

ORDINANCE NUMBER 2025-53

**AN ORDINANCE ESTABLISHING A PRE-TRIAL DIVERSION PROGRAM IN THE
MUNICIPAL COURT OF THE CITY OF OXFORD, ALABAMA**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OXFORD,
ALABAMA, (sometimes hereinafter called the “City”) AS FOLLOWS:**

Section 1. General Establishment

- a. The City of Oxford hereby establishes a pre-trial diversion program for any defendant within the jurisdiction of the municipal court.
- b. The pre-trial diversion program shall be under the direct supervision and control of the City, and the City may contract with any agency, person or corporation for services related to this Act. The City, at its discretion, may employ necessary persons to fulfill the terms of this Act, and those persons shall serve at the pleasure of the City.

Section 2. Definitions

For the purposes of this Act, the following terms shall have the following meanings:

- (1) *Application fee*. A one-time administrative fee imposed by the City of Oxford as a condition precedent to participation in a pretrial diversion program.
- (2) *City prosecutor*. The person or persons charged with the responsibility of prosecuting cases in the municipal court or any legal staff employed by the city prosecutor.
- (3) *Municipal court judge*. The Judge of the Municipal Court for the City of Oxford, duly appointed by the City Counsel in accordance with Section 12-14-30, *Code of Alabama 1975*, or a special judge appointed by the Mayor of the City of Oxford in accordance with Section 12-14-36, *Code of Alabama 1975*.
- (4) *Offender*. Any person charged with a criminal offense, including, but not limited to, any misdemeanor, violation, or traffic offense, as defined by the *Code of Alabama 1975* and the Code for the City of Oxford, which was allegedly committed in the corporate limits or police jurisdiction of the City of Oxford.
- (5) *Pretrial diversion program or program*. A program that allows the imposition by the city or by a designated agency of certain conditions of behavior and conduct for a specified

period of time upon an offender which allows the offender to have his or her charges reduced, dismissed without prejudice, or otherwise mitigated should all the conditions be met during the time frame set by the city's municipal court judge.

(6) *Serious physical injury*. As defined in Section 13A-1-2(14), *Code of Alabama 1975*.

(7) *Supervision fee*. Any fee other than the application fee imposed by any agency providing supervision of treatment of the offender.

Section 3. Admittance

Any offender may apply to the City for admittance to the pre-trial diversion program. Admittance into the pre-trial diversion program is in the sole discretion of the municipal court judge upon application approved by the city prosecutor. An offender deemed by the city prosecutor to be a threat to the safety or well-being of the community shall not be eligible for the program. An offender charged with any of the following types of offenses without the express written consent of the victim shall be ineligible for admittance:

- (1) Any offense involving violence or aggression resulting in injury to a law enforcement officer.
- (2) Any offense involving eluding or attempting to elude a law enforcement officer.
- (3) Any offense involving violence where a weapon was used or where children are victims.
- (4) Any driving under the influence charge where serious physical injuries are involved.
- (5) Any driving under the influence charge where the Defendant has a prior DUI conviction during the last five (5) years or the Defendant has a criminal history of alcohol related offenses or refused to test (SFST, PBT, Draeger, Alcohol breath tests, Drug or alcohol blood tests, etc.)
- (6) Any offense wherein the offender is a public official and the charge is related to the capacity of the offender as a public official.

- (7) A person may not be admitted to the program if the person holds a commercial driver license (CDL) issues in any U.S. State, any U.S. possession, any U.S. territory, or any U.S. insular area.

Section 4. City prosecutor approval.

- (a) The city prosecutor may consider an offender for the pretrial diversion program based on any of the following circumstances:
 - (1) Police officer approval.
 - (2) Prior record of offenses/driving offenses.
 - (3) Assistance provided to law enforcement.
 - (4) Submitted to standard field sobriety testing, portable breath testing and AlcolSensor testing (did not refuse).
 - (5) Admission of guilt and remorse.
 - (6) A clean drug test.
 - (7) Defendant's attitude from time of arrest and up to consideration of his/her application for the deferred prosecution program.
 - (8) There is a probability justice will be served if the offender is placed in the program.
 - (9) The offender appears to pose no substantial threat to the safety and well-being of the community.
 - (10) The offender will likely respond to rehabilitative treatment or counseling.
 - (11) The need for restitution for the victim from the offender outweighs the interest of the state and town for incarceration of the offender.
- (b) The city prosecutor may waive any of the standards specified in subsection (a) if justice or special circumstances dictate.

Section 5. Requirements

- (a) Upon application by an offender for admission into the pretrial diversion program, and prior to admission thereto and as a part of the evaluation process of the city prosecutor, the city prosecutor may require the offender to furnish information concerning past criminal history,

education history, work record, family history, medical or psychiatric treatment or care prescribed or received, psychological tests taken, and any other information concerning the offender which the city prosecutor believes has a bearing on the decision whether or not to admit the offender to the program.

(b) The city prosecutor may require the offender to submit to any type of test or evaluation process or interview the city prosecutor deems appropriate in evaluating the offender for admittance into the program. The costs of any test or evaluation shall be paid by the offender or as otherwise agreed to or provided for by this Act. The offender shall provide the city prosecutor written consent to allow the city prosecutor to receive any educational, work, medical, psychiatric, psychological, or other records deemed necessary by the city prosecutor for the evaluation process.

Section 6. Written Agreement

(a) Following the decision of the city prosecutor to recommend the offender into the pretrial diversion program, but prior to entry, the city prosecutor and the offender shall enter into a written agreement, stating the conditions of the participation of the offender in the program.

The agreement shall include, but not be limited to, all of the following:

- (1) A voluntary waiver of the right of the offender to a speedy trial.
- (2) An agreement to the tolling, while in the program of periods of limitation established by statutes or rules of court.
- (3) An agreement to the conditions of the program established by the city prosecutor.
- (4) If there is a victim of the charged crime, an agreement to the restitution repayment within a specified period of time and in an amount to be determined by the city prosecutor taking into account circumstances of the offender and the victim.
- (5) A waiver in writing of the right of the offender to a jury trial.
- (6) Submission of a written plea of guilty to the offense or offenses charged or agreed upon included offenses, together with an agreement as to whether the case

is to be dismissed upon successful completion of the program, and an agreement, if there be any, as to the recommended sentence should a sentence be imposed.

(b) In addition to those requirements set forth in subsection (a), or as a condition of continued participation in the program, the city prosecutor may require the offender to agree to any of the following terms or conditions:

- (1) To participate in substance abuse treatment.
- (2) To refrain from the use of drugs or alcohol or frequenting places where drugs or alcohol are sold or used.
- (3) To not commit any criminal offense.
- (4) To refrain from contact with certain named persons or premises.
- (5) To maintain or seek employment.
- (6) To attend individual, group, financial, chemical addition, family, mental health, sex offender, traffic safety, bad check, substance abuse, truancy, shoplifting, alcohol, financial management, employment or anger management counseling.
- (7) To pay all court costs, fees, fines, and worthless checks, and obey any other lawful court order associated with the offense or offenses for which the offender has entered the program, or any other case.
- (8) To pay supervision fees and application fees pursuant to this Act.
Supervision shall be monitored through the Municipal Court Office.
- (9) To be admitted to a drug or alcohol treatment program on an inpatient or outpatient basis or receive other treatment alternatives for substance abuse.
- (10) To submit to periodic or random drug testing as part of the program and other terms and conditions related to substance abuse as the city prosecutor may direct.
- (11) To waive in writing the right of the offender to a probation hearing in the event of termination or withdrawal from the program.
- (12) To perform community service.
- (13) To any other terms or conditions as the city prosecutor or his or her designee and the offender may agree to in the above-stated agreement, it being the

purpose of this Act to allow the city prosecutor broad discretion in designing a program specifically for each offender and his or her particular circumstances.

(14) When applicable, to be required to pay supervision fees to the agency or entity responsible for monitoring and verifying the compliance of the offender with the terms of the program set forth by the city prosecutor. The fees shall be paid by the offender to the supervising entity in a timely manner.

Section 7. Non-refundable Application Fee

(a) An offender may be assessed a non-refundable application fee when the offender is approved for the pretrial diversion program. The amount of the assessment for participation in the program shall be in addition to any court costs, fees, and assessments for the Crime Victim's Compensation Fund, Department of Forensic Sciences assessments, drug, alcohol or anger management treatment required by law, and any costs of supervision, treatment and restitution for which the offender may be responsible. A schedule of payments for any of these fees may be established by the city prosecutor.

(b) The following application fees shall be applied to offenders accepted into the program:

- (1) Class A Misdemeanor offenses and Driving Under the Influence - \$1,000.00.
- (2) Class B and Class C Misdemeanors - \$500.00
- (3) Traffic offenses excluding DUIs and violations - \$300.00

(c) The application fees required by this Act shall be paid in full in advance and shall be collected by the Oxford Municipal Court.

(d) An applicant offender may not be denied access into the pretrial diversion program based solely on the inability of the offender to pay the application fee. Application fees may be waived or reduced or delayed for just cause, including indigency of the offender, at the discretion of the City. Any determination of the indigency of the offender for purposes of program fee mitigation shall be made by the City but shall be granted only upon the determination by the municipal court judge that there is no reasonable likelihood within the reasonable foreseeable future that the offender will have the ability to pay the application fee.

Section 8. Collection of fees.

Application fees required by this Act shall be collected by the Clerk of the Municipal Court for the City of Oxford.

Section 9. Acceptance into the Program.

(a) Upon acceptance of an offender into the pretrial diversion program by the city prosecutor, the city prosecutor and the offender shall submit the written application of the offender, the acceptance of the offender by the city prosecutor, and the agreement between the city prosecutor and the offender to the municipal court judge presiding over the affected case of the offender for approval. The offender shall also enter a plea of guilty to the charge or charges involved. If the municipal court judge rejects the agreement and guilty plea, any money paid by the offender in satisfaction of the application fee shall be refunded to the offender. The offender shall be liable for any actual expenses already incurred by the city prosecutor or any agency or service provider in furtherance of the application and evaluation process and the same will be deducted from any money so refunded to the offender.

(b) Upon approval of the agreement and acceptance of the guilty plea, the court shall expressly retain jurisdiction of the case, any other provision of law notwithstanding, and may withdraw and file the case or otherwise place it on an administrative docket until such time as the court has been notified that the offender has fulfilled the terms of the agreement, has been terminated from the program, or otherwise withdrawn from the program. Imposition of punishment by the court shall be deferred until the offender has successfully completed the program or is terminated from the program.

(c) In the event the offender withdraws or is terminated from the program, the municipal court judge shall impose appropriate punishment in the same manner as with any plea of guilty or finding of guilty and shall not be bound by the terms of agreement as to what punishment to impose.

(d) Upon successful completion of the program by the offender, the city prosecutor shall notify the municipal court judge of the fact together with a request that the court enter an order of disposition of the case pursuant to the agreement between the offender and the city prosecutor.

(e) Regardless of whether the offender successfully completes the program or withdraws from or is terminated from the program, the offender will still be liable for and required to pay any and all court costs and fees, restitution, victim's compensation fund assessment, and any and all other fees and assessments, in the same manner as if the offender had not applied for entry into the program and had been found guilty of the offense or offenses involved. No costs, fees, restitution, or assessments shall be waived or remitted, absent an express agreement to that effect between the city prosecutor and the offender, without a finding by the municipal court judge that the offender does not have the reasonable ability to pay the same within the reasonably foreseeable future.

Section 10. Violation.

(a) After any violation of any program terms or conditions or upon any breach of any program agreement by the offender, the city prosecutor may do any of the following:

- (1) Continue the agreement with or without modification.
- (2) Terminate the offender from the pretrial diversion program.
- (3) Require the offender to adopt a new agreement as a condition of continued participation.

(b) The city prosecutor may wave a violation for good cause shown why the offender should stay in the program.

Section 11. Liability.

In no event shall the city prosecutor or any other agency or service provider have any liability, criminal or civil, for the conduct of any offender while participating in the pretrial diversion program.

Section 12. Severability.

The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

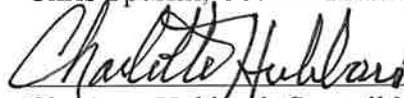
Section 13. This Ordinance shall become effective upon its passage by the Council and publication as required by law.

APPROVED and ADOPTED this 25th day of November, 2025.

CITY COUNCIL OF THE CITY OF
OXFORD, ALABAMA

absent

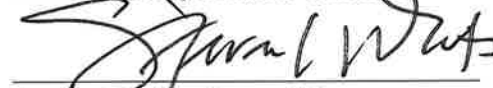
Chris Spurlin, Council President



Charlotte Hubbard, Council Member



Phil Gardner, Council Member



Steven Waits, Council Pro Tempore



Mike Henderson, Council Member

APPROVED:



Alton Craft, Mayor

ATTEST:



Alan Atkinson, City Clerk

CERTIFICATE OF ADOPTION

I hereby certify that the attached Ordinance was duly adopted by the City County in regular session assembled on the 25th day of November, 2025, as recorded in the official minutes of the Oxford City Council.


Alan Atkinson, City Clerk

CERTIFICATE OF PUBLICATION

I, Alan Atkinson, City Clerk of the City of Oxford, Alabama, do hereby certify this Ordinance was posted in three public places with the City of Oxford and at City Hall beginning on the 26th day of November, 2025, in accordance with the provision of Code of Alabama, 1975, Section 1145-8.


Alan Atkinson, City Clerk