

Understanding Birmingham's Code Enforcement Process

From start to finish...



Code Enforcement Investigation

- A complaint is received, or the Code Enforcement Staff observes a violation.
- After confirming the violation, research is conducted to identify the owner type, owner or responsible party of the property, with consultation from the Office of the City Attorney (OCA) as necessary.
- A Notice of Violation is issued with compliance timeframes ranging from **15-30 days**, depending on the type of violation.
- The property is reinspected to ensure compliance. If the nuisance has been resolved, the case will be closed. However, if an extension is needed, it can be granted upon request.
- If the violation persists, the next step involves the Code Enforcement staff either preparing a resolution for the **City Council** to declare the property as a public nuisance for abatement by a third party contractor (only for Unoccupied Weed Bill properties, Newton Bill/Inoperable Vehicles or Demolition Bill properties); **or** drafting documentation to be sent to the Magistrate's Office for a Municipal Court Hearing.



Service For Municipal Court

- Code Enforcement staff presents the information to OCA for Screening.
- Once approved, the matter is presented to a Magistrate for the issuance of a Summons.
- The Summons will be served on the property owner by personal service or certified mail by a law enforcement officer. (Ala. Code §11-45-9.1 (a); A.R.Cr.P Rule 3.1; Birmingham, AL Code of Ordinances Sec. 8-4-1)
- The Officer returns the Summons to the Municipal Court Clerk's Office, indicating whether service has been perfected.
- The case is docketed by Municipal Court. (A.R.Cr.P. Rule 3.1(d))

More on the back



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Prosecution for Municipal Court

- First Court Date: Code Enforcement present. Discussion of the violation(s) will be held with the Defendant. If they do not attend, a **Writ of Arrest** shall be issued. (A.R.Cr.P. Rule 3.1(c)).
- Defendant informed of right to counsel, either fills out an affidavit of hardship to request appointed counsel or given a new court date by which private counsel is to be retained.
- If relevant, an estimate or estimates of the cost of repairs are provided to prosecutors by the Defendant.
- The parties arrive at a plea agreement for the Defendant to correct the violations within a certain time.
- Prosecutor presents the plea agreement, signed by all parties, to the Court.
- **Court sentences Defendant** – if agreement is for deferred prosecution, Defendant to enter a conditional plea of guilty which will be set aside when violation is rectified, and the case will be dismissed. If agreement is a simple guilty plea, Court will sentence, fine, and place Defendant on probation pending repair/cessation of violation.

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- The Defendant returns for a status/review hearing. If the violation(s) are corrected, cases with deferred prosecution agreements will be dismissed. If there is progress, the matter will be continued. If there has been no progress, the City Attorney will recommend **finest, jail time, or other penalties** to the Court for violation of the deferred prosecution agreement or probation violation.
- If an agreement is not reached, the case will be **set for trial**. If a Defendant is convicted after trial, his or her case will not be eligible for dismissal upon repair/cessation of violation.