	Criminal solicitation
Code of Ala. 1975, § 13A-4-2	Attempt
Code of Ala. 1975, § 13A-4-3	Criminal conspiracy
Code of Ala. 1975, § 13A-6-22	Assault in the third degree
Code of Ala. 1975, § 13A-6-23	Menacing
Code of Ala. 1975, § 13A-6-24	Reckless endangerment
Code of Ala. 1975, § 13A-6-25	Criminal coercion
Code of Ala. 1975, § 13A-6-41	Unlawful imprisonment in the first degree
Code of Ala. 1975, § 13A-6-42	Unlawful imprisonment in the second degree
Code of Ala. 1975, § 13A-6-65	Sexual misconduct
Code of Ala. 1975, § 13A-6-68	Indecent exposure (first and second offenses only)
Code of Ala. 1975, § 13A-6-90.1	Stalking in the second degree
Code of Ala. 1975, § 13A-6-132	Domestic violence in the third degree

Code of Ala. 1975, § 13A-6-137	Interference with a domestic violence emergency call
Code of Ala. 1975, § 13A-7-3	Criminal trespass in the second degree
Code of Ala. 1975, § 13A-7-4	Criminal trespass in the third degree
Code of Ala. 1975, § 13A-7-22	Criminal mischief in the second degree
Code of Ala. 1975, § 13A-7-23	Criminal mischief in the third degree
Code of Ala. 1975, § 13A-7-24 et seq.	Criminal tampering
Code of Ala. 1975, § 13A-7-27	Criminal use of noxious substance
Code of Ala. 1975, § 13A-7-28	Criminal possession of noxious substances
Code of Ala. 1975, § 13A-7-29	Criminal littering
Code of Ala. 1975, § 13A-8-5	Theft of property in the third degree
Code of Ala. 1975, § 13A-8-9	Theft of lost property in the third degree
Code of Ala. 1975, § 13A-8-10.3	Theft of services in the third degree
Code of Ala. 1975, § 13A-8-11	Unauthorized use of vehicles
Code of Ala. 1975, §	Receiving stolen property in the third degree

13A-8-19	
Code of Ala. 1975, § 13A-8-23	Tampering with availability of gas, electricity or water
Code of Ala. 1975, § 13A-8-37	Possession or control of stolen property
Code of Ala. 1975, § 13A-8-61	Removal of shopping cart from owner's premises without consent
Code of Ala. 1975, § 13A-8-62	Abandonment of shopping cart on public and certain private property
Code of Ala. 1975, § 13A-8-71	Possession of traffic sign; destruction, defacement, etc., of traffic sign or traffic control device; defacement of public building or property, etc.
Code of Ala. 1975, § 13A-8-112	Computer tampering
Code of Ala. 1975, § 13A-8-121	Theft of cable television services
Code of Ala. 1975, § 13A-8-140	Theft by fraudulent leasing or rental
Code of Ala. 1975, § 13A-8-170	Leaving gasoline sales premises without paying
Code of Ala. 1975, § 13A-8-102	Offenses against intellectual property
Code of Ala. 1975, § 13A-8-140 et seq.	Theft by fraudulent leasing or rental
Code of Ala. 1975, § 13A-9-4	Forgery in the third degree
Code of Ala. 1975, § 13A-9-7	Criminal possession of forged instrument in the third degree

Code of Ala. 1975, § 13A-9-10	Criminal simulation
Code of Ala. 1975, § 13A-9-11	Obtaining signature by deception
Code of Ala. 1975, § 13A-9-12	Offering false instrument for recording
Code of Ala. 1975, § 13A-9-13.1 et seq.	Negotiating worthless negotiable instrument
Code of Ala. 1975, § 13A-9-17	Unlawfully using slugs
Code of Ala. 1975, § 13A-9-18	Criminal impersonation
Code of Ala. 1975, § 13A-9-18.1	Giving false name or address to law enforcement officer
Code of Ala. 1975, § 13A-9-41	Deceptive business practice
Code of Ala. 1975, § 13A-9-42	False advertising
Code of Ala. 1975, § 13A-9-43	Bait advertising
Code of Ala. 1975, § 13A-9-45	Falsifying business records
Code of Ala. 1975, § 13A-9-46	Defrauding secured creditors
Code of Ala. 1975, § 13A-9-47	Defrauding judgment creditors
Code of Ala. 1975, §	Fraud in insolvency

13A-9-48	
Code of Ala. 1975, § 13A-9-49	Issuing false financial statement
Code of Ala. 1975, § 13A-9-51	Misapplication of property
Code of Ala. 1975, § 13A-9-75	Charitable fraud in the third degree
Code of Ala. 1975, § 13A-9-80 et seq.	Unlawful charitable solicitation
Code of Ala. 1975, § 13A-9-91	Illegal possession of food stamps in the third degree
Code of Ala. 1975, § 13A-9-110 et seq.	Home repair fraud
Code of Ala. 1975, § 13A-10-2	Obstructing governmental operations
Code of Ala. 1975, § 13A-10-3	Refusal to permit inspection
Code of Ala. 1975, § 13A-10-5	Refusing to aid peace officer
Code of Ala. 1975, § 13A-10-6	Refusing to assist in fire control
Code of Ala. 1975, § 13A-10-7	Compounding
Code of Ala. 1975, § 13A-10-8	Rendering a false alarm
Code of Ala. 1975, § 13A-10-9	False reporting to law enforcement authorities

Code of Ala. 1975, § 13A-10-10	Impersonating public servant
Code of Ala. 1975, § 13A-10-12	Tampering with governmental records
Code of Ala. 1975, § 13A-10-14	Unlawful use of facsimile of official identification card
Code of Ala. 1975, § 13A-10-35	Permitting or facilitating escape in the second degree
Code of Ala. 1975, § 13A-10-41	Resisting arrest
Code of Ala. 1975, § 13A-10-44	Hindering prosecution in the second degree
Code of Ala. 1975, § 13A-10-45	Hindering apprehension of escapee
Code of Ala. 1975, § 13A-10-52	Fleeing or attempting to elude law enforcement officer
Code of Ala. 1975, § 13A-10-62	Failure to disclose conflict of interest
Code of Ala. 1975, § 13A-10-63	Trading in public office
Code of Ala. 1975, § 13A-10-82	Misuse of confidential information
Code of Ala. 1975, § 13A-10-102	Perjury in the second degree
Code of Ala. 1975, § 13A-10-103	Perjury in the third degree
Code of Ala. 1975, §	Unsworn falsification to authorities



13A-10-109	
Code of Ala. 1975, § 13A-10-124	Tampering with a witness
Code of Ala. 1975, § 13A-10-129	Tampering with physical evidence
Code of Ala. 1975, § 13A-10-130	Interfering with judicial proceedings
Code of Ala. 1975, § 13A-10-131	Simulating legal process
Code of Ala. 1975, § 13A-10-132	Crimes in connection with sham legal process
Code of Ala. 1975, § 13A-11-3	Riot
Code of Ala. 1975, § 13A-11-4	Inciting to riot
Code of Ala. 1975, § 13A-11-5	Unlawful assembly
Code of Ala. 1975, § 13A-11-6	Failure of disorderly persons to disperse
Code of Ala. 1975, § 13A-11-7	Disorderly conduct
Code of Ala. 1975, § 13A-11-8	Harassment or harassing communications
Code of Ala. 1975, § 13A-11-9	Loitering
Code of Ala. 1975, § 13A-11-10	Public intoxication

Code of Ala. 1975, § 13A-11-10.1	Open house parties
Code of Ala. 1975, § 13A-11-11	Falsely reporting an incident
Code of Ala. 1975, § 13A-11-12	Desecration of venerated objects
Code of Ala. 1975, § 13A-11-14	Cruelty to animals
Code of Ala. 1975, § 13A-11-17	Disrupting a funeral or memorial service
Code of Ala. 1975, § 13A-11-31	Criminal eavesdropping
Code of Ala. 1975, § 13A-11-32	Criminal surveillance
Code of Ala. 1975, § 13A-11-34	Criminal possession of eavesdropping device
Code of Ala. 1975, § 13A-11-35	Divulging illegally obtained information
Code of Ala. 1975, § 13A-11-160	Libel tending to provoke breach of peace
Code of Ala. 1975, § 13A-11-163	Defamation
Code of Ala. 1975, § 13A-11-220	Creating a hazard
Code of Ala. 1975, § 13A-11-224	Storing gunpowder, etc.
Code of Ala. 1975, §	Cruelty to dog or cat ion first and second degrees

13A-11-241	
Code of Ala. 1975, § 13A-11-261	Harassment of, interference with duties of police animals, etc.
Code of Ala. 1975, § 13A-11-290	Leaving child or incapacitated person unattended in motor vehicle
Code of Ala. 1975, § 13A-12-3	Selling cigarettes to minors
Code of Ala. 1975, § 13A-12-4	Keeping cockpit; cockfighting
Code of Ala. 1975, § 13A-12-6	Hog and canine fighting
Code of Ala. 1975, § 13A-12-21	Simple gambling
Code of Ala. 1975, § 13A-12-22	Promoting gambling
Code of Ala. 1975, § 13A-12-23	Conspiracy to promote gambling
Code of Ala. 1975, § 13A-12-24	Possession of gambling records in the first degree
Code of Ala. 1975, § 13A-12-25	Possession of gambling records in the second degree
Code of Ala. 1975, § 13A-12-27	Possession of gambling device
Code of Ala. 1975, § 13A-12-113	Promoting prostitution in the third degree
Code of Ala. 1975, § 13A-12-121	Prostitution

Code of Ala. 1975, § 13A-12-130	Public lewdness
Code of Ala. 1975, § 13A-12-131	Public display of obscene sticker, sign, etc.
Code of Ala. 1975, § 13A-12-214	Unlawful possession of marijuana in the second degree
Code of Ala. 1975, § 13A-13-2	Adultery
Code of Ala. 1975, § 13A-13-4	Nonsupport
Code of Ala. 1975, § 13A-13-5	Abandonment of child
Code of Ala. 1975, § 13A-13-6	Endangering welfare of child
Code of Ala. 1975, § 13A-13-8	Failure to report missing child
Code of Ala. 1975, § 32-5A-330	Open container
Code of Ala. 1975, § 34-6-9	Minors forbidden to play billiards

Sec. 28-5. - Library materials.

- (a) It is unlawful for any person to willfully retain or fail to return any book, periodical, magazine, pamphlet, manuscript or other property belonging in, or to, or on deposit with the Clyde Nix Public Library, or any branch bookmobile operated in connection therewith, for a period exceeding 30 days after notification by certified mail, return receipt requested, to the borrower's address as on file with the library, such notification given after the expiration of the time during which, by the rules of the library, such article or other property may be kept. The notice shall bear on its face a copy of this section.
- (b) Any person violating any provision of this chapter shall upon conviction be fined not less than \$1.00 or more than \$200.00 or may be sentenced to jail for a term not exceeding 30 days, or both.

(Ord. No. 507, 5-11-1993)

**State Law reference**— Theft of property, Code of Ala. 1975, § 13A-8-1 et seq.

Sec. 28-6. - Curfew for minors.

- (a) *Minor defined.* For purposes of this division only, the term "minor" means any person under the age of 17 years.
- (b) *Curfew hours.* No minor shall loiter, wander about or play in or on any public street, alley, park or other public place or any place of amusement or vacant lot between the hours of 12:00 a.m. midnight and 5:00 a.m. of the following day. This section shall not apply to any minor:
- (1) Accompanied by his parent or guardian or any other adult person having the care and custody of such minor;
  - (2) Where such minor is on an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the minor;
  - (3) When the minor is returning directly home from a school activity, entertainment, recreational activity, or dance;
  - (4) When the minor is returning directly home from lawful employment that makes it necessary to be in the referenced places mentioned in subsection (b)(3) of this section during the prescribed period of time;
  - (5) When the minor is attending or traveling directly to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly, or free exercise of religion;
  - (6) When the minor is in a motor vehicle of parental consent for normal travel. All cases of interstate travel through Norcross are excepted from the curfew;
  - (7) When the minor is an emancipated minor as defined in Code of Ala. 1975, §§ 26-21-2 and 26-23A-3.
- (c) *Parental responsibility.* No adult person having the care and custody of a minor shall knowingly permit such minor to wander, loiter, wander about, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places or buildings, places of amusement and entertainment, vacant lots or other unsupervised places in violation of this chapter.

Secs. 28-7—28-30. - Reserved.

ARTICLE II. - NUISANCES<sup>21</sup>

Footnotes:

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**State Law reference**— Municipal authority to abate nuisances, Code of Ala. 1975, § 6-5-122 et seq.; abatement of municipal nuisances and assessment of costs therefor, Code of Ala. 1975, § 11-47-117; maintenance of civil actions to enjoin and abate public nuisances, Code of Ala. 1975, § 11-47-118; nuisance menacing public health, Code of Ala. 1975, § 22-10-1 et seq.; abatement of nuisances by county health officer, Code of Ala. 1975, § 22-10-2; Abandoned Motor Vehicle Act, Code of Ala. 1975, § 32-13-1 et seq.; municipal control of unauthorized dumping and open burning, Code of Ala. 1975, § 22-27-10.

Sec. 28-31. - Accumulations of debris, rubbish, etc.

An accumulation of debris, rubbish, brush, used building materials, refuse, remains from building demolition, remains from a fire, parts of building or parts of untenable structures on any lot or tract of land in the city is hereby declared to be a nuisance. It shall be unlawful to permit any such accumulation to remain or continue in existence in any place after receiving an order from the enforcing official to remove the same.

(Ord. No. 497, § 22, 11-10-1992)

Sec. 28-32. - Vegetation, grass, plants and weeds.

- (a) Any vegetation, weeds, grass or plants (other than trees, bushes, flowers or other ornamental plants under proper care and cultivation) which have grown to a height of 12 inches or more on any lot or tract of land in the city are hereby declared to be a nuisance. It shall be unlawful to permit any such weeds, grass or plants to grow or remain in any place after receiving an order from the enforcing official to remove the same.
- (b) In the case of a large tract of land on which no structure is situated, the provisions of this section shall apply only to those portions of the tract which are within 300 feet of a structure or a public road, street, avenue, highway or other public right-of-way. The enforcing official may, for good cause, reduce the area subject to this section to a lesser distance. All portions of such tracts shall be subject to all other relevant provisions of this article.

(Ord. No. 497, § 24, 11-10-1992)

**State Law reference**— Abatement of weeds generally, Code of Ala. 1975, § 11-67-60 et seq.; abatement of weeds in Class 7 municipalities, Code of Ala. 1975, § 11-67-80.

Sec. 28-33. - Notice to remove litter or waste accumulations; removal by city.

- (a) If after due notice, which shall be not less than seven days' written notice, an owner, agent, occupant or lessee fails to remove waste accumulations or vegetation from any private property, the street and sanitation superintendent or any police officer is authorized to serve written notice to the owner or the owner's appointed agent that if the condition is not corrected within seven days, the property will be cleaned by the city or an approved contractor and the owner or the owner's appointed agent billed for the cost thereof.
- (b) If the bill is not paid within 28 days, the street and sanitation superintendent or reporting police officer shall report to the city council, which may assess the cost as a lien against the property until satisfied.
- (c) This section shall apply in addition to all other remedies available to the city for violations of this article.

(Ord. No. 497, § 25, 11-10-1992; Ord. No. 2010-7, § I, 9-9-2010)