



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

The purpose of the Opinion Outline is to inform, on a quarterly basis, state, county, and municipal officials and other interested persons of official opinions issued by the Attorney General's Office. This outline contains synopses of opinions issued from 04/01/2022 through 06/30/2022.

The synopses that follow are based upon opinions that were issued by this office in response to specific facts and circumstances and, therefore, may not be applicable in all cases. **Complete opinions are available on our website, www.ago.state.ms.us.**

Sincerely,

Lynn Fitch
Attorney General
State of Mississippi

COURTS

[Palmer – June 6, 2022 \(OP-2021-00086\)](#)

It remains the opinion of this office that the sole authority for establishing and operating veterans treatment courts rests with the circuit courts of Mississippi because such authority is explicitly granted by the Legislature in Mississippi Code Annotated Section 9-25-1.

MEDICAL CANNABIS

[Musselwhite – April 15, 2022 \(OP-2022-00028\)](#)

The City may designate specific types of commercial zones in which dispensaries, cannabis research facilities, or cannabis testing facilities may operate through lawfully enacted ordinances or regulations adopted in accordance with a comprehensive zoning plan. However, these ordinances or regulations cannot have the purpose or effect of prohibiting or making impracticable the operation of such establishments within the City.

The City may designate specific types of zones for which commercial use is otherwise authorized or not prohibited in which dispensaries, cannabis research facilities or cannabis testing facilities may operate through lawfully enacted ordinances or regulations adopted in accordance with a comprehensive zoning plan. However, these ordinances or regulations cannot have the purpose or effect of prohibiting or making impracticable the operation of such establishments within the City. The City may restrict or limit the location of medical cannabis establishments and the manner in which they operate through ordinances or regulations governing the time, place, and manner of medical cannabis establishments adopted in accordance with a comprehensive zoning plan.

The City may enact local zoning ordinances that accord with its comprehensive zoning plan designating specific types of commercial zones, such as a medical commercial zone, in which medical cannabis dispensaries may operate.

Section 19(5) of S.B. 2095 does not preempt the City’s authority to adopt an ordinance or regulation with a minimum distance greater than one-thousand-five-hundred-feet between cannabis dispensaries so long as the ordinance or regulation does not prohibit or make impracticable the operation of dispensaries within the City.

MUNICIPAL CHARTERS

[Barton – June 14, 2022 \(OP-2021-00140\)](#)

The required election to change from a Special Charter form of government to a Code Charter form of government may be initiated by the governing authorities adopting a resolution that provides for a special election on the question, unless the City’s Special Charter includes specific provisions calling for such an election, in which case the Special Charter would take precedence over Section 23-15-859.

If the electors choose to change to a Code Charter form of government, before the next scheduled municipal elections as specified by Sections 23-15-171 and 23-15-173, the municipality will apportion wards for the election of five aldermen in accordance with Section 21-3-7.

MUNICIPALITIES

[Martin – May 9, 2022 \(OP-2021-00171\)](#)

Based on Section 89-1-25 of the Mississippi Code, after an order entered on its minutes that the requisite findings have been made, the City may execute a quitclaim deed to Springhill Church relinquishing its interest in the property while reserving its mineral rights and the right of ingress and egress to remove the same. There is no need for consideration or bidding.

PUBLIC PURCHASES, CONTRACTS, AND BIDDING

[Jernigan – May 26, 2022 \(OP-2021-00178\)](#)

Section 31-7-13(b) defines two specific and detailed types of “competitive written bids” that are acceptable for a purchase over the amount of \$5,000 but not over the amount of \$50,000. A printed cost with a description of an item “in cart” is not one of the “competitive written bids” contemplated by or allowed by the statute.

SCHOOLS – COMMUNITY AND JUNIOR COLLEGES

[Beasley – May 10, 2022 \(OP-2021-00196\)](#)

The manner in which a firearm was obtained dictates the procedure of disposal. Forfeiture of a firearm is only allowed under Section 97-37-3 where there was a conviction that would require or allow forfeiture. As ownership of a firearm should be dealt with on a case-by-case basis, Itawamba Community College may wish to file legal action to determine the lawful owner of a firearm and request a judicial determination of the appropriate manner of disposal or sale. The appropriate court of competent jurisdiction is a fact-specific inquiry on which this office will not opine.

A community college does not have the authority to unilaterally declare firearms that were confiscated as lost, stolen, abandoned, or misplaced.

SCHOOLS – TRUSTEES

[Greenlee – May 9, 2022 \(OP-2021-00172\)](#)

The terms of a majority of School Board members would overlap three years. Thus, any contract made by the current School Board members that extends beyond three years without specific statutory authority would be voidable at the discretion of the subsequent board.

SUPERVISORS – AUTHORITY

Griffin – May 10, 2022 (OP-2020-00200)

Washington County does not have authority to use public funds to perform work on private property for the benefit of said property owners. To do so would be a violation of the statutory and constitutional prohibitions against unlawful donations.

This office cannot opine on questions involving the official duties of someone other than the requestor; therefore, we are unable to answer your question about MEMA's powers to compel the elevation of certain property.

INTERLOCAL AGREEMENTS APPROVED

Karanja – April 12, 2022 (OP-2022-00044)

The Interlocal Cooperation Agreement between Harrison County, Mississippi and the City of Pass Christian, Mississippi regarding Tax Increment Financing Plans, West Pass Station Project, 2021 is approved.

McGee – April 12, 2022 (OP-2022-00027)

The Interlocal Cooperation Agreement between the City of Ridgeland, Mississippi and the City of Jackson, Mississippi regarding the East County Line Road resurfacing project is approved.

Nailor – April 12, 2022 (OP-2022-00043)

The Interlocal Cooperation Agreement between the City of Vicksburg, Mississippi and the City of Port Gibson, Mississippi regarding the Operation and Maintenance of the City of Port Gibson's and the City of Vicksburg's Gas Utility Systems is approved.

Slay – April 12, 2022 (OP-2022-00029)

The Interlocal Cooperation Agreement between Rankin County, Mississippi and the City of Pearl, Mississippi regarding maintenance and improvement of roads and bridges is approved.

Slay – April 12, 2022 (OP-2022-00030)

The Interlocal Cooperation Agreement between Rankin County, Mississippi and the City of Florence, Mississippi regarding maintenance and improvement of roads and bridges is approved.

Slay – April 12, 2022 (OP-2022-00038)

The Interlocal Cooperation Agreement between Rankin County, Mississippi and the Town of Pelahatchie, Mississippi regarding maintenance and improvement of roads and bridges is approved.

Simmons – April 18, 2022 (OP-2022-00024)

The Interlocal Cooperation Agreement between the City of Meridian, Mississippi and Lauderdale County, Mississippi regarding the 2020 Byrne Justice Assistance Grant Program Award is approved.

Simmons – April 18, 2022 (OP-2022-00025)

The Interlocal Cooperation Agreement between the City of Meridian, Mississippi and Lauderdale County, Mississippi regarding the 2021 Byrne Justice Assistance Grant Program Award is approved.

Berry – April 20, 2022 (OP-2022-00031)

The Amended Interlocal Cooperation Agreement between the City of West Point, Mississippi and Clay County, Mississippi regarding sharing of an air conditioning and heating technician and a maintenance supervisor is approved.

Lovvorn – June 3, 2022 (OP-2022-00053)

The Interlocal Cooperation Agreement between Chickasaw County, Mississippi and the City of Okolona, Mississippi regarding E-911 services is approved.

Lovvorn – June 3, 2022 (OP-2022-00056)

The Interlocal Cooperation Agreement between Chickasaw County, Mississippi and the Town of New Houlka, Mississippi regarding the construction of a basketball court is approved.

Purdie – June 3, 2022 (OP-2022-00072)

The Interlocal Cooperation Agreement between Hinds County, Mississippi and the City of Clinton, Mississippi regarding improvements to Robinson Park is approved.

Purdie – June 3, 2022 (OP-2022-00083)

The Interlocal Cooperation Agreement between Hinds County, Mississippi and the City of Clinton, Mississippi regarding walking trails in the Brighton Park area is approved.

Shepard – June 3, 2022 (OP-2022-00062)

The Interlocal Cooperation Agreement between George County, Mississippi and Greene County, Mississippi regarding the feasibility of establishing a joint airport on the Greene/George County line is approved.

Nailor – June 24, 2022 (OP-2022-00084)

The Interlocal Cooperation Agreement between Warren County, Mississippi and the City of Vicksburg, Mississippi regarding the construction, operation, and maintenance of Golding Family Park is approved.

Parker – June 24, 2022 (OP-2022-00067)

The Interlocal Cooperation Agreement between Madison County, Mississippi and the City of Canton, Mississippi regarding the collection of ad valorem, special assessment taxes and public property assessments is approved.

Karanja – June 24, 2022 (OP-2022-00098)

The Interlocal Cooperation Agreement between the City of Pascagoula, Mississippi and Jackson County, Mississippi regarding Tax Increment Financing Plan, Pascagoula Ice and Freezer House Project, 2021 is approved.

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