

**RESOLUTION**

**RESOLUTION ESTABLISHING THE LEGISLATIVE AGENDA  
OF THE CITY OF TUSCALOOSA FOR THE 2016 SESSION OF THE  
ALABAMA LEGISLATURE  
(A15-0632)**

**WHEREAS**, the 2016 Legislative Session for the State of Alabama will soon begin;  
and

**WHEREAS**, as with many local governments throughout the State of Alabama, the City of Tuscaloosa has certain unique requirements and challenges which, due to the lack of Home Rule in the State of Alabama, can only be addressed through legislative action; and

**WHEREAS**, it is therefore the desire of the City of Tuscaloosa to provide an agenda to the Tuscaloosa County Legislative Delegation for their information, indicating the types and kinds of legislation that may be needed by the City of Tuscaloosa in order to effectively address certain important local governing issues and to inform the Delegation of other legislation it supports or opposes.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TUSCALOOSA** as follows:

That the City of Tuscaloosa considers the following to be legislative issues which are significant to the citizens of Tuscaloosa and therefore request support or opposition, as the case may be, of the Tuscaloosa County Legislative Delegation of such legislation during the upcoming 2015 session.

**1. Make Tort Liability Limits Clearly Applicable to “Individual Capacity” Suits Against Municipal Employees**

Unlike the State of Alabama, which has sovereign immunity from any tort claim for money damages, municipalities are liable for torts committed by their employees acting in the line and scope of employment. Such claims against municipalities are limited by law to \$100,000 per person per occurrence and \$300,000 in the aggregate. It has long seemed well-settled that the Legislature expressly intended to include these same liability limits to claims against municipal employees as well.

However, recent lawsuits and court decisions have called into question the applicability of the statutory liability limits to claims against municipal employees in their “individual capacities.” This leaves individual municipal employees exposed to personal liability for judgments in excess of the liability caps. Compounding the problem, certain insurance companies, taking note of this legal trend, have begun including special endorsements in their municipal liability policies that limit the company’s exposure for “individual capacity” claims to the amount of the statutory caps. This means that even if the municipality purchases insurance with much higher coverage limits, the individual employees are only protected for the first \$100,000/\$300,000 of any court judgment. In order to allow public servants to perform their duties without risk to their private assets, it is imperative that the statutory caps be made clearly applicable to municipal employees in both their official and individual capacities for claims that arise out the line and scope of employment with the municipality.

## **2. Supports Enterprise Zones/Tax Incentives Expansion**

The City supports revisions to Chapter 23 of Title 41 whereby Enterprise Zones would be expanded to give consideration to Federally Declared Disaster Areas and to allow for tax incentives for retail developments, or in the alternative create a new statute to achieve the same objective.

## **3. Supports Tuscaloosa Preference by Alabama Housing Finance Authority**

The City supports the Alabama Housing Finance Authority including in its Qualified Allocation Plan that Tuscaloosa be given preference so long as the Presidential Disaster Declaration remains in place.

## **4. Supports Parking Enforcement Legislation**

The City supports legislation authorizing parking enforcement in the City of Tuscaloosa, Alabama, as a civil violation; providing certain procedures to be followed by the City Parking Enforcement Officers; providing that the owner of the vehicle illegally parked is presumptively liable for a civil violation and the payment of a civil fine, but providing procedure to contest liability; providing for jurisdiction in the Tuscaloosa Municipal Court over the civil violations and allowing appeals to the Tuscaloosa County Circuit Court; creating a cause of action for any person held responsible for payment of the civil fine against the person who was actually responsible for illegally parking the vehicle.

**5. Supports Legislation Creating a Hybrid Alcohol License Classification**

The City supports legislation creating a hybrid alcohol license classification to cover emerging business practices of combined restaurant/bar/lounges.

**6. Supports Regulation of the Pay Loan Industry**

The City supports legislation regulating payday and title loan companies to protect consumers from excessive fees, high interest rates, and predatory practices.

**7. Opposes Legislation Adverse to the City's Water and Sewer Operations**

The City produces over eight (8) billion gallons of water a year serving over 45,000 households and other customer units. The City also provides water to eight (8) rural water systems in the County. Yet, the City's water rates are the lowest of any of the thirteen (13) suppliers in the County. The City also has an extensive sanitary sewer system consisting of over 500 miles of mains and a wastewater plant that treats an average of 18 million gallons of wastewater a day. The viability of the City's water and sewer system is critical to the welfare of the City of Tuscaloosa.

It is therefore imperative that we be vigilant regarding any legislation that could adversely impact the City's ability to continue to provide these vital services.

**8. Supports Lake Tuscaloosa Extra Territorial Zoning**

It is undeniable that Lake Tuscaloosa is Tuscaloosa County's greatest natural resource. Completed in 1970, the Lake consists of 5,885 acres with a full pool capacity of 400 billion gallons of water and a withdrawal capability of 200 million gallons per day. The Lake serves a critical role as the primary source of drinking water for the vast majority of the population of Tuscaloosa County. Ninety-four percent (94%) of the entire volume of drinking water in the County comes from Lake Tuscaloosa. In addition, the Lake also functions as a major public recreational center for many residents and visitors. Over the last several decades, there has been significant residential and commercial development in and around the Lake, most of it outside the corporate limits of the City. Studies indicate that development is impacting the water quality of Lake Tuscaloosa. Therefore, it is imperative that there be some land use regulation around the Lake in order to preserve and protect it from pollution and degradation.

It is anticipated that this would be a Class 4 municipal bill applying to any municipality owning a body of impounded water used primarily but not exclusively as a water supply with a surface area equal to or in excess of 200 acres. Any covered municipality should be allowed by ordinance adopted within ninety (90) days of the effective date to become a participating municipality. The bill would authorize a

participating municipality to adopt zoning laws, ordinances, and regulations outside its corporate limits to extend up to 1,000 feet from the acquisition line of the reservoir.

**9. Oppose Statewide Business Licensing and Sales Tax Collections**

The City opposes any legislation that would deprive local governments of the ability to establish the amounts of business licenses or sales taxes within their taxing jurisdiction and to collect and administer those taxes. Any such legislation threatens the financial solvency of local governments by stripping them of the ability to determine the amounts of taxes lawfully due to support governmental services, and to perform proper auditing and administration functions.

**10. Oppose Drug Sales Exemption from Gross Receipts for Determination of Business Licenses**

In the event a bill is re-introduced this session to exempt gross receipts of drug sales from the amount of gross receipts used to determine a pharmacy's business license, the City wishes to express its concern and opposition to such efforts. Pharmacy sales of prescription medication is currently exempt from sales taxes, as it should be, and therefore exemption of drug sales from business licensing would undermine the City's revenues and regulatory authority in an unwarranted manner.

**11. Support for adequately funding the State General Fund budget ("Unfunded Mandates")**

The City supports legislation requiring adequate funding by the State General Fund for criminal corrections, mental health systems, transportation, and maintenance, and the Department of Forensic Sciences, and opposes legislation that would pass financial burdens to local governments without accompanying state funding.

**12. Opposition to Limitations on Business Licenses for Deliveries into Municipalities**

The City has learned that there may be efforts to introduce legislation that would limit or prohibit a municipality from levying a business license on gross receipts derived from deliveries into the municipality. Such legislation would potentially decrease the annual revenues of the City of Tuscaloosa by substantial amounts. The Alabama League of Municipalities has surveyed other cities, and they report similar devastating effects on revenues.

The validity of such business licenses is well-established. They are calculated based solely on the amount of receipts from the delivery into the particular municipality.

The amount of such business license is a mere fraction of a percent – in Tuscaloosa the amount is usually a base license of \$75 plus 0.125% of the gross receipts. This revenue is used to help pay for road and transportation infrastructure for utilization by the delivery vehicles; storm drainage systems so the roadways remain clear; and fire, police, and rescue protection while they are in our jurisdiction. The City itself provides a commerce center that creates demand for more products and services. Delivery licenses are consistent with well-established constitutional principles, the law of taxing nexus, and traditional contract law that holds a sale is closed at the point of delivery. Lastly, the Business License Reform Act of 2006 has already mandated a special reduced delivery license for companies that do no more than \$75,000 in annual deliveries into a jurisdiction.

### **13. Requiring Those Who Sell or Lease Property to Provide Occupancy Restriction Information**

Tuscaloosa, like many cities, have zoning restrictions on the number of unrelated persons that can live in a single dwelling. This protects the integrity of neighborhoods and other residential properties, to prevent areas from becoming overly populated and creating problems with parking, litter, noise, and other inconveniences. Violations of these occupancy restrictions can lead to serious enforcement consequences for the occupants. But the City is interested in compliance with the law, not the filing of charges for violations. To help prevent unwitting violations by tenants or purchasers of property who simply do not know the law, the City supports legislation that would require contracts for the sale or lease of residential properties to prominently disclose the applicable occupancy restrictions.

### **14. Support for Minor Amendment to City's Personnel Act**

ALA. CODE §11-44B-44 provides that employees hired by the City shall have one year of probationary status from “the date of appointment.” Afterwards, the employees have protected status and generally can only be discharged for cause. However, the “date of appointment” is not always clear, and therefore the City supports legislation that would start the probationary period from “the first date of employment.” This would greatly simplify administration of the Personnel Act and bring more certainty to both the City and its probationary employees. The City also supports legislation that would amend §11-44B-43 to remove prohibition from employment based upon felony conviction.

### **15. Securing ALDOT Matching Funds**

In order to further the mission of the Transforming Tuscaloosa County legislation, it is imperative that the matching funds promised by ALDOT be provided, with priority given to those projects that are nearing shovel ready.

**16. Minimum Wage Legislation**

Minimum wage determinations should be controlled on a state or federal level rather than the local government level. Local government determinations of minimum wage could lead to unintended consequences for those who are low to moderate income, as well as have negative economic development impacts for local governments.

In order to reduce the likelihood of poverty and keep wage rates current, the City supports adjustments of the minimum wage rate where there is a cost of living adjustment that is tied to the consumer price index.

**17. Opposes Legislation that Limits Gasoline Taxes by Municipalities**

The City opposes any legislation that would deprive local governments of the ability to establish, collect, and administer gasoline taxes.

**18. Support for Amendment of §28-1-6(2)**

The City supports the amendment of §28-1-6(2) regarding the issuance of licenses for sale of intoxicating beverages to include Class 4 municipalities.

**19. Support for legislation that amends §15-10-3(a)(6)**

The City supports legislation that amends §15-10-3(a)(6) regarding the requirement of a warrant “in hand” before making an arrest.

**20. Supports revisions to §11-44B-11(g)**

The City supports revisions to §11-44B-11(g) to allow the City Attorney/Assistant City Attorneys to provide pro bono service that is at the direction of the Alabama State Bar.

**21. Supports clarification of definitions in §13A-13-6(a)(2)**

The City supports clarification of definitions in §13A-13-6(a)(2) regarding Endangering Welfare of Child to comport with the Juvenile Code.

**22. Supports revisions to §11-45-9.1**

The City supports revisions to §11-45-9.1 regarding Summons and Complaints for ordinance violations.

**FUNDING REQUIRED:** Yes No

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By: \_\_\_\_\_  
**Finance Director**

**COUNCIL ACTION**

**Resolution** \_\_\_\_\_  
**Ordinance** \_\_\_\_\_  
**Introduced** \_\_\_\_\_  
**Passed** \_\_\_\_\_  
  
**2<sup>nd</sup> Reading** \_\_\_\_\_  
**Unanimous** \_\_\_\_\_  
**Failed** \_\_\_\_\_  
**Tabled** \_\_\_\_\_  
  
**Amended** \_\_\_\_\_  
**Comments:** \_\_\_\_\_