



OFFICE OF THE MAYOR

M E M O R A N D U M

TO: Council Members
FROM: Mayor Jesse M. Norwood
RE: Ordinance No. 1827; An Ordinance to
Amend the City's Burn Ordinance Being
Ordinance No. 1770
(Memo #001.96)
DATE: January 3, 1996

Ordinance No. 1770 establishes the conditions under which permits are issued for burning in the City of Prichard and provides for a \$5.00 fee for issuing residential burn permits. Ordinance No. 1827 purports to amend Ordinance No. 1770 by eliminating "all fees associated with a request for a burn permit from the City of Prichard, Alabama."

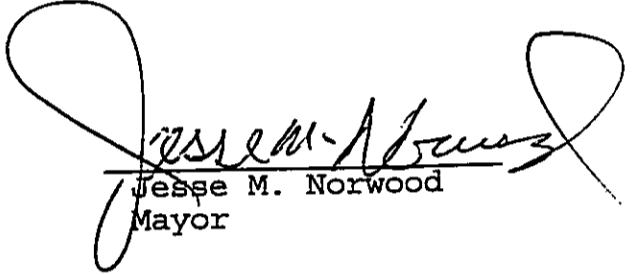
The fees collected from the issuance of burn permits are received into the city's general fund. An estimate of such anticipated fees is included in each general fund budget. (See, Section 11-43C-44(3)). The estimated fees make up a part of the anticipated revenue stream in the final budget adopted by the City Council.

Section 11-43C-49 states, in pertinent part, "the council shall not alter the estimates of receipts contained in the budget except to correct omissions or mathematical errors . . ." That section also provides that "the council shall in no event adopt a general fund budget in which the total of expenditures exceeds the receipts and available surplus . . ."

Since the estimate of fees anticipated from the issuance of burn permits is included in the General Fund Budget for Fiscal Year 1995-1996, an ordinance eliminating such revenue causes an immediate imbalance in the general fund budget and violates Section 11-43C-49.

While that section allows the council to "insert new items of expenditures or . . . decrease or strike out items of expenditure in the general fund budget," it specifically prohibits the council from altering the estimates of receipts contained in the budget. If the council cannot alter the estimates of receipts during the budgetary process, certainly it cannot alter or eliminate them after the budget has been adopted.

This officially places the council on notice of my veto.



Jesse M. Norwood
Mayor

cc: Greg Harris
Cyndi Norwood
Arlender Jones
Chief McKenna

JMN/lj

ORDINANCE NO. 1827

AN ORDINANCE TO AMEND THE CITY'S BURN ORDINANCE
BEING ORDINANCE NO. 1770

SPONSOR: COUNCILMAN LEACHMAN

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD,
ALABAMA, AS FOLLOWS:

1. Ordinance No. 1770, known as the "City of Prichard's Burn Ordinance, is hereby amended to remove all fees associated with a request for a \$5:00 daily residential burn permit from the City of Prichard, Alabama.

2. All other provisions of Ordinances No. 1770, not effected by this amendment shall remain in full force and effect.

3. If any article, section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each article, section, sentence, clause, or phrase thereof irrespective of the fact that one or more articles, sections, sentences, clauses, or phrases be declared invalid or unconstitutional.

4. This Ordinance shall be in full force and effect from and after its adoption and publication as required by law and shall be effective and operative immediately.

ADOPTED THIS 28th day of December, 1995.

APPROVED:

JESSE M. NORWOOD
MAYOR

ATTEST:

CYNTHIA K. NORWOOD, CITY CLERK