

ORDINANCE NO. 288-11

AN ORDINANCE TO AMEND THE CITY OF PELHAM BUSINESS LICENSE ORDINANCE NUMBER 288-6, HERETOFORE ADOPTED BY THE CITY OF PELHAM, ALABAMA: SECTION 28 - LICENSE FEE SCHEDULES, AND TO ADD SCHEDULE GG TO PROVIDE FOR LICENSING OF "TRANSIT AND PASSENGER TRANSPORTATION"

WHEREAS, the City of Pelham has determined 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 provisions for Transit and Passenger Transportation thereto as hereinafter set out:

BE IT ORDAINED THAT SCHEDULE GG BE ADDED TO ORDINANCE 288-6 FOR THE LICENSING OF TRANSIT AND PASSENGER TRANSPORTATION AND IS HEREBY ADDED TO READ AS FOLLOWS:

The following general provisions shall apply to any transit and passenger transportation operating in the City of Pelham:

SCHEDULE GG

SECTION 1. Transit and Passenger Transportation

1. Each person, firm, corporation, company, association, partnership, agency or business engaged in the business of transit or passenger transportation in the City, either directly or indirectly through agents, employees, independent contractors or other representatives ("Licensee") shall pay a license tax, and each Transportation Network Company ("TNC") that operates in the City shall pay a fee as follows:

(a) Motor carriers, as defined in the Code of Alabama, shall pay a license tax as provided in Ala. Code §37-3-33 (1975).

(b) Express companies as, defined in the Code of Alabama, shall pay a license tax as provided for in Ala. Code §11-51-126 (1975).

(c) A TNC shall pay a flat fee of \$500.00 per year.

(i) TNC means a corporation, partnership, sole proprietorship, or other entity that uses a digital network to connect TNC riders to TNC drivers who provide TNC Services. A TNC shall not be deemed to control, direct or manage the personal vehicles of TNC drivers that connect to its digital network, except where agreed to by written contract.

(ii) TNC Services means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the TNC Vehicle.

(iii) TNC Vehicle means a vehicle that is used by a TNC driver and is: (a) owned, leased or otherwise authorized for use by the TNC driver; and (b) not a utility, common carrier, for-hire vehicle, motor vehicle carrier, contract carrier, transportation company, express company, taxicab, or limousine.

(iv) No person or entity shall operate a TNC within the City without first obtaining a license from the City. The City shall permit each TNC applicant that meets the requirements for a TNC set forth in this Section and pays the annual fee to operate in the City.

(v) TNCs are not motor carriers, express companies, utilities, common carriers, for-hire vehicles, contract carriers, transportation companies, or taxicab or limousine services pursuant to Title 37 of the Alabama Code, nor are TNCs Licensees.

(vi) Individual TNC drivers shall not be required to pay such fee, license tax, or license fee, nor shall they be required to obtain a commercial permit or license from the City.

(d) All other persons or entities engaged in transit or the transportation of passengers shall pay a flat license fee of \$500.00 per year.

2. *Background Checks.*

Each Licensee or TNC shall conduct, or have a third party conduct, background checks on any and all for-hire vehicle drivers or TNC drivers. The background check, shall at a minimum, include (a) Multi-State/Multi-Jurisdiction Criminal Records Locator or similar commercial nationwide database search with validation (primary source search); (b) National Sex Offender Public Website search; and (c) a driving history search.

Background checks shall be conducted prior to the driver's provision of transportation service or TNC Service in the City and annually thereafter.

3. *Driver Qualifications.*

No Licensee shall permit any person employed or otherwise engaged by Licensee to provide transportation services, and no TNC shall allow an individual to act as a TNC driver on its digital platform, who:

(a) Has been convicted within the past seven years of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage and/or theft, acts of violence or violation that constitutes a felony under the Anti-Terrorism Act of 2002, Ala. Code § 13A-10-150 et al., or a similar felony offense under the laws of another jurisdiction;

(b) Is a match in the National Sex Offender Public Website;

(c) Has accumulated more than three (3) moving violations or a major driving violation, including but not limited to attempting to evade the police, reckless driving, or driving on a suspended or revoked license, during the three year period prior to the driving history check; or

(d) Who does not possess a valid driver's license, proof of vehicle registration and automobile liability insurance, or who is under nineteen (19) years of age.

Records shall be kept by the Licensee or TNC showing that the above qualifications have been met for each person performing transportation or TNC Services.


4. (a) *Insurance for TNC vehicles.*

All TNC Vehicles shall be covered by insurance which meets the following criteria, at a minimum:

- (i) Automobile liability insurance of at least one million (\$1,000,000) dollars per incident involving a TNC driver for death, personal injury and property damage while providing TNC Services in the City.
- (ii) Such insurance may be maintained by the TNC Driver, the TNC, or any combination thereof.
- (iii) Certificates of insurance shall be kept by the TNC showing that the above insurance requirements have been met for each person performing TNC Services.

(b) *Insurance for non-TNC for-hire vehicles.*

All non-TNC for-hire vehicles shall be covered by insurance which meets the following criteria, at a minimum:


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- (i) Automobile liability insurance of at least one million (\$1,000,000) dollars per incident involving a for-hire vehicle driver for death, personal injury and property damage while providing passenger transportation services in the City.
- (ii) Such insurance may be maintained by the for-hire vehicle driver, the Licensee, or any combination thereof.
- (iii) Certificates of insurance shall be kept by the Licensee showing that the above insurance requirements have been met for each person performing transportation services pursuant to the license.

5. *Vehicle inspection; Maintenance of all for-hire Licensee Vehicles and TNC Vehicles.*

- (a) Prior to a driver first using a vehicle to provide transportation services and annually thereafter, a vehicle providing such transportation services shall be inspected to ensure compliance with the requirement of this Section. The inspection may be performed by: an American Advanced Technicians Institute (AATI) or a National Institute for Automotive Service Excellence (ASE) certified mechanic, an automobile technician at a licensed automobile repair shop, or any additional automobile repair shop otherwise approved by the chief of police or designee. Complete documentation shall be maintained of such inspection at least for the period the current inspection remains valid.
- (b) The safety inspection shall cover the following equipment:

Foot brakes; Emergency brakes; Steering mechanism; Windshield; Rear window and other glass; Windshield wipers; Headlights; Tail lights; Turn indicator lights; Stop lights; Front seat adjustment mechanism; Doors; Horn; Speedometer; Bumpers; Muffler and exhaust system; Condition of tires, including tread depth; Interior and exterior rearview mirrors; and safety belts and airbags for driver and passenger.
- (c) The equipment listed in Section (b) on any for-hire Licensee Vehicles and TNC Vehicles operated within the City limits by any driver of such Vehicle shall be maintained in a state of good mechanical repair and such Vehicle shall be in a clean and sanitary condition for the protection of the safety and health of the passengers being transported therein. Nothing herein shall prevent the chief of police or designee from inspecting any for-hire Licensee Vehicles and TNC Vehicles if there is reasonable suspicion that such Vehicle(s) are in violation of this Section, and if the chief of police or such designee finds it to be in a defective condition, to order its use to be discontinued immediately.
- (d) No more frequently than on an annual basis, the chief of police or designee shall have the right to visually inspect all vehicle records and driver's documentation for compliance with this Section.

The City does not assume any responsibility for the operations of for-hire Licensee Vehicles and TNC Vehicles, its drivers' or any actions or omissions arising in connection with such drivers' activities, which, at all times shall remain the responsibility of the Licensee and the TNC.

6. *Signage.*

At all times the for-hire Licensee vehicles and TNC vehicles providing transportation services within the City shall prominently display distinctive signage.

7. *Rate Disclosure.*

Each Licensee and TNC shall adopt procedures, practices or policies requiring the disclosure of passenger rates, estimated fares, suggested fares or the means of computing the fares to passengers prior to each passenger trip. Such disclosure may be by electronic or other means.

8. *Motor Carriers.*

Motor carriers, express companies or other transportation companies operating under the

jurisdiction of the Alabama Public Service Commission or other State regulatory body shall be permitted to obtain a City license upon submission of a copy of the motor carrier certificate issued by the public service commission and, in such case, shall not be required to demonstrate compliance with the above sections of this ordinance as a condition of the license.

9. *Government Owned Transportation Companies.*

Transportation companies owned or operated by a municipality, a county government, the State of Alabama or the federal government shall be exempt from the provisions of this ordinance.

10. *Other Exemptions.*

Persons engaged by a passenger to provide transportation in a vehicle owned by the passenger and persons who transport passengers on a not-for-profit basis shall be exempt from the provisions of this ordinance.

SECTION 2. Repealer.

All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Pelham, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

SECTION 3. Severability.

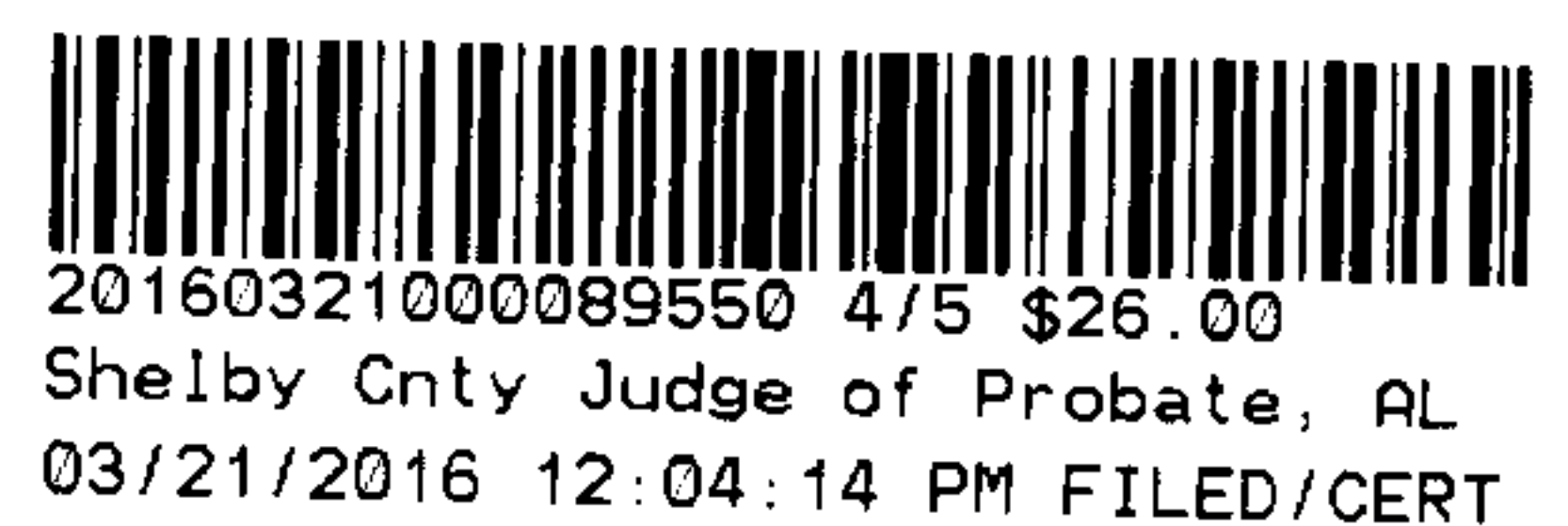
Each and every provision of this ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void and invalid for any reason shall not affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provision which might have been held invalid.

SECTION 4. Effective Date.

This ordinance shall become effective on the 12th day of March 2016.

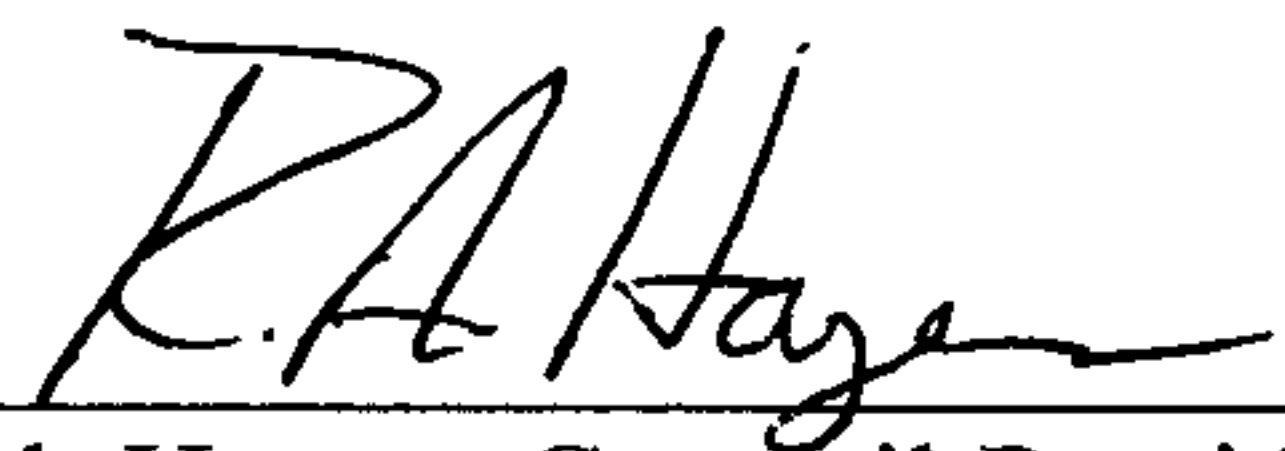
THEREUPON Beth McMillan, a council member moved and Maurice Mercer, a council member seconded the motion that Ordinance 288-11 be given vote. The roll call vote on said motion was recorded as follows:


| | |
|--|------------|
| Rick Hayes President of the Council | <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 | <u>yes</u> |



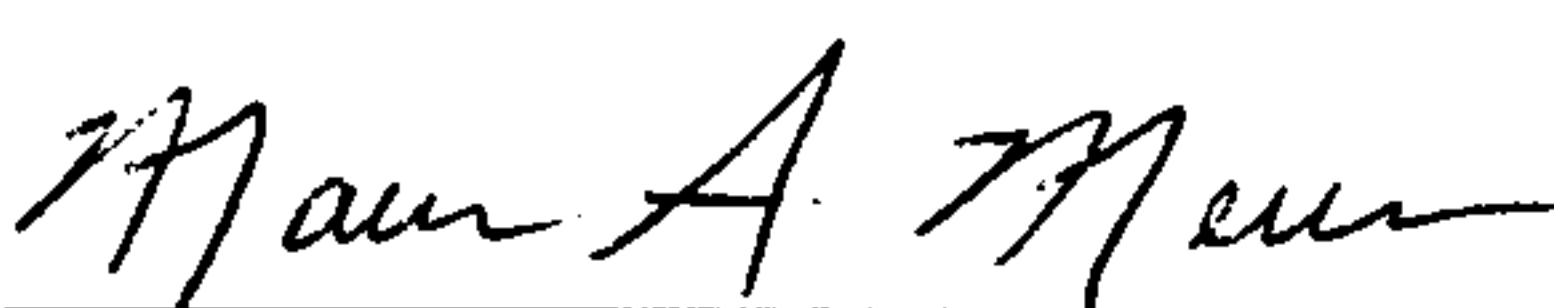
Ordinance No. 288-11 passed by vote of all members of the Council present and the Council President declared the same passed.

ADOPTED this the 7th day of March 2016.

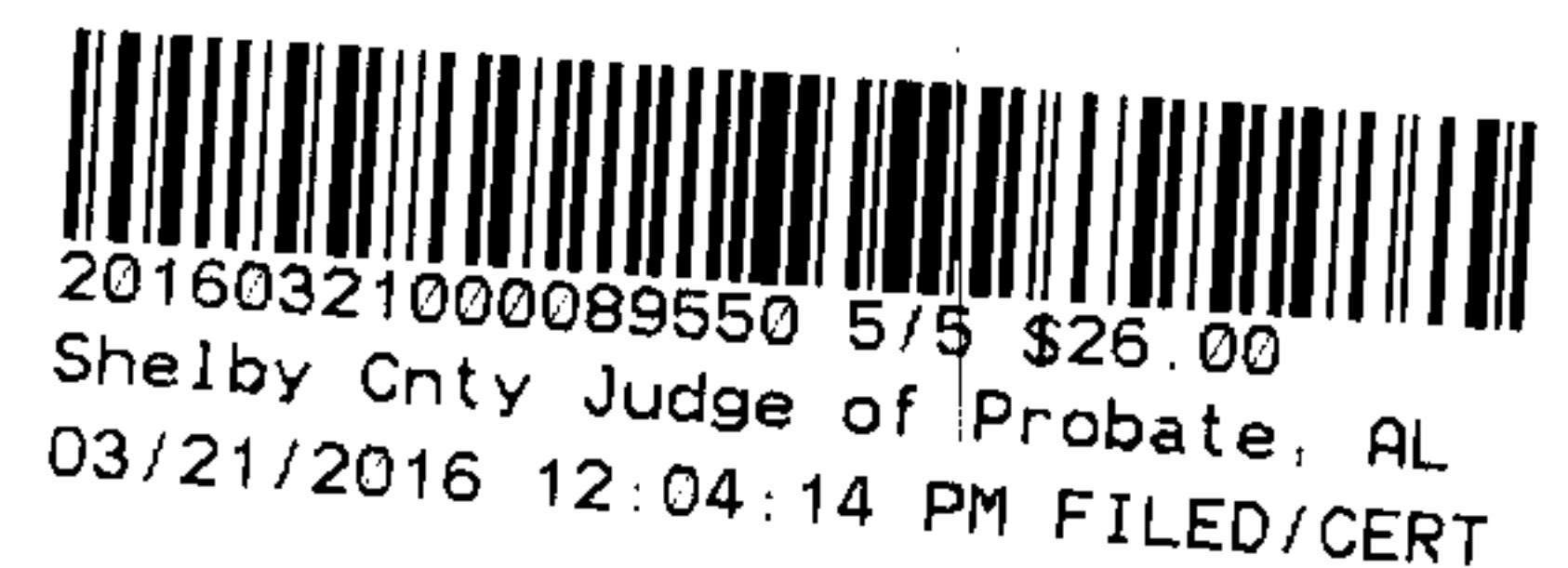
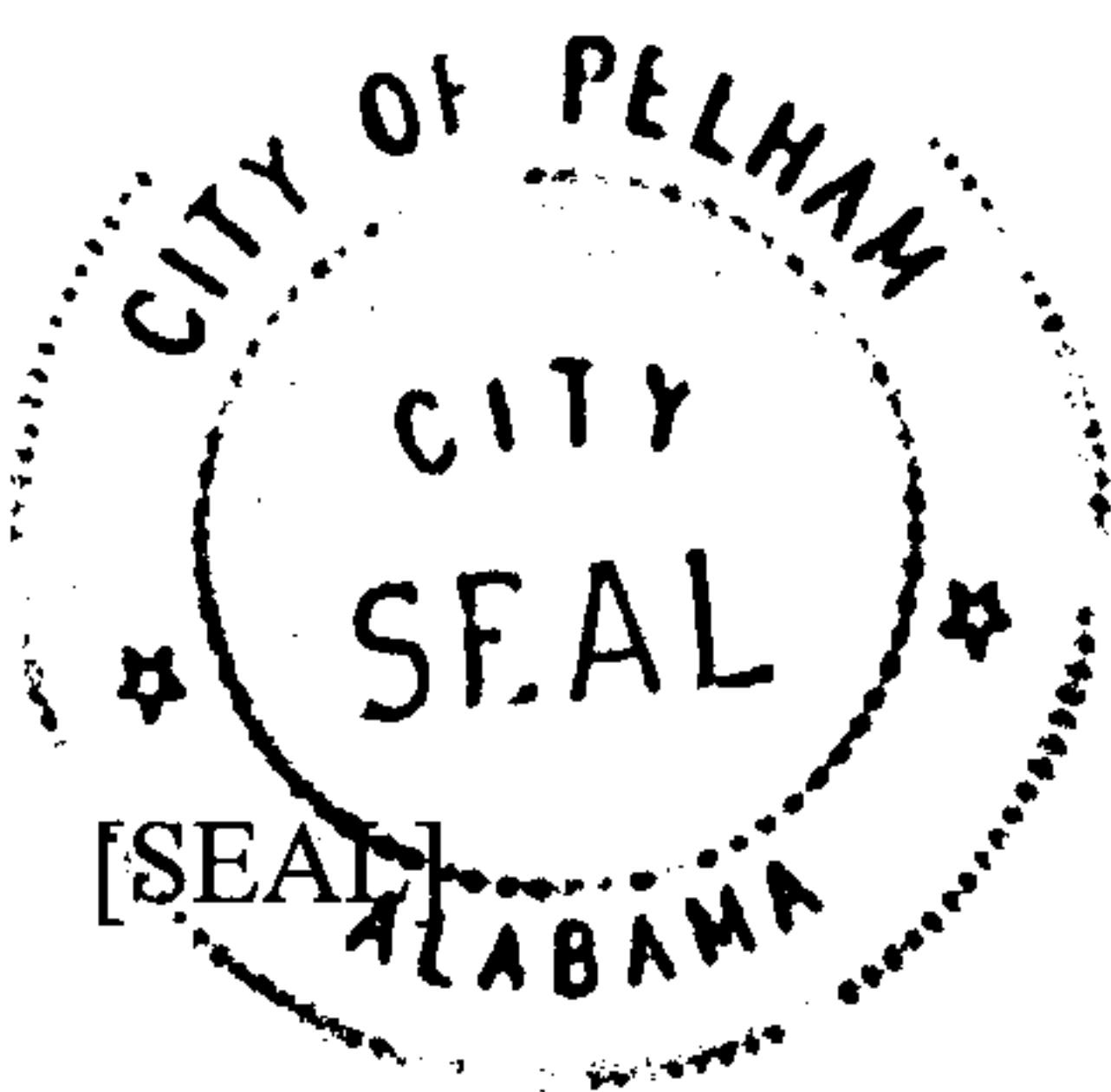

Rick Hayes, Council President


Ron Scott, Council Member


Beth McMillan, Council Member


Maurice Mercer, Council Member

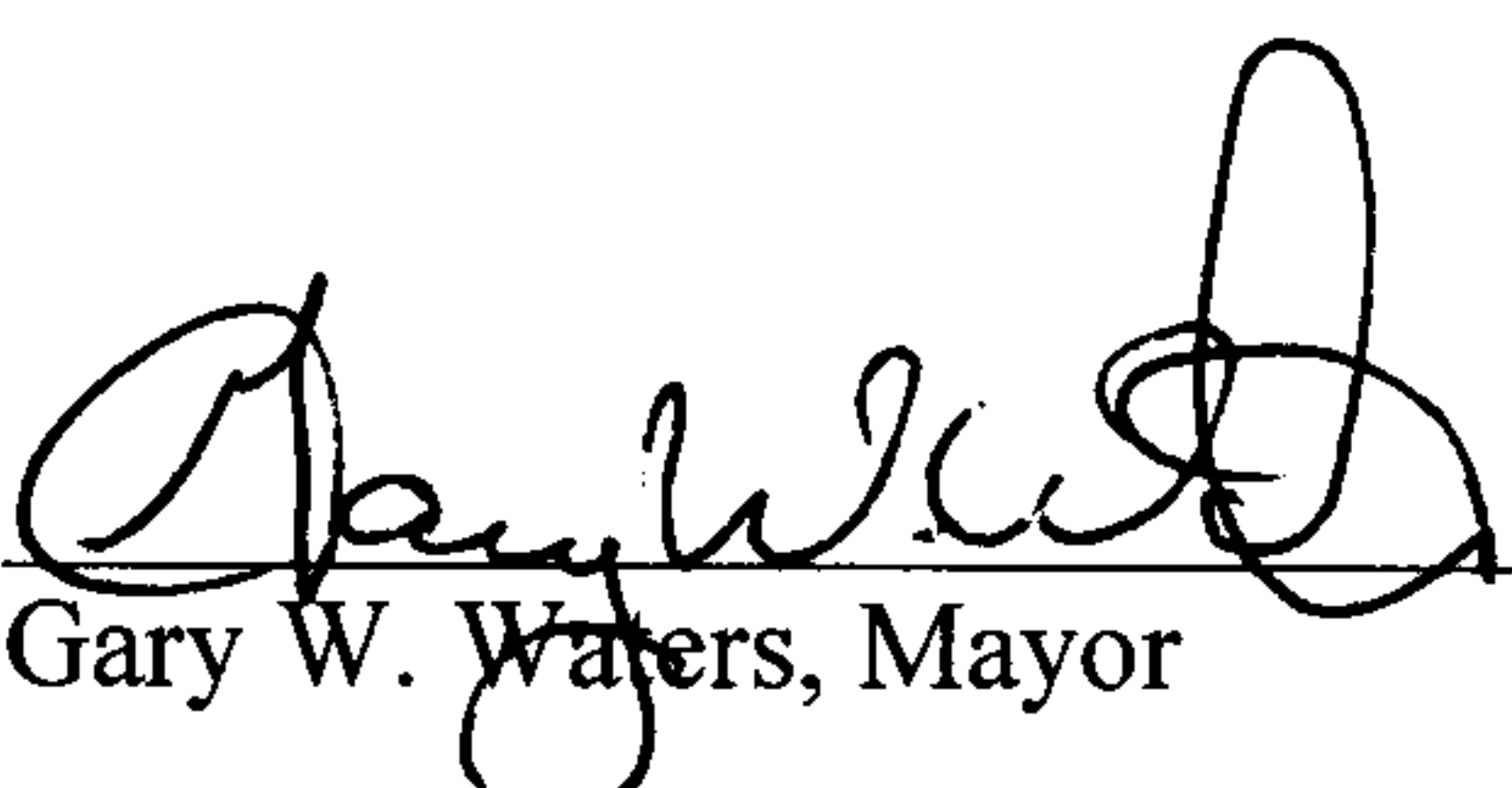

Karyl Rice, Council Member



ATTEST

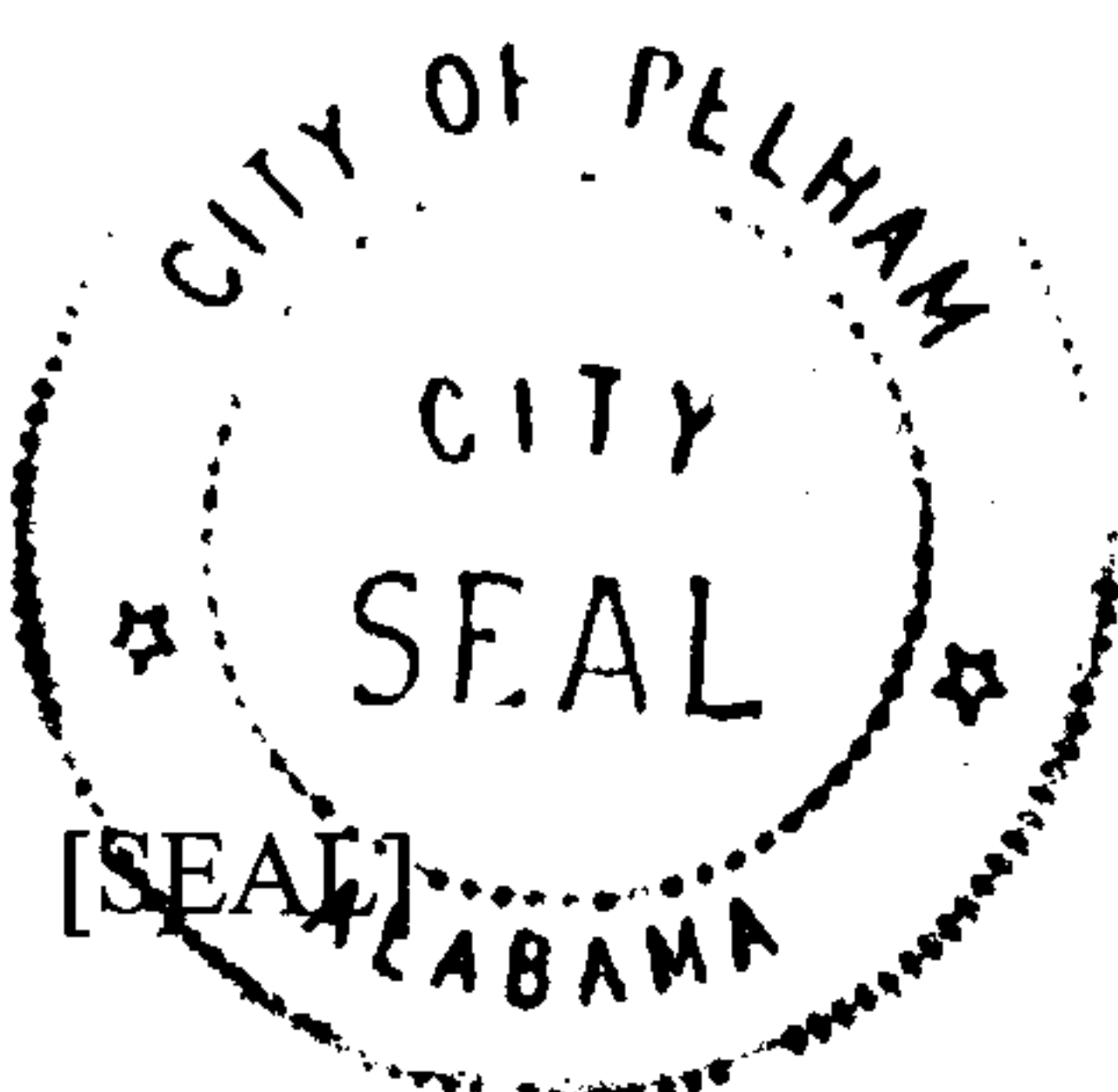

Marsha Yates, MMC, City Clerk


APPROVED

 3/7/16
Gary W. 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 NO. 288-11** 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 7th day of March 2016 and duly published by posting an exact copy thereof on the 8th day of March 2016 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, MMC, City Clerk