

1 HB683  
2 163646-5  
3 By Representatives Fridy and Mooney (N & P)  
4 RFD: Shelby County Legislation  
5 First Read: 19-MAY-15

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ENROLLED, An Act,

Relating to the City of Pelham in Shelby County to amend and reenact Act 89-189 of the 1989 Regular Session (Acts 1989, p. 186), as amended by Act 2001-906, of the 2001 Third Special Session, (Acts 2001, p. 748); to establish a civil service system and to provide for classified services; to establish a personnel board and to provide for the appointment, term, and power of board members; to provide for the establishment of a register and filling of vacancies; and to provide penalties.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Act 89-189 of the 1989 Regular Session (Acts 1989, p. 186), as amended by Act 2001-906 of the 2001 Third Special Session, (Acts 2001, p. 748), is amended and reenacted to read as follows:

"Section 1. This act shall apply only to the City of Pelham in Shelby County and shall be known as "The City of Pelham, Shelby County, Alabama, Civil Service System Act."

"Section 2. The words, terms and phrases defined below shall have the following meanings:

"(1) APPOINTING AUTHORITY means a person, officer, board, council or other body whose jurisdiction or powers are confined wholly or primarily within the territorial limits of such city and who or which possess final power to appoint

1 persons to services, jobs, offices or positions, the  
2 compensation of which is paid in whole or in part from public  
3 funds of such city subject to this act. The mayor and city  
4 department heads are appointing authorities within the meaning  
5 of this definition.

6 "(2) BOARD means the personnel board created by this  
7 act.

8 "(3) CERTIFICATION means a submission of names of  
9 eligibles from a reemployment list, a promotion list or an  
10 eligible register to an appointing authority for the purpose  
11 of filling a position in the classified service.

12 "(4) CITY means the City of Pelham, Shelby County,  
13 Alabama.

14 "(5) COUNCIL means those individuals elected to the  
15 official positions of city council members.

16 "(6) CLASS means a group of positions in the  
17 classified service sufficiently similar in respect to the  
18 duties, responsibilities and authority that the same  
19 descriptive title may be used to identify all positions  
20 allocated to the class, that the same requirements as to  
21 education, experience, capacity, knowledge, proficiency,  
22 ability and other qualifications should be required of the  
23 ~~incumbents~~ employees, that the same tests of fitness may be  
24 used to choose qualified employees and that the same schedule  
25 of compensation can be made to apply with equity.

1           "(7) CLASSIFICATION means the assigning of a  
 2 position to the appropriate class in accordance with its  
 3 duties, responsibilities and authority.

4           "(8) DEPARTMENT HEAD means the top management  
 5 individual in each of the city's operations divisions,  
 6 including, but not limited to, the chief of police, the fire  
 7 chief, the director of public works, the city clerk and the  
 8 library director. Each department head is considered an  
 9 appointing authority in their respective divisions. Department  
 10 heads are members of the classified service as defined in this  
 11 act.

12           "(9) DIRECTOR means the Human ~~Resource~~ Resources  
 13 Director appointed by the mayor with the council's approval.

14           "(10) DISCOVERY means the process apart from the  
 15 hearing whereby a party may obtain relevant information from  
 16 another person, including a party, which has not otherwise  
 17 been provided.

18           "(11) ELIGIBLE means a person whose name is on a  
 19 reemployment list, a promotion list or an eligible register.

20           "(12) ELIGIBLE REGISTER means a record containing  
 21 the names of those persons who have successfully completed  
 22 prescribed tests, listed and ranked in order of their final  
 23 earned average from the highest to the lowest and are  
 24 considered qualified for original appointment to positions in  
 25 the class for which the test was held.

1           "(13) EMPLOYEE or APPOINTEE means a person in the  
2 classified service herein set up and appointed by an  
3 appointing authority, unless herein specifically exempted.

4           "(14) MAYOR means the individual elected to the  
5 official position of mayor of the City of Pelham, Alabama.

6           "(15) PAY GRADE means the specific pay range as set  
7 forth in the pay plan for a classification.

8           "(16) PAY STEP means the specific pay rate within a  
9 pay range as set forth in the pay plan.

10           "(17) PERMANENT POSITION means any position in the  
11 classified service which has required or which is likely to  
12 require the full-time services of an ~~incumbent~~ employee  
13 without interruption for a period of more than six months.

14           "(18) PERSONNEL BOARD means the board created by  
15 this act.

16           "(19) POSITION means any job or set of duties in the  
17 classified service requiring the full-time or part-time  
18 employment of one person in the performance and exercise  
19 thereof.

20           "(20) PROBATIONARY EMPLOYEE means an employee  
21 appointed to a permanent position from a reemployment list,  
22 promotion list or eligible register who has not completed his  
23 or her probationary period.

24           "(21) PROMOTION means an advancement from one class  
25 to another related occupational class with increased duties

1 and/or responsibilities, and for which a higher rate of pay is  
2 prescribed.

3 "(22) POLICY, RULE or REGULATION means policies,  
4 rules, and regulations, adopted by the board in accordance  
5 with this act which are considered necessary to carry out the  
6 provisions of this act and to develop a comprehensive civil  
7 service system, so long as the policies, rules, and  
8 regulations adopted by the board do not modify or change the  
9 intent of this act.

10 "(23) PUBLIC HEARINGS means a meeting of the board,  
11 open to the public, whereat any citizen, taxpayer or party at  
12 interest may appear and be heard.

13 "(24) PUBLIC NOTICE means a written notice placed  
14 upon the bulletin board maintained at or near the entrance to  
15 the offices of the city clerk in a place accessible to the  
16 public during business hours.

17 "(25) PUBLIC RECORDS means a record which the public  
18 shall have the right to inspect in a reasonable manner during  
19 ordinary business hours.

20 "(26) QUALIFICATIONS means the minimum experience,  
21 educational, physical and personal requirements determining  
22 the eligibility of an applicant for examination.

23 "(27) REEMPLOYMENT LIST means a list containing the  
24 names of persons who have occupied, and have been separated  
25 from, permanent positions in the classified service and who

1 are entitled to preference in appointment to vacancies in  
2 positions.

3 "(28) REGULAR EMPLOYEE means an employee who was  
4 appointed under the provisions of this act to a permanent  
5 position and who has completed his or her probationary period.

6 "(29) SEASONAL POSITION means any position in the  
7 classified service which requires or is likely to require the  
8 services of an ~~incumbent~~ employee during certain parts of each  
9 year, only at recurring annual or other periods.

10 "(30) SERIES means a subdivision of a group  
11 consisting of two or more classes of positions, similar as to  
12 line of work but differing in responsibility and/or  
13 difficulty, which constitutes steps in a normal line of  
14 promotion.

15 "(31) SPECIFICATIONS means a formal statement  
16 descriptive of a position and shall contain:

17 "a. The title and class.

18 "b. A description of the duties and responsibilities  
19 thereof.

20 "c. The minimum qualifications required of  
21 applicants as to education, experience, physical ability, and  
22 other attributes.

23 "(32) TEMPORARY POSITION means any position in the  
24 classified service which is not permanent, but which requires

1 or is likely to require the services of an ~~incumbent~~ employee  
2 for a period of six months or less.

3 "(33) TESTS means written and/or oral examinations  
4 or other methods established as herein provided to determine  
5 the merit, efficiency and general fitness of applicants for  
6 positions.

7 "(34) TITLE means the term used to designate all  
8 employment by class and grade and shall be descriptive of the  
9 duties of the position.

10 "Section 3. The purpose of this act is to provide  
11 for the orderly administration of city government and shall  
12 provide for the following:

13 "(1) The preparation and maintenance of a position  
14 classification plan for all positions in the classified  
15 service, based upon a similarity of duties performed and  
16 responsibilities assumed, so that the same schedule of pay may  
17 be applied to all positions in the same class. Each position  
18 in the classified service shall be allocated to one of the  
19 classes in the plan.

20 "(2) A pay plan for all employees in the classified  
21 service. The plan shall be composed of salary grades and  
22 ranges of pay with minimum and maximum rates of compensation,  
23 and such intermittent steps or rates as may be deemed  
24 necessary for proper recruitment and retention of personnel.



1 The pay plan shall be fully integrated with the classification  
2 plan.

3 "(3) The open-competitive and promotional  
4 examinations to determine the relative fitness of individuals  
5 meeting announced requirements to perform the duties of the  
6 positions in the classified service. Such examinations shall  
7 be announced publicly and in advance of the date fixed for  
8 closing the filing of applications.

9 "(4) The establishment of eligible lists for  
10 appointment and promotion upon which lists shall appear the  
11 names of successful candidates in order of their relative  
12 performance or ranking in the respective examinations. The  
13 duration of eligible lists shall normally be for one year.

14 "(5) A rejection of candidates who fail to meet  
15 announced job requirements or who are found lacking in conduct  
16 or character, or who have attempted any deception or fraud  
17 with respect to an examination or candidacy for appointment,  
18 or for any other reason deemed just and applicable.

19 "(6) A probationary period of one year before  
20 appointment is complete and regular status is conferred on the  
21 probationary employee.

22 "(7) The provisional, emergency, temporary, seasonal  
23 and part-time employment.

24 "(8) The preparation and maintenance of records of  
25 performance of all employees in the classified service. Such

1 records shall be considered in counseling employees regarding  
2 work improvements; in determining salary increases and  
3 decreases provided in the pay plan; and as a factor in  
4 promotion, demotion, layoff, transfers and reinstatement.

5 "(9) The development and operation of programs to  
6 improve the effectiveness and morale of employees in the  
7 public service, including training, leadership, safety,  
8 health, counseling and employee relations.

9 "(10) The imposition of disciplinary measures of  
10 dismissal, demotion and suspension without pay; and for  
11 provisions for appeal from such actions.

12 "(11) The establishment of procedures governing  
13 layoff, reinstatement, disciplinary actions and grievances.

14 "(12) The hours of work and holidays; vacation, sick  
15 and special leave with or without pay.

16 "(13) The examination and certification of public  
17 payrolls by the director.

18 "(14) The exemptions from the coverage.

19 "(15) The prohibition of political activity on the  
20 part of any employee in the classified service.

21 "(16) Other rules and regulations not inconsistent  
22 with the provisions of this act, which shall aid in its  
23 effectiveness.

24 "Section 4. (a) There is hereby created a personnel  
25 board.

1           "(b) (1) The personnel board shall be composed as  
2 follows:

3           "a. One member elected by the classified employees  
4 of the City of Pelham.

5           "b. One member appointed by the mayor and the city  
6 council of the City of Pelham, but not sooner than 12 months  
7 after taking office.

8           "c. The third member shall be mutually agreed upon  
9 by the first two members.

10           "(2) Such appointments shall be for terms of four  
11 years. No member of the board, at the time of appointment, nor  
12 for three years prior to appointment, shall have held public  
13 office or political party office nor have been a candidate for  
14 public office. Vacancies during unexpired terms shall be  
15 filled for the remainder of the term and shall be filled in  
16 the same manner as originally filled.

17           "(c) The personnel board shall:

18           "(1) Meet in regular session at least ~~semiannually~~  
19 quarterly and at other times as necessary to transact the  
20 business of the board.

21           "(2) Promulgate such policies, rules and regulations  
22 as are necessary to carry out the provisions of this act and  
23 to develop a comprehensive civil service system.

1           "(3) Review, approve, disapprove or modify  
 2 administrative actions and ~~conduct~~ the administration of the  
 3 program by the director ~~of personnel~~.

4           "(4) Hear and render decisions relative to  
 5 disciplinary and related matters as set forth in this act.

6           "(5) Conduct inquiry and investigation as to the  
 7 force and effect of this act and the operation of the merit  
 8 system program.

9           "(6) Transact such other business within the purview  
 10 of the board and within the intent of this act.

11           "Section 5. The mayor, with the council's approval,  
 12 shall appoint a ~~director~~ Human Resources Director. The  
 13 director shall be experienced in the field of personnel  
 14 administration and shall administer an efficient and  
 15 economical merit system in accordance with the rules arising  
 16 therefrom, and shall carry out the policies established by the  
 17 personnel board. Any act of the director complained of shall  
 18 be subject to review by the board. In addition to the duties  
 19 and responsibilities set forth elsewhere in this act, the  
 20 director shall:

21           "(1) Serve as secretary to the board ~~and shall be~~  
 22 ~~its executive officer~~.

23           "~~(2) Appoint, reward, remove or otherwise discipline~~  
 24 ~~in accordance with this act, such number of subordinates as~~  
 25 ~~may be necessary to carry out an effective operation.~~

1           "~~(3)~~(2) Prepare for approval of the board such  
2 policies, rules and regulations as are needed to carry out the  
3 provisions of this act, including, but not limited to, rules  
4 governing examinations; recruitment; appointments;  
5 suspensions; dismissals; certifications; layoffs; sick,  
6 vacation and other types of leave; resignations;  
7 reinstatements; promotions; demotions; transfers; salary;  
8 classification and other rules as deemed necessary in the  
9 interest of a sound personnel and merit system.

10           "~~(4)~~(3) Determine the effectiveness of the system  
11 and compliance with this act by conduct of such studies and  
12 inquiries as deemed necessary, and to report such findings  
13 along with recommendations to the board for improvements. In  
14 connection with such investigations or inquiries, the director  
15 shall have the power to administer oaths, subpoenas and  
16 require the attendance of witnesses, and the production of  
17 records, documents, and papers pertaining to the subject under  
18 consideration.

19           "~~(5)~~(4) Shall have the ~~authority~~ responsibility to  
20 work with the mayor and applicable department heads to study  
21 the organization and operation, ~~manpower requirements~~ of the  
22 departments, and to make recommendations for improvements to  
23 the ~~council~~ board.

24           "~~(6)~~(5) Shall maintain an official roster of all  
25 positions and ~~incumbents~~ employees in the classified service

1 wherein shall be recorded and the various personnel  
2 transactions affecting the employee.

3 ~~"(7)(6)~~ Establish and administer, subject to  
4 approval by the board, plans for the classification of  
5 positions in the classified service.

6 ~~"(8)(7)~~ Promote and assist in the establishment of  
7 programs for general employee pension, welfare, health and  
8 career development.

9 "Section 6. At the time the City of Pelham, Shelby  
10 County, Alabama, becomes subject to the provisions of this  
11 act, all employees and appointees holding regular full-time  
12 positions in the service of the City of Pelham, Alabama, shall  
13 be granted permanent status in the classified service as  
14 hereinafter defined. The service shall be divided into two  
15 categories, as follows:

16 "(1) A classified service comprised of all employees  
17 and appointees holding regular full-time positions in the  
18 service of the City of Pelham, Alabama. Employees occupying  
19 these positions shall be deemed to be in the classified  
20 service unless specifically exempted from the service in  
21 accordance with this act.

22 "(2) The unclassified service shall include:

23 ~~"a. All employees or appointees of a library board.~~

24 ~~"b. Persons engaged in teaching or in supervising~~  
25 ~~teaching in the public schools.~~

1           ~~"c.a.~~ Officials elected by popular vote.

2           ~~"d.b.~~ The judge of any court.

3           ~~"e.c.~~ The city attorney.

4           ~~"f.d.~~ The city prosecutor.

5           ~~"g. Common laborers, the definition of what type of~~  
6 ~~duties constitute "common labor" shall be determined by the~~  
7 ~~board.~~

8           ~~"h.e. Part-time members of~~ Members and employees of  
9 all city boards.

10           ~~"i.f.~~ Attorneys, physicians, surgeons, and dentists,  
11 who with permission of the appointing authority of the city,  
12 engage in outside similar employment.

13           "Section 7. (a) Public records shall be those  
14 records as defined in Section 41-13-1, Code of Alabama 1975.  
15 Such records may be reviewed in a manner prescribed by the  
16 director, taking into account confidentiality, convenience and  
17 related factors.

18           "(b) Minutes of board meetings, active employment  
19 rosters and financial records shall be retained permanently.  
20 Applications and examination papers of successful candidates  
21 shall be retained for the duration of appropriate eligible  
22 registers.

23           "(c) From time to time by public hearing, the  
24 personnel board may promulgate policies, rules and regulations  
25 as are necessary to carry out the provisions of this act and

1 to develop a comprehensive civil service system, so long as  
2 such promulgated policies, rules and regulations do not modify  
3 or change the intent of the provisions of this act, except as  
4 ~~provided in subsection (g)~~ specifically provided herein. No  
5 promulgated policy, rule or regulation shall be made, nor  
6 shall any promulgated policy, rule or regulation be adopted at  
7 the same meeting at which it is proposed. No final action to  
8 promulgate policies, rules or regulations shall be taken in  
9 less than seven days after proposal and after a public  
10 hearing. Adequate notice of public hearings shall be sent to  
11 the appointing authorities concerned and to representative  
12 employee associations in order to facilitate wide distribution  
13 of the proposed rules. It shall be the responsibility of such  
14 associations to provide a current name and address for the  
15 personnel board for proper mailing.

16 "(d) The board may adopt, modify, or change rules  
17 and regulations to conform to any applicable federal and state  
18 law affecting the board.

19 "Section 8. (a) The classification and pay plan,  
20 hereinafter referred to as the "plan," ~~provides~~ shall provide  
21 a complete inventory of all positions in the classified  
22 service and an accurate description and specifications for  
23 each class of work and the basis of compensation for employees  
24 in the classified service. The plan ~~standardizes~~ shall  
25 standardize titles, each of which is indicative of a definite



1 range of duties and responsibilities and has the same meaning  
2 throughout the classified service.

3 "(b) The ~~classification~~ plan shall consist of all of  
4 the following:

5 "(1) A grouping in classes of positions which are  
6 approximately equal in difficulty and responsibility which  
7 call for the same general qualifications, and which can be  
8 equitably compensated within the same range of pay under  
9 similar working conditions.

10 "(2) Class titles which are descriptive of the work  
11 of the class; identify the class; and shall be used in all  
12 personnel, accounting, budget and related records. No person  
13 shall be appointed to or employed in a position in the  
14 classified service under a title not included in the  
15 ~~classification~~ plan. Working titles are used in the course of  
16 departmental routine to indicate authority, status in the  
17 organization or administrative rank and may be continued in  
18 use for those purposes.

19 "(3) Written specifications for each class of  
20 positions consisting of: A title which is descriptive and  
21 consistent with other titles in the plan; a brief overall  
22 description of the kind and level of work; examples of typical  
23 duties performed in positions in the class; qualification  
24 requirements setting forth the necessary experience, education  
25 or other requirements; and the required knowledges, skills and

1 abilities needed in order to perform the work. Specifications  
 2 are interpreted in their entirety and in relation to others in  
 3 the classification plan. Particular phrases or examples are  
 4 not to be isolated and treated as a full definition of the  
 5 class. Specifications are deemed to be descriptive and  
 6 explanatory of the kind of work performed and not necessarily  
 7 inclusive of all duties performed.

8 "(4) An allocation list showing the class title of  
 9 each position in the classified service as identified by the  
 10 name of the ~~incumbent~~ employee.

11 ~~"(c) The classification plan is to be used:-~~

12 ~~"(1) As a guide in recruiting and examining  
 13 candidates for employment.~~

14 ~~"(2) In determining lines of promotion and in  
 15 developing employee training programs.~~

16 ~~"(3) In determining in conjunction with wage surveys  
 17 and job analysis, salaries to be paid for various types of  
 18 work.~~

19 ~~"(4) In determining personnel service items in  
 20 departmental budgets.~~

21 ~~"(5) In providing uniform job terminology  
 22 understandable by all officials, employees and the general  
 23 public.~~

1           "(c) The plan shall be constructed to provide fair  
2 compensation for all classes in the plan with due regard to  
3 such factors as:

4           "(1) Varying degrees of difficulty and  
5 responsibility among the several classes of work.

6           "(2) Prevailing rates of pay and fringe benefits for  
7 similar employment in private establishments and other public  
8 jurisdictions in the area.

9           "(3) Recruiting experience for the several classes  
10 of work.

11           "(4) Financial conditions of the city.

12           "(d) The plan shall contain all of the following:

13           "(1) A basic salary grade for each position class in  
14 the plan.

15           "(2) A basic salary schedule containing the minimum  
16 rate, maximum rate and intermediate rates of pay for each  
17 salary and a conversion of rates for basis of payment.

18           "(3) The basis of pay, indicating the number of  
19 weekly work hours in general application to the classified  
20 service or exception thereto.

21           "(e) The plan shall be used for all of the  
22 following:

23           "(1) As a guide in recruiting and examining  
24 candidates for employment.

1           "(2) To determine lines of promotion and in  
2 developing employee training programs.

3           "(3) To determine, in conjunction with wage surveys  
4 and job analysis, the salaries to be paid for various types of  
5 work.

6           "(4) To determine personnel service items in  
7 departmental budgets.

8           "(5) To provide uniform job terminology  
9 understandable by all officials, employees, and the general  
10 public.

11           "(f) (1) The Human Resources Director shall have the  
12 responsibility to work with the mayor and department heads to  
13 develop or direct the development of the plan. Upon completion  
14 of the plan, the director shall submit to each department head  
15 a copy of the tentative class specifications and pay for each  
16 position class and a list allocating the positions in the  
17 jurisdiction to the tentative position classes. The department  
18 head shall be responsible for notifying employees as to the  
19 allocation of their respective positions. A copy of the class  
20 specification and individual allocation shall be made  
21 available to the employee or his or her representative on  
22 request. The Human Resources Director shall furnish copies of  
23 the plan to all groups concerned and shall provide the  
24 opportunity for department heads, employees, and the general  
25 public to present their views individually or collectively.

1           "(2) The Human Resources Director, after  
2           consultation with the council and employee representatives,  
3           shall complete the plan for the various classes of work in the  
4           classified service. Upon completion, it shall be submitted to  
5           the board, mayor, and council for approval.

6           "(g) Upon final approval by the board, the mayor,  
7           and the council, the plan shall be certified by the director  
8           and delivered to the department heads. The plan shall become  
9           effective within 30 days after adoption by the council.

10          "(h) The Human Resources Director shall maintain the  
11          plan so that it reflects the duties performed by each employee  
12          in the classified service and the class to which each position  
13          is allocated. It shall be the duty of the director to do all  
14          of the following:

15                 "(1) Recommend to the board the establishment of new  
16                 position classes and the deletion or revision of existing  
17                 classes.

18                 "(2) Review the duties and responsibilities of each  
19                 new position established and, with the approval of the board,  
20                 allocate the position to the appropriate position class. It  
21                 shall be responsibility of the department head to submit to  
22                 the director, in writing, a comprehensive job description  
23                 describing in detail the duties of each new position  
24                 established.

1           "(3) Make periodic studies of positions in order to  
2 determine changes in duties and responsibilities and on basis  
3 of finding recommend reallocation or reclassification of  
4 positions. Classification studies may be made at the request  
5 of the employee, department head, or on the initiative of the  
6 director. Changes in duty assignments must be more than  
7 temporary in nature and the incumbent must be performing the  
8 duties for a sufficient duration to warrant investigation.

9           "(4) Review the plan at least once every five years.

10           "(i) The plan shall be amended when the mayor and  
11 board add a new position class to the classification and pay  
12 plan. Prior to adoption of an amendment to the classification  
13 and pay plan, the mayor and council shall provide the  
14 opportunity for department heads and employees to present  
15 their views.

16           "(j) Each employee in the classified service shall  
17 be paid at one of the rates set forth in the plan in which he  
18 or she serves, in accordance with the following rules and the  
19 special provisions for administering the plan:

20           "(1) Minimum Rate. New appointments to the  
21 classified service shall be made at the beginning rate of the  
22 salary range for the classification to which the appointment  
23 is made.

24           "(2) Salary Advancement. Salary advancement within  
25 established salary ranges shall be based on meritorious

1 performance on the job and shall be in accordance with the  
2 special provisions for administering the plan. An efficiency  
3 rating reflecting satisfactory performance shall be required  
4 for advancement. An employee with continued satisfactory  
5 service shall be eligible for future annual increases until  
6 such time as the maximum rate for the range is reached.

7 "(k) In the event a classified employee is promoted,  
8 transferred or demoted, his or her rate of pay for the new  
9 position shall be determined as follows:

10 "(1) Upon promotion, the incumbent's regular base  
11 pay shall determine the new rate in the promotional class. The  
12 new rate shall be set to:

13 "a. Allow one step increase above the former rate;  
14 or

15 "b. The new rate shall be the entrance rate for the  
16 promotional class; and

17 "c. Whichever increase is greater shall be applied.

18 "(2) When an employee is demoted, compensation shall  
19 be reduced to the salary prescribed for the class and/or grade  
20 to which demoted. The particular rate shall be determined by  
21 the period of employment in the classified service. In no  
22 event shall the salary exceed the maximum rate of the new  
23 classification.

24 "(3) When an employee is transferred from one  
25 department to another, the step in the pay range remains

1 unchanged. All transfers must be approved by the department  
2 head concerned, Human Resources Director and the mayor.

3 "(4) When a position is reallocated to a higher  
4 position class, or a lower position class, or another position  
5 class at the same level, the method of filling the position  
6 shall be determined in accordance with this act regarding  
7 transfers, demotions, or promotions as may be appropriate.

8 "(1) In the event the rate of pay of a supervisor  
9 shall be less or equal to the base rate of pay of subordinates  
10 directly supervised in lower related classes, the rate may be  
11 advanced in grade by the mayor and the council. In no event  
12 shall the new rate be more than one pay step above the highest  
13 rate currently received by an employee in the lower class.

14 ~~"Section 9. The director shall prepare or direct the~~  
15 ~~preparation of the classification plan. Upon completion of the~~  
16 ~~plan, the director shall submit to each department head a copy~~  
17 ~~of the tentative class specifications for each position class~~  
18 ~~and a list allocating the positions in the jurisdiction to the~~  
19 ~~tentative position classes. The department head shall be~~  
20 ~~responsible for notifying employees as to the allocation of~~  
21 ~~their respective positions. A copy of the class specification~~  
22 ~~and individual allocation shall be made available to the~~  
23 ~~employee or his representative on request.~~

24 ~~"Section 10. (a) The director shall be charged with~~  
25 ~~the responsibility for maintaining the classification plan so~~



1 ~~that it will reflect the duties performed by each employee in~~  
2 ~~the classified service and the class to which each position is~~  
3 ~~allocated. It shall be the duty of the director to:~~

4 ~~"(1) Recommended to the board the establishment of~~  
5 ~~new position classes and the deletion or revision of existing~~  
6 ~~classes.~~

7 ~~"(2) Review the duties and responsibilities of each~~  
8 ~~new position established, and with the approval of the board,~~  
9 ~~allocate the position to the appropriate position class. It~~  
10 ~~shall be the responsibility of the department head to submit~~  
11 ~~to the director in writing a comprehensive job description~~  
12 ~~describing in detail the duties of each new position~~  
13 ~~established.~~

14 ~~"(3) Make periodic studies of positions in order to~~  
15 ~~determine changes in duties and responsibilities and on basis~~  
16 ~~of finding recommend reallocation or reclassification of~~  
17 ~~positions. Classification studies may be made at the request~~  
18 ~~of the employee, department head or on the initiative of the~~  
19 ~~director. Changes in duty assignments must be more than~~  
20 ~~temporary in nature and the incumbent must be performing the~~  
21 ~~duties for a sufficient duration to warrant investigation.~~

22 ~~"(4) Direct the grading and classifying of all~~  
23 ~~positions in the classified service at least once every five~~  
24 ~~years.~~

1           ~~"(b) When a position is reallocated to a higher~~  
2 ~~position class, a lower position class or another position~~  
3 ~~class at the same level, the method of filling the position~~  
4 ~~shall be determined in accordance with this act regarding~~  
5 ~~transfers, demotions or promotions as may be appropriate.~~

6           ~~"Section 11. (a) The pay plan shall provide the~~  
7 ~~basis of compensation for employees in the classified service.~~  
8 ~~The plan shall be constructed to provide fair compensation for~~  
9 ~~all classes in the classification plan with due regard to such~~  
10 ~~factors as:~~

11           ~~"(1) Varying degrees of difficulty and~~  
12 ~~responsibility among the several classes of work.~~

13           ~~"(2) Prevailing rates of pay and fringe benefits for~~  
14 ~~similar employment in private establishments and other public~~  
15 ~~jurisdictions in the area.~~

16           ~~"(3) Recruiting experience for the several classes~~  
17 ~~of work.~~

18           ~~"(4) Financial conditions of the city.~~

19           ~~"(b) The pay plan shall contain:~~

20           ~~"(1) Special and specific provisions for~~  
21 ~~administering the plan.~~

22           ~~"(2) A basic salary grade for each position class in~~  
23 ~~the classification plan.~~

1           ~~"(3) A basic salary schedule containing the minimum~~  
2 ~~rate, maximum rate and intermediate rate of pay for each~~  
3 ~~salary grade: and a conversion of rates for basis of payment.~~

4           ~~"(4) The basis of pay indicating the number of~~  
5 ~~weekly work hours in general application to the classified~~  
6 ~~service or exceptions thereto.~~

7           ~~"(c) The director shall, after consultation or offer~~  
8 ~~of consultation with the council and employee representatives,~~  
9 ~~prepare the pay plan for the various classes of work in the~~  
10 ~~classified service. Upon completion, it shall be submitted to~~  
11 ~~the mayor and the council for approval.~~

12           ~~"(d) The director shall furnish copies of the pay~~  
13 ~~plan to all groups concerned and shall provide the opportunity~~  
14 ~~for department heads, employees and the public to present~~  
15 ~~their views individually or collectively. Upon final adoption~~  
16 ~~by the mayor and the council, the plan shall be certified by~~  
17 ~~the director and delivered to the department heads concerned.~~  
18 ~~The plan shall become effective within 30 days after adoption~~  
19 ~~by the council.~~

20           ~~"(e) The pay plan shall be amended in the following~~  
21 ~~manner:~~

22           ~~"(1) The pay plan shall be amended when the mayor~~  
23 ~~and the council add a new position class to the classification~~  
24 ~~plan and fix the salary grade.~~

1           ~~"(2) Prior to the adoption of an amendment to the~~  
2 ~~pay plan, the mayor and the council shall provide the~~  
3 ~~opportunity for department heads and employees to present~~  
4 ~~their views.~~

5           ~~"Section 12. Each employee in the classified service~~  
6 ~~shall be paid at one of the rates set forth in the pay plan~~  
7 ~~for the classification in which he serves, in accordance with~~  
8 ~~the provisions for administering the pay plan.~~

9           ~~"(1) New appointments to the classified service~~  
10 ~~shall be made at the beginning rate of the salary range for~~  
11 ~~the classification to which the appointment is made.~~

12           ~~"(2) Salary advancement within established salary~~  
13 ~~ranges shall be based on meritorious performance on the job~~  
14 ~~and shall be in accordance with the provisions for~~  
15 ~~administering the pay plan. An efficiency rating reflecting~~  
16 ~~satisfactory performance shall be required for advancement. An~~  
17 ~~employee with continued satisfactory service shall be eligible~~  
18 ~~for future annual increases until such time as the maximum~~  
19 ~~rate for the range is reached.~~

20           ~~"(3) In the event a classified employee is promoted,~~  
21 ~~transferred or demoted, his rate of pay for the new position~~  
22 ~~shall be determined as follows:~~

23           ~~"a. Upon promotion, the incumbent's regular base pay~~  
24 ~~shall determine the new rate in the promotional class. The new~~  
25 ~~rate shall be set to:~~

1           ~~"1. Allow one step increase above the former rate,~~  
2       or

3           ~~"2. The new rate shall be the entrance rate for the~~  
4       ~~promotional class, and~~

5           ~~"3. Whichever increase is greater shall be applied.~~

6           ~~"b. When an employee is demoted, compensation shall~~  
7       ~~be reduced to the salary prescribed for the class and/or grade~~  
8       ~~to which demoted. The particular rate shall be determined by~~  
9       ~~the period of employment in the classified service. In no~~  
10       ~~event shall the salary exceed the maximum rate of the new~~  
11       ~~classification.~~

12           ~~"c. When an employee is transferred from one~~  
13       ~~department to another, the step in the pay range remains~~  
14       ~~unchanged. All transfers must be approved by the department~~  
15       ~~head concerned, director of personnel and the mayor.~~

16           ~~"(4) In the event the rate of pay of a supervisor~~  
17       ~~shall be less or equal to the base rate of pay of subordinates~~  
18       ~~directly supervised in lower related classes, the rate may be~~  
19       ~~advanced in grade by the mayor and the council. In no event~~  
20       ~~shall the new rate be more than one pay step above the highest~~  
21       ~~rate currently received by an employee in the lower class.~~

22           ~~"Section 13. 9.~~ (a) Individuals shall be recruited  
23       from a geographic area as wide as is necessary to assure  
24       obtaining well qualified candidates for the various types of

1 positions. Employment, therefore, shall not necessarily be  
2 limited to residents of Shelby County, Alabama.

3 "(b) The ~~director~~ Human Resources Director and  
4 department heads shall prepare, or supervise the preparation  
5 of, recruiting notices to publicize vacancies and to provide  
6 candidates for the public service positions. Announcements  
7 shall set forth the time, place, requirements and weights of  
8 various sections of tests and periods of application. The  
9 minimum periods of time between public notice and closing  
10 dates for applications shall be 14 days for entrance and  
11 open-competitive examinations, and 7 seven days for  
12 promotional examinations.

13 "(c) All applications for employment and  
14 examinations shall be made on forms prescribed by the director  
15 during the periods of time stated in the announcement.  
16 However, for good cause and in the interests of the service,  
17 the director and/or department head may recommend to the mayor  
18 to extend the closing date for accepting applications up to  
19 the examination date a maximum of 28 days without  
20 reannouncement. All persons who appear to meet the minimum  
21 requirements set forth in the public notice are eligible to  
22 apply for examination upon filing the prescribed forms within  
23 the time required; provided, however, the director may refuse  
24 the application of any person who has taken the same or a  
25 similar examination within 30 days prior to the scheduled

1 examination. Application forms will be furnished from the  
2 office of the ~~personnel board~~ Human Resources Director.

3 "(d) As part of the preemployment procedure, former  
4 supervisors, employers, police and FBI files, plus references  
5 provided by candidates shall be checked as a precaution  
6 against obtaining undesirable employees. Reference checks made  
7 by personnel or telephone contact shall be documented and made  
8 part of the applicant's file. These reference checks ~~may or~~  
9 ~~may not~~ shall be completed prior to an offer of employment and  
10 the information shall be handled as privileged information.

11 "~~Section 14. 10.~~ (a) ~~The director~~ At the request of  
12 the department head, the Human Resources Director may remove  
13 from further consideration at any time the application of an  
14 applicant who:

15 "(1) Does not possess the minimum qualifications.

16 "(2) Has established an unsatisfactory employment or  
17 personnel record as evidenced by reference check of such a  
18 nature as to demonstrate unsuitability for employment.

19 "(3) Has made false statement of any material fact  
20 or practiced deception or fraud in the application,  
21 examination or medical history.

22 "(4) Is afflicted with any mental, physical or  
23 medically disqualifying disease or defect that would prevent  
24 satisfactory performance of his or her duties.

1           "(5) Is believed to be addicted to or is a habitual  
2 user of drugs or intoxicants.

3           "(6) Has been guilty of infamous or disgraceful  
4 conduct.

5           "(7) Has an unsatisfactory driving record as  
6 evidence by a pattern, frequency or severity of traffic  
7 violations.

8           "(8) Has refused or failed to report for interview  
9 after certification to an appointing authority.

10          "(9) Has failed to report for duty at the time and  
11 place designated after appointment.

12          "(10) Has failed to respond to any official notice  
13 or phone call from the director or appointing authority.

14          "(11) Has failed to notify the ~~personnel department~~  
15 Human Resources Department or postal authorities of a change  
16 in address.

17          "(12) Has been certified and rejected for three or  
18 more times.

19          "~~(13) Has passed the maximum age prescribed in the~~  
20 ~~announcement for the classification.~~

21          "~~(14)~~ (13) For any other good cause not inconsistent  
22 with the intent of this act.

23          "(b) All applicants disqualified shall be notified  
24 immediately. An applicant who is disqualified may appeal to



1 the board within 10 days after notice by filing a written  
2 request for a hearing.

3 "Section ~~15.~~ 11. (a) All appointments in the  
4 classified service, either at entrance or promotional level,  
5 shall be made upon the basis of merit, efficiency and fitness  
6 of applicants for positions determined as far as practical and  
7 possible by competitive examinations. All announcements and  
8 examinations shall be prepared and weighted under the  
9 supervision of the director and the department head.  
10 Examinations shall be thorough and practical and shall relate  
11 to those matters which fairly test the relative capacity and  
12 fitness of those examined to discharge the duties of the  
13 classification.

14 "(b) Examinations may be assembled or unassembled,  
15 and either entrance and/or open-competitive, promotional  
16 competitive, a combination of promotional and  
17 open-competitive, or qualifying.

18 "(1) Unassembled examination is whenever the  
19 director, with approval of the personnel board, determines  
20 that applicants are not available in sufficient numbers to  
21 justify holding assembled examinations, ~~and he~~ the director  
22 may authorize conducting unassembled examinations. Unassembled  
23 examinations shall be continuous until the department head and  
24 director ~~determines~~ determine that enough qualified applicants  
25 have been examined to establish an eligible list.

1           "(2) Entrance and/or open-competitive examination is  
2 any examination in which competition is open to all applicants  
3 meeting the announced requirements for admission to the  
4 examination.

5           "(3) Promotional examination is any examination in  
6 which competition is limited to present employees. Such  
7 examinations shall customarily be restricted to employees  
8 serving in lower related classifications and possessing  
9 permanent status. However, additional training, education  
10 and/or experience beyond permanent status may be required as  
11 determined by the department head and director in the best  
12 interests of the service.

13           "(4) Qualifying examination is for certain classes  
14 of work where competition is impractical and/or the needs of  
15 the service are such to render competition impractical, and  
16 the ~~personnel director~~ Human Resources Director, with  
17 recommendation from the department head, may provide for  
18 qualifying examinations. Such examinations may be limited to  
19 employees of the public service to fill existing positions.  
20 Such examinations may consist of an evaluation of the  
21 candidates' qualifications based upon efficiency rating by  
22 competent authority and physical fitness to perform the work  
23 or such other ~~methods~~ professional standards as may be  
24 determined by the department head and director, not  
25 inconsistent with the needs of the public service.

1           "(c) Examinations shall consist of any, all or part  
2 of the following examinations, sections, parts and/or tests.  
3 However, no questions in any examination, form or application  
4 or any other proceedings shall be framed to elicit the  
5 political or religious beliefs of applicants; or shall in any  
6 way discriminate for or against an applicant because of his  
7 sex, nationality, race, or color.

8           "(1) A written test when required shall include a  
9 written demonstration designed to show the familiarity of  
10 competitors with the knowledges involved in the class of  
11 positions to which they seek appointment, their ability in the  
12 use of English, the range of their general information or  
13 their general educational attainments. A formal essay upon one  
14 or more subjects may be required if desirable.

15           "(2) A mental test when required shall include any  
16 test or tests, whether written or oral, to determine mental  
17 alertness, general capacity of applicant to adjust their  
18 thinking to new problems, or to ascertain special aptitudes,  
19 character or personality traits.

20           "(3) A performance test when required shall include  
21 such tests of performance as would determine the ability and  
22 manual skills of competitors to perform the work involved.

23           "(4) A physical test when required shall consist of  
24 tests of bodily condition, muscular strength, coordination,  
25 agility and physical fitness of competitors. This may be given

1 a weight in the examination or may be used in excluding from  
2 further examination applicants who do not meet the required  
3 minimum standards.

4 "(5) An oral interview when required shall include a  
5 personal interview as conducted by the department head or his  
6 or her representatives with competitors for classes of  
7 positions where ability to deal with others, to meet the  
8 public or other qualifications are to be determined. An oral  
9 test may also be used in examinations where a written test is  
10 unnecessary or impractical.

11 "(6) Training and experience when required shall be  
12 marked from the statements of the education and experience  
13 contained in the application form or from such supplemental  
14 data as may be required. Results of the reference checks may  
15 be a part of the evaluation of training and experience.

16 "(7) A medical examination is required to determine  
17 that applicants are physically capable of performing  
18 efficiently the duties of the position and are free from such  
19 defects or diseases that would constitute employment hazards  
20 to themselves, or endanger the safety, health and welfare of  
21 fellow employees and/or others. Medical examinations may be  
22 performed by the city's designated physician or physicians in  
23 accordance with the city's duly adopted medical standards.  
24 Medical reevaluation on any classified employee ~~may~~ shall be  
25 ordered by the director at the department head's request if at

1 any time the employee's performance of duties becomes  
2 deficient, or if his or her health or physical condition  
3 constitutes employment hazards to ~~himself~~ the employee or  
4 endangers the safety, health and welfare of fellow employees  
5 and/or others.

6 "(8) The director and department head may, in cases  
7 of physical handicaps and/or medical conditions, permit the  
8 employment of handicapped eligible candidates who may not meet  
9 all of the physical and/or medical requirements of the  
10 classification. Provided that the eligible candidate is  
11 physically and medically capable of performing all of the  
12 duties of the specific position under consideration without  
13 risk to the health, safety, and welfare of others and/or  
14 ~~himself~~ the candidate, and that the physical and/or medical  
15 conditions are not progressively deteriorating conditions.

16 "(9) Additional promotional examination provisions  
17 are parts of the examination process or content and are in  
18 addition to those cited above in subdivisions (1) through (8).  
19 They are applicable only to examinations on a promotional  
20 and/or promotional open-competitive examinations.

21 "a. In the event of the announcement of an  
22 examination on a promotional basis, the preceding employee  
23 efficiency rating and/or promotional potential rating form of  
24 employees who make application shall be used in addition to  
25 the other announced requirements to establish eligibility for

1 examination. The minimum efficiency grade and/or rating for  
2 promotional eligibility shall be a superior rating or such  
3 numerical designation as may reflect superior performance and  
4 potential as determined by the director and the department  
5 head.

6 "b. Each promotional candidate who attains an  
7 overall passing grade of 70 or more on the required announced  
8 and/or weighted tests, parts and/or portions of a promotional  
9 basis examination shall have added to his or her grade or  
10 score one point for each year of full-time employment in the  
11 classified service up to and including 20 years. All absences  
12 from duty excepting vacations and sick leave allowances plus  
13 military leaves, shall be deducted to determine credit to be  
14 allowed for seniority credits.

15 "~~Section 16.~~ 12. (a) Sound measurement techniques  
16 and procedures shall be used in rating the results of tests  
17 and determining the relative ranking of the candidates. In all  
18 examinations the minimum rating standards for each and/or all  
19 tests, parts and/or sections shall be established under the  
20 supervision of the director and the department head.

21 Candidates may be required to attain at least a minimum rating  
22 on each test in order to receive a passing grade or to be  
23 rated on the remaining parts of the examination and/or test.  
24 No subject shall be placed upon the employment register whose  
25 final earned average on the examination is less than 70. The

1 final earned rating of a competitor shall be determined by  
2 averaging the earned rating on each part of the examination in  
3 accordance with the weights established for each part prior to  
4 the date of the examination and announced in the public notice  
5 of the examination.

6 "(b) Whenever two or more applicants have a like  
7 final earned average, ties shall be resolved by the following  
8 order of methods:

9 "(1) First, the order of ratings on the most heavily  
10 weighted part of the examination shall be used.

11 "(2) If a tie still exists and the candidates are  
12 competing on a promotional basis, the candidate with the  
13 greatest seniority in the service shall be ranked first.

14 "(3) If a tie still exists, then the date of  
15 application for examination shall be used.

16 "(4) If a tie still exists, then the date of  
17 original application for employment shall be used.

18 "(5) Finally, if a tie still exists, then the lowest  
19 application number of applicants shall be used.

20 "(c) Each person who takes an examination shall be  
21 notified by mail of his or her standing in the group or of his  
22 or her failure.

23 "(d) Each person who takes a promotional examination  
24 shall be entitled to inspect the examination rating with the  
25 appropriate scoring key for 30 days after notices of results

1 have been mailed. The questions used in promotional and other  
2 tests and examinations may be kept confidential and not  
3 subject to inspection at the discretion of the director. All  
4 examination papers may be destroyed upon the expiration of the  
5 eligible register and exam papers of failing applicants may be  
6 discarded 60 days after examination.

7 "(e) No request for a change of an examination  
8 rating shall be entertained by the director and/or department  
9 head unless such request be made within 30 days after notice  
10 to the applicant of his or her rating, and the applicant shall  
11 specify the matters to which he or she objects. No change in  
12 ratings shall be made unless some manifest error shall appear  
13 in the face of the paper; provided that no appointment  
14 previously made shall be changed or cancelled. Whenever a  
15 review of rating results in a change of position on a list or  
16 register, all persons so affected shall be notified by mail.

17 "(f) The director may, with the approval of the  
18 board, order a special or supplementary examination and the  
19 reasons shall appear in writing. A classified employee with  
20 permanent status who is prevented from competing in a  
21 promotional examination for a valid reason beyond his or her  
22 control, or because of his or her absence on an authorized  
23 military leave, and who is reinstated to his or her position  
24 before the expiration of the eligible list, shall, upon his or  
25 her request, be given the opportunity to take the same and/or



1 equally difficult examination. No request for supplemental  
2 examination will be entertained after 24 hours from the date  
3 and time of the announced examination. The director and  
4 department head shall determine if the same test or one of  
5 equal difficulty shall be entered on the original promotion  
6 list in accordance with his or her final earned average. If  
7 the final earned average of such employee is higher than that  
8 attained by the person who was last promoted from that list,  
9 and if the vacancy filled by such promotion was in the  
10 department in which such employee is employed, ~~he~~ the employee  
11 shall be entitled to be certified immediately. However, no  
12 applicant competing on an open basis shall be granted a  
13 special and/or supplementary test unless the failure of an  
14 applicant to appear at the stated test was due to manifest  
15 error on the part of the director, department head, and/or  
16 staff.

17 "(g) If an applicant during an examination is found  
18 to be using, without permission, any extraneous information  
19 such as other candidates' papers, memoranda, crib notes,  
20 pamphlets, and/or books of any kind, ~~his~~ the test papers shall  
21 be taken ~~and the director~~ by the testing adjudicators and  
22 shall have them graded with a zero and note on the test papers  
23 the reason for such marking. Such applicant shall be barred  
24 from taking any future examinations. No person shall willfully  
25 or corruptly make a false mark, grade, estimate or report on

1 an examination with respect to the proper standing of any  
2 person examined; or willfully or corruptly make any false  
3 representation concerning any person examined; or furnish to  
4 anyone special or secret information for the purpose of  
5 improving or injuring the prospects or chances of the  
6 appointment, employment or promotion of any person examined or  
7 to be examined. Any person guilty of such acts shall be deemed  
8 guilty of a misdemeanor.

9 "(h) The director or department head may cancel,  
10 postpone, reschedule or reannounce any examination for any  
11 good and sufficient reason deemed in the best interest of the  
12 service. All such incidents shall be reported to the board and  
13 appear in writing with the reason for such action.

14 "~~Section 17.~~ 13. (a) The director shall establish  
15 and maintain such eligible and/or employment registers for the  
16 various classes of positions as ~~he~~ the director deems  
17 necessary to meet the needs of the service. Names of eligibles  
18 shall be placed on lists in the order of their examination  
19 grades ranked from highest or first to lowest or last.

20 "(1) Open-competitive lists shall contain the names  
21 and final grades in order of rank for those applicants  
22 attaining a minimum passing score on the entrance and/or  
23 open-competitive examination. Duration of such lists shall be  
24 for a period of one year from the date of approval by the

1 board unless the list is depleted or extended by action of the  
2 board.

3 "(2) Promotion lists shall contain the names and  
4 final ranked grades of employees attaining qualifying grades  
5 on promotional competitive examinations. Duration of such  
6 lists shall be for one year from the date of approval by the  
7 board unless the list is depleted or extended by action of the  
8 board. In the event that a combination open-promotional list  
9 is established, the promotional list shall take precedence  
10 over the open list.

11 "(3) Layoff list is an eligible list which contains  
12 the names of former permanent status employees who were  
13 separated from various classes because of a lack of either  
14 work and/or funds, or whose positions were abolished as a  
15 result of departmental reorganization or for some other just  
16 reasons. The names of such former employees shall be placed on  
17 the list in the order of seniority. Duration of such lists  
18 shall be for a period of two years. Employees in probationary  
19 status shall have their names reinstated at the top of the  
20 appropriate eligible list. When there are two or more  
21 employees who are equal in seniority, they shall be placed on  
22 the layoff list in the order of their efficiency records. The  
23 method of defining layoff procedure shall be determined by the  
24 director in accordance with this act.

1           "(4) In the absence of an eligible list for a  
2 particular class within which a vacancy exists, the director  
3 may certify from a list of a related class which ~~he~~ the  
4 director deems appropriate. Such appropriate or related list  
5 should be for a class having substantially the same  
6 requirements as the class in which the vacancy exists, and the  
7 pay range should be commensurate between the classes.

8           "(b) Whenever there are fewer than three names of  
9 available eligibles remaining on a list or if a demand is  
10 anticipated for more candidates for employment than an  
11 existing list may satisfy, the director and department head  
12 may order a new examination and shall consolidate the existing  
13 names on the list with the new names. All persons whose names  
14 appear on an existing list which is to be merged after a new  
15 examination shall be notified of the opportunity to compete in  
16 the second examination. Should such persons elect not to  
17 appear or refuse reexamination, their names shall be certified  
18 first from the new consolidated list for a period of one year  
19 from the date the original list was approved by the board.  
20 Should they elect to be reexamined, the grade earned on the  
21 last examination shall be their official grade without regard  
22 to their previous grade. The names of candidates who compete  
23 successfully on unassembled examinations shall have their  
24 names integrated on the eligible lists in the order dictated  
25 by their grades. However, notice to existing eligibles as to

1 their relative positions on such lists shall be waived and an  
2 appropriate notice shall be placed on the announcement of this  
3 process.

4 "(c) When an applicant is employed through  
5 certification, his or her name shall be removed from the  
6 appropriate eligible list. In addition to the reasons for  
7 disqualification cited in this act, eligible candidates shall  
8 have their names removed from eligible lists at the expiration  
9 date of the eligible list.

10 "(d) (1) Any former employee with permanent status  
11 who has been separated from the classified service without  
12 fault or delinquency may, within two years from the date of  
13 resignation or separation, request reinstatement to the  
14 appropriate eligible list for the class in which he or she  
15 served. Such requests shall be made in writing and subject to  
16 the recommendation of the ~~director~~ department head to the  
17 Human Resources Director and the approval of the board. Upon  
18 approval, the name of the former employee shall be placed at  
19 the bottom of the appropriate open-competitive list for one  
20 year's duration.

21 "(2) A former employee so appointed shall enter at  
22 the beginning rate, unless determined otherwise by the board,  
23 for the class and shall serve a probationary period for one  
24 year. In addition to the foregoing conditions, the applicant  
25 for reinstatement must meet the physical standards for the

1 class for which reinstatement is applied. The medical  
2 examination shall be administered by a physician designated by  
3 the board and the applicant shall bear the cost of ~~said the~~  
4 examination. ~~As a further requirement, the age of the~~  
5 ~~applicant at the time of reinstatement shall not exceed the~~  
6 ~~maximum age as specified on the last examination announcement~~  
7 ~~for the class to which reinstatement is requested.~~

8 "Section ~~18~~ 14. (a) Based on the receipt of an  
9 authorized requisition from an appointing authority, the  
10 director shall certify and/or refer the name of eligibles from  
11 the appropriate eligible lists in the following priority and  
12 manner:

13 "(1) First, the one name of the ranking former  
14 employee of the department for each vacancy from the layoff  
15 list, if any, shall be appointed.

16 "(2) Second, the five ranking names of former  
17 employees of other departments for each vacancy from the  
18 layoff list, if any, shall be used.

19 "(3) Third, the five ranking names of the employees  
20 of a department for a vacancy, if and only if they are the  
21 ranking eligibles on the promotional list from the department  
22 in which the requisition originated, shall be used.

23 "(4) Fourth, for each vacancy the five ranking names  
24 of employees from other departments on the promotional list,  
25 if any, shall be used.

1           "(5) Fifth, for each vacancy the five ranking names  
2 of eligibles from the open-competitive list, if any, shall be  
3 used.

4           "(6) Sixth, in the absence of an eligible list for  
5 the class and at the discretion of the director and department  
6 head, the names of eligibles from an appropriate or related  
7 list, if any, may be used. The five ranking names of eligibles  
8 on related lists shall be certified for each vacancy.

9           "(7) In general, all entry level positions to be  
10 filled from open-competitive lists shall be filled by the rule  
11 of five with one additional name for each vacancy past the  
12 first vacancy.

13           "(8) In the event the city accepts and utilizes  
14 federal funds for the creation of public employment  
15 opportunities, such positions when budgeted on a full-time  
16 basis for 12 months, shall be treated as any other regular  
17 position in the classified service being entitled to earn and  
18 use sick and vacation leave in the customary manner. Should  
19 the applicable federal regulations controlling the use of such  
20 funds prescribe unusual or exceptional prerequisites for  
21 employment in ~~said~~ the program, the director and department  
22 head, subject to approval of the board, may prescribe the  
23 manner in which the position shall be filled and related  
24 conditions of employment.

1           "(9) In filling promotional level positions from  
2 promotional lists, the rule of five shall apply, and if more  
3 than one vacancy is to be filled, one additional eligible for  
4 each additional vacancy.

5           "(b) Bypassing of names on eligible lists is as  
6 follows:

7           "(1) No employee, whether permanent or probationary,  
8 who has been suspended or otherwise disciplined shall be  
9 certified as eligible for promotion or advancement to another  
10 class or position within one year following the imposition of  
11 such penalty.

12           "(2) Before being certified, an eligible may waive  
13 certification rights for a period not to exceed six months.  
14 These waiver requests by eligibles shall be in writing stating  
15 the reasons for such requests. All such requests must be  
16 approved by the director and department head, taking into  
17 consideration the needs of the service and interest of the  
18 employee. During the period for which waiver is granted, such  
19 eligibles will not be certified or considered for appointment.

20           "(3) Any department head may request waiver of  
21 certification of an employee from a promotional list and shall  
22 so state in writing to employee with copy to the ~~human~~  
23 ~~resource director~~ Human Resources Director. The employee, to  
24 waive, shall reply to employer in writing with copy to the  
25 director.



1           "(4) Under no circumstances other than those cited  
2 above, or those cited in this act regarding disqualification,  
3 or those cited regarding removal from list, shall any eligible  
4 be bypassed for certification.

5           "(c) (1) The director shall certify the following  
6 additional eligibles: One for each eligible who after  
7 certification, either declines appointment at the time of  
8 interview or offer of employment, or who is subsequently  
9 disqualified.

10           "(2) An appointing authority may exercise his or her  
11 rights of five eligibles who are willing to accept appointment  
12 before making his or her final selection for employment.  
13 However, if an appointing authority exercises this  
14 prerogative, no provisional appointment shall be authorized if  
15 more than one and less than five eligibles are available who  
16 will accept employment. The reannouncement of the examination  
17 to establish a new list shall be at the discretion of the  
18 director and department head, but shall not be later than 45  
19 days after receipt of the request.

20           "~~Section 19.~~ 15. (a) (1) Vacancies and newly created  
21 positions in the classified service shall be filled either by  
22 transfer, promotion, appointment, reappointment or demotion.

23           "(2) When a vacancy exists for a department head,  
24 the mayor shall inform the ~~director of personnel~~ city council  
25 of such vacancy. ~~The director shall then certify to the mayor,~~

1 ~~eligibles from the appropriate list.~~ The mayor, with the  
2 council approval, shall then make ~~an~~ the appointment ~~from the~~  
3 ~~names certified to him within 10 days after the posting of the~~  
4 ~~certification as soon as possible.~~

5 "(3) Whenever a vacancy exists within a department  
6 of the city, the department head shall submit to the director  
7 a statement of the title of the position, and if requested by  
8 the director to do so, a statement of the duties and desired  
9 qualifications of the positions. The director shall then  
10 certify to the department head from the appropriate lists. The  
11 department head shall then make an appointment from the names  
12 certified to him or her within 10 days after the posting of  
13 the certification, or shall notify the director, in writing,  
14 of ~~his~~ the withdrawal of the requisition with the reasons for  
15 such withdrawal.

16 "(b) Appointments to the classified service shall be  
17 one of the following types:

18 "(1) An appointment to a full-time permanently  
19 budgeted position made from a certified eligible list shall be  
20 a probationary period. The probationary period shall be  
21 regarded as an integral part of the examination process, and  
22 shall be utilized to evaluate the employee's performance on  
23 the job, and shall also be utilized for dismissing any  
24 employee who does not meet the required standards of  
25 performance. The duration of such probationary period shall be

1 for one year from the date of appointment with no  
2 interruptions in service.

3 "a. An employee in probationary status may be  
4 discharged without the right of appeal.

5 "b. A promotional probationer who is demoted for  
6 unsatisfactory service shall have the option of returning to  
7 the position held prior to appointment, if still vacant. In  
8 the event the position is filled, the director shall determine  
9 the manner in which the employee shall be retained in the  
10 service, being closely guided by the provisions governing  
11 layoffs and reductions in force. The demoted employee shall  
12 have the further option of electing to separate from the  
13 service and having his or her name retained on the layoff list  
14 for the classification of his or her former position for a  
15 period not to exceed two years.

16 "(2) Employment of an eligible from an eligible list  
17 in a full-time permanently budgeted position, after the  
18 satisfactory completion of a probationary period, shall be  
19 considered a permanent appointment.

20 "(3) In the absence of an eligible list, the  
21 department head may request the director ~~may,~~ for urgent need,  
22 to authorize the filling of a vacancy by provisional  
23 appointment. Any such candidate for provisional appointment  
24 must meet educational experience and related requirements set  
25 by the department head and the director. Provisional

1 appointment shall be for a period of not more than four  
2 months. No provisional appointment shall be continued for more  
3 than 10 days after the establishment of an eligible list for  
4 the class. Any provisional employee failing to qualify by  
5 examination shall be separated from the service after the  
6 appropriate eligible list is certified. The provisional  
7 appointment of an individual shall not confer on the appointee  
8 any rights of status, appeal, or related rights set forth  
9 under this act.

10 "(4) To fill positions of a seasonal, part-time,  
11 temporary, student and/or intern nature, the following  
12 appointments shall be made. Such appointments will confer no  
13 rights of status, appeals or related rights.

14 "a. Seasonal appointments may be granted for work  
15 which is seasonal in nature. No such appointment shall extend  
16 beyond four months or the work season in question. All  
17 candidates to be considered shall meet the requirements set by  
18 the department head and director.

19 "b. Part-time appointments may be granted for work  
20 which requires the service of an employee for less than the  
21 number of hours of a full-time or typical work week.  
22 Candidates for appointment shall meet the requirements set by  
23 the department head and director.

24 "c. Student and intern appointments have the purpose  
25 of affording students of public administration, and other

1 professional areas, an opportunity to gain actual work  
2 experience in the public service. Such appointments are viewed  
3 as intermittent employment for a definite period of time, not  
4 to exceed six months of full-time work in any 12-month period.  
5 Candidates for appointment shall meet the requirements set by  
6 the department head and director.

7 "d. Temporary appointments may be granted for  
8 positions in departments in which work loads may fluctuate and  
9 require the services of some employee on a full-time basis up  
10 to, but not over six months duration. Candidates for temporary  
11 appointments shall meet the requirements set by the department  
12 head and director.

13 "e. During a war or nationally declared emergency  
14 period, the director, with mayor approval, may, in the absence  
15 of any appropriate eligible list, authorize a limited tenure  
16 appointment without examination. Such appointment shall be for  
17 not longer than the duration of the war or emergency plus six  
18 months, and shall give persons so appointed no status in the  
19 classified service by reason of such duration of appointment.

20 "f. An emergency, as used herein, means an  
21 unforeseen condition which is likely to cause loss of life or  
22 loss or damage to property, the stoppage of service or serious  
23 inconvenience to the public. Upon receipt of request from a  
24 department head citing such emergency condition, the director, with  
25 mayor approval, may authorize an emergency appointment

1 not to exceed 30 days. The manner of appointment and rate of  
 2 compensation shall be set by the department head and director.

3 "g. Positions created in the classified service  
 4 through federally financed public employment programs,~~7~~  
 5 ~~Comprehensive Employment and Training Act,~~ and related  
 6 programs shall terminate at cessation of such federal funding  
 7 conveying no rights of tenure or permanency to ~~incumbents~~ the  
 8 employee.

9 "h. An eligible who has been temporarily appointed  
 10 or appointed to a seasonal or part-time position from an  
 11 eligible register and who at the time of ~~said~~ the appointment  
 12 was a ranking eligible at the time of certification, willing  
 13 to accept the appointment under the conditions and for the  
 14 period stated, may be permanently appointed to ~~said~~ the  
 15 position irrespective of the number of higher ranking  
 16 eligibles available only for permanent appointment. Such  
 17 appointment can be made only when:

18 "1. The fact that the position would become  
 19 permanent was not known to the department head at the time the  
 20 temporary, part-time or seasonal appointment was made.

21 "2. The ~~incumbent~~ employee has worked the stipulated  
 22 time period for which initial appointment was made.

23 "i. All permanent appointments arising out of the  
 24 foregoing provisions must be approved by the director, mayor,  
 25 and council.

1           "~~(c) No officer or employee of any department of the~~  
2 ~~city shall make or approve any payment for personal services~~  
3 ~~to any person holding a position in the classified service~~  
4 ~~unless approved by the director in an existing position from a~~  
5 ~~certified list of eligibles. The director may refuse to~~  
6 ~~certify the payroll, voucher or account of any ineligible~~  
7 ~~person found to be performing the duties of said position.~~

8           "Section ~~20.~~ 16 (a) Vacancies in positions above the  
9 lowest rank in any category in the classified service shall be  
10 filled as far as practical by the promotion of employees in  
11 the service. The director and department head shall in each  
12 case determine whether an open-competitive or promotional  
13 examination will serve the best interests of the service in  
14 attracting well qualified candidates. Promotions in every case  
15 must involve a definite increase in duties and responsibility.  
16 The change of an employee from a position in a class to a  
17 position in another related occupational class for which the  
18 maximum rate is higher shall be deemed promotion.

19           "(b) (1) An employee may be demoted to a position of  
20 a lower grade for which ~~he~~ the employee is qualified for any  
21 of the following reasons:

22           "a. When an employee would otherwise be laid off  
23 because ~~his~~ the position is being abolished, reclassified to a  
24 higher grade or a lower grade, lack of work, lack of funds; or

1 because of the return to work from an authorized leave of  
 2 another employee to ~~such a~~ the position.

3 "b. When an employee does not possess the necessary  
 4 qualifications to render satisfactory service in the position  
 5 ~~he holds~~ held.

6 "c. When an employee is removed during probation.

7 "d. When an employee voluntarily requests such  
 8 demotion.

9 "e. When an employee is demoted for disciplinary  
 10 reasons.

11 "(2) All demotions must receive the approval of the  
 12 ~~director~~ department head and the appointing authority. If the  
 13 employee is demoted against his or her will, other than  
 14 probationers, ~~he~~ the employee may appeal to the board as  
 15 provided in this act.

16 "(3) The change of an employee from a position in a  
 17 class and/or job to another class and/or job for which the  
 18 maximum rate is lower shall be deemed a demotion and shall be  
 19 effected in accordance with this act.

20 "(4) Any demotion or termination of a probationary  
 21 employee whose probationary status is due solely to a  
 22 promotion from a permanent position shall be subject to review  
 23 and approval by the council.

24 "Section ~~21.~~ 17 (a) A department head ~~with approval~~  
 25 ~~of the director~~ may at any time assign a classified employee



1 under his or her jurisdiction from one position to another in  
2 the same class regardless of the shift, location, hours of  
3 work or other consideration as long as the work-week basis  
4 remains the same. Such transfers shall be made with the  
5 retention of all rights of seniority; vacation and sick leave;  
6 and overtime as the employee may have accrued.

7 "(b) A department head may assign any employee in  
8 the classified service under his or her jurisdiction to any  
9 duties so long as such duties are within the same  
10 classification. No employee in the classified service may be  
11 assigned duties of a different class for a period in excess of  
12 30 days ~~without the approval of the director~~ unless approved  
13 by the appointing authority. Any and all such assignments  
14 outside the classification must be immediately reported to the  
15 director.

16 "(c) In the event that it becomes necessary because  
17 of lack of work, lack of funds or advisable in the interest of  
18 economy to reduce staff, the following procedure shall govern  
19 the layoff:

20 "(1) The reason for such layoff shall be reported in  
21 writing and shall stipulate the number and classifications to  
22 be affected.

23 "(2) The director shall determine, in consultation  
24 with the appointing authorities, the organizational units to  
25 be affected by the layoff.

1           "(3) If such reduction is departmental, then the  
2           layoff shall be made by laying off the employee(s) in the  
3           classification to be affected by the layoff who are  
4           provisional, temporary, seasonal, part-time and probationary,  
5           if any. From that point, layoff shall be of permanent  
6           employees in the classification on the basis of their relative  
7           seniority. In the event there are two or more employees who  
8           would be affected by the layoff and have equal seniority, the  
9           employee who stands lowest on the efficiency or performance  
10          ratings, last regularly filed with the director, shall be laid  
11          off first.

12          "(4) If such reduction is of a general nature and/or  
13          citywide, the director, after consultation with appointing  
14          authorities, shall determine the manner of layoff, taking into  
15          consideration the number and classification of positions to be  
16          reduced. In all instances, seniority shall govern except in  
17          the cases of two or more employees having equal seniority; in  
18          this event, efficiency or performance ratings shall be applied  
19          as provided in this act.

20          "(5) When an employee is laid off in a department  
21          which has other classifications or grades lower than the  
22          classification or grade from which he or she is laid off, ~~he~~  
23          the employee shall have the option of working in any other  
24          lower classification or grade in the same department, provided  
25          the ~~director of personnel~~ department head finds that ~~he~~ the

1 employee is qualified to perform the duties of such lower  
2 classification or grade, such option being subject, however,  
3 to subdivisions (6), (7) and (8) following.

4 "(6) Where an employee so laid off elects to drop to  
5 a lower classification or grade, and where the appointing  
6 authority reduces the number of employees in such lower  
7 classification or grade, the reduction shall be made in the  
8 manner in which it is herein provided layoffs shall be made,  
9 except that such reduction shall in no case cause the layoff  
10 of any permanent employee in such lower classification or  
11 grade who has more seniority in the department than the  
12 employee laid off from the higher classification or grade. A  
13 person laid off from a classification or grade shall have the  
14 right, so long as ~~he~~ the person is in the service or on the  
15 layoff list, to return to the position from which ~~he is~~ the  
16 person was laid off in the event such position is refilled.

17 "(7) The duties performed by the employee or  
18 employees so laid off may be assigned to any other permanent  
19 employee or employees in the department or office, who in the  
20 opinion of the ~~director of personnel~~ department head, are  
21 qualified to perform such duties regardless of the specific  
22 classification or grade to which such employees are allocated.

23 "(8) Any employee to be affected by layoffs shall be  
24 given a minimum of 15 ~~days~~ days' notice.

1           "Section ~~22.~~ 18 (a) The tenure of every employee in  
2 the classified service shall be conditioned on the  
3 satisfactory conduct of the employee and continued, efficient  
4 performance of assigned duties and responsibilities. Employees  
5 serving in a probationary period may be disciplined or  
6 dismissed by an appointing authority without right of appeal.  
7 The reasons for such action shall be furnished in writing to  
8 the employee and the ~~director of personnel~~ Human Resources  
9 Director. A permanent employee may be dismissed, demoted, or  
10 suspended by an appointing authority for cause or for any  
11 reason deemed to be in the best interest of the public service  
12 and shall have the right of appeal as set forth in the  
13 following provisions.

14           "(b) The following are among the causes which shall  
15 be sufficient for dismissal, demotion or suspension:

16           "(1) Absent without leave.

17           "(2) The commitment of any criminal act.

18           "(3) Conduct unbecoming an employee in the public  
19 service.

20           "(4) Conviction of a criminal offense or of a  
21 misdemeanor involving moral turpitude.

22           "(5) Disorderly or immoral conduct.

23           "(6) Failure to pay or make proper provisions for  
24 the liquidation of just debts.

1           "(7) Incapacity due to mental or physical disability  
2 of a permanent nature.

3           "(8) Incompetency or inefficiency.

4           "(9) Insubordination.

5           "(10) Intoxication while on duty or public  
6 intoxication while off duty.

7           "(11) Neglect of duty.

8           "(12) Negligence or willful damage to public  
9 property or waste of public supplies or equipment.

10           "(13) Violation of any regulations or orders  
11 published, made or given by a superior officer.

12           "(14) Willful violation of any of the provisions of  
13 this act.

14           "(15) Refusal of employee to testify or answer any  
15 questions before any board or any ~~body~~ person authorized to  
16 conduct any hearing concerning the affairs of government or  
17 the conduct of any officer or employee, on the grounds his or  
18 her testimony would tend to incriminate him or her or refusal  
19 to waive immunity from prosecution.

20           "(16) Violation of the Interpersonal Relationships  
21 and Fraternization Policy.

22           "~~(16)~~ (17) For any other reason deemed to be in the  
23 best interest of the public service.

24           "(c) (1) Notice of dismissal or demotion shall be in  
25 writing and shall set forth:

1 "a. The cause of action.

2 "b. The date dismissal or demotion is to become  
3 effective.

4 "c. Any other information deemed appropriate.

5 "(2) A copy of such notice shall be delivered to the  
6 director on the same day that notice is served on the  
7 employee. Notification shall be made prior to or on the date  
8 such dismissal or demotion is to be effected.

9 "(d) A department head may suspend, for improper  
10 behavior and without pay, an employee in the classified  
11 service. In the event such suspension or suspensions do not  
12 exceed an aggregate of five calendar days as a singular  
13 offense or 10 days cumulative in any year of service, the  
14 employee shall not have the right of a hearing. Should the  
15 suspension or suspensions exceed the five-day limitation for a  
16 single offense or 10-day cumulative limitation, a permanent  
17 employee shall have the right of appeal as provided in Section  
18 ~~23 19 of this act~~. Such suspension shall be effected by  
19 service upon the employee by the department head, of a written  
20 statement of the ~~delinquency~~ reason or reasons for which the  
21 suspension was made, a copy of which must be delivered to the  
22 ~~director of personnel~~ Human Resources Director. The suspended  
23 employee shall have a right to file an answer with the board  
24 and the department head.

1           "Section ~~23.~~ 19. (a) An employee with permanent  
2 status shall have the right to appeal disciplinary action of  
3 dismissal, demotion, or suspension. An employee desiring to  
4 appeal shall within 10 calendar days after notice thereof,  
5 file with the director ~~in duplicate~~, a written answer to the  
6 charges and request a hearing. Such answer shall contain:

7           "(1) The reason of dismissal, demotion or  
8 suspension.

9           "(2) An admission or denial of guilt.

10          "(3) Reasons why the dismissal, demotion or  
11 suspension should not take effect. Upon receipt of the appeal,  
12 the director shall forward a copy thereof to all parties  
13 concerned.

14          "(b) (1) The board shall order a public hearing of  
15 such charges. The hearing shall be for the purpose of  
16 determining whether or not the employee, by reason of his or  
17 her act or acts as charged and his or her record of service,  
18 merits retention in the service or should be removed ~~therefrom~~  
19 or otherwise disciplined; and to that end the board shall not  
20 be bound by the technical rules of evidence but shall  
21 diligently seek all the information bearing on the merits of  
22 the case. Either party ~~at interest~~ may be represented by  
23 counsel.

24          "(2) The hearing may be before the board or a  
25 hearing officer appointed by the board. If the matter is heard

1 by a hearing officer appointed by the board, ~~said the~~ hearing  
2 officer shall be a practicing attorney licensed in the ~~state~~  
3 State of Alabama and shall take testimony offered in support  
4 and denial of such charges and from the same submit to the  
5 board within five days, a finding of facts involved and a  
6 recommended decision. The board at its next regular or special  
7 meeting shall consider ~~said the~~ report and modify, alter, set  
8 aside or affirm ~~said the~~ report and certify its findings to  
9 the appointing authority who shall forthwith put the same into  
10 effect. If the personnel board hears ~~said the~~ charges, it  
11 shall make its own opinion and decision.

12 "Section ~~24.~~ 20. (a) (1) Discovery may be obtained by  
13 one or more of the methods provided under the Alabama Rules of  
14 Civil Procedure, including: written interrogatories,  
15 depositions, requests for production of documents ~~or things~~  
16 for inspection or copying, and requests for admissions  
17 addressed to parties. The Alabama Rules of Civil Procedure may  
18 be used as ~~as~~ a general guide for discovery practices and  
19 proceedings before the board. However, the Alabama Rules of  
20 Civil Procedure shall be deemed to be instructive rather than  
21 controlling. A party seeking discovery from another party  
22 shall initiate the process by serving a request for discovery  
23 on the other party.

24 "(2) When a request for discovery is directed to an  
25 officer or employee of the City of Pelham, Shelby County,



1 Alabama, the city shall make the officer or employee available  
2 on official time for the purpose of responding to the request,  
3 and shall assist the officer or employee as necessary in  
4 providing relevant information that is available to the city.  
5 A party seeking discovery from a nonparty officer or employee  
6 of the city shall initiate the process by serving a request  
7 for discovery on the nonparty officer or employee. Discovery  
8 from other nonparties may be initiated by serving a request  
9 for discovery on the nonparty directly. Absent such a request  
10 or upon failure to obtain voluntary cooperation, discovery  
11 from a nonparty may be obtained by a written motion directed  
12 to the board or a hearing officer appointed by the board,  
13 showing the relevance, scope, and materiality of the  
14 particular information sought, and in addition in the case of  
15 a deposition, the date, time and place of the proposed  
16 deposition.

17 "(3) A ruling on the motion ~~will~~ shall be issued by  
18 the board or a hearing officer appointed by the board ~~that~~  
19 ~~will~~ and shall be served on the moving party ~~as well as~~ and  
20 the director. If the motion is approved, it shall be the duty  
21 of the director to subpoena the individual or entity from  
22 which discovery is sought, specifying the manner and time  
23 limit for compliance. Initial requests of motions for  
24 discovery shall be served within 20 calendar days after an  
25 employee desiring to appeal disciplinary action of dismissal,

1 demotion or suspension, files with the director a written  
2 answer to the charges and requests a hearing. A party or  
3 nonparty shall file a response to the discovery requests  
4 promptly, but not later than 15 calendar days after the date  
5 of service of the request or order of the board.

6 "(b) It shall be the duty of the director to  
7 subpoena witnesses other than character witnesses, for or  
8 against the employee upon written request ~~and affidavit~~ that  
9 their testimony is necessary. Employees in the classified  
10 service shall be required to attend and testify without  
11 subpoena.

12 "Section ~~25.~~ 21. (a) The board shall render its  
13 decision within 10 calendar days after the conclusion of the  
14 hearing which shall forthwith be certified to the appointing  
15 authority and enforced by him or her. Copies of the decision  
16 shall be delivered to all other parties at interest. The board  
17 may rescind, modify or increase the penalty imposed by the  
18 appointing authority as warranted by the facts adduced at the  
19 hearing.

20 "(b) The board may require that testimony introduced  
21 at hearings be recorded but same shall not be transcribed  
22 except upon further order.

23 "(c) (1) Any person who desires to file charges  
24 against an employee shall file such charges in writing and  
25 shall recite therein the specific act or acts of the employee

1 constituting such cause. The director shall serve a copy of  
2 the charges on the accused employee and shall fix a day for  
3 the hearing.

4 "(2) The accused employee shall, within five  
5 calendar days after service, file a written answer to the  
6 charges. Failure on the part of the accused employee to file  
7 such answer shall be deemed an admission of the truth of such  
8 charges without further investigation or hearing on the part  
9 of the board. If the hearing is held before the director, the  
10 testimony shall be recorded. A decision shall be rendered by  
11 the board in accordance with this act.

12 "(d) An employee in the classified service may also  
13 be dismissed, demoted, or suspended upon charges made by the  
14 ~~director~~ mayor. Charges preferred by the ~~director~~ mayor shall  
15 be served on the employee and a public hearing shall be  
16 scheduled by the board within the time and manner prescribed  
17 in this act.

18 "(e) Any employee who is dismissed for cause shall  
19 forfeit all vacation allowances.

20 "(f) (1) The decision of the board based upon all  
21 proceedings before the board shall be final subject to appeal  
22 by either party to the circuit court to review questions and  
23 whether or not the decision or order of the board is supported  
24 by substantial ~~and legal~~ evidence legally received by the  
25 board. On such appeal, the circuit court shall review the

1 record and shall affirm, reverse, remand, or render ~~said the~~ the  
2 cause.

3 "(2) The decision of the board shall be controlling  
4 until reversed on appeal as provided for herein. The appeal  
5 shall be perfected by filing with the ~~director of personnel~~  
6 Human Resources Director a statement in writing, signed by the  
7 party appealing, to the effect that ~~said the~~ the party appeals  
8 from the decision or order of the personnel board to the  
9 circuit court, which statement shall be filed within 10  
10 calendar days from the announcement of the decision or order  
11 of the personnel board.

12 "(g) (1) Any employee suspended without right to a  
13 hearing before the board may obtain a review of his or her  
14 suspension by the appointing authority by filing with the  
15 appointing authority, not more than 10 days thereafter, a  
16 written answer to such charges and a request for such review.  
17 A hearing shall be held thereon not more than 20 days  
18 thereafter to determine whether such suspension should be  
19 rescinded.

20 "(2) At any such hearing, such employee may be  
21 represented by counsel and present relevant testimony. The  
22 appointing authority may authorize a representative to conduct  
23 such hearing and submit within five days thereafter a finding  
24 of facts together with recommendations to the appointing  
25 authority. Within a period of 10 days after such hearing, the

1 appointing authority may rescind all or any part of such  
2 suspension. A suspended employee shall be entitled to full  
3 salary for any period of suspension rescinded hereunder.

4 "Section ~~26.~~ 22. (a) The hours of work shall be  
5 ~~fixed~~ established by the department head with approval by the  
6 council with due regard to the convenience of the public, ~~and~~  
7 ~~to working hours customarily observed in the community~~  
8 compliance with appropriate state and federal labor laws.

9 "(b) The following types of leave or time off are  
10 officially established: holidays, vacation leave, sick leave,  
11 injury with pay leave, shift trade time, overtime leave,  
12 military ~~service~~ leave, jury leave, leave for special  
13 meetings, and examinations, and leave without pay.

14 "(c) The absence of an employee from duty shall be  
15 reported to the ~~director of personnel~~ Human Resources Director  
16 by the department head. Absences shall be reported on the form  
17 prescribed by the director and shall be forwarded immediately  
18 to the ~~personnel office~~ Human Resources Department when the  
19 employee returns to duty, or at the close of the payroll  
20 period if the employee has not returned to duty, or at the end  
21 of the month if the employee has not returned to duty. The  
22 director shall maintain attendance and leave records on all  
23 classified employees.

24 "(d) If a department head fails to report the  
25 absence of an employee and the employee is paid in excess of

1 the amount due him or her, the department head shall be liable  
2 for the overpayment and disciplinary action.

3 ~~"(e) An employee who is absent without leave shall  
4 be subject to the provisions of this act governing suspensions  
5 and dismissals.~~

6 ~~"(f)(e) Under no circumstances shall seasonal,  
7 temporary, and part-time employees be allowed to earn or use  
8 vacation leave, sick leave or military leave unless as  
9 provided for in this act.~~

10 ~~"(g)(f) Vacation leave, sick leave and overtime  
11 leave shall not be allowed in advance of being earned. If an  
12 employee has insufficient leave to cover a period of absence,  
13 no allowance shall be posted in advance or in anticipation of  
14 future leave credits. In such cases, payroll deductions for  
15 the time lost shall be made for the pay period in which the  
16 absence occurred.~~

17 ~~"(h)(g) The council shall fix establish by  
18 resolution, the holidays that their employees shall observe.  
19 Employees on nonpay status, such as a leave of absence or on  
20 paid military leave, shall not earn additional time for  
21 holidays. All employees of the city shall receive the same  
22 number of holidays holiday hours. ~~Employees who are required  
23 to work on an observed holiday shall be compensated in  
24 accordance with this act.~~~~

1           "~~(i)~~(h) All employees holding regular full-time  
2 positions in the classified service shall be allowed to earn  
3 and accrue vacation leave with pay.

4           "Section ~~27.~~ 23. (a) Upon completion of 12 ~~months~~  
5 months' service at a regular position(s), an employee shall be  
6 eligible to use vacation leave. The scheduling of such  
7 vacation leave shall be determined by the department head with  
8 due consideration to seniority, length of service and request  
9 of the employee; except that if a vacation leave has not been  
10 allowed an employee at any time during the calendar year, the  
11 employee may demand that he or she be given a vacation leave  
12 not exceeding 12 work days.

13           "~~(b) For the purpose of computing vacation leave,~~  
14 ~~each week of seven days, excluding holidays, shall be~~  
15 ~~considered as containing not less than five work days.~~  
16 ~~Employees whose basis of pay is other than the standard work~~  
17 ~~week, such as fire personnel, shall earn and use vacation~~  
18 ~~leave time in a comparable manner as set by the director.~~

19           "(b) Twenty-four-hour shift personnel holding a  
20 regular position shall earn vacation leave in accordance with  
21 longevity of service as follows:

22           "0 to 12 years.....10.6 hours per month of  
23 service.

24           "12 to 25 years.....15.9 hours per month of  
25 service.

1                   "Over 25 years.....21.2 hours per month of  
2                   service.

3                   "(c) An employee holding a regular position, other  
4                   than 24-hour shift personnel, shall earn vacation leave in  
5                   accordance with ~~his~~ longevity of service as follows:

6                   "0 to 12 years.....1 day per month of service

7                   "12 to 25 years.....1 1/2 days per month of service

8                   "Over 25 years.....2 days per month of service.

9                   "(d) Vacation leave earned but not used during the  
10                  calendar year may be accumulated up to a maximum of 40 days.  
11                  Vacation leave earned in excess of the maximum accumulation  
12                  stipulated must be used by December 31 or it shall be  
13                  forfeited, unless extenuating circumstances indicate a  
14                  different handling is desirable in the opinion of the director  
15                  and mayor.

16                  "(e) Vacation leave shall be subject to the  
17                  following restrictions:

18                  "(1) An employee shall not earn vacation leave  
19                  during a leave of absence without pay, a suspension or when  
20                  the employee is otherwise in a nonpay status for more than 15  
21                  calendar days in a month. An employee currently using  
22                  supplemental sick leave shall not earn additional vacation or  
23                  sick leave during the period when ~~he~~ the employee is on  
24                  supplemental sick leave.



1           "(2) An employee who is dismissed for cause or  
2 resigns ~~in bad standing~~ with pending disciplinary action shall  
3 forfeit his or her earned vacation leave.

4           "(3) A department head shall not require an employee  
5 to forfeit his or her earned vacation leave as punishment  
6 through the action of suspension.

7           "(4) The maximum vacation leave that can be granted  
8 during a calendar year shall be five weeks.

9           "(f) All employees holding regular positions shall  
10 be allowed to earn and accrue sick leave. Sick leave is not a  
11 right for which employees may make demand, but a privilege  
12 granted in accordance with this act which may be changed from  
13 time to time as the best interests of the service demand.

14           "~~Section 28.~~ 24. (a) Upon completion of 12 ~~months~~  
15 months' service ~~in a regular position~~, an employee shall be  
16 eligible to use sick leave.

17           "(b) For the purpose of computing sick leave, each  
18 week of seven days, excluding holidays, shall be considered as  
19 containing not less than five work days. Employees whose basis  
20 of pay is other than the standard work week such as fire  
21 personnel, shall earn and use sick time in a ~~comparable~~  
22 as set by ~~the director~~ executive order of the mayor.

23           "(c) Sick leave shall be earned at the rate of one  
24 work day for each month of service. Sick leave earned during  
25 the calendar year but not used may be accumulated up to a

1 maximum of 60 days. Sick leave earned in excess of the maximum  
2 shall be held in a special reserve and may be granted as a  
3 supplementary sick leave in accordance with this act.

4 "(d) An employee shall be granted sick leave for the  
5 following reasons:

6 "(1) Personal illness of the employee, ~~including~~  
7 ~~inability to work due to pregnancy, childbirth or related~~  
8 ~~medical conditions.~~

9 "(2) Personal physician and dental appointments.

10 "~~(3) Illness arising from exposure to contagious~~  
11 ~~disease endangering the health of the employees.~~

12 "~~(4)~~ (3) Illness in the employee's ~~immediate~~ family  
13 which necessitates ~~his~~ the employee's absence from work. ~~In~~  
14 ~~this case "immediate family" shall be defined as the~~  
15 ~~employee's spouse, children and parents.~~

16 "~~(5)~~ (4) Death of the employee's ~~spouse, child,~~  
17 ~~parent, parent-in-law, sister or brother~~ family member.

18 "(5) For any other extenuating circumstances as  
19 approved by the mayor.

20 "(6) Total absences allowed under ~~paragraphs d and e~~  
21 subdivisions (3) and (4) above combined shall not exceed six  
22 days in any calendar year.

23 "(e) (1) An employee who is absent on sick leave  
24 continuously for a period of five work days or more shall  
25 submit a doctor's certificate or other written evidence to

1 substantiate the sick leave usage. Such certification shall  
2 include:

3 "a. The diagnosis;

4 "b. A confirmation that the diagnosed condition  
5 renders the employee incapacitated to perform position duties;  
6 and

7 "c. The probable period of such incapacitation.

8 "(2) The appointing authority ~~or director of~~  
9 personnel and Human Resources Director may require such  
10 certification to substantiate sick leave claims of less than  
11 five work days.

12 "(f) Sick leave shall be subject to the following  
13 restrictions:

14 "(1) An employee shall not earn sick leave during a  
15 leave of absence without pay, a suspension or when the  
16 employee is otherwise in a nonpay status for more than 15  
17 calendar days in a month. An employee currently using  
18 supplemental sick leave shall not earn additional vacation or  
19 sick leave during the period when ~~he~~ the employee is on  
20 supplemental sick leave.

21 "(2) Sick leave shall not be granted an employee  
22 whose absence from duty is a result of his or her own  
23 misconduct. Absence for such cause shall be reported as  
24 absence without leave, and shall subject the employee to  
25 disciplinary action.

1           "(3) Sick leave shall not be granted an employee  
2 whose absence from duty is caused by injury or disability  
3 sustained as a result of ~~his~~ the employee engaging in  
4 employment outside the classified service.

5           "(4) Sick leave accumulation shall be forfeited upon  
6 separation or retirement from the classified service except as  
7 ~~otherwise provided for in this act~~ allowed on retirement  
8 through the Retirement Systems of Alabama.

9           "(g) Sick leave earned during the calendar year but  
10 not used may be accumulated up to a maximum of 60 days. Sick  
11 leave earned in excess of the maximum shall be held in a  
12 special reserve as supplemental sick leave. An employee who by  
13 personal illness has exhausted ~~his~~ accumulated sick leave,  
14 ~~may, upon approval by the board,~~ be granted supplemental sick  
15 leave ~~in an amount not to exceed the number of days of sick~~  
16 ~~leave such employee may have earned but for which he failed to~~  
17 ~~receive credit because of his having accumulated the maximum~~  
18 ~~of 60 days.~~ Every application for such allowances shall be  
19 supported by the certificate of a licensed physician and by  
20 such other proof of disability ~~as the board may deem~~  
21 ~~necessary.~~ Supplemental sick leave shall be granted only for  
22 recuperative purposes as stated by competent medical authority  
23 and submitted to the appropriate appointing authority.

24           "(h) (1) An employee who sustains a disabling injury  
25 without fault or negligence on his or her part while

1 performing the duties of his or her position may be granted  
2 leave with pay ~~by the board~~. Each application for such leave  
3 shall contain a statement by the employee and affirmed by his  
4 or her supervisor setting forth the details of the accident on  
5 forms prescribed by the director, and supported by a doctor's  
6 certificate setting forth the nature and extent of the injury  
7 and the probable period of disability. Injury with pay leave  
8 may be granted up to a maximum of six calendar months.

9           "~~(2) In those jurisdictions which provide workmen's~~  
10 If the employee is covered by workers' compensation benefits  
11 pursuant to the ~~state~~ State of Alabama ~~Workmen's Workers'~~  
12 Compensation Law, the leave with pay benefit provided by this  
13 ~~rule~~ subsection shall be complementary to ~~said workmen's~~ the  
14 workers' compensation benefits, subject to the following  
15 limitations: The amount of such complementary benefit shall  
16 equal the difference between the amount of ~~workmen's~~ workers'  
17 compensation and the amount to which the employee would have  
18 been entitled. In no case shall the total amount of benefits,  
19 taking into account the ~~workmen's~~ workers' compensation  
20 benefits and the benefits provided by this act, exceed the  
21 base salary amount established in the classified service pay  
22 plan for the period during which disability exists.

23           "(3) An employee may return to work as indicated by  
24 the physician's notes as follows:

1           "a. Employee Released to Light Duty. The  
2           restrictions shall be very specific as noted on the work  
3           status form and should be followed. During the light duty  
4           phase of the employee's work restrictions, any appointments  
5           for doctor visits, physical therapy visits, or other medical  
6           treatments are excused as workers' compensation and the  
7           employee shall not be charged with personal leave time  
8           provided the employee brings proper documentation of the  
9           appointments.

10           "b. Employee Released to Full Duty. The employee  
11           shall provide documentation from the treating physician that  
12           he or she is being returned to full duty without restrictions  
13           or limitations. As of the date on the release form, any future  
14           appointments for doctor visits, physical therapy visits, or  
15           other medical treatment are of the employee's own personal  
16           leave time. In order to minimize the personal leave time the  
17           employee may request that the appointments be made on his or  
18           her off time or as late in the day as possible.

19           "c. Employee Released to Full Duty, but With  
20           Limitations. The employee shall provide documentation from the  
21           treating physician that he or she is being returned to full  
22           duty but with some limitations or specific accommodations. The  
23           limitations or specific accommodation of the department must  
24           be met. Usually these limitations or accommodations are for a  
25           small period of time and the employee shall be reevaluated

1 depending on the injury. As of the date on the release form,  
2 any future appointments for doctor visits, physical therapy  
3 visits, or other medical treatment are of the employee's own  
4 personal time. In order to minimize the personal leave time,  
5 the employee may request that the appointments be made on his  
6 or her off time or as late in the day as possible.

7 "~~(3)~~(4) If an employee is unable to resume his or  
8 her duties after six months' injury leave, absences shall be  
9 charged against ~~his~~ accumulated sick leave, vacation leave,  
10 and overtime in that order. In the event an employee is unable  
11 to resume his or her duties at the expiration of ~~his~~  
12 accumulated sick, vacation leave, and overtime leave, ~~he~~ the  
13 employee may elect to retire from the service if eligible or  
14 request a leave of absence without pay in accordance with this  
15 act.

16 "~~Section 29.~~ 25. (a) Overtime shall be defined as  
17 any work performed by a classified employee exceeding the  
18 normal work week called for in the pay plan, when the work is  
19 assigned by an appointing authority.

20 "(b) In accordance with the pay plan for the  
21 classified service, the rates of compensation set forth in the  
22 plan as certified are based on a 40-hour work week unless  
23 otherwise noted, i.e., fire personnel. Work being performed in  
24 the classified service in excess of the normal work week, as  
25 set forth in the pay plan, shall conform to the following:

1           "(1) Overtime work shall be authorized only in the  
2 following cases:

3           "a. In the event of fire, flood, catastrophe or  
4 other unforeseeable emergency;

5           "b. Where a work station must be manned and another  
6 employee is not available to work;

7           "c. To provide essential services when such services  
8 cannot be provided by overlapping work schedules;

9           "d. To carry on short-range projects in which the  
10 utilization of present employees is more advantageous to the  
11 ~~agency~~ city than the hiring of additional personnel;

12           "e. In general, no employee shall be regularly  
13 scheduled to work overtime. Exceptions, based on seasonal  
14 variations in work programs, shall be recognized when approved  
15 by the appointing authority.

16           "(2) a. All employees in the classified service  
17 shall be subject to these provisions except ~~incumbents~~  
18 employees in those classes of work which are deemed by the  
19 board to be on a job basis, whereby the number of hours in a  
20 work week are not considered a factor in establishing the pay  
21 grade. Positions of this type are viewed as administrative,  
22 managerial or carry program management responsibility, or are  
23 of such an occupational nature reflecting community, private  
24 industry and public employment practices which clearly place  
25 the occupation on a job basis. Positions so designated as "job



1 basis" shall be identified and recommended by the department  
2 head subject to approval by the board. Amendments to the  
3 established list may from time to time be made by the  
4 director.

5 "b. The job-basis list shall be posted in the  
6 various departments and otherwise given wide circulation as to  
7 its existence. Employees in the job-basis category shall not  
8 receive overtime credit. The department head shall, however,  
9 be permitted to develop a uniform working arrangement whereby  
10 adequate overtime records shall be kept and provision for  
11 reasonable time off granted in those cases which, by the  
12 excessive number of hours worked, create a hardship on the  
13 employee.

14 ~~"(3) Overtime shall be defined as any work performed~~  
15 ~~by a classified employee exceeding the normal work week called~~  
16 ~~for in the pay plan, when such work is assigned by an~~  
17 ~~authorized superior.~~

18 ~~"(4) Premium conditions are as follows:~~

19 ~~"a. In the event an employee is placed on "standby"~~  
20 ~~or "on call" after his normal duty hours, he shall be entitled~~  
21 ~~to one hour of overtime credit for each full eight-hour day~~  
22 ~~regularly on call or standby. This provision shall be defined~~  
23 ~~as specific instructions given by competent authority to~~  
24 ~~remain at place of residence awaiting call, and in addition, a~~  
25 ~~reasonable probability of emergency must exist. In the event~~

1 ~~an employee is called back to his duty station from his place~~  
 2 ~~of residence, he shall be credited with a minimum of two hours~~  
 3 ~~overtime.~~

4 ~~"b. Holiday provisions shall apply as follows:~~

5 ~~"1. In the event an employee is required to work on~~  
 6 ~~a recognized legal holiday as defined in this act, the~~  
 7 ~~employee shall be awarded eight hours overtime.~~

8 ~~"2. If the holiday falls on an employee's regular~~  
 9 ~~scheduled day off, the employee shall be awarded eight hours~~  
 10 ~~overtime.~~

11 "(3) The federal overtime provisions are contained  
 12 in the Fair Labor Standards Act (FLSA). Unless exempt,  
 13 employees covered by the act must receive overtime  
 14 compensation for hours worked over 40 in a workweek at a rate  
 15 not less than time and one-half their regular rates of  
 16 compensation. Section 13(a)(1) of the FLSA provides an  
 17 exemption from both minimum wage and overtime compensation for  
 18 employees employed as bona fide executive, administrative, or  
 19 professional employees. To qualify for exemption, employees  
 20 must meet certain tests regarding their job duties. Job titles  
 21 do not determine exempt status. In order for an exemption to  
 22 apply, an employee's specific job duties and salary must meet  
 23 all the requirements of the department's regulations.

24 "(4) Premium Conditions.

1           "a.1. Standby Time. Standby time means time when an  
 2 employee is required to remain at, or report to, a work  
 3 premise or any other authorized location by the appointing  
 4 authority to wait for a directive of duty which is imminent  
 5 and assignable.

6           "2. Standby time shall be compensated for the time  
 7 at the employees' normal hourly rate subject to the provisions  
 8 of this act.

9           "b.1. On Call Time. On call time means time when an  
 10 employee required by the appointing authority to be available  
 11 to return to the work premise or other authorized location for  
 12 responding to work emergencies or situations after normal duty  
 13 hours.

14           "2. On call time shall be compensated at one hour  
 15 for each full eight-hour day, not to exceed three hours. All  
 16 work performed as a result of returning to the work location  
 17 or other authorized location is compensable at the employees'  
 18 hourly rate and subject to a minimum compensation of two  
 19 hours, or actual worked time, whichever is greater, subject to  
 20 the provisions of this act.

21           (5) Overtime may be awarded by either:

22           "a. Payment on the basis of hourly equivalent as set  
 23 forth in the pay plan for each classification, based on the  
 24 current hourly pay step of the incumbent employee; or

1            "b. Granting equivalent time off. The employee must  
2 be given a minimum notice of two days prior to being required  
3 to take time off except as provided in this act.

4            "c. The council shall determine whether overtime  
5 shall be awarded by payment or by granting equivalent time  
6 off, subject to the limitations imposed in this act. The  
7 council may elect to pay or grant time off above the straight  
8 time rate but must uniformly do so within a classification.

9            "(6) A maximum limitation of 80 ~~hours~~ hours  
10 overtime is hereby set. Any employee accrual of overtime in  
11 excess of this amount shall, within the following pay period,  
12 be disposed of by either:

13            "a. Payment at the current hourly pay step of the  
14 ~~incumbent~~ employee, or

15            "b. Granting compensatory time off.

16            "(7) Upon separation from the service, an employee  
17 shall be compensated at his or her regular hourly pay step for  
18 each hour of overtime, such compensation shall be made as  
19 ~~terminal~~ pay, with the limitations engrossed in this act.

20            "(8) Reporting and payment are as follows:

21            ~~"a. The board reserves the right to make final  
22 disposition of all payments for overtime and to periodically  
23 conduct reviews of departmental practices of granting  
24 overtime.~~

1           "~~b.a.~~ Prompt and accurate reports of overtime earned  
2 and used shall be maintained by the departments and shall be  
3 subject to periodic review by the ~~personnel director~~ Human  
4 Resources Director for conformance to this act.

5           "~~c.b.~~ Each department shall, at regular monthly  
6 intervals, post a list at each work station recapping the  
7 current total balance of accrued overtime leave for each  
8 employee.

9           "Section ~~30.~~ 26. Military service leave and  
10 reinstatement are as follows:

11           "~~(1) a. If an employee in permanent status enters~~  
12 ~~into the military service of the United States government or~~  
13 ~~public health service, whether drafted, activated or enlisted~~  
14 ~~and upon application to the director, he shall be granted a~~  
15 ~~leave of absence from the classified service for the duration~~  
16 ~~of such military service not to exceed four years, unless the~~  
17 ~~military service is extended by federal act or presidential~~  
18 ~~decree; no loss of rights or status shall occur, and he shall~~  
19 ~~be given credit for the time spent in the armed forces of the~~  
20 ~~United States as actual service rendered in the classified~~  
21 ~~service as though his employment had not been interrupted,~~  
22 ~~providing the employee presents himself for reemployment with~~  
23 ~~the director within 90 days after discharge from such military~~  
24 ~~service, unless such time shall be extended for reasons of~~

1 ~~health or physical unfitness after application to and approval~~  
2 ~~of the director.~~

3 ~~"b. The benefits provided shall not include any~~  
4 ~~employee who has received a dishonorable discharge from the~~  
5 ~~service. In instances in which the discharge from the military~~  
6 ~~service is for reasons other than honorable or dishonorable,~~  
7 ~~the director shall review the reasons for the discharge and~~  
8 ~~may consent or refuse reemployment to any employee receiving~~  
9 ~~such discharge.~~

10 ~~"c. This is also contingent upon whether the~~  
11 ~~employee is still qualified to perform the duties of the~~  
12 ~~position; if so, he shall be restored to such position or to a~~  
13 ~~position of like seniority, status and pay. If not qualified~~  
14 ~~to perform the duties of such positions by reason of~~  
15 ~~disability sustained during military service, then the~~  
16 ~~director shall determine what most nearly reflects his~~  
17 ~~capabilities and will provide reasonable compensation~~  
18 ~~consistent with circumstances in his case with the approval of~~  
19 ~~the mayor.~~

20 ~~"(a) An employee shall provide advance written or~~  
21 ~~verbal notice to the department head of all military duty,~~  
22 ~~unless giving notice is impossible, unreasonable, or precluded~~  
23 ~~by military necessity. Notice may be provided by the employee~~  
24 ~~or by an appropriate office of the branch of military service~~  
25 ~~in which the employee will be serving. A returning employee's~~

1 notification of an intent to return to work shall be made  
2 promptly following completion of military service. The job  
3 position to which a returning employee is entitled also  
4 depends upon the length of military service. Federal law  
5 mandates generally that returning employee is to be reemployed  
6 in the same or similar position the employee would have  
7 attained but for their military service, with the same  
8 seniority, status and pay, as well as other rights and  
9 benefits determined by seniority.

10 ~~"(2)(b)~~ The provisions concerning permanent  
11 employees shall also apply to probationary employees, provided  
12 that the ~~service~~ seniority credit shall not accrue to a  
13 veteran who was in probationary status at the time of entrance  
14 into military service of the United States government until  
15 the veteran shall have satisfactorily completed his or her  
16 probationary period after return as an employee of the city.

17 "Section ~~31.~~ 27. Temporary leave for National Guard  
18 and armed forces reserve training is as follows:

19 "(1) An employee occupying a regular full-time  
20 position in the classified service who by reason of ~~his~~  
21 membership in the National Guard or armed forces reserve of  
22 the United States is ordered by appropriate authority to  
23 attend a training period shall, upon presentation of official  
24 orders, be granted military leave with pay. In no case shall

1 an employee granted military leave with pay be paid for more  
2 than ~~21~~ 168 working ~~days~~ hours per fiscal year.

3 "(2) In the event an employee is ordered to  
4 temporary active military duty by the ~~governor~~ Governor of the  
5 ~~state~~ State of Alabama or the ~~president~~ President of the  
6 United States, such person shall be entitled to be paid for no  
7 more than ~~21~~ 168 working ~~days~~ hours for any one active duty  
8 period.

9 "(3) Seniority; annual vacation and sick leave; and  
10 other related benefits arising from employment with the city  
11 for employees ordered to attend training periods or who are  
12 called up to duty in the active service of the state or ~~county~~  
13 country by the ~~governor~~ Governor or the ~~president~~ President of  
14 the United States shall be the same as those prescribed in  
15 this act.

16 "Section ~~32~~. 28. (a) An employee in the classified  
17 service shall be allowed up to one full day for purpose of  
18 taking a preinduction physical examination when such  
19 examination is ordered by the Selective Service Board.

20 "(b) An employee summoned for jury duty or as a  
21 witness in court shall be granted leave with pay.

22 "(c) Whenever it is deemed in the best interest of  
23 the classified service, an employee may be granted leave with  
24 pay by the appointing authority to attend professional or  
25 technical institutes or conferences or such other meetings.



1 Time off with pay shall be granted to an employee for the  
2 purpose of taking examinations administered by the ~~personnel~~  
3 ~~director~~ Human Resources Director.

4 "Section ~~33.~~ 29. Leave of absence without pay is as  
5 follows:

6 "(1) Upon ~~recommendation~~ approval of the appointing  
7 authority and ~~approval of the~~ director, such leave shall be  
8 allowed in the following categories:

9 "a. An employee occupying a regular full-time  
10 position, who is temporarily incapacitated to perform duties,  
11 may be granted a leave of absence for not more than one year.  
12 However, the employee shall submit a doctor's certificate  
13 which shall include:

14 "1. The diagnosis,

15 "2. A confirmation that the diagnosed condition  
16 renders the employee incapacitated to perform position duties,  
17 and

18 "3. The probable period of such incapacitation.

19 "b. An employee with permanent status who desires to  
20 engage in a course of study which will increase his or her  
21 usefulness upon ~~his~~ return to duty may be granted a leave of  
22 absence for not more than one year.

23 "c. An employee with permanent status may be granted  
24 a leave of absence for not more than one year for any reason

1 considered good by the appointing authority subject to the  
2 approval of the director and mayor.

3 "d. An employee with permanent status who holds a  
4 technical or professional position may be granted a leave of  
5 absence when his or her assistance is requested to adopt or  
6 implement changes in service of another governmental agency.  
7 ~~Under no circumstances shall a leave be granted to engage in~~  
8 ~~other types of employment.~~

9 "(2) Leave requests must be submitted in writing and  
10 must state the purpose of the leave, and the date the leave is  
11 to begin and end. The appointing authority and director shall  
12 at the time of approval of such leave of absence designate  
13 whether the employee shall be entitled to resume the position  
14 at the expiration of such leave, or whether the employee's  
15 name shall be placed on the reemployment list.

16 "~~(2)~~ (3) Under no circumstances shall a leave be  
17 granted to engage in other types of employment.

18 "Section ~~34.~~ 30. An employee with permanent status  
19 who wishes to resign or retire from his or her position in the  
20 classified service in good standing shall submit ~~his~~ notice in  
21 writing to the appointing authority not less than 15 days  
22 prior to the effective date. Under unusual conditions, the  
23 appointing authority may, with the approval of the director,  
24 reduce the required number of ~~days~~ days' notice. A permanent  
25 employee separating or retiring from the service in good

1 standing shall receive ~~terminal~~ pay for his or her accrued  
 2 vacation leave not to exceed 40 days.

3 "Section 35. 31. (a) The ~~director of personnel~~ Human  
 4 Resources Director shall be responsible for obtaining and  
 5 preserving ratings on all personnel, such ratings to reflect  
 6 the performance of ~~incumbents~~ employees of positions of the  
 7 same class and/or grade, so that the standards of performance  
 8 may be established to determine the relative abilities of such  
 9 ~~incumbents~~ employees; and to discover these employees who,  
 10 measured by the performance of their assigned duties and  
 11 demonstrated promotional potential, shall be subject to:

12 "(1) Promotion.

13 "(2) Merit increase.

14 "(3) Transfer.

15 "(4) Reduction in pay.

16 "(5) Demotion.

17 "(6) Dismissal.

18 "(b) The department head shall use a rating plan  
 19 ~~approved by the director of personnel~~ developed in conjunction  
 20 with the Human Resources Director and approved by the  
 21 Personnel Board. Such plan shall be based on accepted  
 22 personnel administration practices in respect to the  
 23 measurement of performance and promotional potential. All  
 24 employees who are responsible for preparing ratings shall do

1 so in a careful and responsible manner, conforming with  
2 existing policies as established by the council.

3 "(c) Every rated employee shall have the opportunity  
4 to discuss and review his or her rating with the person or  
5 persons rating him or her. ~~He~~ The employee shall also have the  
6 opportunity in the event of a disagreement to discuss and  
7 review his or her rating with a reviewing officer and the  
8 department head; if unable to reconcile any differences, the  
9 employee shall further have the opportunity to have ~~his~~ an  
10 appeal heard by the ~~director of personnel~~ Human Resources  
11 Director. The employee shall make this request in a timely  
12 fashion and in writing.

13 "~~Section 36. 32.~~ (a) The ~~director of personnel~~ Human  
14 Resources Department shall be responsible for developing and  
15 maintaining programs for improving safety practices and  
16 conditions affecting the safety, health and morale of the  
17 employees in the public service. The promulgated rule for  
18 adopting the safety manual shall serve as the guidelines for  
19 compliance and periodic updates. To this end the ~~director~~  
20 Human Resources Department may require the submission of  
21 reports and the investigation of accidents and working  
22 conditions in the departments.

23 "(b) Employee training and development are as  
24 follows:

1           "(1) The city is committed to the development of a  
2 career service in public employment through the provision of  
3 comprehensive inservice training and formalized academic  
4 programs that will provide the public with the highest quality  
5 services and maximum efficiency of operations. The ~~personnel~~  
6 ~~director~~ Human Resources Director, in conjunction with the  
7 council, shall provide a coordinated system for the training  
8 and development of all personnel in the classified service in  
9 order to eliminate duplication of costs and efforts.

10           "(2) The council and appointing authority shall  
11 encourage the development and concept of training in the  
12 public service, taking into consideration the availability of  
13 funds, the priority of work to be performed and the  
14 availability of personnel.

15           "(3) Each department will organize its training in  
16 such a manner as to assure that adequate and necessary  
17 opportunities for training are provided and that unjustified  
18 training activities are not engaged in by departmental  
19 personnel. Each department is expected as a minimum  
20 requirement to follow the procedures set forth below:

21           "a. Establish a written departmental training policy  
22 which includes:

23           "1. A statement of purpose and objective.

1                   "2. Provision for assigning centralized  
2 administrative responsibility for the total departmental  
3 employee training program.

4                   "3. Compilation of information to indicate  
5 individual training activities completed by employees and  
6 related data.

7                   "4. Provision for continuous appraisal of training  
8 needs.

9                   "b. Develop comprehensive organizational training  
10 plans. Such plans should be developed in accordance with the  
11 mission, structure and function of the organization. There  
12 should be long-range and short-range plans covering such areas  
13 as orientation, supervisory and technical skills.

14                   "Section ~~37.~~ 33. The most effective accomplishment  
15 of the work of the various departments requires prompt  
16 consideration and equitable adjustment of employee grievances.  
17 It is the desire of all parties to adjust grievances  
18 informally, and both supervisors and employees are expected to  
19 make every effort to resolve problems as they arise. However,  
20 it is recognized that there will be grievances which will be  
21 resolved only after a formal appeal and review.

22                   "(1) A grievance is a wrong, real or ~~fancied~~  
23 perceived, considered by an employee as grounds for complaint.  
24 Matters dealing with classification, pay, compensation,  
25 examination, leave, discipline, and related actions

1 specifically set forth shall not be considered under grievance  
2 procedures, but shall be ~~adjusted~~ addressed in accordance with  
3 the provisions of this act. Any question as to what  
4 constitutes a grievance or what should be processed shall be  
5 determined by the director, subject to the review of the  
6 board.

7 "(2) Any employee may register a grievance. In the  
8 presentation of grievances, employees are assured of freedom  
9 from restraint, interference, discrimination or reprisal. All  
10 ~~adjustments~~ resolutions of grievances processed shall be  
11 retroactive to the time the grievance is first submitted in  
12 writing by the aggrieved employee. The aggrieved employee may  
13 be represented by counsel or other person of his or her  
14 choosing.

15 "a. Step I.

16 "1. The grievance must be submitted in writing to  
17 the immediate supervisor within five days of the occurrence of  
18 the incident. All such complaints shall cite the reasons and  
19 nature of complaint and must be signed by the employee.

20 "2. The immediate supervisor shall within three days  
21 reply in writing, with a copy furnished to the employee and  
22 ~~personnel director~~ Human Resources Director, ~~his~~ the  
23 supervisor's answer to the complaint of grievance.

24 "b. Step II. If unresolved in five days, the written  
25 grievance and the supervisor's answer shall be submitted to

1 the department head. The department head shall within five  
2 days, reply in writing to all parties concerned and forward a  
3 copy to the ~~personnel director~~ Human Resources Director.

4 "c. Step III. If unresolved, the grievance shall be  
5 submitted to ~~a grievance committee, composed as follows:~~ the  
6 Personnel Board.

7 "~~1. One member elected by the classified employees~~  
8 ~~of the city. The term of the employee-elected member shall be~~  
9 ~~for a period of 12 months. One member designated by the~~  
10 ~~appointing authority of the city. The third member shall be a~~  
11 ~~mutually agreed upon person selected by the first two members.~~

12 "~~2. In the event no mutual party can be agreed upon~~  
13 ~~by members one and two within a period of 10 days, the~~  
14 ~~personnel director shall designate member number three.~~

15 "~~3. The grievance committee as constituted shall~~  
16 ~~review the findings of all parties concerned and may obtain~~  
17 ~~additional information as they deem necessary. They shall~~  
18 ~~render a decision concerning the unresolved grievance within~~  
19 ~~30 days after receipt of such grievance. The decision shall be~~  
20 ~~binding on all concerned parties.~~

21 "~~4. The director of personnel shall provide such~~  
22 ~~minimal administration services as may be necessary and shall~~  
23 ~~exercise his authority to request the production of records or~~  
24 ~~appearance of witnesses as may be required.~~



1           ~~"5. Nothing shall be so construed as to limit the~~  
2 ~~council's right to manage its affairs and governmental~~  
3 ~~operations or to infringe on its right and responsibility to~~  
4 ~~appropriate funds and to fix budgets for the proper~~  
5 ~~expenditure of public funds.~~

6           "Section ~~38.~~ 34. (a) All payrolls, both classified  
7 and unclassified, shall be prepared and submitted in  
8 sufficient copies and upon forms prescribed by the director in  
9 sufficient time for certification by the director prior to  
10 payment of any funds or salaries. All payrolls shall be signed  
11 by competent authority as authorized by the council.

12           "(b) Employees working on a full-time basis shall be  
13 paid in accordance with the official salary schedule  
14 established by the council.

15           "(1) In utilizing the official biweekly salary  
16 schedule, new employees entering after the first day of a pay  
17 period and employees terminated before the last day of a pay  
18 period shall be paid on a daily basis. Employees who are in a  
19 nonpay status for any part of a pay period and employees who  
20 are authorized overtime pay during a pay period, shall be paid  
21 on a daily basis for each day worked. The daily rate shall be  
22 determined by the official salary schedule.

23           "(2) When the basis of pay is other than biweekly,  
24 new appointees entering after the first day of a pay period  
25 and employees terminated before the last day of a pay period

1 shall be paid the daily rate for each work day they are in  
 2 employee status during ~~said~~ the pay period in accordance with  
 3 the official salary schedule.

4 "(3) Employees who receive pay for overtime worked  
 5 shall be paid in accordance with the official salary schedule  
 6 for each hour or day of overtime.

7 "(4) Employees in employee status during an entire  
 8 pay period, but who are in nonpay status for any part of ~~said~~  
 9 the period, shall have deducted from their pay for ~~said~~ the  
 10 pay period each work day they are in nonpay status in  
 11 accordance with the official salary schedule.

12 "(5) In no case shall a new appointee or an employee  
 13 returning from an absence of more than three work days in  
 14 nonpay status be placed in pay status before the date of  
 15 assumption or resumption of duties.

16 "(c) A disbursing officer shall not make any payment  
 17 to any person, either directly or indirectly, in contravention  
 18 of any provision of this act or to any exception noted by the  
 19 ~~director of personnel~~ Human Resources Director. All payrolls  
 20 must bear the certification of the ~~director of personnel~~ Human  
 21 Resources Director prior to disbursement or payment of funds  
 22 or salaries.

23 "Section ~~39.~~ 35. (a) Activities prohibited are as  
 24 follows:

1           "(1) No person shall be appointed or promoted to, or  
2 dismissed from any position, or in any way favored or  
3 discriminated against with respect to employment because of  
4 ~~his~~ sex, political or religious opinions or affiliations, or  
5 ~~his~~ race.

6           "a. No person shall seek or attempt to use any  
7 political endorsement in connection with any appointment to a  
8 position.

9           "b. No person shall use, directly or indirectly, any  
10 official authority or influence, whether possessed or  
11 anticipated, to secure or attempt to secure for any person an  
12 appointment or advantage in appointment to a position, or an  
13 increase in pay or other advantage in employment in any such  
14 position, for the purpose of influencing the vote or political  
15 action of any person, or for any consideration.

16           "c. No person in the employment of this city,  
17 whether classified or unclassified, shall be denied the right  
18 to participate in city, county and state political activities  
19 to the same extent as any other citizen of the ~~state~~ State of  
20 Alabama, including endorsing candidates and contributing to  
21 campaigns of his or her choosing.

22           "d. All persons in the employment of this city shall  
23 have the right to join local political clubs and organizations  
24 and state or national political parties.

1            "e. All persons in the employment of this city shall  
2 have the right to publicly support issues of public welfare,  
3 circulate petitions calling for or in support of referendums  
4 and contribute freely to those ~~of his choosing~~ causes of their  
5 choosing.

6            "(2) No person shall attempt to use ~~his~~ political  
7 authority or position for the purpose of influencing the vote  
8 or political action of any person. Any person who violates  
9 this subdivision of this act shall be guilty of a felony  
10 punishable by a fine not to exceed \$10,000.00 or imprisonment  
11 in the state penitentiary for a period not to exceed two  
12 years, or both.

13            "(b) Candidacy for public office is as follows:

14            "(1) In the event an employee resigns his or her  
15 position for the purpose of becoming a candidate for  
16 nominations or election to public office, ~~he~~ the employee  
17 shall be eligible for a leave of absence without pay if the  
18 following conditions are met:

19            "a. A written resignation is submitted to the  
20 appointing authority stating the purpose of such resignation  
21 with a copy forwarded to the ~~director of personnel~~ Human  
22 Resources Director.

23            "b. Within the six-month period next succeeding the  
24 day of resignation, he or she is reinstated to the eligible  
25 list for ~~said~~ the position.

1            "c. The position has not been filled between the day  
 2 of his or her resignation and the day of ~~his~~ appointment.

3            "d. ~~He~~ The employee is reappointed to the position  
 4 within the six-month period next succeeding the day of  
 5 resignation.

6            "(2) If each of the foregoing conditions are met,  
 7 the employee shall be considered for all purposes as having  
 8 been on a leave of absence.

9            "(c) In order to avoid a conflict of interest, an  
 10 appointing authority shall require that a classified employee  
 11 who wishes to engage in any outside work or activity for  
 12 personal profit, file a written request setting out the nature  
 13 of such outside employment. Reasons for rejection of the  
 14 request shall be limited to whether or not such employment can  
 15 cause a conflict of interest, or is incompatible with an  
 16 ~~employees'~~ employee's position in the classified service.

17            "(d) All elected authorities and officials shall  
 18 assist in the implementation and maintenance of the provisions  
 19 of this act."

20            Section 2. The provisions of this act are severable.  
 21 If any part of the act is declared invalid or  
 22 unconstitutional, such declaration shall not affect the part  
 23 which remains.

24            Section 3. All laws or parts of laws which conflict  
 25 with this act are hereby repealed.

1                   Section 4. This act shall become effective  
2           immediately upon its passage and approval by the Governor, or  
3           upon its otherwise becoming a law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

---

Speaker of the House of Representatives

---

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 26-MAY-15.

Jeff Woodard  
Clerk

Senate

---

02-JUN-15

---

Passed