

## ALABAMA

### CONSTITUTIONAL AND STATUTORY PROVISIONS

Alabama has no constitutional system of home rule. Statutes provide limited home rule for municipalities. A recent (2015) amendment to the constitution provides some additional powers to counties but expressly excludes the power to tax or regulate private property.

#### **Alabama Constitution**

- Art. IV, §89. Laws, Municipal Lawmaking.

The legislature shall not have the power to authorize any municipal corporation to pass any laws inconsistent with the general laws of this state.

- Ala. Const. Act 2015-220

[T]he county commission of each county in this state [except Jefferson County] may exercise those powers necessary to provide for the administration of the affairs of the county through . . . [p]rograms, policies, and procedures relating to county personnel . . . [p]rograms related to public transportation . . . [and] [p]rograms related to county offices . . . .

#### **Alabama Code (1975)**

- §11-45-1. Adoption and enforcement authorized.

Municipal corporations may from time to time adopt ordinances and resolutions not inconsistent with the laws of the state to carry into effect or discharge the powers and duties conferred by the applicable provisions of this title and any other applicable provisions of law and to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the inhabitants of the municipality, and may enforce obedience to such ordinances.

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### HOME RULE STRUCTURE

The Alabama constitution is clear that any ordinance adopted by cities pursuant to their statutorily delegated power must not conflict with the general laws of the State.<sup>1</sup> Nonetheless, courts will construe ordinances as far as possible to render them valid rather than void.<sup>2</sup>

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<sup>1</sup> Ott v. Moody, 216 So.2d 177 (Ala. 1968).

<sup>2</sup> Atkins v. City of Tarrant City, 369 So.2d 322, 325 (Ala. Cr. App. 1979); Sanford Service Co. v. City of Andalusia, 55 So.2d 854, 856 (Ala. App. 1951); Peak v. City of Tuscaloosa, 73 So.3d 5, 11 (Ala. Crim. App.2011) (Municipal ordinances are not to be struck down unless they are clearly arbitrary and unreasonable).

## IMMUNITY FROM STATE PREEMPTION

Unsurprisingly, due to the lack of any constitutional home rule, the Alabama legislature may expressly preempt local regulation of any field.<sup>3</sup>

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<sup>3</sup> *E.g.*, *Childers v. State*, 640 So.2d 16 (Ala. 1994) (city ordinance prohibiting possession of a firearm in a business establishment that held a liquor license was void because it conflicted with a state statute that expressly reserved the entire subject matter of handguns to the state legislature).