



**ORDINANCE NO. 2022-02-01-1028**

**AN ORDINANCE TO PROVIDE FOR ISSUANCE OF SUMMONS AND COMPLAINT  
IN LIEU OF CUSTODIAL ARREST FOR CERTAIN OFFENSES**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WESTOVER,  
ALABAMA, AS FOLLOWS:**

WHEREAS, the Alabama Legislature amended Ala. Code § 11-45-9.1 to provide that a municipality may authorize a law enforcement officer to issue a summons and complaint in lieu of custodial arrest for certain criminal offenses; and

WHEREAS, the City Council of Westover, Alabama, has determined that providing for a summons and complaint for certain municipal offenses will result in more effective ordinance enforcement and benefit the City of Westover and its citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL  
OF THE CITY OF WESTOVER, ALABAMA AS FOLLOWS:

Section 1. Any law enforcement officer of the City of Westover or any law enforcement officer of the county or state, in lieu of placing persons under custodial arrest, may issue a summons and complaint to any person charged with violating any Westover municipal ordinance listed in the schedule of fines for first, second, and subsequent offenders in Section 4 of this ordinance, or any misdemeanor or violation within the Westover corporate limits or police jurisdiction listed in the schedule of fines for first, second, and subsequent offenders in Section 4. A law enforcement officer who issues a summons and complaint in lieu of placing a person under custodial arrest shall in all respects be acting as an agent of the City of Westover.

Section 2. A summons and complaint in lieu of arrest may not be issued under any of the following circumstances:

- a. The person is charged with committing a crime involving violence, threat of violence, or domestic violence, as defined under Ala. Code Art. 7 (commencing with § 13A-6-130) of Chapter 6, Title 13A;
- b. The person is charged with the use or possession of alcohol or a controlled substance and, in the opinion of the law enforcement officer, is a risk to public safety;
- c. A victim of the crime is a minor;
- d. The person is charged with a violation of Ala. Code § 32-5A-191;
- e. The person is charged with a crime that would require restitution to the victim;



- f. The person is charged with identity theft, as provided under Ala. Code § 13A-8-192;
- g. The person is charged with the crime of theft of property in the fourth degree, as defined under Ala. Code § 13A-8-5;
- h. The person is charged with fleeing or attempting to elude a law enforcement officer under Ala. Code § 13A-10-52;
- i. The person is charged with a crime involving cruelty to or abuse of an animal, including a violation of Ala. Code § 13A-11-241;
- j. The person is charged with a violation of carrying a pistol without a permit, as provided under Ala. Code § 13A-11-73;
- k. The person is charged with a crime that is sexual in nature.

Section 3. The summons and complaint shall be on Alabama Administrative Office of Courts Forms C-77 and CR-6 or comparable forms and shall contain the name of the court; the name of the defendant; a description of the offense, including the municipal ordinance number; the date and time of the offense; the place of the offense; signature of the officer issuing the citation; the scheduled court date and time; an explanation to the person cited of the ways in which he or she may settle his or her case; and a signature block for the magistrate to sign upon the officer's oath and affirmation given prior to trial.

Section 4. The following schedule of fines for first, second, and subsequent offenders of the alleged violation of offenses subject to the summons and complaint procedure is hereby adopted. The filing fee provided in Ala. Code § 12-19-311(a)(1)a. shall apply to each summons and complaint issued under this ordinance, and the filing fee shall be distributed as provided by § 12-19-311.

| <u>Offense</u>                    | <u>Fines</u>                  |                               |                   |
|-----------------------------------|-------------------------------|-------------------------------|-------------------|
|                                   | <u>1<sup>st</sup> Offense</u> | <u>2<sup>nd</sup> Offense</u> | <u>Subsequent</u> |
| Nuisance Ord. No. 2018-11-20-1007 | \$500.00                      | \$500.00                      | \$500.00          |
| Zoning Ord. No. 2004-12-21-046    | \$50.00                       | \$100.00                      | \$250.00          |

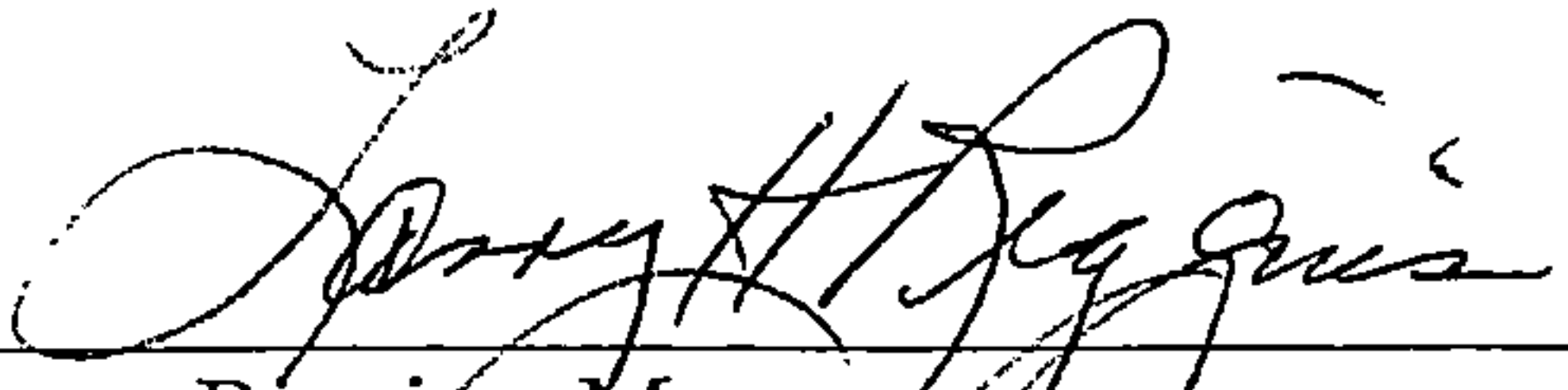
Section 5. Procedures for utilizing the summons and complaint shall be in compliance with Ala. Code § 11-45-9.1.

Section 6. This Ordinance shall take effect immediately upon its passage and publication or posting as required by law.

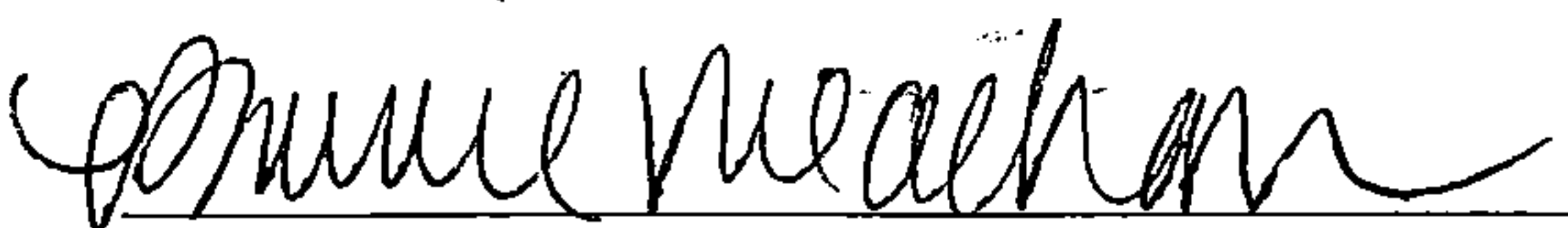


20220209000058020 3/3 \$28.00  
Shelby Cnty Judge of Probate, AL  
02/09/2022 11:15:48 AM FILED/CERT

Adopted and approved this the 1<sup>st</sup> day of February 2022.

  
\_\_\_\_\_  
Larry Riggins, Mayor

Attest:

  
\_\_\_\_\_  
Bonnie Meacham, City Clerk - Treasurer

