ORDINANCE NO._____

AN ORDINANCE ESTABLISHING A PRETRIAL DIVERSION PROGRAM FOR THE MUNICIPAL COURT

WHEREAS, §§12-14-90, et seq., *Ala. Code 1975*, authorize a municipality to establish a pretrial diversion program for its municipal court; and

WHEREAS, the Trinity Town Council deems it expedient, appropriate and in the interest of justice to establish a pretrial diversion program for the Trinity Municipal Court.

NOW, THEREFORE, be it **ORDAINED** by the Town Council of the Town of Trinity, Alabama, as follows, to-wit:

SECTION 1. **Pretrial Diversion Program**

(a) Pursuant to §§12-14-90, et. seq., *Ala. Code 1975,* there is hereby established for the Trinity Municipal Court a pretrial diversion program to provide that certain offenses be dismissed upon a defendant's successful completion of said diversion program that shall include, but is not limited to, payment of applicable fees and costs, treatment, therapy and other programs and community service work. Eligibility for the program shall be determined by the municipal judge and shall be subject to pretrial diversion guidelines and procedures set out herein, and as established by the municipal judge.

(b) Entry into the diversion program requires a plea of guilty by the defendant to each charge to be included in the diversion program and a waiver of the right to appeal by defendants entering the program. Judgment on the guilty plea(s) so entered shall be withheld pending completion of the program or the defendant's termination from the program, whichever occurs. Any defendant who fails to comply with the requirements of the program may face sanctions including incarceration, extension of time of supervision, termination from the program and/or further orders from the court. Any person who is terminated from the program shall be sentenced for any offense(s) to which he or she has plead guilty upon entering the program.

(c) The municipal judge, acting in consultation with the Town attorney and prosecutor, is hereby authorized to establish guidelines regarding eligibility for participation in the pretrial diversion program pursuant to §12-14-91, *Ala. Code 1975*, as amended. The municipal judge, subject to the necessary consultation with the Town attorney and prosecutor, shall have the authority to modify the guidelines from time to time.

(d) All applicants shall pay an application fee in the amount of $507.00 to be evaluated for the pretrial diversion program. This application fee shall be nonrefundable. The application fee shall be collected by the municipal court clerk. All such fees received shall be paid into the Corrections Fund, and $7.00 of it shall be earmarked for payment to the State's Office of Prosecution Services ("OPS") as required by law. Should the $7.00 fee be amended by the State in the future, the application fee shall be in the amount of $500.00 plus an amount equal to the required OPS remittance. The D.U.I./Marijuana Possession case monitoring fee provided for in subsection (e)(6) below shall likewise be collected by the municipal court clerk and paid into the Corrections Fund. Additionally, and in the sole discretion of the judge, the application fee may be reduced to $300.00, plus the OPS remittance, on a case-by-case basis where minor offenses are charged or for other good cause.

(e) Once an applicant is accepted into the diversion program, he or she shall be responsible for the following payments and/or fees to begin and continue participation in the diversion program:

(1) Restitution, if applicable, shall be paid into the Municipal Court account.

(2) Court referral officer ("CRO") fees in the amount required by the CRO.

(3) Drug/alcohol testing fee in the amount of $25.00 per test, or in the amount of the actual cost to the Town or the CRO for such testing if greater than $25.00.

(4) Rescheduling fee in the amount of $15.00 per visit which is rescheduled with the CRO, court clerk or other person or entity with whom or with which the defendant is required to visit, when the visit is rescheduled at the defendant's request or failure to keep the visit as directed. All such fees shall be collected by the court clerk and paid into the Corrections Fund. All funds collected for rescheduled visits with the CRO shall be paid over to the CRO out of the Correction Fund monthly. All other funds so collected for missed appointments shall be retained in the Corrections Fund.

(5) (i) Cost of any treatment program, therapy or other program made a condition of the offender's pretrial diversion program. Such programs may include drug treatment, alcohol treatment programs, behavior modification treatment, and such other programs and therapy that may be required of the offender for completion of the program by the municipal judge, or by the judge upon recommendation of the prosecutor.

(ii) In addition to all listed payments and fees, a defendant shall also be liable for all court costs, victims' compensation fund assessment and all other fees and assessments that may have applied had the defendant been found guilty of the underlying offense. No cost, fee, restitution, or other assessment shall be waived or remitted absent an express written order for such waiver by the court.

(6) In D.U.I. and Possession of Marijuana cases the defendant shall be required to pay a monitoring fee of $500.00 in addition to the application fee and other fees set out herein upon acceptance into the diversion program.

(f) Cost, fees and assessment charges, in whole or in part, may, in the discretion of the municipal judge, be waived upon a finding by the municipal judge that the defendant is indigent and without the reasonable ability to pay such costs, fees, and assessments to enter and/or complete the diversion program.

(g) The municipal court clerk shall collect and distribute all court costs and restitution paid by participants in the diversion program in the same manner as court costs and restitution are collected and distributed in all other cases.

(h) Upon successful completion of the diversion program, and payment of all required costs, fees, restitution and other payments, each guilty plea entered by the defendant shall be set aside and the case(s) dismissed.

SECTION 2. **Effective Date.**

This Ordinance shall be deemed effective immediately upon its adoption and publication according to law.

ADOPTED and **APPROVED** this the _____ day of _____, 2024.

APPROVED BY:

_____
Vaughn Goodwin, Mayor

ATTEST:

(Seal)

_____
Ashley Patterson, Town Clerk

LMW/zip0224/trinity.ordinance.diversionprogram
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