

ORDINANCE NO. 288-9

AN ORDINANCE TO AMEND THE CITY OF PELHAM BUSINESS LICENSE ORDINANCE NUMBER 288-6, HERETOFORE ADOPTED BY THE CITY OF PELHAM, ALABAMA: SECTION 4-LICENSE SHALL BE LOCATION SPECIFIC, AND SECTION 28-LICENSE FEE SCHEDULES, AND TO ADD SCHEDULE FF TO PROVIDE FOR LICENSING MOBILE FOOD UNITS

WHEREAS, the City of Pelham has determined that it is in the best interest of the City to amend Ordinance No. 288-6, Business Licenses, as herein provided, to amend said Ordinance to establish provision for Mobile Food Units thereto as hereinafter set out:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELHAM, ALABAMA THAT ORDINANCE NUMBER 288-6, SECTION 4, HERETOFORE ADOPTED BY THE CITY OF PELHAM, ALABAMA IS HEREBY AMENDED TO READ AS FOLLOWS:

Section 1:

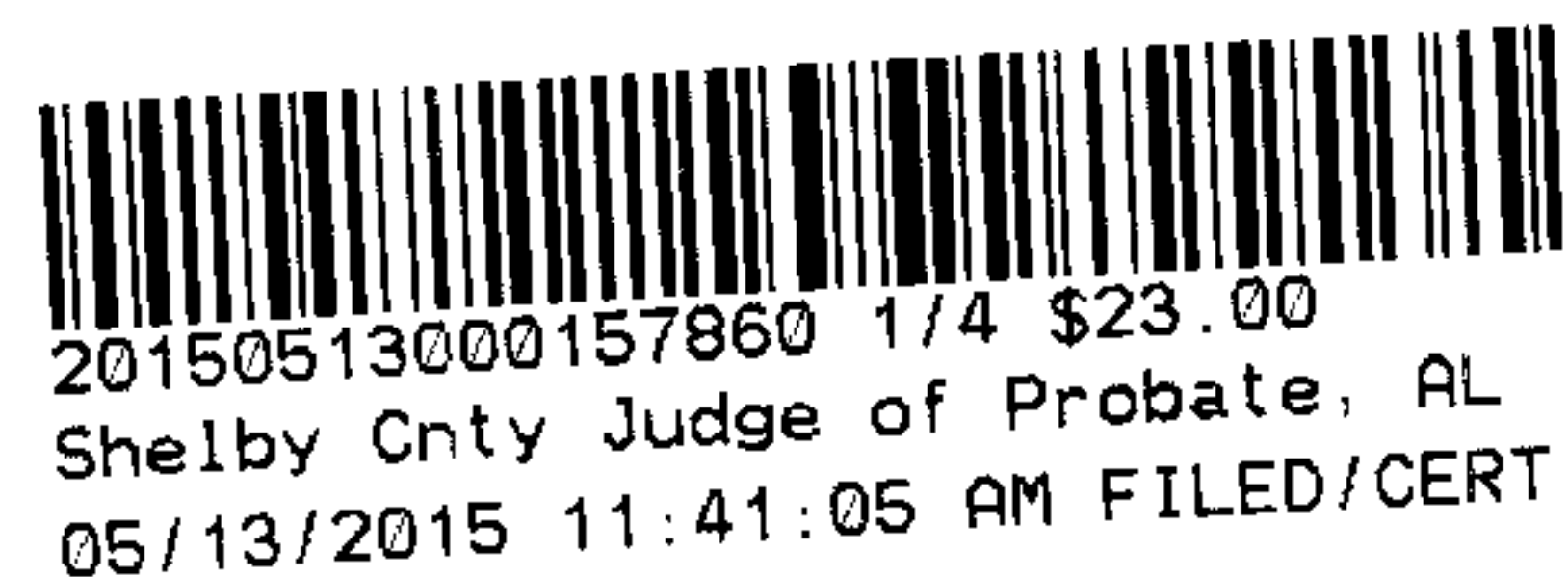
SECTION 4. License shall be location specific

- (a) For each place at which any business is carried on, a separate license shall be paid, and any person desiring to engage in any business for which a license is required shall designate the place at which business is carried on, and the license to be issued shall designate such place, and such license shall authorize the carrying on of such business only at the place designated except for Mobile Food Units as provided for under Schedule FF of this ordinance.
- (b) Every person dealing in two or more of the articles, or engaging in two or more of the businesses, vocations, occupations or professions scheduled herein, shall take out and pay for a license for each line of business.
- (c) A taxpayer subject to the license authorized by this ordinance that is engaged in business in other municipalities may account for its gross receipts so that the part of its gross receipts attributable to its branch offices will not be subject to the business license tax imposed on the principal business office required to obtain a business license. Branch office gross receipts are those receipts that are the result of business conducted at or from a qualifying branch office. To establish the existence of a qualifying branch office, the taxpayer must demonstrate proof of all the following criteria:
 - (1) The taxpayer must demonstrate the continuing existence of an actual physical facility located outside the City of Pelham such as a retail store, outlet, business office, showroom, or warehouse, to which employees or independent contractors, or both, are assigned or located during regular normal working hours.
 - (2) The taxpayer must maintain books and records which reasonably indicate a segregation or allocation of the taxpayer's gross receipts to the particular facility or facilities.
 - (3) The taxpayer must provide proof that separate telephone listings, signs, and other indications of its separate activity are in existence.
 - (4) Billing or collection activities, or both, relating to the business conducted at the branch office or offices are performed by an employee or other representative of the taxpayer who has such responsibility for the branch office.
 - (5) All business claimed by a branch office or offices must be conducted by and through said office or offices.
 - (6) The taxpayer must supply proof that all applicable business licenses with respect to the branch office or offices have been issued.
- (d) Nothing herein shall be construed as exempting businesses from payment of a license on the basis of a lack of physical location.

BE IT FURTHER ORDAINED THAT SCHEDULE FF BE ADDED TO ORDINANCE 288-6 FOR THE LICENSING OF MOBILE FOOD UNITS AND IS HEREBY ADDED TO READ AS FOLLOWS:

Schedule FF - Mobile Food Units - \$100.00 plus .075 percent of gross receipts between \$100,000.00 and \$15,000,000.00. No additional license for gross receipts over \$15,000,000.00.

To establish standards and a definition for the operation of Mobile Food Units within the City of Pelham to be detailed as follows:



Section 1. Definitions.

Mobile Food Unit – A self-contained vehicle, trailer or pushcart that serves prepared foods or prepares and serves food in various locations of the City.

Section 2. Standards and Requirements for Operation.

1. All Mobile Food Unit operators shall obtain an annual business license issued by the City of Pelham Finance Department prior to commencing any food sales in the City. Said license shall be assigned the NAICS code 7223 and shall be subject to Schedule A. Said license shall be provided for both the Mobile Food Unit as well as the commissary from which the food is obtained.
2. Business licenses shall be issued for the period beginning January 1 and ending December 31 of each year. This license shall be posted in a visible location on the Mobile Food Unit at all times while in operation. In order to obtain said license, operators shall submit copies of all required and current health department approvals for both commissary and each Mobile Food Unit. Applicant shall be responsible for having each unit inspected and approved by the City Fire Marshal prior to issuance of a business license.
3. All Mobile Food Units must be located off the public rights-of-way.
4. Mobile Food Units shall only be located and operated in areas and/or districts zoned non-residential unless they are temporarily operated for specific events held at a church that is located on a parcel zoned for residential use.
5. Mobile Food Unit operators shall have approval of the property and business owner(s) for each location at which the Mobile Food Unit operates. This approval shall be in writing, signed by the property and business owner(s) and must be made available for inspection upon request of any City Official at any time during the operation of the Mobile Food Unit.
6. No Mobile Food Unit shall be allowed to operate in excess of three (3) consecutive days in any one location, unless they have the Mayor's written approval to operate at one location for an extended period of time related to special events lasting more than three (3) days. If an exception request is denied by the mayor, the applicant has the right to appeal to the city council. During days of non-operation, the Mobile Food Unit and all associated vehicles, etc., must be removed from the premises.
7. Hours of operation for all Mobile Food Units shall be limited to 6:00 a.m. to 9:00 p.m. local time unless they have the Mayor's written approval to operate for extended hours related to special events. If an exception request is denied by the mayor, the applicant has the right to appeal to the city council.
8. No Mobile Food Unit shall operate on more than two (2) individual sites within the City per day.
9. No more than one (1) Mobile Food Unit shall operate on the same site per day unless the Mayor provides written approval for an exception to this related to specially approved festivals, celebrations, etc. If an exception request is denied by the mayor, the applicant has the right to appeal to the city council.
10. Mobile Food Units shall not be located within two hundred (200) feet of the main entrance of the nearest restaurant during the restaurant's posted hours of operation.
11. Mobile Food Units shall be located a minimum of twenty-five (25) feet away from any fire hydrant, sidewalk, utility boxes, handicap ramps and/or building entrances.
12. Mobile Food Unit operators are responsible for the proper disposal of waste and trash associated with the operation. Operators shall remove all waste and trash every 24 hours to maintain the health and safety of the public and to prevent any adverse odors. City trash receptacles shall not be used for this purpose.
13. All associated equipment, including trash receptacles, must be located within three (3) feet of the Mobile Food Unit.
14. No fire lanes, vehicular access ways or pedestrian walkways may be obstructed or encroached upon by the Mobile Food Unit.
15. No amplified microphones or bull horns, no flashing lights or any other distraction shall be permitted as a part of the Mobile Food Unit operation. Any variance to this requirement must have written approval from the Mayor. If an exception request is denied by the mayor, the applicant has the right to appeal to the city council.
16. Mobile Food Units shall not occupy parking spaces required to fulfill the minimum requirements of a principal use, unless they have the written approval of the Zoning Official or the hours of operation of the principal use do not coincide with those of the Mobile Food Unit.
17. Signage is limited to signage located on the Mobile Food Unit. No portable signage is allowed.

Section 3. Penalties.

Any person violating any provision of this article may be issued a citation by the Pelham Police Department or issued a summons and shall be required to appear in the Pelham Municipal Court. Upon conviction, any person shall be subject to any fines and other applicable court costs which may be assessed by the Pelham Municipal Court.

Section 4. Exceptions.

The Mayor shall, at his discretion, be authorized to issue a business license exemption to any Mobile Food Unit who is operating in an organized civic event, festival, celebration, non-profit event or any other event where it is deemed as being in the public's interest in order to exempt the operator of the Mobile Food Unit from business license fees; however, all operators are still responsible for the collection and timely remittance of sales taxes associated with the sale of said inventory, as well as inspection of food preparation facilities by the City Fire Marshal and the County Health Dept.

No person, firm or corporation shall be licensed under this schedule to avoid paying a license on gross receipts from sales or services required by any other schedule of this ordinance.

Section 2: Each of the provisions of this ordinance is severable; and if any provision shall be declared to be invalid, the remaining provisions shall not be affected but shall remain in full force and effect.

Section 3: All ordinances or parts of ordinances, in any manner conflicting herewith are hereby repealed.

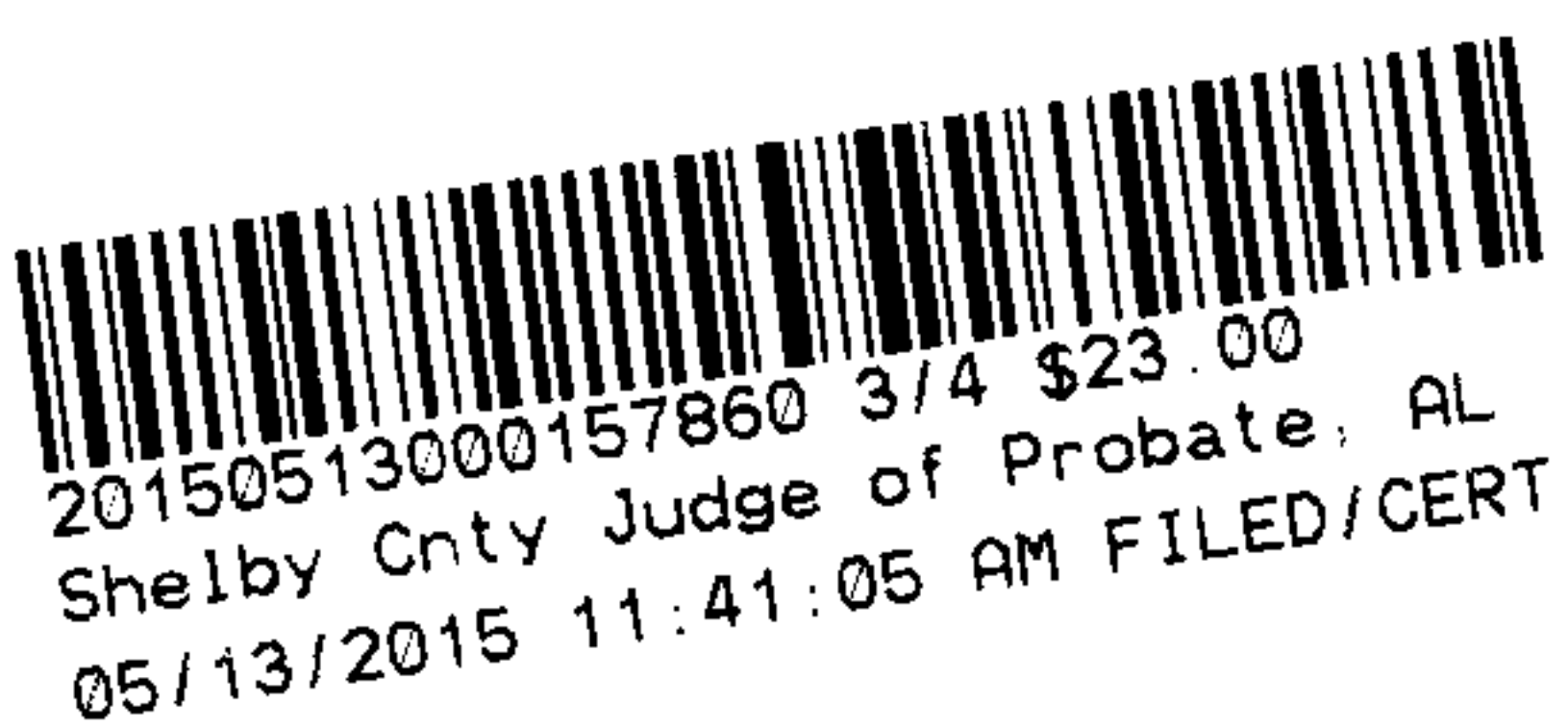
Section 4: This ordinance shall become effective on May 9, 2015.

Ron Scott, a member of the Pelham City Council, moved that all rules which would prevent the immediate consideration of **Ordinance No. 288-9**, hereupon attached, be suspended and immediate consideration given to passage of said Ordinance. Said motion was seconded by Maurice Mercer, a member, and passed unanimously by roll call vote. The vote on said motion was as follows:

Rick Hayes Council President	<u>yes</u>
Ron Scott Council Member	<u>yes</u>
Beth McMillan Council Member	<u>yes</u>
Maurice Mercer Council Member	<u>yes</u>
Karyl Rice Council Member	_____

THEREUPON Ron Scott, a council member moved and Beth McMillan, a council member seconded the motion that **Ordinance 288-9** be given vote. A roll call vote was called by the council president on said motion and the vote was recorded as follows:

Rick Hayes Council President	<u>yes</u>
Ron Scott Council Member	<u>yes</u>
Beth McMillan Council Member	<u>yes</u>



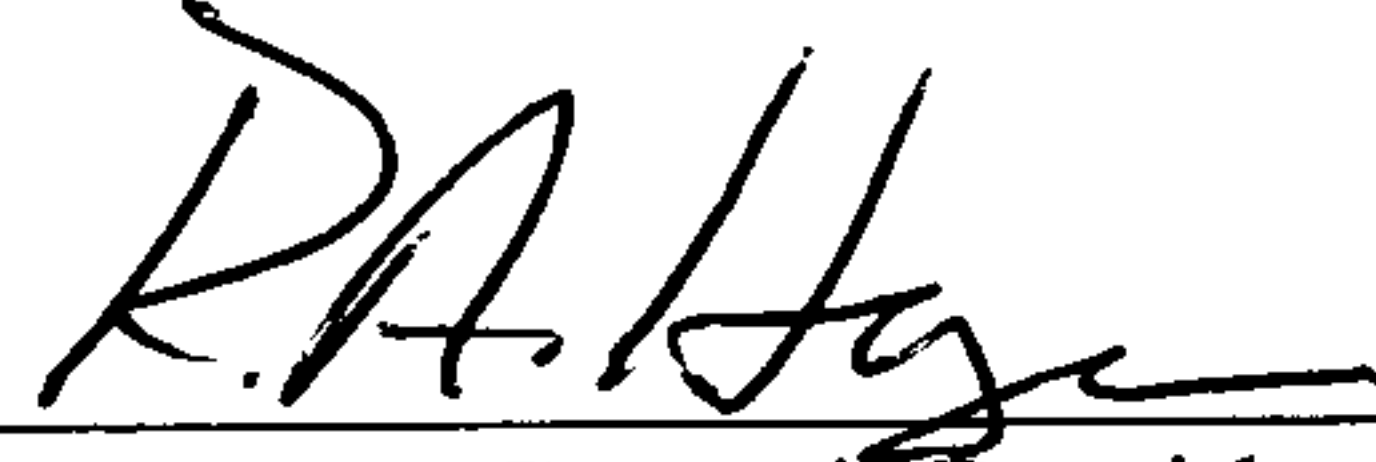
Maurice Mercer
Council Member

yes

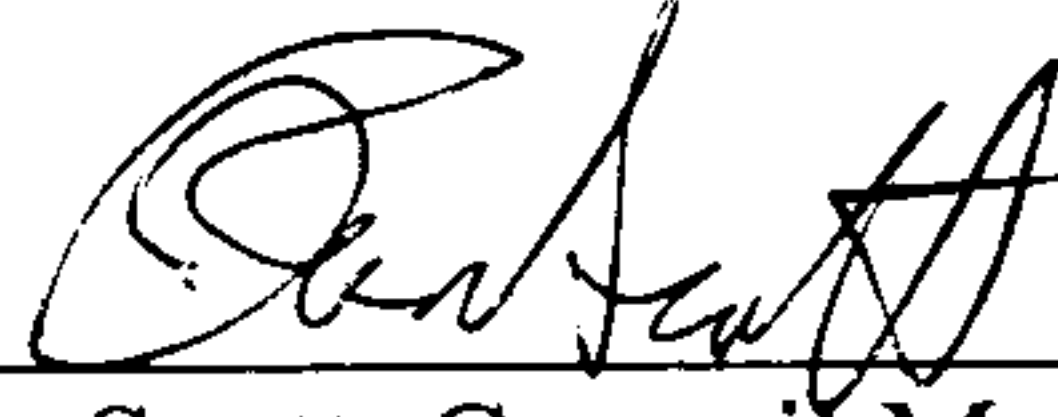
Karyl Rice
Council Member

Ordinance No. 288-9 passed by majority vote of the Council and the Council President declared the same passed.

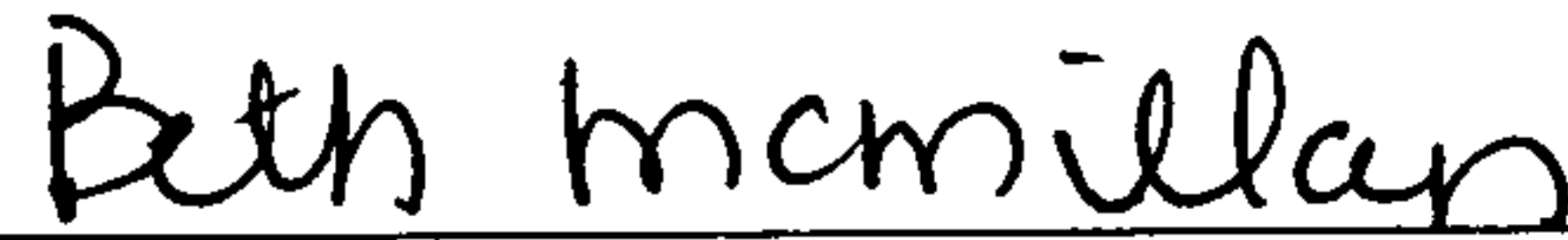
ADOPTED this 4th day of May 2015.



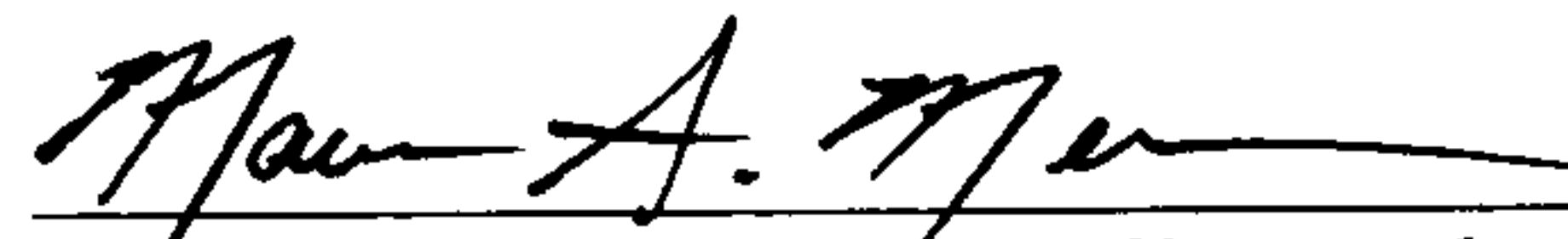
Rick Hayes, Council President



Ron Scott, Council Member




Beth McMillan, Council Member



Maurice Mercer, Council Member


Karyl Rice, Council Member



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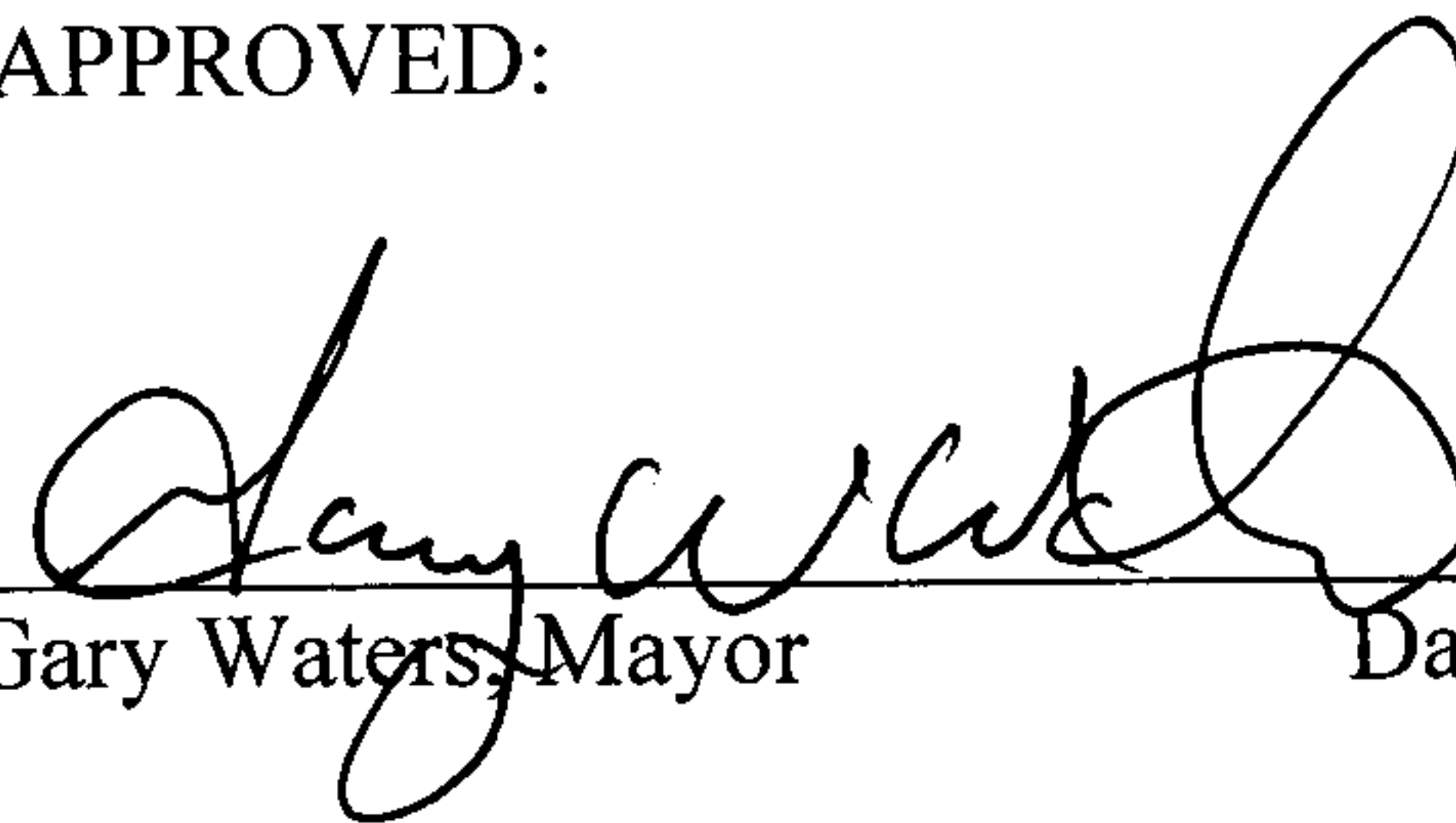


ATTEST



Marsha Yates, CMC, City Clerk

APPROVED:

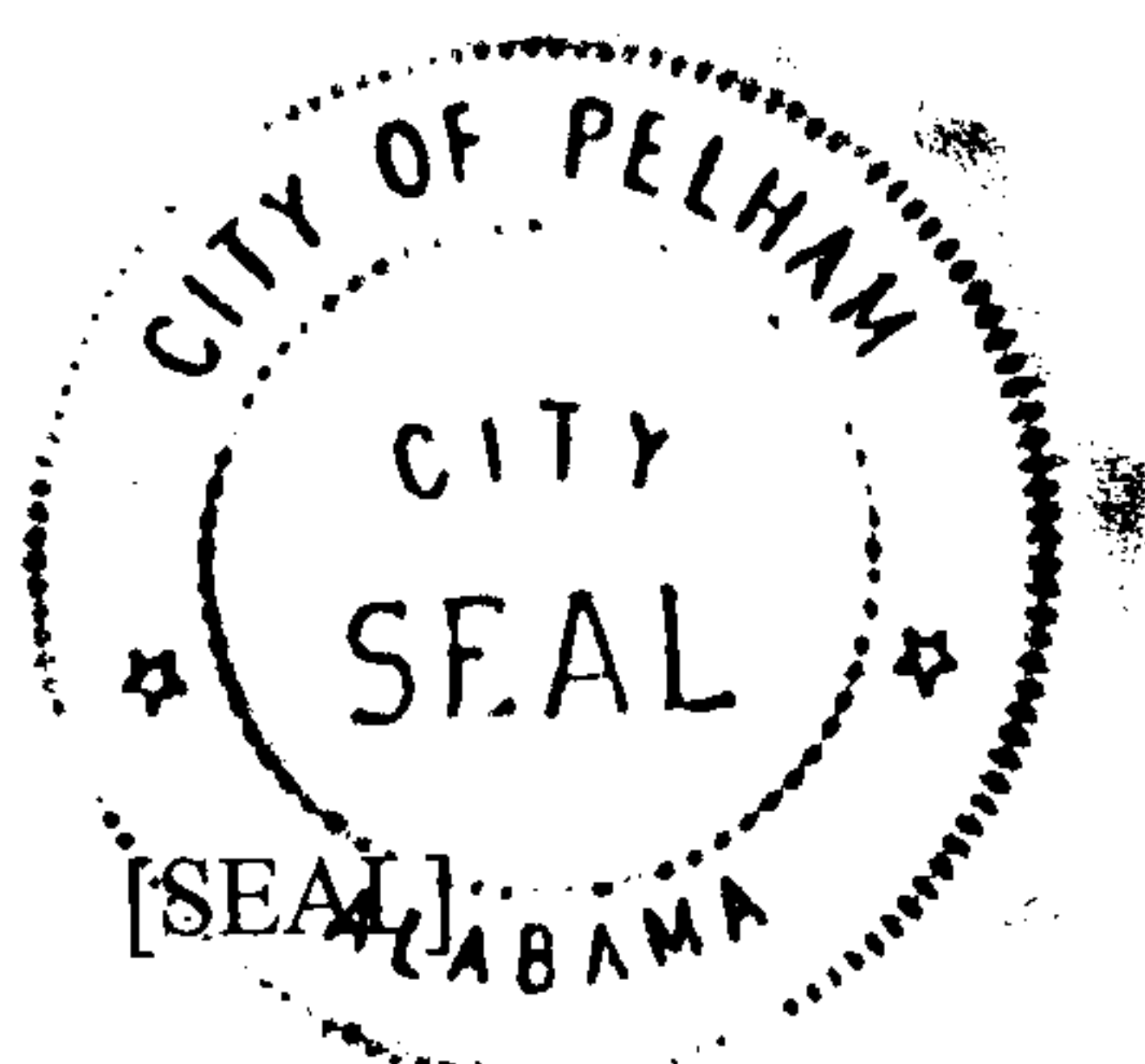


Gary Waters, Mayor

Date

POSTING AFFIDAVIT

I, the undersigned qualified City Clerk of the City of Pelham, Alabama, do hereby certify that the above and foregoing ORDINANCE 288-9 was duly ordained, adopted, and passed by the City Council of the City of Pelham, Alabama at a regular meeting of such Council held on the 4th day of May 2015 and duly published by posting an exact copy thereof on the 5th day of May 2015 at four public places within the City of Pelham, including the Mayor's Office at City Hall, City Park, Library, Water Works and www.pelhamonline.com. I further certify that said ordinance is on file in the office of the City Clerk and a copy of the full ordinance may be obtained from the office of the City Clerk during normal business hours.



Marsha Yates, CMC, City Clerk