

Chapter 44C, Code of Alabama

GOVERNMENT OF CLASS 2 MUNICIPALITIES

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Section 11-44C-1

Applicability of chapter.

This chapter shall apply to any Class 2 municipality in the state of Alabama.

Section 11-44C-2

Special election as to adoption of commission or mayor-council form of government.

Upon March 28, 1985, the mayor or chief executive officer of any city to which this chapter applies shall call a special election to be held on May 14, 1985, said call for the purpose of determining whether such city shall adopt the court ordered district commission form of government in accordance with the consent decree entered into by the parties and approved by the court on April 7, 1983, in the case of Bolden vs. City of Mobile, Civil Action No. 75-297, or in the alternative the mayor-council form of government, authorized by this chapter, and shall give notice of the time and purpose of such election by publication once each week for four consecutive weeks in a newspaper published in said city. All qualified electors of such city may participate in said election, as provided by this chapter, and such questions shall be plainly printed upon the ballot as provided in Section 11-44C-3. The election shall be conducted, the expenses paid, the votes canvassed and the results declared in the same manner as is or may be provided by law in other city elections. The proposal for which the majority of the votes cast shall be "yes," or in favor of such proposition shall thereby be adopted for such city, and the

mayor or other chief executive officer shall transmit to the Governor, to the Secretary of State, and to the judge of probate of the county, a certificate stating that such proposition was adopted for such city.

Section 11-44C-3

Form of ballot; marking of ballot; use of voting machines.

At such election the proposition to be submitted shall be printed in plain prominent type on ballots separate and distinct from ballots used for any other office or question and shall read as follows:

Check one of the following:

(1) Shall the mayor-council form of government, as provided by Act 85-229, be adopted for the city of _____?

Yes _____; or

(2) Shall the district commission form of government be adopted for the city of _____?

Yes _____.

The voter shall mark his ballot with a cross mark (X) after the proposition which expresses his choice. If voting machines are used at any voting place in such election, the above proposition may, at the discretion of the election commission or other body or official having charge of the conduct of municipal elections in such city, be submitted as a separate proposition on voting machines so used.

Section 11-44C-4

Conduct of election; portions of chapter applicable upon choosing form of government; election expenses.

The election shall be held and conducted in accordance with the provisions of Title 11, except as herein otherwise specifically provided. If the votes shall be in favor of the court ordered district commission form of government then only the applicable provisions of this chapter shall thereby be adopted for such city; if the majority of the votes shall be in favor of the mayor-council form of government, then only the applicable provisions of this chapter shall thereby be adopted for such city. The expenses of any and all elections provided for in this chapter shall be paid by the city.

Section 11-44C-5

Provisions applicable to mayor-council form of government.

If a majority of the qualified electors voting in the election provided herein choose a mayor-council form of government, the following provisions of this chapter shall be applicable.

Section 11-44C-6

Election of council and mayor-at-large; time of taking office; election expenses.

An election shall be held in 1985 at the regularly scheduled municipal election and the officials elected shall take office upon the expiration of the present official's term of office. Seven council members to be elected by districts and a mayor to be elected at-large shall be elected and the expense thereof shall be paid by the municipality.

Section 11-44C-7

Qualification of council candidates; votes cast by each voter; majority vote requirements; run-off elections; elections held quadrennially; when elected councilmen take office; term of office; councilman may succeed himself.

Council candidates shall qualify as provided by law and shall have the qualification and eligibility set forth herein. Each voter in the election may cast one vote for a candidate from his district, and one vote for a candidate for mayor. Any district councilman candidate receiving a majority of the total votes cast from the district in which he is a candidate shall be elected as a district councilman in his district. In the event that a district councilman candidate, should fail to receive such a majority, then another election shall be held upon the same day of the week three weeks thereafter to be called and held in the same mode and manner and under the same rules and regulations. In the second election there shall be two candidates for each place upon the council to be filled in such run-off election and these candidates shall be the two who received the highest number of votes. The candidate or candidates for the council receiving the highest number of votes cast in the second election shall be elected, so that in the first and second elections seven councilmen shall be elected. Regular municipal elections shall be held quadrennially thereafter under the same rules and regulations and in the same mode and manner as provided by law. The councilmen so elected shall take office upon the expiration of the terms of office of the present municipal officeholders. Each councilman shall hold office for four years, but shall serve until his successor shall have qualified. A councilman may succeed himself in office.

Section 11-44C-8

Mayor - Majority vote requirements; run-off election.

The candidate for mayor receiving the largest number of votes for the office shall be elected thereto, provided such candidate receives a majority of all votes cast for such office. If at the first election no candidate received a majority of the votes cast for the office, then another election shall be held upon the same day of the week three weeks thereafter to be called and held in the same mode and manner and under the same rules and regulations. In the second election there shall be two candidates for the office of mayor; and these candidates shall be the two who received the highest number of votes for said office at the first election.

Section 11-44C-9

Mayor - Elections held quadrennially; oath; may succeed himself.

The mayor shall qualify and take office in the manner herein prescribed. The regular election for mayor shall be held quadrennially thereafter under the same rules and regulations and in the

same mode and manner herein provided. The mayor elected at such regular election shall qualify by making oath that he is eligible for said office and will execute the duties of same according to the best of his knowledge and ability. Said oath may be administered by any person authorized to administer an oath under the laws of Alabama. A mayor may succeed himself.

Section 11-44C-10

City continued as municipal corporation.

When this mayor-council form of government becomes applicable to a city, said city shall continue as a municipal corporation, within the corporate limits as now established and as may hereafter be fixed in the manner prescribed by law, subject to all duties and obligations then pertaining to or incumbent upon it as a municipal corporation and shall continue to enjoy all the rights, immunities, powers and franchises then enjoyed by it, as well as those that may thereafter or hereinafter be granted to it.

Section 11-44C-11

Government known as "mayor-council form of government"; powers of city vested in council; manner in which powers exercised.

The municipal government of any such city proceeding under this chapter shall be known as the "mayor-council form of government." Pursuant to the provisions and limitations of this chapter and subject to the limitations imposed by the Constitution of Alabama and its laws, all powers of the city shall be vested in the council elected as herein provided and hereinafter referred to as "the council," which shall enact ordinances, adopt budgets and determine policies. All powers of the city shall be exercised in the manner prescribed by this chapter, or if the manner be not prescribed, then in such manner as may be prescribed by law or by ordinance.

Section 11-44C-12

Powers of city generally.

The city shall have all the powers granted to municipal corporations and to cities by the Constitution and laws of this state, together with all the implied powers necessary to carry into execution all the powers granted, and the provisions of this chapter.

Section 11-44C-13

Council to consist of seven district council members; composition of districts.

The council shall include seven members who shall be known and elected as district council members. Such district council members shall be elected from districts which shall be, as near as practicable, of equal population according to the last federal decennial census. The seven districts shall be as follows:

District 1 shall consist of:
In Mobile Division,
Mobile City:
Census Tract 6

Blocks 101-104 only;
Census Tracts 7.01, 7.02, 8, 26, 27;
Census Tract 34.01,
except Blocks 109, 111, 114, 119;
Census Tract 34.02 p,
Blocks 101-128, 131, 132 only;
Census Tract 39.01 p;
Census Tract 39.02 p;
Census Tract 61 p,
Block 212 p only;
Census Tract 49 p;
Census Tract 43 p, Blocks 313 and 401 only;

District 2 shall consist of:

In Mobile Division,

Mobile City:

Census Tracts 1, 2, 3, 4.01, 4.02, 5;
Census Tract 6,
except Blocks 101-104;
Census Tract 9.01,
Blocks 108-115, Block 119, Block Group 2, Blocks 301, 309, 312,
319;
Census Tract 9.02,
Block Groups 1 and 2;
Census Tract 10.01;
Census Tract 10.02,
Blocks 102-113, 115, 116, Blocks 202-205, 208-216, 302-305, Block
Group 5;
Census Tract 12.01 p;
Census Tract 12.02,
Block Group 1, Blocks 201-213, Block 229, Blocks 244-250, Blocks
906-924;
Census Tracts 12.99, 38.01, 38.02 p, 38.99, 43 p, Blocks 115 p and 201
p only;
Census Tracts 44 p, 45 p, 52 p, 53 p, 54 p, 56 p;

District 3 shall consist of:

In Mobile Division,

Mobile City:

Census Tract 9.03;
Census Tract 10.02,
Blocks 101, 114, 201, 206, 207, 217, 301, Blocks 306-312, Block
Group 4;
Census Tracts 11, 12.02,
except Block Group 1, Blocks 201-213, 229, 244-250, 906-924;
Census Tracts 13.01, 13.02, 14, 15.01, 15.02, 16;
Census Tract 17,
Block Group 2 only;
Census Tract 18,

Block Group 1 only;
Census Tract 23.02;
Census Tract 24,
Block Group 1, Block Group 2, Blocks 301-303, Blocks 311, 312,
401, 402, 404;

District 4 shall consist of:
In Mobile Division,
Mobile City:
Census Tract 17,
Block Group 1, Block Group 3;
Census Tract 18,
Block Group 2, Block Group 3;
Census Tracts 19.01, 19.02, 20, 21, 22, 23.01, 30, 31;

District 5 shall consist of:
In Mobile Division,
Mobile City:
Census Tract 9.01,
Blocks 101-104, 117, 118, Blocks 302-308, 315, 317, 318;
Census Tract 9.02,
Block Group 3 only;
Census Tract 24,
Blocks 305-310, Blocks 403, 404-412, Block Group 5, Block Group
6;
Census Tracts 25.01, 25.02, 28, 29, 32.01, 33.01;
Census Tract 33.02,
Block Group 4, Blocks 401-404 only;

District 6 shall consist of:
In Mobile Division,
Mobile City:
Census Tracts 32.02, 32.03, 35.02;
Census Tract 36.03,
except Blocks 204-208, Blocks 214-220;
Census Tracts 37.01, 37.02;
Census Tract 68 p,
Block 230 p only;

District 7 shall consist of:
In Mobile Division,
Mobile City:
Census Tract 33.02,
Block Groups 1, 2, 3, 5, Blocks 406, 407, 408;
Census Tract 34.01 p,
Blocks 109, 111, 114, 119;
Census Tract 34.02 p,
Blocks 129-130;
Census Tracts 34.03, 34.04, 34.05, 34.06, 35.01;

Census Tracts 36.01, 36.02;
Census Tract 36.03,
Blocks 204-208, Blocks 214-220;
Census Tract 61 p, Blocks 977 p and 978 p.

Section 11-44C-14

District council members - Filing as candidate; qualifying fee.

Any person desiring to become a candidate in any election for the office of district council member may become such candidate by filing in the office of the city clerk, a statement in writing as required by the general municipal election laws. Said statement shall be accompanied by a qualifying fee in the amount of \$125.00, which fee shall be paid into the general fund of the city.

Section 11-44C-15

District council members - No primary elections; filing of pauper's oath or petition to become candidate.

No primary election shall be held for the nomination of candidates for the office of council member, and candidates shall be nominated only as provided herein. A person may also become a candidate for the office of council member by filing a verified pauper's oath with the city clerk, or by filing a verified petition containing an endorsement of candidacy by the signatures and addresses of 500 persons, each of whom is a registered voter residing in the city and within the district for which the individual intends to be a candidate for election to office, provided that no such signature may be obtained more than 12 months preceding the deadline for filing said statements.

Section 11-44C-16

District council members - Oath of office.

Every person who shall be elected or appointed to fill a vacancy in the office of council member shall, upon assuming office, qualify by making oath that he is eligible for said office and will execute the duties of same according to the best of his knowledge and ability. Said oath may be administered by any person authorized to administer an oath under the laws of the state of Alabama.

Section 11-44C-17

District council members - Qualifications; holding other offices; effect of conviction or loss of any qualification.

Councilmen shall be qualified electors of the city and, in the case of candidates for any district, they shall have been residents of the district which they represent for at least 90 days prior to their election, shall reside in the district during their terms of office and shall have attained the age of 21 years. No councilman shall hold any other public office except that of notary public or member of the national guard or naval or military reserve, and all shall have been residents of the city for at least one year prior to their election. If the councilman shall cease to possess any of

these qualifications or shall be convicted of crime involving moral turpitude, his office shall immediately become vacant.

Section 11-44C-18

District council members - Compensation; additional stipend for president of council.

Each council member shall receive as compensation for his services the sum of \$100.00 for each meeting of the council attended, and \$500.00 per month. Said salaries shall be payable in monthly installments at the end of each month. The president of the council shall receive an additional stipend not to exceed \$100.00 per month. Subsequent to the term of office of the mayor and councilmen elected hereunder, the mayor and each councilman shall receive as compensation for their services the sum established by the municipal governing body at least six months prior to the date of the regular election, but in no event shall salaries be set below those as specified in this chapter.

Section 11-44C-19

President of council.

The president of the council shall be elected by the members of the council and shall serve the regular four-year term. He shall preside at all meetings of the council and shall be a voting member. If a vacancy shall occur in the office of the president of the council, the council shall elect a successor to the president.

Section 11-44C-20

Vice-president of council.

The vice-president of the council shall be elected by the members of the council. The vice-president will serve in the absence of the president. If a vacancy shall occur in the office of the vice-president of the council, the council shall elect a successor to the vice-president.

Section 11-44C-21

Powers of council; dealings with officers and employees in administrative service.

All legislative powers of the city, including all powers vested in it by this chapter, by the laws, general and local, of the state, and by the Code of Alabama 1975, as amended, and the determination of all matters of legislative policy, shall be vested in the council. Without limitation of the foregoing, the council shall have power to:

- (1) Upon recommendation of the mayor, establish administrative departments and distribute the work of divisions,
- (2) Adopt the budget of the city,
- (3) Authorize the issuance of bonds or warrants,

- (4) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs,
- (5) Appoint the members of all boards except the planning commission and the housing board and the Airport Authority and the Industrial Development Authority,
- (6) Succeed to all the powers, rights and privileges conferred upon the former governing body of the city by statutes in effect at the time of adoption by the city of the mayor-council form of government and not in conflict with this chapter,
- (7) Levy property, sales and license taxes and local improvement assessments.

Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from office, or in any manner take part in the appointment or removal of officers and employees in the administrative service to the city. Except for the purpose of inquiry, the members of the council shall deal with the administrative service only through the mayor. Members of the council shall not give orders to any subordinates of the mayor, either publicly or privately. Any councilman violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councilman.

Section 11-44C-22

Vacancies in council.

Vacancies of any nature in the council, other than those occurring less than one year prior to the date of the next regular council election, shall be filled by special elections to be held for that purpose, the dates of which shall be set by the council at the next regular meeting or any subsequent meeting of the council after such vacancy occurs, such dates to be set no later than 120 nor less than 60 days after the occurrence of such vacancies. Such elections shall be held in the same manner and subject to the same procedures as regular council elections and the person so elected shall hold office for the remainder of the unexpired term. A special election shall be called by the mayor on the date set by the council and shall be held in accordance with the provisions of this chapter and the general laws applicable to such city.

If a vacancy occurs after reapportionment has changed the district boundaries, but before the new districts take effect, the old district boundaries will remain in effect for filling that vacancy.

Vacancies where less than one year remains of the unexpired term shall be filled by appointment by the mayor with confirmation by the council.

Section 11-44C-23

Creating, changing, abolishing, or assigning additional functions to offices, departments, or agencies.

The council, upon recommendation of the mayor, by ordinance may create, change and abolish offices, departments, or agencies, other than the offices, departments and agencies established or continued by this chapter. The council, upon recommendation of the mayor, by ordinance may

assign additional functions or duties to offices, departments or agencies established by this chapter, but may not discontinue or assign to any other office, department, or agency any function or duty assigned by this chapter to a particular office, department or agency.

Section 11-44C-24

City clerk continued in office; applicability of merit system; appointment of successor; duties.

The city clerk serving under the merit system at the time that this chapter becomes effective shall continue to hold office as the city clerk under the mayor-council form of government of such city, and his successor shall be selected and hold office subject to the provisions of such merit system. After the current city clerk retires, the council shall be the appointing authority in filling any vacancy in the office of city clerk. The city clerk shall give notice of special or called meetings of the council, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept for such purpose all ordinances and resolutions and shall perform such other duties as shall be required by this chapter, or by ordinance, or such duties as are imposed by general law of Alabama upon city clerks.

Section 11-44C-25

First meeting of council; council to meet regularly; meetings open to public.

The first meeting of each newly elected council for induction into office shall be held at 10 o'clock in the morning on the first Monday after the expiration of the term of office of the present municipal officeholders, after which the council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once a week. All meetings of the council shall be open to the public.

Section 11-44C-25.1

Number of required council meetings per year.

The city council or governing body of a Class 2 municipality shall meet not less than 48 times per year on dates and at times to be decided by the city council.

Section 11-44C-26

Council to judge election and qualifications of members.

The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

Section 11-44C-27

Rules and order of business of council; journal of proceedings.

The council shall determine its own rules and order of business. It shall keep a journal of its proceedings, and the journal shall be open to public inspection.

Meetings of council; quorum; majority vote requirement; procedure; record of proceedings; procedure as to ordinances or resolutions of permanent operation; publication; no veto as to council actions relating to an investigation.

The council shall hold regular public meetings weekly, day or night, at a regular hour to be fixed by said council from time to time and publicly announced; it may hold such special or other meetings as the business of the city may require. The presence of five council members will constitute a quorum for the conduct of official council business. The affirmative vote of at least five members of the council shall be sufficient for the passage of any resolution, bylaw ordinance, or the transaction of any business of any sort by the said council or the exercise of any of the powers conferred upon it by the terms of this chapter or bylaw, or which may hereafter be conferred upon it. No resolution, bylaw or ordinance granting any franchise, appropriating any money for any purpose, providing for any public improvements, any regulation concerning the public health, or of any other general or permanent nature, shall be enacted except at a regular or special public meeting of said council. Every ordinance introduced at any and every meeting shall be in writing and shall be read before any vote thereon shall be taken, and the yeas and nays thereon shall be recorded; provided that if the vote of all council members present be unanimous, it may be so stated in the journal without recording the yeas and nays. A record of the proceedings of every meeting of the council shall be kept, and every resolution or ordinance passed by the council must be recorded, and the record of the proceedings of the meeting shall, when approved by the council, be signed by the president of the council and the city clerk. Such records shall be kept available for inspection by all citizens of such city during regular business hours. No ordinance of permanent operation shall be considered at the meeting at which it was introduced except by unanimous consent of all members of the council present, and such unanimous consent shall be entered upon the minutes of said meeting; provided, however, that if all members of the council present vote for the passage of the ordinance and their names are so entered of record as voting in favor thereof, it shall be construed as giving unanimous consent to the action upon such ordinance at the meeting at which it is introduced. All ordinances or resolutions of a permanent nature, after having been passed by the council, shall be transmitted by the clerk within 48 hours after their passage to the mayor for his consideration, who, if he shall approve thereof, shall sign and return the same to the clerk, who shall publish them, if publication thereof is required, and such ordinances and resolutions shall thereupon become effective and have the force of law. Delivery to the office of the mayor shall constitute delivery to the mayor. An ordinance or resolution may be recalled from the mayor at any time before it has become law, or has been acted on by him, by a resolution adopted by a majority of the members elected to the council in regular or special session. If the mayor shall disapprove of any ordinance or resolution transmitted to him as aforesaid, he shall, within 10 days of the time of its passage by the council, return the same to the clerk with his objections in writing, and the clerk shall make a report thereof to the next regular meeting of the city council; and if five members elected to the said council shall at said meeting adhere to said ordinance or resolution, notwithstanding said objections, said vote being taken by yeas and nays and spread upon the minutes, then, and not otherwise, said ordinance or resolution shall after publication thereof, if publication is required, have the force of law. If publication of said ordinance or resolution is not required, it shall take effect upon its passage over such veto. The failure of the mayor to return to the city clerk an ordinance or resolution with his veto within 10 days after its passage by the council shall operate and have the same effect as an approval of the same, and the city clerk, if publication is required, shall publish the same as is herein provided for publication of laws and

ordinances of said city. If no publication is required, the ordinance or resolution shall become effective upon the expiration of said 10 days. These provisions are subject to the publication of ordinances as set out in section 11-45-8. Anything in this section to the contrary notwithstanding, the mayor shall not have the power of veto over any action of the council relating to an investigation as provided herein.

Section 11-44C-29

Grant of franchise, lease, or right to use streets, etc., by ordinance or resolution.

No resolution or ordinance granting to any person, firm, or corporation any franchise, lease, or right to use the streets, public highways, thoroughfares or public way of said city, either in, under, upon, along, through or over same shall take effect and be enforced until 30 days after the final enactment of same by the council and publication of said resolution or ordinance in full once a week for three consecutive weeks in one or more newspapers of general circulation published in said city or, if no such newspaper exists then by posting notices in three public places, which publication shall be made at the expense of the persons, firm, or corporation applying for said grant. Pending the passage of any such resolution or ordinance or during the time intervening between its final passage, and the expiration of the 30 days during which publication shall be made as above provided, the qualified voters of said city may, by written petition addressed to said council, object to such grant, and if during such period such written petition signed by at least 10 percent of the qualified voters of the city shall be filed with said council, said council shall forthwith order an election, which shall be conducted by the election commission of the city or official charged with the duty of conducting elections therein, at which election the qualified voters of said city shall vote for or against the proposed grant as set forth in the said resolution or ordinance. In the call for said election, the said resolution or ordinance making such grant shall be published at length and in full at the expense of the city in one or more newspapers of general circulation published in said city by one publication, or if no such newspaper exists then by posting said notice in three public places. If a majority of the votes cast at such election shall be against the passage of said resolution or ordinance, then said resolution or ordinance shall not become effective, nor shall it confer any rights, powers, or privileges of any kind; otherwise, said resolution or ordinance and said grant shall thereupon become effective as fully and to the same extent as if said election had not been called or held. If, as the result of said election, said resolution or ordinance shall not become effective, then it shall be the duty of said council, after the results of said election shall be determined, to pass a resolution or ordinance to that effect. No grant of any franchise or lease or right of user, or any other right, in, under, upon, along, through or over the streets, public highways, thoroughfares, or public ways of any such city, shall be made or given, nor shall any such rights of any kind whatever be conferred upon any person, firm, or corporation, except by resolution or ordinance duly passed by the council at some regular or special meeting and published as above provided for in this section; nor shall any extension or enlargement of any such rights or powers previously granted be made or given except in the manner and subject to all the conditions herein provided. It is expressly provided, however, that the provisions of this section shall not apply to the grant of side track or switching privileges to any railroad for the purpose of reaching and affording railway connections, and switch privileges to the owners or users of any industrial plant, store or warehouse; provided, further, that said track or switch shall not extend for a greater distance than 1,320 feet.

Section 11-44C-30

Revision and codification of ordinances, bylaws, and resolutions; comprehensive zone map.

The council may provide for the revision and codification of its ordinances, bylaws and permanent resolutions, or for the adoption of a code or codes by ordinance. Such code or codes and the revisions or amendments thereof may relate to the whole system of city bylaws, ordinances and permanent resolutions, or may relate to that portion of such ordinances, bylaws and permanent resolutions which relate to, affect or purport to govern any particular subject of municipal legislation. The council shall have full power and authority to prescribe the manner in which said code or codes, revisions or amendments thereto, shall be made public, whether by proclamation of any officer of said city by posting or by publication, one or all, but it shall not be necessary unless so prescribed by the council for such code or codes, revisions or amendments thereto, to be published in a newspaper or newspapers unless such codes, revisions, or amendments include theretofore unpublished substantial changes, in which case such changes along with at least so much of the context thereof as is necessary to convey the meaning of such changes shall be published in accordance with then existing state law. Nor shall it be necessary that such code or codes, revisions or amendments thereto, be spread at length upon the minutes, but they will be noted in the minutes. The council may prescribe that such code or codes, revisions or amendments thereto may be certified by and filed with the city clerk, or other corresponding officer, in lieu of spreading at length the same on the minutes; and the council may prescribe the manner in which copies of such code or codes, revisions or amendments thereto, may be officially certified for use by the residents or by the courts. The council may adopt and provide for the maintenance in a designated office of the city of a comprehensive zone map of the city open for inspection by the public at all reasonable times, and may make such zone map a part of any ordinance by reference thereto in such ordinance and without publication of such zone map in any newspaper. Such zone map need not be in one piece but may for convenience be in sections. A zone map of territory newly added to the city shall be treated as a comprehensive zone map of the city for purposes of application of the provisions of the preceding sentence. These provisions are subject to the publication and recordation of ordinances as set out in section 11-45-8.

Section 11-44C-31

Monthly statement of receipts and expenses; annual examination of books and accounts.

The mayor shall each month print a detailed statement of all receipts and expenses of the city, and shall furnish printed copies thereof to the daily newspapers of the city, other members of the news media of the city, and to persons who apply for copies. At the end of each year, the mayor shall cause a full and complete examination of all the books and accounts of the city to be made by a certified public accountant, or by the state examiners, and shall cause the result of the examination to be published in the same manner as provided above for publication of statements of monthly expenditures. The examination shall not be made more than five years in succession by the same accountant.

Section 11-44C-32

Mayor - Filing as candidate; qualifying fee.

Any person desiring to become a candidate in any election for the office of mayor may become such candidate by filing in the office of the city clerk a statement in writing of such candidacy as

required by the general municipal election laws. Said statement shall be accompanied by a qualifying fee in the amount of \$500.00, which qualifying fee shall be paid into the general fund of the city.

Section 11-44C-33

Mayor - No primary election; filing of pauper's oath or petition to become candidate.

No primary election shall be held for the nomination of candidates for the office of mayor, and candidates shall be nominated as herein provided. A person may also become a candidate for the office of mayor by filing a verified pauper's oath with the city clerk, or by filing a verified petition containing an endorsement of candidacy by the signatures and addresses of 2,000 persons, each of whom is a registered voter residing in the city, provided that no such signature may be obtained more than 12 months immediately preceding the deadline for filing said statements of candidacy.

Section 11-44C-34

Mayor - Qualifications.

The mayor shall be a qualified elector, and shall have been a resident of the city at least 90 days prior to the election and shall reside within the city during his term of office and shall have attained the age of 25 years.

Section 11-44C-35

Mayor - Compensation.

The mayor elected hereunder shall receive an annual salary of \$65,000.00. Thereafter, the mayor's salary shall be established as provided in section 11-44C-18, but in no event shall said salary be less than \$65,000.00 per annum.

Section 11-44C-36

Mayor - Vacancies; acting mayor; special election to fill vacancy; term of office.

Whenever any vacancy in the office of mayor shall occur by reason of death, resignation, removal, or any other cause, the president of the council shall assume the duties of the office of mayor effective on the date such vacancy occurs and shall serve as acting mayor until a new mayor is elected and qualified as herein provided. The acting mayor shall receive no compensation, expenses, or allowances as a council member while acting as mayor, but he will receive the same rate of pay and allowances provided for the mayor whose vacated office he fills, and the compensation received for days of service as acting mayor shall not be counted in determining the maximum annual per diem compensation permitted council members. While the president of the council is serving as acting mayor he may attend council meetings but may not vote on any matters before the council. The council shall within 10 days of the occurrence of the vacancy in the office of the mayor call a special election to fill such vacancy, such election to be held in accordance with general municipal election laws. The successor to the mayor chosen at any such election shall qualify for office as soon as practicable thereafter, and shall assume the duties, responsibilities and powers of such office immediately upon such qualification, and shall

hold office for the unexpired term of his predecessor and until his successor is elected and qualified.

Section 11-44C-37

Mayor - Powers and duties.

All executive powers of the city shall be vested in the mayor and the mayor shall be the head of the executive and administrative branches of the city government. He may attend council meetings but may not vote in its proceedings and he shall have the power and duties herein conferred. The mayor shall be responsible for the proper administration of all affairs of the city, and, except as otherwise provided herein, he shall have the power and shall be required to:

- (1) Enforce all laws and ordinances,
- (2) Appoint and remove, when necessary for the good of the service, all officers and employees of the city except those appointed by the council. Such appointment and removal of personnel are subject to any merit system provisions in effect at such time, except for those officers and employees who are exempted from the merit system by other sections of this chapter,
- (3) Appoint the members of the Airport Authority and the Industrial Development Authority. The members of the Airport Authority and Industrial Development Authority shall be subject to confirmation by a vote of five members of the council, and the housing board. The members of the planning commission shall be appointed pursuant to Section 11-52-3,
- (4) Exercise administrative supervision and control over all departments created by this chapter or by law or hereafter created by the council, except those otherwise given independent status under this chapter,
- (5) Keep the council fully advised as to the financial conditions and needs of the city; prepare and submit the budget annually to the council and be responsible for its administration after its adoption; prepare and submit, as of the end of the fiscal year, a complete report on the financial and administrative activities of the city for such year,
- (6) Recommend to the council such actions as he may deem desirable,
- (7) Prepare and submit to the council such reports as may be required of him,
- (8) Perform such other duties as may be prescribed by this chapter,
- (9) Fix the salaries or compensation of all officers and employees of the city who are appointable by the mayor, subject, however, to the provisions of any merit law applicable to the city.

Section 11-44C-38

Divisions of city government; executive directors of divisions; city attorney; outside counsel.

(a) There are hereby created three divisions of city government: public works, finance, and public safety. Each division may have an executive director appointed by the mayor with the approval of a vote of five members of the council, who shall be an officer of the city and shall be responsible for the supervision and control of such officer's jurisdiction. Said executive director shall not be subject to the city merit system and shall serve at the pleasure of the mayor; provided, however, each such officer shall be removed from office only upon recommendation of the mayor and approval of five council members. Upon the first vacancy, of any nature whatsoever, in the office of police chief or fire chief, the mayor may appoint the police chief and fire chief, respectively, from outside the said merit system, with the approval of five members of the council who shall serve at the pleasure of the mayor; provided, however, such officers shall be removed from office only upon recommendation of the mayor with the approval of five council members.

(b) The mayor also is authorized to appoint a city attorney who shall serve at the pleasure of the mayor and shall be compensated in the manner and at a rate approved by the mayor. In addition to the city attorney, the mayor, from time to time in his sole discretion, is authorized to obtain additional legal counsel outside of the city merit system to advise and defend him in his capacity of mayor and in the pursuit of the operation of government.

(c) Upon approval by a majority of those present and voting, the council, from time to time when it deems necessary and reasonable, is authorized to obtain legal counsel outside the city merit system to advise and defend them in their respective capacities as council members and in the pursuit of the operation of government.

Section 11-44C-39

Distribution of work among departmental divisions.

The work of each department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the mayor. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the mayor among specific divisions thereof, the mayor may establish temporary divisions.

Section 11-44C-40

Mayor authorized to employ additional personnel; amount available for salaries; not subject to merit system.

The mayor is hereby authorized to employ such additional personnel who shall serve at the pleasure of the mayor, and for such purposes an additional \$100,000.00 per annum shall be made available for the salaries of such personnel from the city treasury. Said personnel shall not be subject to the provisions of the merit system. This section shall not limit the authority of said mayor to appoint other employees of said city under the provisions of the merit system or otherwise where authorized by any other law.

Section 11-44C-41

Fiscal, budget, and accounting years.

The fiscal year of the city government shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year. As used in this chapter, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

Section 11-44C-42

Mayor to submit budget to council.

On a day to be fixed by the council but in no case later than the twentieth day of August in each year, the mayor shall submit to the council:

- (1) A separate current revenue and expense budget for the general operation of the city government, to be known as the "general fund budget";
- (2) A budget for each public utility owned and operated by such city;
- (3) A capital budget; and
- (4) A budget message.

When submitting the budgets to the council, the mayor shall submit his recommendation of new sources of revenue or manner of increasing existing sources of revenue, sufficient to balance the budgets, if such additional revenue is necessary to accomplish that purpose.

Section 11-44C-43

Estimates of revenue and expenditures for each department, etc.; compilation of budget information by director of finance; review and revision of estimates.

It shall be the duty of the head of each department, and each other office or agency supported in whole or in part by the city, to file with the director of finance, at such time as the mayor may prescribe, estimates of revenue and expenditures for that department, office or agency for the ensuing fiscal year. Such estimates shall be submitted on the forms furnished by the director of finance and it shall be the duty of the head of each department, office or agency, to supply all the information which the director of finance may require to be submitted. The director of finance shall assemble and compile these estimates and supply such additional information relating to the financial transactions of the city as may be required by the mayor in the preparation of the budgets. The mayor shall hold such hearings as he may deem advisable and with the assistance of the director of finance shall review the estimates and other data pertinent to the preparation of the budgets and make such revisions in such estimates as he may deem proper, subject to the laws of the state of Alabama and any municipal ordinance relating to obligatory expenditures for any purpose.

Section 11-44C-44

General fund budget.

The general fund budget shall include for each public utility within the city only the net amounts estimated to be received from or to be appropriated to each public utility. The general fund budget shall be prepared in accordance with accepted principles of municipal accounting and budgetary procedures and techniques, and shall show:

- (1) Such portion of the general fund cash surplus as it is estimated will exist, at the end of the current fiscal year, and is proposed to be used for meeting expenditures in the general fund budget for the ensuing year;
- (2) An estimate of the receipts from current ad valorem taxes on real estate and tangible personal property during the ensuing fiscal year, assuming that the percentage of the levy collected be no greater than the average percentage of the levy collected in the last three completed tax years;
- (3) An estimate of receipts from all other sources of revenue, provided that the estimated receipts from each such source shall not exceed the percentage of estimated revenue in the current fiscal year from the same source over the amount of the revenue received from the same source in the last completed fiscal year, unless a law or ordinance under which revenue from any source is derived, has been amended or a new source of revenue has been provided by law or ordinance, in the course of the current year, in which case the estimated receipts from that source may be fixed by the mayor. If additional revenue is to be derived from the state, the amount fixed by the mayor shall not exceed the amount which the proper state official shall certify in writing to be the reasonable expectation of receipts from such source;
- (4) A statement to be furnished by the director of finance of the debt service requirements for the ensuing year;
- (5) An estimate of the general fund cash deficit, if any, at the end of the current fiscal year and of any other obligations required by law to be budgeted for the ensuing fiscal year;
- (6) An estimate of expenditures and appropriations for all other purposes to be met from the general fund in the ensuing fiscal year. All the estimates shall be in detail showing receipts by sources and expenditures by operating units, character and object, so arranged as to show receipts and expenditures as estimated for the current fiscal year and actual receipts and expenditures for the last fiscal year, in comparison with estimated receipts and recommended expenditures for the ensuing fiscal year.

Section 11-44C-45

Recommended expenditures not to exceed estimated receipts unless additional revenue measures adopted; recommendations where receipts estimated to exceed expenditures; public utility budgets.

In no event shall the expenditures recommended by the mayor in the general fund budget exceed the receipts estimated, taking into account the estimated cash surplus or deficit at the end of the current fiscal year, as provided in the preceding section hereof, unless the mayor shall recommend an increase in or levy of new or increased taxes or licenses within the power of the city to levy and collect in the ensuing fiscal year, the receipts from which, estimated on the basis of the average experience with the same or similar taxes during the three full tax years last past, will make up the difference. If estimated receipts exceed estimated expenditures, the mayor may

recommend revisions in the tax and license ordinances of the city in order to bring the general fund budget into balance. The same balanced budget restrictions shall apply in the adoption of any public utility budget.

Section 11-44C-46

Contents of budget message.

The budget message shall contain the recommendations of the mayor concerning the fiscal policy of the city, a description of the important features of the budget plan, an explanation of all changes in each budget submitted, as to estimated receipts and recommended expenditures as compared with the current fiscal year and the preceding fiscal year, and a summary of the proposed budgets showing comparisons similar to those required herein.

Section 11-44C-47

Printing and distribution of budget message and general fund, public utility and capital budgets.

The mayor shall cause the budget message to be printed, mimeographed or otherwise reproduced for general distribution at the time of its submission to the council and sufficient copies of the proposed general fund, public utility and capital budgets to be made, to supply copies to each member of the council and each newspaper of general circulation published in the city and all other members of the news media in the city, and two copies to be deposited in the office of the city clerk where they shall be open to public inspection during regular business hours.

Section 11-44C-48

Public hearing on budget.

At the meeting of the council at which the budget and budget message are submitted, the council shall determine the place and time of the public hearing on the budget, and shall cause to be published a notice of the place and time, not less than seven days after the date of publication, and the council will hold a public hearing at which any citizen of the city shall be given an opportunity to be heard, for or against the estimates of any item.

Section 11-44C-49

Revision of budget after hearing; increase in expenditures over mayor's recommendation; expenditures not to exceed receipts and surplus unless additional revenue measures adopted.

After the conclusion of the public hearing the council may insert new items of expenditures or may increase, decrease, or strike out items of expenditure in the general fund budget, except that no item of expenditure for debt service, or any other item required to be included by this chapter or other provision of law, shall be reduced or stricken out. The council shall not alter the estimates of receipts contained in the budget except to correct omissions or mathematical errors, and it shall not cause the total of expenditures as recommended by the mayor to be increased without a public hearing on such increase, which shall be held not less than three days after notice thereof by publication in a newspaper of general circulation published in the city. The

council shall in no event adopt a general fund budget in which the total of expenditures exceeds the receipts and available surplus, estimated as herein provided by this chapter unless at the same time it adopts measures to provide for additional revenue in the ensuing fiscal year estimated to be sufficient to make up the difference.

Section 11-44C-50

Summary of budget.

At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be provided by property tax, kinds of expenditures itemized according to departments, doing so in such manner as to present to the taxpayers a simple and clear summary of the detailed estimates of the budget.

Section 11-44C-51

Adoption of general fund budget and any necessary revenue measure; failure to adopt budget.

Not later than the twentieth day of September of the current fiscal year, the council by a majority vote shall adopt the general fund budget, and such ordinance providing for additional revenue as may be necessary to put the budget in balance, including a two percent reserve. If for any reason the council fails to adopt the general fund budget on or before such day, the general fund budget of the current fiscal year shall be the general fund budget for the ensuing year, until such time as a newly revised budget shall be adopted by the council and, until such time, it shall have full force and effect to the same extent as if the same had been adopted by the council.

Section 11-44C-52

Disapproval by mayor of expenditure line item; adherence by council to expenditure.

If the mayor shall disapprove of any expenditure line item contained in the budget transmitted to him by the council, he shall, within 10 days of the time of its passage by the council, return the same to the clerk with his objections in writing, and the clerk shall make report thereof to the next regular meeting of the city council, and if five of the council members shall at the meeting adhere to said expenditure line item by yeas and nays and spread upon the minutes, then said expenditure line item shall become effective.

Section 11-44C-53

Budget effective upon final adoption; certification; printing and distribution.

Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be certified by the mayor and the city clerk and filed in the office of the director of finance. The budget so certified shall be printed, mimeographed, or otherwise reproduced and sufficient copies thereof shall be made available for the use of all offices, departments and agencies and for the use of the citizens of the city who request a copy.

Section 11-44C-54

Budget estimates for public utilities; presentation of budget to council.

Separate budget estimates for any public utility owned and operated by the city shall be submitted to the director of finance at the same time as the budget estimates of other departments, and in the form prescribed by the director of finance. The mayor shall present to the council the budget for the utility operation, itemizing the receipts and expenditures in manner and form as is generally provided for in the general fund budget.

Section 11-44C-55

Submission of work program which shows requested appropriations for department, etc.; revision.

After the current expense budgets have been adopted and before the beginning of the fiscal year, the head of each department, office, and agency, shall submit to the mayor in such form as the mayor shall prescribe a work program which shall show the requested appropriations for such department, office or agency for the entire fiscal year by monthly or quarterly periods as the mayor may direct. If at any time during the fiscal year the mayor shall ascertain that the revenue cash receipts of the general fund or any public utility for the year plus any cash surplus available from the preceding year, will be less than the total appropriations to be met from such receipts and the surplus, he or she shall reconsider appropriations of the departments, offices and agencies, and, subject to the laws of the State of Alabama and any municipal ordinances of the city relating to obligatory expenditures for any purpose, revise the appropriations so as to forestall the incurring of a deficit; provided, however, that there shall be no reduction in salaries except by order of the council, or as authorized by law.

Section 11-44C-56

Transfer of unencumbered balance from one department, etc., to another.

At the request of the mayor, the council may by resolution transfer any unencumbered balance or portion thereof in any general fund appropriation from one department, office, or agency to another department, office, or agency.

Section 11-44C-57

Additional appropriations.

Appropriations in addition to those contained in the original general fund budget ordinance, may be made by the council by not less than five affirmative votes, but only on the recommendation of the mayor and only if the director of finance certifies in writing that there is available in the general fund an unappropriated sum sufficient to meet such appropriation.

Section 11-44C-58

Emergency appropriations.

At any time in any budget year, the council may make emergency appropriations to meet a pressing need for public expenditures, for other than a regular or recurring requirement, to

protect the public health, safety, or welfare. Such appropriation may be made by the council by not less than five affirmative votes, but only on the recommendation of the mayor.

Section 11-44C-59

Lapse of unexpended and unencumbered appropriation.

Any portion of an appropriation remaining unexpended and unencumbered in the general fund at the close of the fiscal year shall lapse.

Section 11-44C-60

Capital improvement program.

At the same time that he submits the general fund budget, the mayor shall submit to the council a capital improvement program covering all recommended capital improvement projects for the ensuing fiscal year and for the four fiscal years thereafter, with his recommendation as to the means of financing the improvements proposed for the ensuing fiscal year. The council shall have the power to accept with or without amendments or reject the proposed program and proposed means of financing for the ensuing fiscal year; and may from time to time during the fiscal year amend by ordinance adopted by at least five affirmative votes, the program previously adopted by it, or the means of financing the whole or any part thereof, or both, provided that the amendment shall have been recommended by the mayor and further provided such additional funds are available in the general fund or in any other fund of the city.

Section 11-44C-61

Capital budget; lapse of appropriations for capital improvement projects; reserve fund for permanent public improvements.

The council shall adopt a capital budget prior to the beginning of the fiscal year in which the budget is to take effect. No appropriations for a capital improvement project contained in the capital budget shall lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned, provided that any project shall be deemed to have been abandoned if three fiscal years lapse without any expenditure therefor. Any such lapsed appropriation shall be applied to the payment of any indebtedness incurred in financing the project or if there is no such indebtedness, shall be available for other appropriation. The council may by ordinance establish a reserve fund for permanent public improvements and may appropriate thereto any portion of the general fund cash surplus not otherwise appropriated. Appropriations from said fund shall be made only to finance improvements included in the capital budget.

Section 11-44C-62

Payments and obligations must be in accord with appropriations; certification by director of finance; void payments and obligations; penalty for knowing violations.

No payment shall be made and no obligation incurred by or on behalf of the city except in accordance with an appropriation duly made, and no payment shall be made from or obligation incurred against any appropriation unless the director of finance shall first certify that there is a sufficient unexpended and unencumbered balance in such appropriation to meet the same;

provided that nothing herein shall be taken to prevent the advance authorization of expenditures for small purchases as provided for by this chapter. Every expenditure or obligation authorized or incurred in violation of the provisions of this chapter shall be void. Every payment made in violation of the provisions of this chapter shall be deemed illegal, and every official who shall knowingly authorize or make such payment or knowingly take part therein and every person who shall knowingly receive the payment or any part thereof shall be jointly and severally liable to the city for the full amount so paid or received. If any officer, member of any board, or employee of the city, shall knowingly incur any obligation or shall knowingly authorize or make any expenditure in violation of the provisions of this chapter or knowingly take part therein, such action shall be cause for his or her removal. Nothing in this section, however, shall prevent the making of contracts of lease or for services providing for the payment of funds at a time beyond the fiscal year in which such contracts are made, provided the nature of such transactions will reasonably require the making of such contracts.

Section 11-44C-63

Existing budget continued in force.

Any officially adopted budget in existence at the time that the council is first organized shall continue in force and effect during the balance of the city's then fiscal year, or until such time as the mayor may submit to the council and the council adopts an amended, altered, or revised budget for the balance of said fiscal year.

Section 11-44C-64

Department of finance; director.

There shall be a department of finance, the head of which shall be the financial officer of the city. The director shall be appointed by the mayor and shall not be subject to the provisions of the merit system.

Section 11-44C-65

Director of finance - Qualifications; bond.

The director of finance shall be a person skilled in municipal accounting, taxation, and financial control. He shall provide a bond with such surety and in such amount as the council may require by resolution or ordinance. The premium on said bond shall be paid by the city.

Section 11-44C-66

Director of finance - Powers and duties.

The director of finance shall have general management and control of the several divisions and units of the department of finance. He or she shall have charge, subject to the direction and control of the mayor, of the administration of the financial affairs of the city, and to that end shall have authority and be required to:

- (1) Cooperate with the mayor in compiling estimates for the general fund, public utility, and capital budgets;

- (2) Supervise and control all encumbrances, expenditures, and disbursements to insure that budget appropriations are not exceeded;
- (3) Prescribe and install systems of accounts for all departments, offices, and agencies of the city and provide instructions for their use; and prescribe the form of receipts, vouchers, bills, or claims to be used and of accounts to be kept by all departments, offices, and agencies of the city;
- (4) Require daily, or at such other intervals, a report of receipts from each of such departments, offices, and agencies, and prescribe the time and the manner in which moneys received by them shall be paid to the office of the director of finance or deposited in a city bank account under his or her control;
- (5) Examine all contracts, purchase orders, and other documents, except bonds and notes which create financial obligations against the city, and approve the same only upon ascertaining that money has been appropriated therefor and that an unexpended and unencumbered balance is available in such appropriation to meet the same. Each such purchase order shall be charged against such authorization and no such purchase order, which together with all such purchase orders previously charged shall exceed the amount of such authorization;
- (6) Have custody of all funds under the control of the city, or any office, department, or agency and deposit all funds coming into his or her hands in such depositories as may be designated by resolution or ordinance of the council, or, if no such resolution or ordinance be adopted, by the mayor, subject to the requirements of law as to surety and the payment of interest on deposits. All such interest shall be the property of the city and shall be accounted for and credited to the proper account. The director of finance shall not be liable for any loss sustained as to funds of the city that are on deposit in such a designated bank or depository;
- (7) Audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the city government and with the advice of the department of law, determine the regularity, legality, and correctness of such claims, demands or charges;
- (8) Have custody of all invested funds of the city unless otherwise provided by this chapter, or by law, ordinance, or the terms of any trust, and be responsible for the safekeeping of all bonds and notes of the city and for the receipt and delivery of city bonds and notes for transfer, registration, and exchange;
- (9) Have supervision over the preparation of bonds, including advertisements for their sale, preparation of bond prospectuses, conduct of their sale, and their delivery subject to applicable provisions of law and municipal ordinances. Bonds shall be authenticated by the manual signature of the director of finance and shall bear the facsimile signature of the mayor and a facsimile of the seal of the city. Interest coupons transferable by delivery shall be attached to the bond and shall be authenticated by the facsimile signature of the director of finance;
- (10) Supervise and direct the placing of all types of insurance carried by the city where the premiums in whole or in part are paid by the city, or the premiums in whole or in part are withheld through the payrolls; the amount of all types of insurance on which the city pays the premiums in whole or in part shall be determined by the council after a recommendation by the mayor;

(11) Submit to the mayor for presentation to the council not later than the twelfth day of each month, a statement showing in reasonable detail the revenues received by the city during the preceding month, the revenues received during that fiscal year up to and through the end of the preceding month, the expenditures made during the preceding month, and the accumulated expenditures made during that fiscal year up to and through the end of the preceding month, together with a comparison of the items with the budget estimates;

(12) Furnish to the head of each department, office, or agency of the city a copy of that portion of the statement herein provided, as it relates to the department, office, or agency;

(13) Prepare and submit to the mayor at the end of each fiscal year, for the preceding year, a complete financial statement and report of the financial transactions of the city;

(14) Designate, with the approval of the mayor, and subject to the provisions of the merit system, an employee of the department of finance who, during the temporary absence or incapacity of the director, shall have and perform all the powers and duties conferred or imposed upon the director;

(15) Protect the interests of the city by withholding the payment of any claim or demand by any person, firm, or corporation against the city until any indebtedness or other liability due from such person, firm, or corporation shall first have been settled and adjusted;

(16) Collect all special assessments, license fees, and other revenues of the city and collect all money receivable from the county, state, or federal government, or from any court, or from any office, department, or agency of the city;

(17) Inspect and audit, with approval of the mayor, records of financial transactions which may be maintained in any office, department, or agency of the city government apart from, or subsidiary to, the accounts kept in the office of the director of finance;

(18) Supervise, through the division of purchases, the purchase, storage, and distribution of all supplies, materials, equipment, and other articles used by any office, department, or agency of the city government.

Section 11-44C-67

Expenditures not to exceed appropriation for that general classification of expenditure; expenditures financed by bonds; leases or contracts for period exceeding budget year.

No officer, department, or agency shall, during any budget year, expend or contract to expend any money or incur any liability, for any purpose in excess of the amounts appropriated for that general classification of expenditure pursuant to this chapter. Any contract, verbal or written, made in violation of this chapter shall be null and void. Nothing in this section, however shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of leases or contracts for services for a period exceeding the budget year in which such lease or contract is made, when such contract is permitted by law.

Section 11-44C-68

Disposition of fees received by officers and employees.

All fees received by any officer or employee of the city shall belong to the city government and shall be paid daily to the department of finance.

Section 11-44C-69

Division of department of finance to be responsible for purchases; powers and duties of division head.

There shall be established in the department of finance a division responsible for purchases, the head of which shall be the city purchasing agent. Such division head, pursuant to rules and regulations established by resolution or ordinance, shall contract for, purchase, store, and distribute all supplies, materials and equipment required by any office, department or agency. The city purchasing agent shall also have power and shall be required to:

- (1) Establish and enforce specifications with respect to supplies, materials, and equipment required by the city government;
- (2) Inspect or supervise the inspection of all deliveries of supplies, materials and equipment, and determine their quality, quantity, and conformance with specifications;
- (3) Have charge of such general storerooms and warehouses as the council may provide by resolution or ordinance;
- (4) Transfer to or between offices, departments, or agencies, or sell surplus, obsolete, or unused supplies, material and equipment;
- (5) Perform such other duties as may be imposed by resolution or ordinance.

Section 11-44C-70

Competitive bidding on contracts for supplies, materials, or equipment.

Before the purchasing agent makes any purchase of or contract for supplies, materials, or equipment he shall give ample opportunity for competitive bidding, under such rules and regulations as the council may prescribe by resolution or ordinance; provided, however, the council shall not exempt individual contracts, purchases, or sales from the requirement of competitive bidding.

Section 11-44C-71

City improvements costing more than \$2,000.00 to be executed by contract; bidding on contract; alteration of contract.

Any city improvement costing more than \$2,000.00 shall be executed by contract except where such improvement is authorized by the council to be executed directly by a city department in conformity with detailed plans, specifications and estimates. All such contracts for more than \$2,000.00 shall be awarded to the lowest responsible bidder after such public notice and

competition as may be prescribed by resolution or ordinance; provided, however, the mayor shall have the power to reject all bids and advertise again. Alteration in any contract may be made when authorized by the council upon the written recommendation of the mayor. Nothing in this chapter shall be construed to supersede or nullify provisions of state law requiring or governing competitive bidding.

Section 11-44C-72

Purchases and contracts shall be pursuant to written requisition; certification of balance sufficient to pay for contract or order.

All purchases made and contracts executed by the purchasing agent shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the director of finance certifies that there is a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual service for which the contract or order is to be issued.

Section 11-44C-73

Revenue notes.

In any budget year, in anticipation of the collection of revenues, the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "revenue note for the year ____ (stating the budget year)." Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year after the budget year in which the original notes have been issued. Such borrowing shall be subject to any limitation provided by law.

Section 11-44C-74

Emergency notes.

In the absence of available revenues to meet emergency appropriations under the provisions of this chapter, the council may by resolution authorize the issuance of notes, each of which shall be designated "emergency note" and may be renewed from time to time, but all such notes and renewals shall be paid not later than the last day of the fiscal year next succeeding the budget year in which the emergency appropriation was made.

Section 11-44C-75

Notes not payable on demand; redemption prior to maturity; private sale.

No notes shall be made payable on demand, but any note may be made subject to redemption prior to maturity upon notice and at such time as may be stated in the note. All notes may be sold at not less than par and accrue interest at private sale without previous advertisement.

Section 11-44C-76

Existing rights and privileges of officers and employees; existing laws not inconsistent with personnel, etc., provisions of chapter.

Nothing contained in the provisions of this chapter shall affect or impair the rights or privileges of officers or employees of the city or of any office, department, or agency existing at the time when this chapter shall take effect or any provision of law in force at the time when the mayor-council form of government shall become applicable and not inconsistent with the provisions of this chapter in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension, and retirement rights, civil rights or any other rights or privileges of officers or employees of the city or any office, department or agency thereof, and as provided by the city's merit system.

Section 11-44C-77

Personnel holding administrative office continued in office; transfer of powers and duties of office, etc., abolished by this chapter.

All personnel, except those specifically designated by the provisions of this chapter as removable at the discretion of the mayor, holding administrative office at the time the mayor-council form of government becomes effective shall continue in office and in the performance of their duties until other provisions have been made by law for the performance of such duties or the discontinuance of such office. If any office, department or agency of the city shall be abolished by this chapter, the powers conferred and the duties imposed upon such units by the laws of the state shall thereafter be exercised and discharged by the office, department or agency designated by the council.

Section 11-44C-78

Transfer of records, property, and equipment of office, etc., where powers and duties reassigned.

All records, property, and equipment of any office, department or agency, whose power and duties are assigned to any other office, department, or agency by the provisions of this chapter, shall be transferred and delivered to the office, department, or agency to which such powers and duties are so assigned. If part of the powers and duties of any office, department, or agency are assigned to another office, department, or agency, all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department, or agency to which such powers and duties are so assigned.

Section 11-44C-79

Office, etc., with name or powers and duties the same or substantially same as existing office deemed a continuation of such office.

Any office, department, or agency provided for by this chapter with a name or with powers and duties the same or substantially the same as those of any such office, department or agency heretofore existing, shall be deemed to be a continuation of such office, department, or agency, and shall continue to exercise its powers and duties until otherwise provided, and shall have power to continue any business, proceeding or other matter within the scope of its regular powers

and duties. Any provision in any law, rule, regulation, contract, grant, or other document relating to such a formerly existing office, department, or agency shall, so far as not inconsistent with the provisions of this chapter, apply to such office, department, or agency.

Section 11-44C-80

Existing contracts continued in force; public improvements for which legislative steps taken.

All contracts entered into by the city, or for its benefit, prior to the application to such city of the mayor-council form of government, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws existing at the time of the organization under the mayor-council form of government may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws.

Section 11-44C-81

Pending legal actions and proceedings.

No action or proceeding, civil or criminal, pending at the time of the organization under the mayor-council form of government, brought by or against the city or any office, department, or agency or officer thereof, shall be affected or abated by the change to the mayor-council form of government or by anything contained in this chapter; but all such actions or proceedings may be continued notwithstanding that functions, powers, and duties of any office, department, or agency or officer party thereto may by or under this chapter be assigned or transferred to another office, department, or agency or officer, but in that event, the same may be prosecuted or defended by the head of the office, department, or agency to which such functions, powers, and duties have been assigned or transferred by or under the provisions of this chapter.

Section 11-44C-82

Laws relating to pensions or retirement and relief funds continued in force.

All laws and parts of laws relating to pensions or retirement and relief funds for policemen, firemen, and other employees of the city, contained in the general or local laws of the state as the same may apply and be in effect with respect to any such city at the time when such city shall become governed by the provisions of this chapter, shall continue in full force and effect, and without interruption.

Section 11-44C-83

Laws relating to authority for fairgrounds, etc., continued in force.

All laws and parts of laws relating to establishment or financing of an authority for fairgrounds, parks, exhibitions, and other facilities for the amusement, recreation, and cultural development of the citizens of the city, contained in the general or local laws of the state, as the same may apply and be in effect with respect to any such city at the time when such city shall become organized under the provisions of this chapter, shall continue in full force and effect and without interruption or change until otherwise provided by law

Section 11-44C-84

Ordinances and resolutions continued in effect.

All ordinances and resolutions of the city in effect at the time the form of government herein provided for becomes effective shall continue in effect unless and until changed or repealed by the council.

Section 11-44C-85

Removal of merit system officers and employees; appeal of decision.

Any merit system officer or employee to whom the mayor, or a head of any office, department, or agency, may appoint a successor, may be removed by the mayor or other appointing officer at any time, and the decision of the mayor, or other appointing officer, shall be subject to appeals provided by law.

Section 11-44C-86

Participation in meetings of council by mayor, department heads, etc.

The mayor, the heads of all departments, and such other officers of the city as may be designated by the council, shall be entitled to attend meetings of the council, but shall have no vote therein. The mayor shall have the right to take part in the discussion of all matters coming before the council, and the directors and other officers shall be entitled to take part in all discussions of the council relating to their respective offices, departments, or agencies.

Section 11-44C-87

Inquiry into conduct of office, department, agency, or officer; investigations as to municipal affairs; subpoena power.

The council, or the mayor, shall have power to inquire into the conduct of any office, department, agency, or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$200.00 or by imprisonment not to exceed 30 days, or both.

Section 11-44C-88

Interest of official or employee in contracts with city or public utility prohibited; acceptance of gifts, etc.; free transportation of officials, policemen, and firemen in discharge of duties.

No elected official or city employee shall be interested, directly or indirectly, in any contract for work or material, or the profits thereof, or services to be furnished or performed for the city, nor shall he be interested, directly or indirectly, in any contract for work or material, or the profits thereof, or services to be furnished or performed for any person, firm, or corporation operating

interurban railway, street railway, water works, gas works, electric light or power plant, heating plant, telegraph line or telephone exchange within the territorial limits of said city, nor shall he accept any free pass, free ticket, or free service from said corporations or utilities or accept any gift or other thing of value, or any service upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor and, upon conviction thereof, the guilty person shall be punished by a fine of not less than \$100.00 nor more than \$300.00, be imprisoned in the county jail for not more than 90 days, and every such contract or agreement shall be void. Such prohibition of free transportation shall not apply to policemen or firemen in uniform nor to policemen in the discharge of their duty nor shall service to city officials in their official capacity heretofore provided by any franchise or ordinance be affected by this section.

Section 11-44C-89

Oath taken by city officers.

Every officer of the city shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation as provided by law, to be filed and kept in the office of the city clerk.

Section 11-44C-90

Reapportionment of council districts because of population change.

Whenever there shall be a change in the population in any of the seven districts heretofore established following a decennial federal census beginning in 1990, there shall be a reapportionment of the council districts in the following manner:

(1) The mayor shall within six months after the publication of the 1990 federal census, and each decennial federal census thereafter, file with the council a report containing a recommended plan for the reapportionment of the council district boundaries to comply with the following specifications:

a. Each district shall be formed of contiguous, and to the extent reasonably possible, compact territory, and its boundary lines shall be the centerlines of streets or other well-defined boundaries.

b. Each district shall contain as nearly as is reasonable the same population.

The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance and considered by the council as other ordinances are considered. Once filed with the clerk, the report shall be treated as an ordinance introduced by a council member.

(2) The council shall enact a redistricting ordinance within six months after receiving such report. If the council fails to enact the redistricting ordinance within the said six months, the redistricting plan submitted by the mayor shall become effective without enactment by the council, as if it were a duly enacted ordinance.

(3) Such redistricting ordinance shall apply to the first regular election held more than six months after its becoming effective and to all municipal elections, regular or special, held after

the first regular election. No incumbent council member shall be deprived of his or her unexpired term of office because of such redistricting.

Section 11-44C-91

Procedure for changing form of government; change from mayor-council form prohibited for two years.

The city is prohibited from changing from the mayor-council form of government within two years after the adoption thereof. At the end of such period, or at any time thereafter, the city's form of government may be amended or changed when:

(1) A written petition executed by 10 percent of the number of those who voted in the last city election is submitted to the council with the proposed changes or amendments incorporated in the petition; after presentation of the petition, the council shall call for a referendum vote on the proposed changes and amendments, and

(2) A majority of the votes cast in the referendum is in favor of the proposed changes or amendments. After the council receives the proposed changes and petition, it shall call a special election for the purpose of determining whether the city shall adopt the changes or amendments. Notice shall be given of the time and purpose of such election by publication once each week for four consecutive weeks in a newspaper published in said city prior to the referendum vote. All qualified electors of such city may participate in the election and such questions shall be plainly printed upon the ballot. The referendum shall be conducted, the expenses paid, the votes canvassed and the results declared in the same manner as is provided by law in other city elections.

Section 11-44C-92

Commission form of government.

If a majority of the qualified electors voting in the election provided herein choose the court ordered districted commission form of government in accordance with the consent decree entered into by the parties and approved by the court on April 7, 1983, in the case of Bolden vs. City of Mobile, Civil Action No. 75-297, then the provisions of said court ordered districted commission form shall be applicable to said city.

The three commissioners elected under said court ordered plan from single member districts shall sit as a board and shall possess and exercise all municipal powers, legislative, executive, and judicial, possessed and exercised by city governing bodies as provided by sections 11-44-70 through 11-44-105, as amended, and other applicable laws, except that all functions, responsibilities and operations of the city shall be under the direction and supervision of the board of commissioners as a whole. All three commissioners shall be jointly and equally responsible for all departments, boards and commissions and the discharge of all other administrative duties provided by the applicable state law or this decree. Every department head shall be responsible to the commission as a whole, provided however, that the powers, functions, duties, and rotation of the mayor's office among the three commissioners shall remain in effect as prescribed by existing state law. No later than 30 days following the date the commissioners take office under the court ordered plan, the city commission shall appoint a city administrator. The

city administrator shall serve as the chief administrative officer of the city and oversee the administration of the financial and budgeting, purchasing, planning, recreational and cultural, public works and public safety functions of the government of the city. The city administrator shall be charged with the responsibility of carrying out the policies and objectives established by the board of city commissioners and the coordination of activities of the city government, and shall have wide latitude in accomplishing the daily solution of municipal problems, including the establishment of effective relationships with other governmental bodies and agencies, and the general public. The person holding this position shall have general administrative direction over all departments and employees of the city, provided, that the final executive and administrative authority shall remain with the city commission. Without limitation by the foregoing, the city administrator shall discharge other duties and responsibilities at the direction of the board of commissioners. The compensation to be paid the city administrator shall be set by the city commissioners. The city administrator shall serve at the pleasure of the city commissioners.

The city commission elected pursuant to this court ordered plan shall have the rights, duties, powers, and responsibilities provided by applicable state law except to the extent that such state law provisions conflict with the provisions of this order. If such conflicts arise, the city commission may by resolution or ordinance determine how such conflicts should be resolved; provided, however, that upon the motion of any of the parties, or upon its own motion, the United States district court may reverse or modify the determinations of conflicts by the city commission.

Section 11-44C-93

Provisions applicable regardless of form of government chosen.

It is the legislative intent of this bill that the following provisions shall apply regardless of which form of government the majority of the qualified electors voting in the election provided herein choose:

(1) Within 30 days of taking office, the officials of the form of government chosen shall adopt an ordinance to provide that all appointments made by the mayor, council or city commission to positions in city government, boards, commissions, agencies, authorities, or any other organization or entity of the city or to any positions to which said officials make appointments, shall fairly and equitably reflect the makeup of the total community with due consideration given to all demographic characteristics of the population.

(2) Within 30 days of taking office, the officials of the form of government chosen shall adopt an ordinance to provide that all contracts or agreements entered into by the city or any entity thereof for any service of any kind, whether by bid or otherwise, including but not limited to, professional services and bond issues, shall make every reasonable effort to require that the contractor, firm, or company to which any contract is awarded, must have at least 15 percent participation by socially and economically disadvantaged individuals or the city shall make every reasonable effort to insure that at least 15 percent of the total value of all such contracts and agreements described above shall be awarded to qualified contractors or professionals who are socially and economically disadvantaged.

(3) Within 30 days of taking office, the officials of the form of government chosen shall adopt an ordinance to require that all capital improvements and repairs made in the city shall be made on

the basis of need and shall, as nearly as practicable, be fairly and equitably made in all districts of the city whether they be council or commission districts.

(4) The officials of the form of government chosen shall demonstrate their commitment to the poor and needy in this city by annually allocating in the city budget an amount of funds to be approved by the council or commission, to agencies, organizations, and programs serving the poor and needy in a manner and amount to be determined by the council or commission.

Section 11-44C-94

Materials or supplies becoming component parts in repair, etc., of certain aircraft.

(a) In Class 2 municipalities, the gross proceeds from the sale or sales of materials or supplies to any person for the use in fulfilling a contract for the painting, repair, conversion, modification, or reconditioning of aircraft of 30,000 pounds gross weight or greater shall be exempt from municipal sales and use tax. Notwithstanding the foregoing, the exemption provided in this section shall only apply to those materials and supplies which enter into and become a component part of those aircraft.

(b) The exemption provided in this section shall be applicable to all sales occurring on and after October 1, 2003.

Section 11-44C-94.1

Exemption reiterated for materials or supplies becoming component parts in repair, etc., of certain aircraft.

In Class 2 municipalities, the gross proceeds of the sale or sales of materials or supplies to any person for the use in fulfilling a contract for the painting, repair, conversion, modification, or reconditioning of aircraft of 30,000 pounds gross weight or greater shall be exempt from county sales and use tax; provided, however, that the exemption herein shall only apply to those materials and supplies which enter into and become a component part of such aircraft.

Section 11-44C-95

Tax exemption for the Centre for the Living Arts, Inc.

In Class 2 municipalities, The Centre for the Living Arts, Inc., shall be exempt from all municipal ad valorem and sales and use tax.

Section 11-44C-96

Tax exemption for BayFest, Inc.

In Class 2 municipalities, BayFest, Incorporated, is exempt from the payment of all municipal sales and use taxes and gross receipts taxes. This exemption from all municipal sales and use taxes and gross receipts taxes shall be retroactive to October 1, 1999.

Section 11-44C-97

Water and sewer system boards - Composition.

In any Class 2 municipality, any law to the contrary notwithstanding, the number of members on a water and sewer system board organized under state law whose members are appointed by the governing body of the Class 2 municipality shall be the same as the number of members on the governing body of the Class 2 municipality.

Section 11-44C-98

Board of adjustment.

(a) In any Class 2 municipality, any law to the contrary notwithstanding, the number of members on a board of adjustment provided for in Section 11-52-80, whose members are appointed by the governing body of the Class 2 municipality shall be the same as the number of members of the governing body of the Class 2 municipality.

(b) In exercising the powers in subsection (d) of Section 11-52-80, the board may reverse, affirm, or modify the order, requirement, decision, or determination appealed from and may enter the appropriate order, requirement, decision, or determination and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of five members of the board shall be necessary to reverse any order, requirement, decision, or determination of an administrative official or to decide in favor of the applicant on a matter upon which the board is required to pass under any ordinance or to effect any variation in the ordinance.