

Ala. Op. Atty. Gen. No. 2002-198, 2002 WL 735632 (Ala.A.G.)

Office of the Attorney General
State of Alabama

Opinion No. 2002-198

April 3, 2002

Newspapers — Legal Notices — Publications — Municipalities — Tuscaloosa County

A newspaper is published at the place where it is entered into the post office and where it is first put in circulation. Whether a newspaper whose offices are outside a municipality, but which circulates its newspaper within the municipality, is a newspaper of general circulation published in the municipality for legal advertising purposes, under [section 11-45-8\(b\) of the Code of Alabama](#), is a question of fact to be decided by the city council.

The City of Tuscaloosa may utilize the *Northport Gazette* for publication of its ordinances if there is *no* newspaper of general circulation in the City of Tuscaloosa, it is a newspaper of general circulation published in the City of Tuscaloosa, and the *Northport Gazette* is determined by the city council to be a newspaper published in the county and of general circulation in the City of Tuscaloosa.

Honorable Robert W. Ennis IV
Tuscaloosa City Attorney

Dear Mr. Ennis:

This opinion of the Attorney General is issued in response to your request on behalf of the City of Tuscaloosa.

QUESTION 1

Is the *Northport Gazette* a newspaper of general circulation published in the City of Tuscaloosa within the meaning of [section 11-45-8 of the Code of Alabama](#)?

FACTS AND ANALYSIS

The following information is gathered from materials accompanying your request: The *Northport Gazette* has an office located in the City of Tuscaloosa. The office is used by staff members to cover events in Tuscaloosa and as a sales office. Meetings of the City Council of Tuscaloosa and the Tuscaloosa County Commission are covered in the newspaper, as well as local events, the University of Alabama, Shelton State College, and city schools. Tuscaloosa businesses advertise in the Northport newspaper. The materials, including copies of the *Gazette*, however, reveal that the newspaper has its home and principal office in the City of Northport and is put in the post office there.

[Section 11-45-8 of the Code of Alabama](#) provides in pertinent part:

(b) All ordinances of a general or permanent nature, except as provided in subsection (d) of this section,

shall be published in some newspaper of general circulation published in the municipality, but if no such newspaper is published in the municipality such ordinances may be published by posting copies thereof in three public places within the municipality, one of which shall be at the post office or the mayor's office in such city or town. In the event there is no newspaper published in the municipality and there is a newspaper published in the county in which the municipality is located having general circulation in the municipality, at the option of the governing body of such municipality the ordinance may be published in such newspaper. In towns having a population of less than 2,000 inhabitants as shown by the 1950 federal census, the governing body of such town shall have the option of publication of the ordinance by posting as above provided or in a newspaper published in the town or in the county having a general circulation in the town.

*2 ALA. CODE § 11-45-8(b) (1989). Subsection (d), mentioned in the above-quoted provision, concerns ordinances that are not of a general or permanent nature. ALA. CODE § 11-45-8(d) (1989).

This Office, in an opinion issued to Honorable Lee Jorgensen, Member, House of Representatives, dated February 24, 1995, A.G. No. 95-00127, answered a similar question. That opinion stated:

A newspaper is published at the place where it is entered in the post office and where it is first put in circulation and not at the place where it is printed. Cobbs v. Patterson, 275 Ala. 84, 152 So. 2d 151 (1963); Vick v. Bishop, 252 Ala. 250, 40 So. 2d 845 (1949). Furthermore, a newspaper is considered to be published at the location where it has its principal office and where its form and content are determined. McQuillan, Municipal Corporations, 3rd Ed. Revised, § 16.82.

Whether a newspaper is entered in the post office and first put in circulation in that municipality so as to be “a newspaper of general circulation published in the municipality” is a question of fact to be determined by the city governing body. Opinion of the Attorney General to Honorable James T. Ramage, III, Mayor, City of Brundidge, dated November 17, 1988, A.G. No. 89-00045.

Jorgensen at 3.

CONCLUSION

A newspaper is published at the place where it is entered into the post office and where it is first put in circulation. Whether a newspaper whose offices are outside a municipality, but which circulates its newspaper within the municipality, is a newspaper of general circulation published in the municipality for legal advertising purposes, under [section 11-45-8\(b\) of the Code of Alabama](#), is a question of fact to be decided by the city council.

QUESTION 2

May the City of Tuscaloosa utilize the *Northport Gazette* for publishing ordinances as required by [section 11-45-8 of the Code of Alabama](#)?

FACTS, ANALYSIS, AND CONCLUSION

According to [section 11-45-8\(b\)](#), if a newspaper of general circulation is published in the municipality, that municipality's ordinances must be published in that newspaper. There may be, of course, more than one such newspaper. The City of Tuscaloosa may utilize the *Northport Gazette* for publication of its ordinances if there is *no* newspaper of general circulation in the City of Tuscaloosa, it is a newspaper of general circulation published in the City of Tuscaloosa, and the *Northport Gazette* is determined by the city council to be a newspaper published in the county and of general circulation in the City of Tuscaloosa. It must be noted that municipal ordinances must also be published in a newspaper that meets the requirements of [section 6-8-60 of the Code of Alabama](#). ALA. CODE § 6-8-60 (1993); opinion to *Jorgensen* at 4.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Carol Jean Smith of my staff.

Sincerely,

***3** Bill Pryor
Attorney General

By: Carol Jean Smith
Chief
Opinions Division

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