



# A SELECTED READING

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## The Municipal Police Jurisdiction

Cities and towns continue to witness the development of subdivisions, shopping centers, and other business developments on the perimeters of communities. A substantial percentage of the population, now classified as “urban,” lives not within the municipality but on the fringes just beyond the corporate limits.

Regulating this growth, protecting this population, and servicing these areas are matters of importance to a municipality, the municipal citizen and the fringe dweller. In all likelihood, the municipality will annex these lands at some time in the future. Therefore, the areas must be developed in an orderly manner with lasting public improvements. Conditions of good order and sanitation in the fringe areas affect municipal citizens and their property, as well as the fringe dwellers.

Oposing views on extraterritorial powers have developed over the years. One theory is that municipalities have no such powers, even if it means that the fringe enjoys municipal benefits without paying the price. Historically, Alabama’s viewpoint has favored such powers as necessary to protect the property, health, safety and welfare of municipal citizens and as the quid pro quo for services rendered. *Van Hook v. Selma*, 70 Ala. 361 (Ala. 1881).

The Alabama statute which extends municipal police, sanitary and business licensing powers to those residing in the police jurisdiction of a municipality, without permitting these residents to vote in municipal elections, has been upheld by the U.S. Supreme Court in the case of *Holt Civic Club v. Tuscaloosa*, 99 S. Ct. 383 (1978).

The case arose when the Holt Civic Club and certain individual residents of Holt, a small unincorporated community located within the police jurisdiction of the City of Tuscaloosa, brought a statewide class action suit challenging the constitutionality of the law which gives municipalities powers in the police jurisdiction. The court ruled that the statute was a rational legislative response to the problems faced by the state’s burgeoning cities and that the legislature had a legitimate interest in ensuring that residents of areas adjoining city borders are provided such basic municipal services as police, fire and health protection. The court held that it was not unreasonable for the legislature to require police jurisdiction residents to contribute to the expense of such services through license fees, on a reduced scale, under the statute.

Municipal authority in the police jurisdiction has come under fire in recent years. In 2015 the Legislature passed Act 2015-361 which made significant changes to and places additional burdens on municipalities who are exercising their police jurisdiction authority. In 2016 the Legislature passed Act 2016-391 amending Act 2015-361 to provide prospectively that the police jurisdiction of municipalities would not extend beyond the corporate boundaries of the municipality without an affirmative vote of the municipal governing body. See Section 11-40-10, Code of Alabama 1975. And most recently, Act 2021-297 marks the beginning of the end for the police jurisdiction in Alabama.

### Alabama Laws

Until 2021, Alabama’s laws granting extraterritorial powers to cities and towns were probably the broadest of any state. See *McQuillin, Municipal Corporations*, 3rd Ed., Section 24.59. These laws fall into two groups: (1) The exercise of general extraterritorial police powers, which is based on grants of authority in Sections 11-40-10 and 11-51-91, Code of Alabama 1975, and (2) specific grants of particular powers which may be exercised “within and without,” “partially within and partially without,” “within the surrounding territory,” “within the county,” “within other municipalities” and “within \_\_\_\_\_ miles of the corporate limits.”

### Police Jurisdiction Established by State Law

In general, Section 11-40-10 of the Code of Alabama 1975, provides for the extraterritorial police jurisdiction of cities and towns. The police jurisdiction of cities having 6,000 population or more inhabitants as of January 1, 2021, extends for a distance of 3 miles beyond the corporate limits. In cities of less than 6,000 as of January 1, 2021, and in towns, the police jurisdiction extends for a distance of 1.5 miles beyond the corporate limits. The police jurisdiction of any municipality

which pursuant to this section extends to include part of any island which has water immediately offshore adjacent to the boundary of the state of Florida, upon approval of the council of the municipality, shall extend to include the entire island including the water adjacent to the island extending to the existing police jurisdiction of the municipality and extending to the Florida state boundary where applicable.

Section 11-40-10 has been amended numerous times in the past decade. The most significant change occurred in 2021. Act 2021-297 immediately froze municipal police jurisdictions to 1.5 or 3 miles. If a municipal police jurisdiction was 1.5 miles prior to the Act, it is now fixed at 1.5 miles and the same if the police jurisdiction was 3 miles. For those municipalities who were exercising a police jurisdiction as of January 1, 2021, the police jurisdiction can continue to be exercised and enforced but it will no longer grow outwards with new annexations. Eventually, as a municipality annexes property, the police jurisdiction will be consumed by the corporate limits and then exist no longer. For some municipalities this could happen quickly and for others, that are slow to grow, it could take longer. Perhaps most significantly, for those municipalities who did not exercise a police jurisdiction as of January 1, 2021, there will never be a police jurisdiction outside of the corporate limits to enforce.

The attorney general has ruled that the distance of the police jurisdiction boundary is computed on a straight line from the corporate limits marking a curvilinear police jurisdiction boundary opposite the corporate limits. AGO to Z. B. Skinner, July 9, 1962. A police jurisdiction is measured by drawing a straight line perpendicular from the municipal limits following standard land surveying practices. AGO 96-00218.

The fact that a municipality has no authority to enforce its police and sanitary regulations in an area designated as an industrial park has no effect on the territorial boundaries of the city's police jurisdiction and would not act to extend the territorial limits of the police jurisdiction beyond the outer borders of the industrial park. The area included in the industrial park is still used in calculating the territorial limits of the police jurisdiction. AGO 2007-005. While the Attorney General has previously opined that a municipality cannot reduce the size of its police jurisdiction to an area less than that set by Section 11-40-10. AGO 87-00305 (to the Hon. Mac H. Langley, September 2, 1987), Section 11-40-10 was amended by Act 2021-297 to provide that a municipality may reduce its police jurisdiction in half-mile increments. Act 2021-297 provides that any municipality may, by ordinance, eliminate or reduce its police jurisdiction outside the corporate limits of the municipality by any number of half-mile increments, which shall take effect on the first day of January following its adoption on or before the preceding first day of October. A municipality eliminating or reducing its police jurisdiction outside the corporate limits must send written notice to the county commission no later than 30 days following the adoption of the ordinance. A municipality shall cease the levy of any licenses or fees under Section 11-51-91 or any other taxes, licenses, or fees, except for those relating to the regulation of subdivisions, within the area removed from the police jurisdiction. A municipality may reduce its police jurisdiction no more than once during any 24 month period. Finally, an ordinance reducing the police jurisdiction cannot otherwise be amended, altered, or repealed, except by local law.

Prior to 2021, within the police jurisdiction, the ordinances of a city or town enforcing police or sanitary regulations and prescribing fines and penalties for violations, had full force and effect. Under the new law, however, municipalities are limited in the police jurisdiction to the enforcement of state misdemeanors adopted as municipal ordinance violations. Municipalities can no longer enforce purely local municipal ordinances not tied to state misdemeanors (noise, leash, dust, etc...). For building code enforcement in the police jurisdiction, outside of the corporate limits, municipalities who were enforcing building codes as of January 1, 2021, may continue to do so unless or until the county provides building code enforcement at which point the new law provides for a 24 month phase out by the municipality. Counties and municipalities may enter into mutual agreements on building code enforcement in the police jurisdiction. A municipality may not collect a fee for a building permit unless the municipality conducts a building inspection. The cost of the fee for any building permit shall be reasonably related to the cost of providing building code enforcement and inspection services, and revenue from the fees shall be used for building code enforcement and inspection services and not for general revenue purposes.

Section 32-5A-171, Code of Alabama 1975, provides an exception to the rule that a municipality may enforce state misdemeanors in the police jurisdiction. This statute prohibits law enforcement officers of municipalities of less than 19,000 in population from enforcing speed limits on interstate highways. The law also prohibits municipal law enforcement officers in every municipality from enforcing speed limits on highways outside the corporate limits and in the police jurisdiction, unless the speed limit was set pursuant to Sections 32-5A-172 or 32-5A-173. AGO 96-00247. Municipal law enforcement officers may cite drivers in a municipal police jurisdiction for violating Section 32-5A-170 of the Code of Alabama 1975 ("Reasonable and Prudent Speed") but they must specify the hazardous conditions present in the "Facts Relating to the Offense" box on the Uniform Traffic Ticket and Complaint (UTTC) to distinguish the charge from the provisions specified in Section 32-5A-171 of the Code of Alabama 1975. AGO 2004-061.

## **Level of Police Jurisdiction Services**

If a municipality exercises powers in the police jurisdiction, it does not have to provide all regulatory services, provided it spends as much or more in the area than is collected from residents and businesses in the area. AGO 95-00165. If a municipality provides services to any area of its police jurisdiction, however, it must provide the same services to all areas equally. AGO 87-00171. For example, if a city has elected to provide fire protection services in its police jurisdiction, these services must be provided to all areas of the police jurisdiction. The only exception to this rule is the provision in Act 2015-361 authorizing a municipality to choose whether it will exercise its police jurisdiction around non-contiguous property. A city may contract with a rural volunteer fire department to provide fire protection in a certain portion of its police jurisdiction, provided that fire protection provided by the volunteer fire department is equal to that provided elsewhere in the police jurisdiction. There can be no charge for the fire protection in that area of the police jurisdiction unless all areas of the police jurisdiction are charged for fire protection. AGO 92-00260. In other words, a municipality which provides services to the police jurisdiction must provide them uniformly except, possibly, around non-contiguous portions of the corporate limits. It has been held that a city may not contract with businesses and individuals in the police jurisdiction without offering contracts to all businesses and individuals similarly situated. AGO 95-00081.

A municipality's authority over fire protection and rescue services in the police jurisdiction is not exclusive. E-911 boards, municipalities, and volunteer fire departments should work together to ensure the most efficient service to persons in their districts. A municipality may contract with an E-911 board and the municipality may contract with a volunteer fire department to provide service in a portion of the police jurisdiction, provided that the protection is equal to that provided elsewhere in the jurisdiction. AGO 2010-103. The attorney general held that a residence located in the police jurisdiction of a municipality in Tallapoosa County, but served by a county fire district, must continue to be served by the fire district until an election is held to abolish the district. AGO 99-0200. (This ruling only applies to Tallapoosa County)

Another possible exception to this rule is police protection. The Attorney General has ruled that although a municipality collects license taxes from businesses in the police jurisdiction, the police department is not required to answer all calls from persons within the police jurisdiction and is required only to patrol the area in the manner directed by the municipal governing body. AGO to Hon. Thomas H. Benton, March 6, 1975. Due to changes in the law, the League recommends that municipalities exercise caution in drafting such a policy.

Pertaining to the level of services that must be provided to residents of the police jurisdiction, the Alabama Supreme Court reversed an earlier decision about withdrawing services from the police jurisdiction. The Alabama Supreme Court held that equitable estoppel does not require the city to continue providing services in the police jurisdiction. *City of Prattville v. Joyner*, 698 So.2d 122 (Ala. 1997) *overruling City of Prattville v. Joyner*, 661 So.2d 739 (Ala. 1995). Therefore, the city can now alter or withdraw those services from the area, even if the residents in the police jurisdiction come to "reasonably rely" upon the services because they have been provided for a number of years.

## **Termination of Police Jurisdiction Services**

Act 2021-297 provides that any municipality, by ordinance, may cease to provide any service to its police jurisdiction outside its corporate limits, which shall take effect on the first day of January following its adoption on or before the preceding first day of October. A municipality ceasing to provide a service in its police jurisdiction outside its corporate limits shall send written notice to the county commission no later than 30 days following the adoption of the ordinance. A municipality may adopt an ordinance pursuant to this paragraph no more than once during any 24 month period. An ordinance adopted under this paragraph cannot otherwise be amended, altered, or repealed, except by act of the Legislature..

There is no duty imposed on cities to provide municipal services to nonresidents when no taxes were collected in the police jurisdiction, and thus, a city could discontinue gratuitous sewer service in the city's police jurisdiction. Any municipal services being provided in a police jurisdiction without a formal contract or agreement may be prospectively altered in scope or terminated after appropriate prior public notice. *City of Attalla v. Dean Sausage Co., Inc.*, 889 So. 2d 559 (Ala. Civ. App, 2003); AGO 2007-044.

Regarding the potential liability for eliminating services in the police jurisdiction, Act 2021-297 provides that in no event shall a municipality, its officers, agents, contractors, subcontractors, or employees be liable for a reduction or elimination of the municipal police jurisdiction or the reduction or elimination of any service provided within the police jurisdiction, including, but not limited to, any equitable relief or indirect, incidental, special, punitive, exemplary, or consequential damages whatsoever arising in any manner as a result of the elimination of the police jurisdiction.

## **Overlapping Boundaries**

Municipal authority is in no way affected by the fact that the police jurisdiction encompasses territory located in another county. *White v. City of Decatur*, 144 So. 872 (1932). An exception to this rule is noted for Baldwin, Choctaw, Coosa, Limestone, Shelby and Washington Counties where a municipality may not exercise police jurisdiction authority unless a part of its corporate limits also lies in the county. *Trailway Oil Co. v. Mobile*, 122 So. 2d 757 (1960), upholding Act No. 80, Acts of Alabama, 1965, p. 155, Baldwin County. See also Act No. 87-275, Coosa County; Act No. 336, p. 819, Acts 1963, Shelby County; Act No. 92-260, Choctaw County; Act No. 90-189, Washington County; and Act No. 88-306, Limestone County.

Frequently, the police jurisdiction of a municipality overlaps with that of another municipality. The question then is which municipality has authority in the overlapping area. Here the distinction must be made between the exercise of criminal jurisdiction and the jurisdiction to levy and collect taxes.

## **Overlapping Criminal Jurisdictions**

In the case of *Hammonds v. City of Tuscaloosa*, 107 So. 786 (1926), the Alabama Court of Appeals held that where the territorial police jurisdictions of two municipalities overlap, both municipalities may exercise criminal jurisdiction and make arrests within the overlapping area.

Relying on this case, the attorney general has ruled similarly on several occasions. See 88 Quarterly Report of the Attorney General 25. However, in a later case, one dealing with jurisdiction to license, the same court expressed doubt as to the soundness of the Hammonds rule, but expressly refused to rule on the question. *Town of Graysville v. Johnson*, 34 So. 2d 708 (1948).

At the present time the *Hammonds* case is still good law even though doubt has been cast on it. The Attorney General has ruled accordingly. 88 Quarterly Report of the Attorney General 25, above. Again, a statutory exception must be noted. By special local law, Walker County municipalities, with overlapping police jurisdictions, may exercise their criminal authority only to a point equidistant from their corporate limits. It seems that the exception proves the rule as stated in *Hammonds*, above. Section 15-10-1, Code of Alabama 1975, authorizes municipal police officers to make arrests within the limits of the county.

Municipal police officers are authorized to make arrests for misdemeanors throughout the county and into any adjacent county when the officer is in fresh pursuit of a person or persons to be arrested. Such authority extends throughout the state when the officer is in fresh pursuit of a person or person to be arrested for a felony. Section 15-10-74, Code of Alabama 1975.

## **Jurisdiction to License**

By statute, only the municipality whose corporate limits are closest to a business located in two police jurisdictions can exercise its licensing power over the business. Section 11-51-91, Code of Alabama 1975; AGO 2007-023. Without express authority, a municipality cannot exercise authority of any kind over territory within its police jurisdiction, which is also within the corporate limits of another municipality. *Homewood v. Woolford Oil Co.*, 169 So. 288 (1936).

In 1937, the Attorney General ruled that a municipality in a dry county cannot levy a license on a business located in a wet county within its police jurisdiction. Biennial Report of the Attorney General 1936-38, page 185. It was reasoned that Section 11-51-91 states that a police jurisdiction levy may not exceed one-half the amount of a similar levy within the corporate limits. Since no levy could be made within the corporate limits, it followed that no levy could be made within the police jurisdiction – one-half of nothing equals nothing.

While the logic is appealing, it is based on the premise that municipalities are dependent upon Section 11-51-91 for their powers in the police jurisdiction. However, 10 years before the adoption of that section, the Alabama Supreme Court recognized that municipalities were granted the power to levy police jurisdiction licenses by Section 11-40-10, Code of Alabama 1975. *Standard Chemical and Oil Co. v. City of Troy*, 77 So. 383 (1917). It is clear, therefore, that Section 11-51-91 did not grant a new power to cities and towns, but merely established an amount above which the power could not be exercised. See also *Alabama Gas Co. v. Montgomery*, 30 So. 2d 651 (1947); *Smith v. Notasulga*, 59 So. 2d 674 (1952).

## **Limitations on License Levies**

Police jurisdiction license levies must be made under the police power for the protection of the health, safety and property of citizens in the area and to ensure good order, peace and quiet in the community. The Supreme Court has ruled that the Legislature intended for Section 11-51-91, Code of Alabama 1975, to be a regulatory and not a revenue statute. *City of Mountain Brook v. Beaty*, 349 So. 2d 1097 (1977).

Such levies in the police jurisdiction may not be made under the taxing power for general revenue purposes. Therefore, the amount of the license must bear a reasonable relation to the cost of the services rendered, and in no instance can it exceed one-half the amount levied for a similar business located within the corporate limits. *Alabama Power Co. v. Carbon Hill*, 175 So. 2d 289 (1937); *Hawkins v. Prichard*, 30 So. 659 (1947). A municipality's license fees or taxes on businesses within its police jurisdiction must do no more than allow the municipality to recoup the cost of extending municipal services to the inhabitants of the police jurisdiction, and the taxes may not be for the purpose of raising general revenue. *Dickson Campers, Inc. v. City of Mobile*, 37 So.3d 134 (Ala.Civ.App.2007). Further, the Attorney General has determined that a municipal police department may provide only emergency services within its police jurisdiction if the revenue collected in the police jurisdiction "reflects reasonable compensation" to the town for the cost of the emergency services provided. The monies collected must do no more than recoup the costs of providing the emergency response services. AGO 2008-007.

Licenses imposed in the police jurisdiction which are pledged to purposes other than providing services to the police jurisdiction will be held void. It is not necessary to state that the revenues will be expended for regulation and for providing services to businesses, but it must not appear that the revenue will be used for other purposes. *Franks v. Jasper*, 68 So. 2d 306 (1953); *Birmingham v. Wilson*, 27 Ala. App. 288, 172 So. 292 (1936).

The Alabama Supreme Court has ruled that Section 11-51-91 allows a municipality to assess a license tax against businesses located outside the corporate limits but within the police jurisdiction in order to reasonably reimburse the city for supervision of the businesses so located, including police and fire protection. The Court further held that where no effort was made by a city to relate fees levied to the reasonable cost of supervision of particular businesses, the imposition of taxes on police jurisdiction businesses was for general revenue purposes and an impermissible course of municipal action. *See City of Hueytown v. Burge*, 342 So. 2d 339 (Ala. 1977) *overruled by State Department of Rev. v. Reynolds Metal*, 541 So.2d 524 (Ala 1988)(holding that a city's levy of a license tax based upon gross receipts in the police jurisdiction was valid even though the city was unable to relate the taxes levied upon a particular business within the police jurisdiction to the costs of city supervision and services rendered to that particular business). In 1986, the Alabama Legislature amended Section 11-51-91 to specifically provide that the amount collected from the police jurisdiction cannot exceed the cost of providing services to the area as a whole and not any particular business or classification of businesses. (See Act 86-427). As a result of that amendment, the Alabama Supreme Court overruled *Hueytown v. Burge* and several other cases to the extent they required a municipality to relate license taxes collected in the police jurisdiction to the cost of providing services to a particular business rather than the cost of providing services to the entire police jurisdiction.

If the city does not levy and collect license fees in its police jurisdiction, it may seek to collect insurance proceeds from applicable policies held by individuals who reside there pursuant to the costs of fire, EMS, hazardous material, and rescue services rendered by the fire department. AGO 2019-012.

When a business located within the police jurisdiction is also part of a fire district a different standard applies. *In Ex Parte City of Tuscaloosa*, 757 So.2d 1182 (Ala. 1999), the Alabama Supreme Court held that Section 11-51-91, Code of Alabama 1975, requires municipalities to relate their license fees to services provided to each business located in the police jurisdiction that is also located in a fire district (*see* Act 86-427).

Capital expenditures may be included when determining whether funds are being properly spent in providing services to the police jurisdiction. *See City of Prattville v. Joyner*, 698 So. 2d 122 (Ala. 1997). A city's reliance on an audit conducted six years prior to its enactment of an ordinance imposing an annual business-license tax on every business located within its police jurisdiction was sufficient to satisfy the requirements of Section 11-51-91, Code of Alabama, and, thus, the city was not required to do a more extensive analysis to determine that it spent more on municipal services than it collected on license taxes. *Ex parte City of Mobile*, 37 So.3d 150 (Ala. 2009).

Act 2021-297 provides that on or before December 31, 2021, any municipality collecting license revenue or other taxes and fees within its police jurisdiction outside the corporate limits shall notify the Department of Examiners of Public Accounts that it collects license revenue and other taxes and fees in its police jurisdiction outside the corporate limits. Beginning March 1, 2022, each municipality collecting license revenue and other taxes or fees within its police jurisdiction outside the corporate limits shall prepare an annual report which shall include an accounting of all license revenues and other taxes or fees collected in the police jurisdiction outside the corporate limits during the previous fiscal year and provide a list of the services provided by the municipality and a list of providers within the police jurisdiction outside the corporate limits. If the municipality provides police or fire protection within the police jurisdiction, the report shall include the following information:

- a. The total annual budget for each police department and fire department within the municipal corporate limits.
- b. The total number of calls responded to by each police or fire department within the municipal corporate limits and the total number of calls responded to by each police or fire department within the police jurisdiction. For the police department, the number should include the number of calls responded to as well as the number of citations and arrests made.

A copy of the annual report, which shall be completed by March 1 for the previous fiscal year, shall be forwarded to the Department of Examiners of Public Accounts and shall be made available to the public.

If a municipality fails to file a report within 12 months of the report being due, the municipality may not collect any further license revenue or any other taxes or fees in the police jurisdiction outside the corporate limits. The Department of Examiners of Public Accounts is required to provide written notice to the Department of Revenue of any municipality prevented from the further collection of license revenue or other taxes or fees due to its failure to file. In addition, the Legislative Committee on Public Accounts, by majority vote, has the authority to direct the Examiners of Public Accounts to perform an audit of any municipality collecting revenue in its police jurisdiction outside the corporate limits. A municipality is not responsible for the cost of the audit by Examiners of Public Accounts unless it is determined by the Examiners that a municipality is not in compliance with the law for the collection and expenditure of license revenue within the police jurisdiction. In addition to the new reporting requirements in Act 2021-297, and in view of Section 11-51-91 and the Court's decision in *State Dept. of Rev. v. Reynolds Metal*, the League strongly recommends that all municipal governing bodies compare the amount of revenues collected from businesses in the police jurisdiction with the annual costs of supervision of the area. If the study reveals that more was spent by the city in regulating the area than was collected in revenues, the governing body should adopt a resolution stating this fact and reaffirming the police jurisdiction levy for the next license tax year. If the study reveals the city collected more revenue than was expended to provide services to the police jurisdiction, the amount of the license levy should be lowered accordingly.

### **Judicial Presumptions**

In spite of these limitations, courts indulge a number of presumptions in favor of municipal ordinances in the police jurisdiction:

- Courts will presume that the levy was made as a valid exercise of the police power unless it affirmatively appears otherwise. *Hawkins v. Prichard*, 30 So. 2d 659 (1947).
- Courts will presume that the license was not levied under the revenue or taxing power.
- The action of a municipal governing body will not be disturbed by a court unless it appears that there was a manifest abuse of its power.
- Courts will not scrutinize the amount of the fee too narrowly. *See Birmingham v. Wilson*, 172 So. 292 (1936).

### **Specific Extraterritorial Powers**

Based on Sections 11-40-10 and 11-51-91, Code of Alabama 1975, the authority to exercise extraterritorial police powers does not confer authority to operate utilities and to exercise other municipal functions outside the corporate limits. In answer to this need, the Legislature has made specific grants of power for these various functions. As a reference to these extraterritorial grants of power, the following list is arranged alphabetically, showing the title and section of the Alabama Code where the authority may be found.

**Advertising** – Section 11-47-9 authorizes a municipality to advertise its functions and undertakings both within and outside the corporate limits.

**Agricultural Products and Industries** – Section 11-81-141 authorizes the acquisition and operation of such plants within and outside a municipality. Also, the Wallace Act, Section 11-54-20, et seq., authorizes a municipality to finance such industries within 15 miles of the municipal corporate limits.

**Airports** – Section 11-81-141 authorizes a municipality to acquire and operate airports within and outside the corporate limits. Section 4-4-2 also gives this power.

**Alms Houses** – Section 11-47-134 authorizes a municipality to aid, establish, set up and regulate alms houses anywhere within the county.

**Armories** – Section 11-81-141 authorizes a municipality to acquire and maintain armories both within and without the corporate limits.

**Assessment for Improvements** – Section 11-48-81, et seq., authorizes public improvement assessments for streets, sidewalks and sewer improvements within the police jurisdiction under certain conditions. Act No. 303 of the 1959 Legislature provides similar authority for municipalities under 6,000 in population.

**Bridges** – Section 11-81-141 authorizes a municipality to construct and maintain bridges within and outside the corporate limits.

**Causeways** – Section 11-81-141 grants authority to construct and maintain causeways within and without the corporate limits.

**Cemeteries** – Section 11-47-40 grants authority to own, regulate and improve cemeteries within or without the town or city limits.

**Cold Storage Plants** – Section 11-81-141 grants authority to acquire and operate such plants within and without the corporate limits.

**Crematories** – Section 11-47-135 authorizes a municipality to establish and maintain crematories within or outside the corporate limits.

**Dairies** – Section 11-47-137 authorizes a municipality to inspect dairies, located anywhere in the county, which supply the municipality.

**Electric Systems** – Sections 11-81-161, 11-81-141, 11-50-2, 11-50-3, 11-50-314 authorize municipalities to own and operate, either directly or through separately-incorporated boards, electric systems beyond the corporate limits. This authority includes ownership and operation of systems in other municipalities.

**Explosives** – Section 11-43-60 authorizes a municipality to regulate explosives and magazines within the city and its police jurisdiction. Section 11-47-12 authorizes a municipality to provide a suitable fireproof building outside the corporate limits for the storage of explosives.

**Fire Department** – Section 11-43-141 authorizes a municipality to send its fire department beyond the police jurisdiction to fight fires and provides immunity from liability while performing such service.

**Flood Damage Prevention** – A municipality may enforce a flood damage prevention ordinance in its statutory police jurisdiction when the municipality adopts the ordinance as a building code under its general police powers and not as a part of its zoning code. AGO 2001-94.

**Garbage Dumps** – Section 11-47-135 authorizes a municipality to establish and maintain garbage dumps within or outside the corporate limits.

**Gas Systems** – Sections 11-81-161, 11-50-260, et seq., and 11-50-396, et seq., authorize a municipality to own and operate gas distribution systems within or outside the municipality, either directly or through a separately incorporated board, and to be a member of a district gas distribution system.

**Golf Courses** – Section 11-81-141 authorizes a municipality to own and operate golf courses within or outside the municipality.

**Granaries** – Section 11-81-141 authorizes a municipality to own and operate granaries within or without the municipality.

**Heating Plants** – Section 11-81-141 authorizes a municipality to own and operate heating plants within and outside the municipality.

**Health and Sanitation** – Section 11-47-130 authorizes a municipality to maintain health and cleanliness within the municipality and its police jurisdiction.

**Hospitals** – Sections 11-81-141 and 11-47-134 authorize the establishment of hospitals within and outside the municipality and its police jurisdiction.

**Hotels** – Section 11-54-142, Code of Alabama, 1975, as amended, gives municipalities the authority to construct hotels and motels within or outside the municipality as long as the project is located not more than 15 miles from the corporate limits.

**Incinerator Plants** – Sections 11-81-141 and 11-47-135 authorize the establishment and operation of incinerator plants within and without the corporate limits.

**Industrial Projects** – Section 11-54-20, et seq., the Wallace Act, authorizes a municipality to establish industrial development projects within 15 miles of the municipality.

**Markets** – Section 11-47-137 authorizes a municipality to regulate, inspect and establish markets within the police jurisdiction.

**Parks** – Section 11-81-141 authorizes a municipality to own and operate parks within and outside the municipality.

**Parkways** – Section 11-81-141 authorizes a municipality to own and operate parkways within and outside the corporate limits.

**Piers** – Section 11-81-141 authorizes a municipality to own and operate piers within and outside the corporate limits.

**Police Services in Class 6 Cities** – The governing body of a Class 6 municipality may enter into contracts which provide for the police department of the municipality to provide law enforcement services beyond the corporate limits of the municipality but within the police jurisdiction of the municipality and may prescribe the conditions under which the services may be rendered. The governing body of the municipality may enter into a contract or contracts with any county or county board, any property owner of a manufacturing or industrial concern, or any property owner within any residential or business area for its police department to render law enforcement services on the terms as may be agreed to by the governing body of a Class 6 municipality and the contracting party or parties. Notwithstanding the above, the governing body of the municipality may not enter into a contract or contracts with any county or county board, any property owner of a manufacturing or industrial concern, or any property owner within any residential or business area for its police department to render law enforcement services to enforce traffic regulations, including speeding and enforcement of speed zones. When

the police department of a Class 6 municipality is operating pursuant to a contract or contracts pursuant to this section on any call beyond the corporate limits but within the police jurisdiction of the Class 6 municipality, the department shall be deemed to be operating in a governmental capacity and subject to the same liability for injuries as the department would be if the department was otherwise operating within the corporate limits of the Class 6 municipality. Section 11-40-10.1, Code of Alabama 1975.

**Public Markets** – Section 11-81-141 authorizes a municipality to own and operate public markets within and outside the municipality.

**Property, Municipal** – Section 11-47-22 gives a municipality police power over all land acquired for hospitals, quarantine stations, poorhouses, pesthouses, workhouses, schoolhouses, sanitary and storm sewers, rights of way, cemeteries and parks. The laws and ordinances of the municipality apply over all lands so used or occupied and to the inhabitants thereof.

**Public Buildings** – Section 11-81-141 authorizes the ownership and maintenance of public buildings within and outside the corporate limits.

**Quarantine** – Section 11-47-131 authorizes a municipality to exercise quarantine powers within the police jurisdiction. (Note: This authority is subject to the superior power of the State Health Department on the topic.)

**Railroads** – Section 37-13-1, et seq., gives municipalities the authority to establish a railroad authority to operate railroads and railroad facilities within or outside the boundaries of the municipality.

**Rights-of-Way (Water and Sewer)** – Section 11-47-171 gives a municipality authority to procure rights-of-way for water and sewer lines inside or outside the municipality.

**Riots** – Section 11-43-82 gives a mayor the authority, in time of riot, to close businesses, in the vicinity of the municipality, which sell arms and ammunition.

**River Terminals** – Section 11-81-141 authorizes a municipality to own and operate river terminals within or outside the municipality.

**Seaports** – Section 11-81-141 authorizes a municipality to own and operate seaports within or outside the municipality.

**Sewer Systems (Sanitary or Storm)** – Sections 11-81-161 and 11-50-50, et seq., authorize the ownership and operation of sanitary and storm sewers within and outside the municipality and give the power to condemn land to extend such lines anywhere in the county. Section 11-50-53, Code of Alabama 1975. See **Assessments**, above.

**Sidewalks** – See **Assessments**, above.

**Slaughterhouses** – Section 11-47-138 authorizes a municipality to establish and control slaughterhouses inside and outside the corporate limits.

**Stadiums** – Section 11-81-141 authorizes a municipality to own and operate stadiums within and without the municipality.

**Streets** – See **Assessments**, above.

**Subdivision Control** – Section 11-52-30 gives a municipal planning commission the authority to control the subdivision of lands within five miles of the municipality. Provision is made for situations where there is an overlap of jurisdiction between two municipalities.

**Swimming Pools** – Section 11-81-141 authorizes a municipality to own and operate swimming pools within and outside the municipality.

**Tennis Courts** – Section 11-81-14 authorizes a municipality to own and operate tennis courts within and outside the municipality.

**Tunnels** – Section 11-81-141 authorizes a municipality to own and operate tunnels within and outside the municipality.

**Viaducts** – Section 11-81-141 gives a municipality authority to own and operate viaducts within and outside the municipality.

**Waterworks** – Sections 11-81-161, 11-50-5, 11-50-4, and 11-50-310, et seq., authorize a municipality to own and operate water systems within and outside the corporate limits and in the surrounding territory, either directly or by incorporated board. The power of condemnation is included in this authority.

**Wharves** – Section 11-81-141 authorizes a municipality to own and operate wharves within and outside the corporate limits. Section 11-47-14 gives a municipality authority to condemn for wharves and landings within five miles of the municipality.

**Water Courses** – Sections 11-47-15 through 11-47-19 give a municipality the authority to alter water courses within the city and its police jurisdiction.

The foregoing list of powers and authorities indicates a very definite policy by the Legislature to give cities and towns control over the development of fringe areas. This fact accentuates the need for more realistic powers of annexation.

*Revised September 2022*