CITY AND COUNTY OF MONTGOMERY

PERSONNEL BOARD

RULES AND REGULATIONS

ALABAMA LAW PROVIDES THAT THESE RULES AND REGULATIONS HAVE THE FORCE AND EFFECT OF LAW.

AN EQUAL OPPORTUNITY EMPLOYER

As Revised March 1988 and Including all Board Amendments through March 25, 2014

TABLE OF CONTENTS

RULE I - DEFINITIONS 1-3

RULE II - GENERAL PROVISIONS 4
Section 1 Purpose 4
Section 2 Positions Covered by the Rules 4
Section 3 Adoption of Rules 4
Section 4 Administration of Rules 4
Section 5 Amendment of Rules 4
Section 6 Maintenance of Records 4-5

RULE III - ORGANIZATION AND FUNCTIONS 6
Section 1 The Personnel Department 6
Section 2 The Personnel Board 6-7
Section 3 The Personnel Director 7-8

RULE IV - THE UNCLASSIFIED SERVICE AND CLASSIFIED SERVICE 9
Section 1 The Unclassified Service 9-10
Section 2 The Classified Service 10
Section 3 Return to Relinquished Classifications 10-11

RULE V - THE CLASSIFICATION PLAN 12
Section 1 Purpose 12
Section 2 Class Titles 12
Section 3 Class Specifications 12-13
Section 4 Amendment of Classification Plan 13
Section 5 Allocation of Positions 13

RULE VI - THE PAY PLAN 14
Section 1 Establishment 14
Section 2 Composition of the Pay Plan 14
Section 3 Development of Pay Ranges 14
Section 4 Adoption of Plan 15
Section 5 Adjustment at Time of Adoption 15-16
Section 6 Beginning Rates 16
Section 7 Within Range Adjustments 16
Section 8 Interpretation of Pay Ranges 17
Section 9 Pay for Part-Time Employment 17-18
Section 10 Pay Adjustments in Assignments, Transfers, Promotions, Demotions 18
Section 11 Pay Adjustments in Reallocations 19
Section 12 Pay for Re-employment 19
Section 13 Deductions from Pay of Exempt Employees 20
Section 14 Certification of Payroll 20

RULE VII - RECRUITMENT AND EMPLOYMENT 21
Section 1 Recruitment by Competitive Examination 21
Section 2 Notices of Examination 21
Section 3 Employment Lists and Their Use 21-22
Section 4 Veteran's Preference 23-24
Section 5 Duration of Employment Lists 24
Section 6 Removal from Eligible Registers 24
Section 7 Disqualification from Competition 24-25
Section 8 Procedure for Filling Vacancies 25-27
Section 9 Temporary Appointments 27
Section 10 Transfers 28
Section 11 Emergency Appointments 28
Section 12 Probationary Period 28-29
Section 13 Provisional Appointment 29
Section 14 Equal Employment Opportunity 29
Section 15 Workplace Harassment 30-31
Section 16 Workplace Violence 31-32
Section 17 RSA Return to Work Part Time 32-33

RULE VIII - WORKING CONDITIONS AND GENERAL PERSONNEL PRACTICES 34
Section 1 Working Hours 34
Section 2 Overtime 34-36
Section 3 Legal Holidays 36-37
Section 4 Annual Leave 38-39
Section 5 Sick Leave 39-41
Section 6 Family and Medical Leave of Absence 42-46
Section 7 Military Leave 48
Section 8 Worker's Compensation 49
Section 9 Other Leave With Pay 50
Section 10 Leave Without Pay 51
Section 11 Absence Reports 51
Section 12 Service Rating 51

RULE IX - RIGHTS OF REVIEW AND APPEAL 52
Section 1 Conditions of Employment 52
Section 2 Pre-determination Hearing 52
Section 3 Personnel Board Hearing 52-53

RULE X - SEPARATIONS AND DISCIPLINARY ACTION 54
Section 1 Resignation 54
Section 2 Demotion 54
Section 3 Suspension 54-55
Section 4 Dismissal 55
Section 5 Position Abolishment 55
Section 6 Layoff 56
Section 7 Furlough 56-57

RULE XI - PROHIBITIONS OF POLITICAL ACTIVITY 58-61

PROCEDURE FOR CONDUCTING HEARINGS 1-4
RULES OF PROCEDURE (Alabama Open Meetings Act) 1-12
POLICY FOR RECORDING PROCEDURES 1-2

RULE I – DEFINITIONS

The words and phrases defined below shall have the meanings assigned herein in these rules and in all personnel policies, procedures and transactions:

Act, or Merit System Act, means Act 2280 of the Acts of 1971, Regular Session, approved by the Governor, October 1, 1971.

Allocation, means the assignment of position to a class on the basis of the kind, difficulty and responsibility of work of the position.

[*]**Anniversary Date,** means the annual recurrence of the date of employment.

[†]**Applicant**, means an individual who submits a complete and timely written application for appointment or promotion in the Classified Service, on proper forms, for a specific job title.

Appointing Authority, means the governing body, officer, board, commission, person or group of persons empowered to appoint or remove employees from positions of employment in the City or County service.

Assignment, is a temporary special duty which is made by the appointing authority and approved by the Personnel Board, for which additional pay is awarded. Assignment is not a transfer within the meaning of this rule.

Bands/Banding, the statistical grouping of a range of scores in which candidates are considered to be equally qualified with respect to the knowledge, skills, and abilities measured by a selection procedure.

[‡]**Candidate,** means an applicant who satisfies minimum qualifications to participate in a selection procedure.

Certify, Certification, means the act of supplying the appointing authority with names of applicants eligible for appointment to the class and position for which certification is requested.

Class, means a position or group of positions that involve similar duties, responsibilities, and qualifications and is designated by a single title and indicative of the kind of work.

[§]**Day/Days,** means calendar days, unless specified otherwise.

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[*] Revised 1/13/10
[†] Revised 6/12/12
[‡] Revised 6/12/12
[§] Revised 9/14/10

RULE I

Demotion, means a change of employment from a position of one class to a position of another class having a lower maximum salary limit than the original class.

Eligible, means a person is on an active, re-employment, promotional or employment list and has rights under these rules to be certified for appointment to positions of a class.

Employee, means a person legally occupying a position in the classified service or a person who is on authorized leave of absence and whose position is being held pending a return.

Layoff, means a separation of an employee from the classified service of the City or County made necessary by lack of work, funds or other reasons not related to fault, delinquency or misconduct on the part of the employee.

Original Appointment, means the appointment of a person to a position in the classified service who is not a present employee of the City and County and who is not being reinstated from a re-employment list.

[*]**Permanent** employee, means a person employed to work twenty (20) or more hours per week for more than six (6) consecutive months and who has satisfactorily completed the provisional and probationary period applicable to the class to which he/she has been appointed.

Position, means a group of current duties and responsibilities assigned or delegated by competent authority and requiring the full or part-time services of an employee.

Promotion, means a change of employment from a position of one class to a position of another class which has a higher maximum salary rate.

[†]**Provisional Appointment**, means an appointment made of an employee who must meet applicable state licensing requirements before becoming qualified for the position and eligible to begin probationary status.

Reallocation, means the official determination that a position be assigned to a class different from the one in which it has been previously assigned.

Register, means an employment list of names of persons arranged in order of their rating for classes of employment in which they have competed and qualified to be appointed.

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[*] Revised 6/12/12
[†] Revised 6/12/12

RULE I

Re-employment List, means a list of permanent employees for a class who voluntarily separated in good standing or were laid off by reason of shortage of funds or work, or changes in organization who desire to be re-employed.

Re-instatement, means that an employee who has been demoted to a lower class may be returned to the former class.

Veterans Re-employment Rights, means the rights afforded to Veterans of any branch of service, National Guard, Reserve Unit, State Militia requesting re-employment pursuant to Title 38 Chapter 43 of the United States Code.

Selective Certification, means the act of supplying the appointing authority with the names of minority applicants in ranked order selected from the total list of eligible applicants for a class.

Service, means all positions in any one of the jurisdictions placed within the classified service under the Act.

Step increase, means a within range adjustment of a full step increase in pay recognizing either time in service or employee performance which may be awarded on the anniversary date of the employee.

Transfer, means a change by an employee from one position to another position of the same class or of another class with the same maximum salary rate, involving the performance of similar duties and requiring essentially the same basic qualifications. Transfer is not an assignment with the meaning of this rule.

Upgrade, means the promotion of a service maintenance worker, recreation aide or library page to a position of another class which has a higher maximum salary rate.

Vacancy, means a position duly created, with funds provided for payment of salary, which is not occupied, and for which a valid request has been received by the Personnel Department.

RULE II – GENERAL PROVISIONS

Section 1: Purpose

These rules are an augmentation and clarification of the Merit System Act. They set forth principles and procedures that are to be followed by the City and County Personnel Department in order that personnel administration in the city, county and other services may be conducted in accordance with sound and effective principles of public personnel administration.

Section 2: Positions Covered by the Rules

These rules shall apply to all classified positions and offices of the City and County and subordinate agencies of each jurisdiction unless otherwise provided by law.

Section 3: Adoption of Rules

These rules shall upon adoption and promulgation of the Personnel Board, have the force and effect of law insofar as they apply to positions in the classified service.

Section 4: Administration of Rules

The Personnel Director is charged with administration of these rules, except for those sections specifically reserved to the Personnel Board.

Section 5: Amendment of Rules

Amendments and revisions of these rules may be initiated by the Personnel Board, Personnel Director, the City Council, County Commission or any appointing authority. Amendments and revisions shall become effective upon approval by the Personnel Board. The Personnel Board may hold a public hearing upon amendments to or revisions of these rules if it deems such necessary or if a hearing is requested by the initiating agent.

*Section 6: Maintenance of Records

(a) The records of the Personnel Department are public records with the exception of certain confidential and/or sensitive records which are not subject to public disclosure, such as medical and personal employee information, test materials, records of on-going investigations or other records the disclosure of which would be detrimental to the best interest of the public.

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* Revised 6/12/12

RULE II, SECTION 6

(b) Members of the public may inspect and copy public records provided the request is made in writing. The Personnel Department will not assemble reports or compile data that is not assembled or compiled in the normal course of business. Access to Personnel Department records will be provided during normal business hours. A reasonable fee will be charged for copying records. No original records will be removed from the Personnel Department.

(c) Personnel records shall be maintained in a secure manner and protected, to the extent possible, from unauthorized access, use, modification, destruction or disclosure. Personnel records shall be retained for a period of time that is consistent with applicable state and/or federal law. With regard to inactive personnel files and inactive (rejected or expired) applications and registers the Board is permitted to discard all such records in accordance with applicable state law, but in no event shall the Board discard any such records sooner than six (6) years following the date the record becomes inactive (U.S. District Court Order CA 3739-N, 3708-N and 75-19-N, May 29, 1992).

(d) The Personnel Director shall maintain a file for each classified employee and for those unclassified employees for whom the Personnel Board establishes the rate of pay. Each file shall contain the employee's name, titles of the classes of positions held, rates of pay, dates of employment, employer and copies of applications which were the basis of the employee's appointments. The appointing authority shall report to the Personnel Director every appointment, transfer, promotion, demotion, official written commendation and reprimand, suspension, termination, change in salary, and other change in status in such form and with such supporting documentation as the Director shall determine in conformity with these rules and all such information shall be included in the file maintained by the Personnel Director. A copy of the file for each employee containing the above information, along with other appropriate employment records, including without limitation documents related to disciplinary actions and commendations, shall be maintained in accordance with applicable local, state and federal records retention requirements in the department in which the employee works.

†(e) The Personnel Director will prepare the Employment Activity Report covering the period October 1 – September 30 of each year, in compliance with the Court Order of November 17, 1995, Civil Action No. 3739-N, 3708-N, and 75-19-N, U. S. District Court. The Director will also prepare the Annual Statistical Report pursuant to Act 2280, Section 16, Acts of Alabama, as amended.

RULE III – ORGANIZATION AND FUNCTIONS

Section 1: The Personnel Department

The Personnel Department consists of the Personnel Board and the Personnel Director and such other employees as required to provide services to operating agencies.

Section 2: The Personnel Board

The Personnel Board, hereinafter referred to as the Board, consists of three (3) members appointed in the following manner: One by the governing body of Montgomery County, one by the governing body of the City of Montgomery, and one by a majority of the circuit judges and probate judge, of the county. Of the first three (3) members appointed,

(a) Qualifications - The members of the Board must be qualified electors of the county. No person may be appointed to the Board who holds any salaried public office or employment, nor can any member, while a member of the board or for a period of one (1) year after, ceasing for any reason to be a member, be eligible for appointment to any salaried office or employment in the service of the county or municipality or any county or municipal elective office.

(b) Meetings - The Board is required to hold one (1) regular meeting each month and such special meetings as necessary. The members of the Board shall receive twenty-five dollars ($25.00) for each meeting of the Board they attend.

(c) Functions - The functions of the Board are:

(1) To formulate and promulgate a set of rules to supplement the Act and revisions and amendments thereof.
(2) To act in an advisory capacity to the governing bodies of the county and municipality on problems concerning personnel administration.
(3) As provided by the Act and by rule, to hear and decide appeals submitted by any person in the classified service relative to any situation connected with the employment status or condition of employment.
(4) In any investigation or hearing conducted by the Board, to have the power to examine witnesses under oath and compel their attendance or the production of evidence before it by subpoenas issued in the name of county or municipality. Each member of the Board has the power to administer oaths to witnesses.
(5) To hold hearings on and adopt or revise the position classification plan.

(6) To establish, after consultation with the governing body of the county and the governing body of the municipality and the elective officials of the county, coming within the provisions of this Act, a pay plan for all employees in the classified service. Such pay plan must include, for each class of positions, a minimum and a maximum rate, or rates as may otherwise in specific instances be fixed by law, and such intermediate rates as deemed necessary or advisable by the Board.

Section 3: The Personnel Director

The Personnel Director is appointed by the Personnel Board. The Director is the Board's executive officer and acts as secretary at Board meetings, but does not have a vote in determining the Board's policy.

The duties of the Personnel Director are:

(a) To attend all meetings of the Personnel Board and keep the minutes and records of the Board.

(b) To administer all provisions of the Act and those rules not specifically reserved to the Board.

(c) Under direction of the Board, to prepare rules and revisions and amendments thereof for the consideration of the Board.

(d) To prepare a position classification plan and class specifications and revisions thereof for the approval of the Board.

(e) To establish and maintain a roster of all employees in the classified service of the City and County.

(f) To prepare and instruct in the use of such forms and procedures as necessary and appropriate to carry out the provisions of the Act and these rules.

(g) To provide for a system of checking payrolls, so as to determine that all persons in the classified service have been appointed in accordance with these rules and are being paid proper amounts for duties of the class.

(h) To administer the examination program, pass upon qualification of applicants, establish employment lists and certify eligibles to appointing authorities for filling vacancies.

RULE III, SECTION 3

(i) To appoint employees of the Personnel Department and direct and supervise administrative and technical activities of the department.

(j) To cooperate with appointing authorities and others in developing and establishing training programs for employees, promoting employee morale, and otherwise raising standards of performance in the county and city service.

(k) To prepare for consideration by the Board, a compensation plan consisting of rates of pay for the several classes of employment and recommend changes in such plan from time to time as deemed desirable.

(l) To perform such other activities with reference to personnel administration not inconsistent with the Act, as required by these rules, as directed by the Board, or as may be deemed necessary or desirable for effective personnel administration.

RULE IV – THE UNCLASSIFIED SERVICE AND CLASSIFIED SERVICE

Section 1: The Unclassified Service

The Unclassified Service consists of the following offices and positions:

(a) All elective officers, provided, however, that in the event the status of an elective officer of the county or municipality is changed to that of an appointive officer, then at the expiration of the term of office of any such officer, the person holding the office at the time of the expiration of the term, providing that he shall have service in such position for a period of at least six (6) months continuously, immediately prior to the expiration of the term of office, shall assume regular status in the competitive service without preliminary examination or working tests and shall thereafter be subject in all respects to the provisions of the Act.

(b) Members of appointive boards, commissions, councils, and committees.

(c) All employees or appointees of the city and county board of education, or persons engaged in the profession of teaching or in supervising teaching in the public schools; excepting, however, personnel employed in kindergartens or schools not a part of the city or county board of education.

(d) [*]Attorneys, physicians, surgeons, and dentists who, with the express or implied permission of any appointing authority or of the county or municipality, hold themselves out for employment by others in the same or a like line of work as that performed by them so such appointing authority; excepting, however, city or municipal prosecuting attorneys or assistant city or municipal prosecuting attorneys. With respect to Municipal Court judges, Code of Alabama, Sections 12-14-30 and 12-14-33, supersedes Act 2280 and governs the appointment and pay of Municipal Court judges. Municipal Court judges are therefore, in the unclassified service. The City Council appoints and establishes the compensation for the judges.

(e) Persons in the "classified service" within the meaning of and subject to the State of Alabama merit system under any present or future law, and so long as any such law remains effective.

(f) The Personnel Director provided for by the Act.

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[*] Revised 6/12/12

(g) One private secretary or executive assistant of a member of the governing body of such municipality, and two clerks to be designated by each county elective official, except the Members of the Board of Commissioners; and any employee receiving compensation from any elected official of the county, however, the Personnel Board approves the rates of pay for these employees.

(h) [*]The chief of police, fire chief, chief financial officer, head of the department of parks and recreation, head of the maintenance department, and head of the sanitation department of any affected municipality who shall be appointed and serve at the pleasure of the mayor of the affected municipality. Any person appointed to a position pursuant to this subdivision shall meet at least the minimum qualifications for the position as shall be established by the personnel board. Despite that persons appointed pursuant to this subdivision are not part of the classified service; their compensation is set by the personnel board pursuant to a pay and classification study. (Act 2003-274)

Section 2: Classified Service

The classified service comprises all offices and positions in the city and county services now existing or hereinafter created, except those which are specifically placed in the unclassified service by Section 4 of the Act and Section 1 of this rule. All employees of any public corporation, board, committee or commission appointed or created by the governing body of the county or city shall also be included in the classified service.

[†]Section 3: Return to Relinquished Classification

(a) Any person who has held a classified position in any merit or civil service system within the state of Alabama or within any political subdivision thereof and relinquished that position to accept an appointment to an unclassified position in the same agency shall have the option to return to permanent status in the same merit classification which that person held at the time of appointment provided the employee shall:

(1) Not have had a break in service exceeding one pay period;
(2) Not have been the subject to any pending disciplinary action at the time of appointment;
(3) Have served at least ten (10) years in the merit or civil service system at the time of appointment.

[*] Revised 6/12/12
[†] Revised 3/25/09

RULE IV, SECTION 3

(b) Any person who returns to a former civil service classification under the provisions of subsection (a) shall enjoy all the benefits to which that person would be entitled had that person remained under the merit system including seniority and pay benefits as though that person had remained in that classification; provided, that the appointed position was an equal or higher position than the classified position previously held. If a person returns to a former classified position no person serving in that classification shall be reduced in classification but reduction if necessary shall be accomplished by attrition. (Code of Alabama §36-26-32.1)

RULE V – THE CLASSIFICATION PLAN

Section 1: Purpose

The classification plan provides for the grouping into a single class positions which involve substantially the same kind of work, equal difficulty, responsibility and comparable qualifications for work performance. The classification plan consists of:

(a) a schedule of class titles appropriately descriptive of the nature of work of the several classes

(b) written specifications describing the nature and requirements of work of positions of each class, and

(c) materials regarding the interpretation and application of the class specifications.

Section 2: Class Titles

Class titles, or designated code symbols shall be used in all personnel, accounting, appropriation and financial records. No person shall be appointed to or employed in a position in the classified service under a title not included in the classification plan. Descriptive titles used in the course of departmental routine to indicate authority, status in the organization or administrative work may be used as required for these purposes.

Section 3: Class Specifications

The specifications of the classes of positions in the classification plan and their various parts have the following force and effect:

(a) The specifications are descriptive and not restrictive. They are intended to indicate the kinds of positions that are allocated to the several classes, as determined by their duties and responsibilities, and shall not be construed as declaring to any extent, or in any way what the duties or responsibilities of any positions shall be, or as limiting or in any way modifying the power of any appointing authority or administrative officer to assign, direct, and control the work of employees under supervision. The use of particular example or illustration shall not be held to exclude others not mentioned that are of similar kind or quality.

(b) In determining the class to which any position should be allocated, the specification of each class shall be considered as a whole. Consideration shall be given to the duties, specific tasks, responsibilities, qualification requirements and relationships to other classes.

(c) Qualifications commonly required of all incumbents of the different classes, such as acceptable physical condition, freedom from disabling defects, suitable age, honesty, sobriety and industry, shall be deemed to be implied as qualification requirements for entrance to each class even though they may not be specifically mentioned in the specifications.

Section 4: Amendment of Classification Plan

The Personnel Director is responsible for continuous administration of the classification plan and as changes in organization and assignments of work require, shall recommend to the Personnel Board amendments to the classification plan.

Section 5: Allocation of Positions

The Personnel Director shall allocate each position now existing or hereinafter created to the proper class in the classification plan. Whenever a new position is created, the department shall furnish the Personnel Director a complete job description in order that the duties and responsibilities may be studied and the proper classification determined. If a proper classification does not already exist, a new class specification shall be prepared and submitted to the Personnel Board for approval.

The addition of new assignments or the taking away of old ones for any position shall be reported to the Personnel Director.

RULE VI – THE PAY PLAN

Section 1: Establishment

The Personnel Board is required to establish, after consultation with the governing bodies of the city and county and the elective officials of the county, a pay plan for all classified positions in all services and certain specific exempt and unclassified positions.

Section 2: Composition of the Pay Plan

The Pay Plan consists of:

(a) a schedule of ranges of rates of pay in biweekly, hourly and/or annual amounts.

(b) a schedule showing the pay range to which each class is assigned.

(c) policies, as embodied in these rules, showing the interpretation and application of the schedules of range of pay.

Section 3: Development of Pay Ranges

After consultation with appointing authorities and city and county fiscal officers, the Director is required to prepare and recommend to the Board a pay range for each class of employment in the classified service, and certain specific exempt and unclassified positions. Such ranges shall consist of a minimum and maximum rate, and such intermediate rates as the Director considers necessary or equitable. The rates for each class shall be those of the basic schedule of ranges of all rates (Section 2a) which are proper. In establishing such rates the Director shall give consideration to the experience in recruiting for positions in the city and county services, the prevailing rates of pay for comparable services in other public and private employment, living costs, the financial condition and policies of the city and county, and the relationship in kind and level of duties and responsibilities of the several classes.

RULE VI, SECTIONS 4 & 5

Section 4: Adoption of Plan

Upon receipt of the proposed pay plan, the Board may give opportunity to be heard to appointing authorities, employees and the general public. After incorporation and modification, changes or amendments it considers desirable, the Board shall submit the plan to the governing bodies of the city and/or county, who, after making such changes as they deem necessary, resubmit it to the board, who shall accept or reject, and it shall take effect when approved.

Section 5: Adjustments at Time of Adoption

At a time designated by the Personnel Board after the official date of adoption of the Pay Plan, or revision thereto:

(a) Employees whose rate of pay is less than the prescribed minimum rate for the class shall be increased to the prescribed minimum rate for the class with no change in anniversary date, except that the salary of an employee with less seniority will not be advanced beyond that of an employee with greater seniority in the same department.

(b) Any employee whose present rate of pay is the same as a rate of the new range will be placed on the corresponding step of the new range, with no change in the employee's anniversary date.

(c) Any employee whose present rate of pay is between any two rates of the new range, will be increased to the next higher rate, with no change in the employee's anniversary date.

(d) Any employee who is at the top of the old pay range and has not received an anniversary increase for more than one year is eligible to be considered for an immediate one-step pay increase. The employee's previous anniversary date will be reinstated.

(e) Regular employees whose pay is in excess of the maximum rate prescribed shall not be automatically reduced in pay but shall not receive any increase as long as they occupy positions for which the pay rate maximum is the same as, or less than, the pay rate currently received. This provision shall not, however, prevent the application of service-wide blanket pay decreases or a decrease of any employee's pay for any valid reason recommended by the appointing authority. No change in pay shall become effective until approved by the Personnel Director.

(f) Provisional or temporary employees whose pay is in excess of the minimum rate of the class, if qualifying for permanent appointment, shall be reduced to the minimum rate for the class except when appointment at a higher rate is approved by the Director in accordance with Section 6.

Section 6: Beginning Rates

The minimum rate of pay for a class shall be paid to any person on the original appointment to a position of the class except when determined by the Director as warranting employment at a higher rate.

Section 7: Within Range Adjustments

(a) The salary ranges are intended to furnish administrative flexibility in recognizing employee performance and service, in providing employee incentive, and in meeting special and emergency conditions in which increases or decreases of individual rates are required for the good of the city or county service. Within salary range adjustments shall not be automatic but shall be dependent upon specific recommendations of the appointing officer, provided, however, that the Personnel Board may approve a plan for increasing new employees to the second step of the range of a class upon satisfactory completion of the probationary or provisional period or other specified length of service following original appointment. No change in pay shall become effective until approved by the Personnel Director.

(b) Ordinarily, increases in salaries shall not be made more than one step and shall not be made more often than once each twelve (12) months nor shall salary advancements be given to an employee until completion of the probationary period, except that an appointing authority may recommend to the Board salary increases of more than one step or more frequently than once every twelve (12) months upon detailed written statement to the Board specifying the employee's exceptional performance or the unusual employment conditions that make such action necessary, and provided that sufficient funds have been budgeted. [*]Temporary or "as needed" employees must work the equivalent of one (1) year, i.e., 2080 hours, in order to be eligible for a merit increase.

(c) [†]Employees whose merit increase is postponed or withheld will retain their old merit date.

[*] Revised 9/14/10
[†] Revised 9/14/10

RULE VI, SECTIONS 8 & 9

Section 8: Interpretation of Pay Ranges

(a) The schedule setting forth established ranges of pay and the assignment of each class to one of these ranges shall be regarded as gross compensation for full-time service in the several classes, but does not include reimbursement for expenses incurred by reason of authorized and approved travel on city or county business. Full-time service in a class shall be considered to be service for that number of hours per day and days per week which represent the established working schedule for employment of the class.

(b) The legal rates of pay for payroll purposes are hourly rates. Annual rates of pay are listed in the pay plan for administrative purposes only.

Section 9: Pay for Part-Time Employment

(a) Whenever an employee works for a period less than the regularly established number of hours a day, days a week, or weeks per pay period, the amount paid shall be proportionate to the time actually employed.

(b) Biweekly rates of pay shall be paid except that on certification by an administrative officer that payment of biweekly rates for certain classes of employment is not feasible because of the temporary or intermittent nature of the work, the Personnel Director may authorize the payment of weekly, daily, or hourly rates for those employments. Such rates shall be determined in accordance with the following formulae:

Biweekly Rate	80 hours x hourly rate
Annual Rate	26 x biweekly rate
Daily Rate	Hourly rate x number of work hours in established work day for the class
Weekly Rate	Hourly rate x number of hours in regularly established work week for the class

(c) Payments for less than a full payroll period or payments for vacation and overtime accruals at separation, shall be determined by multiplying the established hourly rate by the number of hours of work actually performed or included in the vacation or overtime accrual.

(d) For employees working five (5) days per week, eight (8) hours per day, the working year shall be considered 2080 hours annually or 260 working days. For employees working five (5) days per week paid biweekly the working period shall be considered ten (10) working days or forty (40) working hours per week. For employees working seven (7) days per week or an average of fifty-six (56) hours per week the working month shall be thirty (30) days.

Section 10: Pay Adjustments in Assignments, Transfers, Promotions, and Demotions

When an employee is reassigned, transferred, promoted or demoted, the rate of pay for the next position shall be determined as follows:

(a) Promotions - If the rate in the previous position was less than the minimum rate established for the class of the new position, the rate of pay shall be advanced to the minimum for the class of the new position.

If the difference in pay ranges does not automatically result in an increase in the equivalent of a one-step increase in the rate of pay for an employee promoted, a one-step immediate increase within the pay range of the new classification may be given by the appointing authority, subject to approval by the Personnel Director. [*]Merit date does not change.

(b) Demotions - If the rate of pay in the previous position was more than the maximum rate established for the class of the new position, the pay shall be reduced to a point within the range for the class of the new position to be determined by the appointing authority subject to the recommendation of the Personnel Director.

(c) Transfers - If the rate of pay in the previous position falls within the range of pay established for the class of the new position and does not correspond to a step in the salary plan, it shall be adjusted to the next higher step, but otherwise this rate of pay may remain unchanged or may be changed on the recommendation of the administrative officer in accordance with this rule.

(d) Assignment - Extra pay is given for temporary special duty as designated in the pay and classification plan for the specified assignment.

[*] Revised 1/13/04

RULE VI, SECTIONS 11 & 12

*Section 11: Pay Adjustments in Reallocations

(a) When a position is reallocated to a class with a higher maximum salary rate, the permanent employee who has been occupying that position may be noncompetitively promoted to that class and is eligible for a one-step promotional increase in salary upon recommendation of the appointing authority and approval of the Personnel Director. Merit date does not change.

(b) If the reallocated position is vacant, the vacancy may be filled by promotion, transfer or original appointment. When a position is reallocated to a class with a lower maximum salary range, the employee occupying that position will not be demoted or reduced in pay. However, such employee may be transferred with approval of the appointing authority or department head to a vacant position within the same class as that which the employee holds.

(c) When a position to which an incumbent employee is currently assigned is reallocated to a class with the same maximum salary rate, the employee may be reclassified to the new class of the position. If no permanent employee occupies the position, the vacant position may be filled by promotion, transfer or original appointment.

†Section 12: Pay for Re-employment

A former employee may be re-employed at the same step held prior to separation. Employee receives a new anniversary date.

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* Revised 6/23/10
† Revised 6/23/10

RULE VI, SECTIONS 13 & 14

Section 13: Deductions from Pay of Exempt Employees

Improper pay deductions are prohibited. Appointing authorities may make deductions from the wages of exempt employees for the following reasons:

(a) Absence from work for one or more full days for personal reasons other than sickness or disability. (See Rule VIII, Section 4)

(b) Absence from work for one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide leave plan or policy. (See Rule VIII, Section 5)

(c) Partial day deductions for leave taken under the Family Medical Leave Act. (See Rule VIII, Section 6)

(d) Absence due to Military Leave. (See Rule VIII, Section 7)

(e) Public accountability to taxpayers for the use of public funds by paying employees only for time worked, which may result in partial pay deductions.

(f) Suspensions for violation of workplace safety rules and workplace conduct rules. (See X, Section 3 (b))

If an employee believes that an impermissible deduction has been made, the employee should contact his/her payroll office or the Personnel Department. In the event that an impermissible deduction has been made, the employee will be reimbursed for the improper deduction and a good faith commitment will be made to comply with proper deductions in the future.

Section 14: Certification of Payroll

It shall be unlawful for any county, municipal, public corporation, board or commission, official or employee, or any other fiscal officer, to draw or issue any warrant on the county, municipal, public corporation, board or commission treasury, or county, municipal, public corporation, board or commission depository, for the payment of any salary or compensation to any person in the county, municipal, public corporation, board or commission service for personal services, unless the payroll, estimate, voucher, or account for such salary or compensation containing the name of the person to be paid shall bear the certification of the head of the department wherein such person works; that the person or persons named therein are employees of the county, municipality, public corporation, board or commission and are legally entitled to receive the sums stated therein.

RULE VII – RECRUITMENT AND EMPLOYMENT

Section 1: Recruitment by Competitive Examination

All permanent appointments to positions in the classified service shall be made according to merit and fitness ascertained by competitive examination, except Service Maintenance Workers, Recreation Aides and Library Pages. Examinations shall be prepared by or under the direction of the Personnel Director and may be, as determined by the Personnel Director after consultation with appointing authorities, assembled or unassembled, and may include written, oral, physical, or performance tests. Examinations may consist solely of an evaluation of such factors as education, experience, character, physical fitness, or any other qualifications which the Personnel Director determines to be relevant to the position to be filled. Competitive promotional examinations may take into consideration the quality and length of employment in the classified service in addition to any or all of the above factors.

Section 2: Notices of Examination

All examinations shall be publicized by the preparation and public notice of examination announcements. The public notice of examination shall specify the title and salary range of the class of employment, description of the nature of work and examples of duties, experience and training desirable for performance of the work, the time, place and manner of making application, closing date for receiving applications and other pertinent information as deemed desirable by the Personnel Director to attract qualified applicants. Examination announcements shall be distributed and given publicity as deemed desirable and appropriate by the Personnel Director for the attraction of qualified applicants for the class of employment. Various types of examinations may be used alone or in combination. Examples of these are: "assembled", applicants are required to meet at a specific location in order to be tested; "unassembled", an evaluation of the training and experience based on the application form submitted and any other required documents; "performance", applicants are required to demonstrate skill in operating job related equipment; "oral", applicants are required to be interviewed before a panel of evaluators as to job related qualifications.

Section 3: Employment Lists and Their Use

(a) The Personnel Director shall establish and maintain such employment registers or lists for various classes of positions as are necessary to meet the needs of the service. The names of eligibles shall be placed on such a list in the order of their final earned rating in competitive examinations and they shall be notified by the Personnel Director of their grade and place on the list. Tie scores shall not be broken and tied scores shall be grouped for purposes of certifications.

(b) **Employees having permanent status who are involuntarily separated from the service by reason of shortage of work or funds, changes in organization, or other reasons not involving fault, delinquency or violation on their part shall at time of the

separation be placed on the re-employment list. A former or retired employee who voluntarily separated in good standing may be considered for re-employment and upon the employee's request his/her name shall be placed on the re-employment list(s). Ordinarily, re-employment is limited to any classification the former employee previously held and for which he/she completed the applicable probationary period. Exceptions must be approved by the Personnel Director. Any person who is re-employed will be required to successfully complete the probationary period in order to attain permanent status. This does not apply to an employee who has been laid off within the last two years. Nothing in this Rule is intended to interfere with any reinstatement rights under state or federal law.

(c) Former employees requesting Veterans re-employment rights pursuant to Title 38, Chapter 43, of the United States Code, and satisfying the conditions of that Act, will be certified as eligible for immediate re-employment.

(d) [*]The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects the job rights of individuals who serve in the military from discrimination in employment, including initial employment, reemployment, retention, promotion or any benefit of promotion. According to USERRA regulations, "If an opportunity for promotion, or eligibility for promotion, that the employee missed during service is based on a skills test or examination, then the employer should give him or her a reasonable amount of time to adjust to the employment position and then give the skills test or examination." Supervisors should make a returning employee aware of any missed opportunity for promotion during his or her absence and advise them to contact the Personnel Department in order to be scheduled for the test, if applicable.

(e) [†]**"**If the employee is successful on the makeup exam and, based on the results of that exam, there is a reasonable certainty that he or she would have been promoted, or made eligible for promotion, during the time that the employee served in the uniformed service, then the promotion or eligibility for promotion must be made effective as of the date it would have occurred had the employment not been interrupted by uniformed service." Sec. 1002.193

[*] Revised 9/14/10
[†] Revised 9/14/10
**Revised 1/8/13

Section 4: Veteran's Preference

(a) Preference in open competitive examination is to be given for those veterans who have served in the armed forces of the United States, to their widow or widowers and to the spouse of a totally disabled veteran.

(b) The term "veteran" means a person who honorably served in the military service during any war or conflict in which the United States was engaged and who was discharged or released from service under conditions other than dishonorable. It does not include those who serve an initial period of active duty training in the Reserve or National Guard. Eligibility is determined by submission of a copy of the DD214 or other document which shows dates of service and type of discharge.

(c) A disabled veteran is one who has a service connected disability and who receives or is eligible to receive compensation for the disability. Eligibility is determined by submission of DD214 or other document which shows dates of service and type of discharge and a letter from the Veteran's Administration which was issued within the last six months prior to application for examination.

(d) *Spouse of a disabled veteran means that the veteran is totally disabled and therefore not qualified for employment but the spouse is qualified. Eligibility is determined by submission of veteran's DD214 or other document which shows dates of service and type of discharge, a letter from the Veteran's Administration documenting the disability and proof of marriage.

(e) Widow or widower of a veteran is one whose spouse died or was killed in the line of duty, and who has not remarried. Eligibility to be determined by submission of spouse's DD1300 or other official documents which show dates of service and a marriage certificate.

(f) Preference shall be granted to veterans, the spouse of a totally disabled veteran and widows or widowers of veterans who died in the line of duty, as defined above, and who obtain a passing mark in an open competitive examination.

(1) Preference shall be granted to totally disabled veterans and widows or widowers of veterans by adding 10 points to the passing score in an open competitive examination.

*Revised 8/13/13

(2) Preference shall be granted to the spouse of a totally disabled veteran, who does not qualify for employment, by awarding 10 points to the passing score in an open competitive examination to the qualifying spouse.

(3) Preference shall be granted to veterans as defined in paragraph (b) above by adding five points to the passing score in an open competitive examination.

Section 5: Duration of Employment Lists

The Personnel Director shall determine the period during which employment lists shall remain in effect, but this period shall not exceed two (2) years. When the Personnel Director deems it appropriate a new eligible list may be combined with an existing list by placing the names of eligibles in order of final earned rating on the competitive examinations. For classes of employment determined by the Personnel Director, continuous open competitive examinations may be held and names of eligibles placed on such eligible list in accordance with final earned rating without regard to time of examination.

Section 6: Removal from Eligible Registers

The Personnel Director may remove from an eligible list the name of any applicant who fails to respond to notice of certification; who declines three (3) offers of permanent full time employment; who provides inaccurate, incomplete or false information on the application and/or any attachments; who qualified for appointment through false or misleading statements; who is ineligible for employment under the Immigration Reform and Control Act of 1986 or who has otherwise been shown to be unfit for employment.

Section 7: Disqualification from Competition

The Personnel Department and/or expert shall disqualify an applicant or candidate from competition upon determination that:

(a) The application was not received by the filing deadline;

(b) The applicant fails to meet the minimum qualifications specified in the job announcement;

(c) The candidate fails to appear at the announced time and place for testing; or

(d) The candidate is found to be cheating. Cheating involves any attempt by an individual or group to enhance test scores by means other than actual knowledge or ability,

including but not limited to efforts to give or receive information about the test content or correct responses before, after or during a test. Examples of cheating during a test would be:

(1) Attempting to gain access to the test under false pretenses;
(2) Failing to follow instructions given by test administrators or proctors;
(3) Talking to another candidate during the test;
(4) Removing or attempting to remove test materials from the test site;
(5) Leaving the test room, holding room or other location without permission from the Test Administrator;
(6) Attempting to use notes, hand held computers or calculators when instructed not to;
(7) Looking at another's test paper or answer sheet;
(8) Working on a test section after time has been called; and
(9) Giving or receiving test information to or from another person.

Section 8: Procedure for Filling Vacancies

(a) All vacancies in the classified service shall be filled by original appointment, promotional appointment, upgrade, temporary appointment, provisional appointment, re-employment, or transfer. Whenever a vacancy in a position in the classified service is to be filled, the appointing authority shall notify the Personnel Director whether such position is to be filled by original appointment, promotional appointment, upgrade, re-employment or transfer. [*]During the period of suspension of any employee, or pending any final action on proceedings to review the suspension, demotion, or dismissal of any employee, the vacancy created may be filled by the Appointing Authority only by temporary appointment.

(1) Rank Ordered Lists: If such position is to be filled by original or promotional appointment, the Personnel Director shall certify the names of the persons in the five (5) highest positions in order of rank on the appropriate rank ordered list, provided the list contains the names of at least five (5) applicants. [1]In the case of multiple vacancies, the Personnel Director shall certify four (4) names plus one name for each vacancy. Where more than one person is eligible in the last ranked position, in connection with an original or promotional appointment, all applicants tied at that score shall be certified. Names shall be certified in order of ranked standing without regard to sex or special qualifications, except where a limitation to one sex or a requirement of special qualifications is specified by the appointing authority and approved by the Personnel Director as a bonafide occupational qualification.

[*] Revised 1/13/10
[1] Revised 3/25/14

(2) Banded Lists: If such position is to be filled by original appointment or promotional appointment, the Personnel Director shall certify the entire top band to the appointing authority when the number of vacancies is less than or equal to the number of persons occupying the first or highest band. When the number of vacancies exceeds the number of persons contained in the first or highest band, the Personnel Director shall certify the entire highest band to fill the number of vacancies equal to the number of persons in that band, and the entire second highest band to fill the remaining vacancies. All the names in the highest band must be exhausted, i.e. removed or hired, before selections can be made from the next highest band. (Because Act 2280 does not address banded lists, this rule on banded lists is enacted pursuant to the Personnel Board's authority to formulate rules supplementing the Act.) (Act 2280, Regular Session 1971, Section 2(a).)

(b) When there are five (5) or less applicants who meet the minimum qualifications for an announced promotional examination or an open competitive examination, the Personnel Department's certification shall include all eligible candidates without administration of any selection procedure.

(c) [1] Procedure for Hiring and Upgrading Service Maintenance Workers, Library Pages and Recreation Aides

(1) Vacancies for Service Maintenance Workers, Library Pages and Recreation Aides may be filled without application to the Personnel Department and without regard to competitive examination because these classifications are unskilled work for which there is no minimum qualification or other qualifications to be measured or tested. Applicants apply directly to the department where employment is sought and are to be considered and hired in the order that the application is received. It is the responsibility of the employing department to maintain records on the number of applications filed, the race and gender of applicants, and date and time an application is filed. The appointing authority is responsible for ensuring that applicants are hired without regard to qualifications and in compliance with equal employment opportunity requirements set forth in Section 14 of this rule. Unsuccessful applications must be retained pursuant to the requirements of the Alabama Records Disposition Authority.

(2) Individuals can be hired as seasonal/temporary, permanent or as needed into these classifications. If individuals are appointed as needed or seasonal/temporary their period of employment cannot exceed six consecutive months or six months in any twelve month period. If an individual's period of employment exceeds these limits, the individual should be appointed as a

[1] Revised 2/11/14

[1]permanent employee. Permanently appointed individuals serve a two month probationary period.

(3) These individuals are paid only for hours actually worked and are paid for holidays only when working immediately before and after the holiday. Temporary workers do not accrue sick and annual leave.

(4) Upgrade refers only to the promotion of an employee in the above classifications to the next highest classification. An employee may be upgraded only after attaining permanent status and must complete a total of six (6) consecutive months of employment with the department. Exceptions to the upgrade requirements must be justified in writing by the appointing authority. Employees shall be upgraded according to seniority provided they are capable of qualifying for the job or performing the work. Qualified Service Maintenance Workers in the department in which the vacancy occurs shall be given preference in order of seniority over service maintenance workers in other departments regardless of the fact that service maintenance workers in other departments have more seniority. For purposes of determining length of seniority, an employee shall be considered not to have broken his seniority unless the absence from the job was for a period greater than six (6) consecutive months. Employees do not receive credit for any period in which the employee was not in pay status.

(5) [1]Once upgraded, these individuals are required to serve a six month probationary period in the new position.

Section 9: Temporary Appointments

(a) [*]In the absence of appropriate employment lists, appointing authorities may make a temporary appointment of a person who is approved by the Personnel Director as being qualified to perform the work of the class. An employment list shall be established for such position within ninety (90) calendar days. Temporary appointments shall be terminated at the end of ninety (90) calendar days or at such time as an appointment can be made from an eligible register, whichever occurs first. No person shall receive more than one temporary appointment, in any one fiscal year. No credit shall be allowed in the giving of any examination or the establishment of any employment or promotional lists for service rendered under temporary appointment. Temporary employees cannot be promoted or upgraded.

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[*]Revised 9/14/10

[1] Revised 2/11/14

RULE VII, SECTIONS 10, 11 & 12

Section 10: Transfers

A position may be filled by transferring an employee from one position of the same class or similar class with essentially the same basic qualifications and the same maximum salary limit. [*]Transfers between departments in the City must be approved by both department heads, the Mayor and the Personnel Director. Transfers between agencies (e.g. City to County) must be approved by both Appointing Authorities and the Personnel Director. An employee who transfers from one agency to another may request that the annual leave pay out to which they are entitled be made directly to the new agency for the purpose of transferring the leave. Sick, compensatory and personal leave may not be transferred. (See Rule VIII, Sections 2, 3, 4 and 5)

Section 11: Emergency Appointments

To meet emergency conditions and take care of extra work loads, appointing authorities may appoint persons to take care of the situation, but no such appointments may exceed thirty (30) working days in any fiscal year.

[†‡]Section 12: Probationary Period

[1]Except as otherwise provided herein, all original and promotional appointments, and re-employments are for a probationary period of six (6) months, which period may not be extended beyond six (6) months. Service Maintenance Workers, Recreation Aides and Library Pages have a probationary period of two (2) months. (United States v. City of Montgomery et al., CA 3739-N, Consent Agreement and Court Order, Sept. 29, 1972) Police Officers have a probationary period of twelve (12) months. (Jordan v. E. L. Wright, Jr., et al., CA 75-19-N, Court Order, Mar. 12, 1976) Such probationary period should be regarded as an integral part of the examination process and used for closely observing the employee's work, for securing the most effective adjustment of the new employee to the position, and for rejecting any employee whose performance does not meet required work standards. At any time during the probationary period, an appointing authority may reject the probationary employee. Notification of the reason for removal must be given to the employee and the Personnel Director. The employee does not have a right of appeal or to a hearing on any matter. If an employee promoted to a higher class is found unsuited for the work of the class to which promoted, the employee shall be reinstated to the previous position, unless disciplinary action is initiated and he/she is discharged in accordance with these rules. An employee may not be promoted while in probationary status. If not removed during the

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[*] Revised 8/27/08
[1] Revised 12/17/13
*Revised 6/12/12
‡Revised 6/12/12
[‡] Revised 6/23/10

probationary period the employee shall be deemed to have permanent status in the classified service.

Section 13: Provisional Appointment

*Employees mandated by law, regulation, or policy to meet specific criteria in order to be licensed by a regulatory or other authority to perform the duties of a certain position, and who have not already satisfied these criteria, will be appointed provisionally contingent upon successful completion of all legal requirements for the position. For example, a Police Officer Trainee must graduate from the Police Academy in order to be appointed to the Police Officer classification. Time spent in provisional status does not count toward completion of the required probationary period. A provisional employee may be terminated at any time without recourse. Notice of the reason for termination must be given to the employee and the Personnel Director. Employees in provisional status will receive all the benefits of a probationary employee.

Section 14: Equal Employment Opportunity

Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration, because of political or religious opinions or affiliations or because of race, national origin, [†]genetic information, or any other non-merit factors is prohibited. Discrimination on the basis of age or sex or [‡]disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration.

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[1] Revised 1/8/13
[†] Revised 1/25/11
[‡] Revised 6/21/11

RULE VII, SECTION 15

Section 15: Workplace Harassment

Workplace Harassment is a form of discrimination, which takes place or occurs in an employment context, and is based on or results from some protected status afforded the victim by law.

Protected status is derived from federal laws governing the employment relationship:

- Title VII of the Civil Rights Act of 1964 prohibits discrimination in the form of harassment based on an individual's race, color, sex, national origin and religion. Title VII protection extends to sexual harassment, as defined by the Equal Employment Opportunity Commission (November 1980 3950.11, Section 1604.11). "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment".
- The Age Discrimination in Employment Act of 1967 prohibits discrimination in the form of harassment because of age. Employees over the age of 40 are protected.
- The Americans with Disabilities Act of 1990 prohibits discrimination in the form of harassment because an employee has a disability.

There are two kinds of Workplace Harassment:

- Harassment coupled with the withholding or awarding of a tangible job benefit, such as promotion or pay increase, because of some protected status. In sexual harassment cases this form of harassment is called "quid pro quo" a Latin term that means "this for that".
- Hostile work environment harassment occurs when the harassing conduct has the purpose or effect of unreasonably interfering with the victim's work performance or creating an intimidating, hostile or offensive work environment.

There are three forms of harassment:

- Physical – any unwanted touching of body or clothing.
- Non-verbal – displaying offensive printed material of any kind, offensive gestures or motions, staring or leering, unwelcome non-verbal behavior.
- Verbal – slurs, offensive jokes, derogatory reference to one's age, gender, race, color, national origin, religion or disability.

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[*] Revised 1/25/11
[*] Revised 6/21/11

To be illegal workplace harassment, the behavior must be unwanted, must occur in the employment context, must involve some physical, verbal or non-verbal behavior related to or because of some protected status the victim has been given by the laws described above.

An employee who believes he/she is the victim of any form of illegal workplace harassment, as discussed above, should contact the employee's supervisor, or if the supervisor is the offending party the employee may go up the chain of command to the Department Head, the Elected Official or the Assistant to the Elected Official, the Personnel Director, Assistant Personnel Director or Employee Relations Specialist at the Montgomery City-County Personnel Department.

[*]Retaliation against any individual who reports workplace discrimination or harassment, as defined above, or who participates in an investigation of such reports is prohibited. In addition to the workplace harassment cited above, retaliation against an employee who has a worker's compensation claim or who has utilized Family and Medical Leave is also prohibited. It is the policy of the Montgomery City-County Personnel Board to investigate such reports of retaliation.

[†]Section 16: Workplace Violence

Employees are prohibited from making threats or engaging in violent activities in the workplace. Workplace violence includes, but is not limited to:

(a) Threats of any kind;

(b) Threatening, physically aggressive, or violent behavior, such as intimidation of or attempts to instill fear in others;

(c) Other behavior that suggests a propensity toward violence, which can include belligerent speech, excessive arguing or swearing, sabotage or threats of sabotage of public or private property, or a demonstrated pattern of refusal to follow established policies or procedures, whether such acts are oral, written, through electronic, facsimile or other form of communication;

(d) Defacing or causing damage to public or private property in the workplace;

(e) With the exception of sworn law enforcement officers, bringing weapons or firearms of any kind into the workplace.

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[*] Revised 8/28/07
[†] Revised 7/24/07

Employees who observe or become aware of behavior listed above by an employee, customer, consultant, visitor, vendor or anyone else should immediately report such incidents to his/her immediate supervisor, or if the immediate supervisor is the offending party, the employee may go up the chain of command to the department head, elected official, the assistant to the elected official, the Personnel Director, the Assistant Personnel Director, or the Employee Relations Specialist in the Montgomery City-County Personnel Department. In the case of a County Employee, the Deputy County Administrator should be contacted.

Employees should notify the proper authority if any restraining order is in effect, or if a potentially violent non-work related situation exists that could result in violence in the workplace.

All incidents of workplace violence should be reported and investigated promptly. An employee who reports workplace violence will not be retaliated against and confidentiality will be maintained to the extent possible. Employees should be aware that incidents of workplace violence may result in the filing of criminal charges. Law enforcement authorities should be notified to determine what laws, if any, may have been violated.

Disciplinary action may include written or oral warning, probation, reassignment, suspension, or termination. The department head or appointing authority may direct the employee to participate in professional counseling as a condition of continued employment.

[1]Section 17: RSA Return to Work Part Time

[*]Any person who is retired under the Employees' Retirement System of Alabama may perform duties in any capacity with any employer participating in the Employees' Retirement System of Alabama without suspension of his or her retirement allowance provided that (1) the person is not employed in a permanent full-time capacity, (2) the person's compensation from the employer in a calendar year does not exceed the maximum allowable by state law (§36-27-8.2) and applicable regulations and policies established by the Retirement Systems of Alabama (RSA) and (3) the retiree is not subject to the "Revolving Door Provision" of the state ethics law (§36-25-13, 1975). During the year in which retirement is effective, the retiree's monthly compensation may not exceed 1/12 of the annual maximum. Retirees who provide services to participating agencies on a contractual basis may be subject to the current earnings limitations. The appointing authority is responsible for compliance with these laws and regulations.

[1]In addition to retired merit system employees, retired employees may also include non-merit employees that have retired from the Teacher's Retirement System (TRS), the Judicial Retirement Fund (JRF), and the Employees' Retirement System (ERS).

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[*] Adopted 9/9/08 and revised 12/7/11

[1] Revised and adopted 12/17/13

[1]RULE VII, SECTION 17

[*]The Personnel Director will recommend and the Montgomery City-County Personnel Board will establish the pay rates for appointment of [1]retirees. The initial salary of a person appointed under this provision may not exceed the rate of pay or salary range earned in his/her last classified position prior to retirement. [1]Retirement dates and hourly equivalents of salary at the time of retirement for non-merit retirees will be verified via the Retirement Systems of Alabama. Assignment of the temporary position to a pay rate is based on the work assignments. The appointing authority will certify to the Personnel Director the type of work to be done. The retiree must be approved by the Personnel Director as qualified to perform the work. Retirees are paid only for hours worked which shall not exceed 39 hours in one week. They do not accrue leave; receive holiday pay or any other benefits of permanent employees.

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[*] Revised 9/9/08
[1] Adopted 12/17/13

RULE VIII – WORKING CONDITIONS AND GENERAL PERSONNEL PRACTICES

Section 1: Working Hours

The Director shall administer regulations for maintaining uniform and equitable hours of work required of all employees in the City and County Services and adopted by the Board. The number of hours any employee is required to be on duty each day or in any week or month shall be uniform for all whose positions are allocated to the same class, unless specifically provided otherwise by action of the Board, and recorded in the minutes, together with its reason for each exception; but the hours for different classes may be different.

Section 2: Overtime

Employees shall work over the stipulated hours whenever necessity demands additional services of an occasional nature including time spent in required attendance at court. Rules governing such work are based on Alabama Law (*Act No. 2280, Regular Session 1971; Act No. 167 Third Special Session 1971; Act No. 96-664 [Ala. Code § 36-21-4.1]*) and federal law (*the Fair Labor Standards Act 29 U.S.C.§ 201 et seq.*)

(a) Compensation for Overtime:

(1) All employees shall, at a minimum, be given equivalent time off for overtime worked or be paid overtime on a straight time basis. Act 167 provides that "over-time work shall be any work performed over forty (40) hours per week, on holidays and beyond the normal tour of duty, including any time spent in required attendance at court, when the time of such attendance is not within the normal tour of duty."

(2) Employees covered by the Fair Labor Standards Act (the "Act") shall be given compensatory time at a rate of time and a half or be paid overtime at a time and a half rate. The Act defines overtime as any time actually worked over 40 hours in a 7-day work week or, for public safety employees who may be assigned to a work period of up to 28 days, any time actually worked over 171 hours in 28 day work period (or 86 hours in a 14 day work period) for employees in law enforcement activities (including security personnel in correctional institutions) as defined under the Act and its regulations and any time actually worked over 212 hours in a 28 day work period for firefighters. (*29 U.S.C. § 207(k); 29 C.F.R. § 553.200, et seq.; Ala. Code § 36-21-4.1 (1996)*)

(3) Non-elected law enforcement employees in the service of Montgomery County shall be compensated according to the standards and guidelines established by the Act and its regulations. *Ala. Code §36-21-4.1*

(4) The employee has the sole option, by stating in writing, prior to the time that overtime work is performed of either accepting overtime pay or compensatory time.

(b) [*]Accumulation of Compensatory Time:

(1) City, County, and Airport employees who are covered by Act No. 167 Third Special Session 1971 but who are exempt from Fair Labor Standards Act may accumulate compensatory time for all overtime worked and may carry over 20 days of compensatory time at the end of any fiscal year, plus any accumulation earned prior to January 31, 1972. Non-elected law enforcement employees in the service of Montgomery County are not covered by Act 167.

(2) City, County, and Airport employees covered by the Fair Labor Standards Act may accrue up to 240 hours of compensatory time, and City, County and Airport public safety employees may accrue up to 480 hours of compensatory time.

(3) Employees covered by the Fair Labor Standards Act who have accrued the maximum number of hours must be paid for all additional overtime until the accumulation is reduced by taking compensatory leave.

(c) Control and Use of Compensatory Time:

(1) An employer must honor an employee's request to use compensatory time within a "reasonable period" of time following the request so long as the use of the compensatory time would not "unduly disrupt" the employer's operations.

(2) An employer may ask an employee to voluntarily take compensatory time off, and if the employee refuses, the employer may order the employee to use compensatory time at specified times.

[*] Revised 1/24/12

(3) An employer may, at any time, cancel or "cash out" accrued time by paying the employee cash compensation for unused compensatory time.

(4) At the time of separation, employees shall be paid in cash at their final regular rate of pay for any unused accumulation of compensatory time.

Section 3: Legal Holidays

(a) Pursuant to Acts 88-625 and 2007-268 of the Alabama legislature, employees observe the same holidays as federal employees as determined by Federal statute or Executive Order (see list below). Holidays falling on Sunday are generally observed on the following Monday and holidays falling on Saturday are generally observed on the preceding Friday. If there are more state holidays than federal holidays (i.e. Confederate Memorial Day, Jefferson Davis' Birthday and any other days designated by the governor or the legislature as State-wide holidays), classified employees will receive personal leave days in lieu of the excess state holidays. [*]Employees may, with the approval of the Appointing Authority, elect to observe the State Holiday and will be charged with a personal leave day. Employees who choose to work or who are required to work on the State holiday accrue a personal leave day. Personal leave days accrue on the date of the state holiday for which it is given. The personal leave day may be used as requested by the employee and approved by the appointing authority. City and Airport Authority employees must use personal leave days in the fiscal year they are accrued. County employees must use personal leave days within the calendar year. [†]Employees must be paid for personal leave time that has not been used by the end of the year or at the time of separation.

New Year's Day	January 1
Martin Luther King's Birthday	3rd Monday in January
George Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Columbus Day	2nd Monday in October
Veterans' Day	November 11
Thanksgiving Day	4th Thursday in November
Christmas Day	December 25

[*] Revised 5/13/09
[†] Revised 8/27/08

RULE VIII, SECTION 3

(b) When work on a Legal Holiday becomes necessary, rules for overtime shall apply.

(c) Employees whose scheduled off day falls on a holiday observed by general classified employees shall be given equivalent time off or be paid overtime on a straight time basis. The appointing authority shall determine whether to grant overtime pay or compensatory time off for those employees who have a scheduled off day falling on a holiday. In the event an employee is called upon to work and does work on a scheduled off day which falls on a holiday, such employee shall be paid for such work according to applicable overtime rules in addition to receiving pay for the holiday or compensatory time off at the election of the appointing authority.

(d) Non-elected law enforcement officers in the service of the county whose scheduled off day falls on a holiday observed by general classified employees shall be given equivalent time off or paid holiday pay on a straight time basis. If the employee is scheduled to work on the holiday the employee shall be paid for the hours worked and will receive additional holiday pay or time off on a straight time basis. The appointing authority shall determine whether to grant holiday pay or equivalent time off. This holiday pay or equivalent time off is computed independently of any overtime pay or compensatory time computed under Section 2(a)(3) of this rule.

(e) Employees working an average of 56 hours per week shall be credited with 11.2 hours holiday time for each holiday observed by general classified employees.

(f) [*]Employees must be in pay status immediately before and after a holiday in order to be paid for that holiday.

Employees must be in pay status before, after and the day of the state holiday which is not a city/county holiday in order to accrue a personal leave day.

[*] Revised 7/22/09

RULE VIII, SECTION 4

[*]Section 4: Annual Leave

(a) Each permanent, provisional and probationary employee in pay status shall earn annual leave according to the following schedule. Years of service for county employees means full-time classified employment beginning from the current employment date.

Years of Service	Hours Earned	Maximum Accumulation/ Carry Over / Pay Out
Fewer than 10		
40 hours biweekly	2	124 hours
80 hours biweekly	4	248 hours
112 hour biweekly	5.6	347.2 hours
10 but less than 15 years		
40 hours biweekly	2.5	137 hours
80 hours biweekly	5	274.4 hours
112 hour biweekly	7.1	384.2 hours
15 but less than 20 years		
40 hours biweekly	3	150 hours
80 hours biweekly	6	300 hours
112 hour biweekly	8.4	420 hours
20 years or more		
40 hours biweekly	3.5	163 hours
80 hours biweekly	7	326 hours
112 hour biweekly	9.9	456.4 hours

Annual leave may be used as earned, however, appointing authorities shall determine the time at which leave may be taken. Annual leave in any one year may be taken not in excess of the total amount of annual leave accrued. Regular days off which fall within the annual leave shall not be counted as annual leave.

Employees who accrue the maximum annual leave during the respective fiscal year or calendar year may continue to accrue hours at the appropriate hourly rate. Airport Authority employees may carry over annual leave at the end of their fiscal year. City of Montgomery**,** and Montgomery County employees may carry over annual leave to the beginning of the first full pay period of the new calendar year

[*] Revised 6/12/12

(b) Any permanent, provisional or probationary employee leaving service in good standing shall be compensated for earned annual leave up to the maximum designated for the years of service. [*]Employees who are "laid off" and who do not have sufficient notice or time to use excess accrued annual leave will be paid for all accrued annual leave. Employees on leave immediately preceding or pending resignation or retirement do not accrue leave. [†]An employee who accepts a position with another City-County Merit System agency shall have the option of requesting the leave pay out be made directly to the new agency for the purpose of transferring the leave.

(c) School Patrol Officers shall receive the same annual leave that is awarded public school teachers in the Montgomery school system. They shall not be eligible to take annual leave at any time other than the regular holidays which are granted public school teachers.

[‡]Section 5: Sick Leave

(a) Each permanent, provisional or probationary employee in pay status shall earn sick leave according to the following schedule:

30 hours biweekly	1.5 hours per pay period
40 hours biweekly	2 hours per pay period
80 hours biweekly	4 hours per pay period
112 hours biweekly	5.6 hours per pay period

(b) Sick leave shall be computed as earned but may not be accumulated in excess of 960 hours for regular full time employees who work 80 hours biweekly; employees who work 30 hours biweekly may accrue 360 hours; employees working 40 hours biweekly may accrue 480 hours; and 56 hour employees may accrue 1344 hours, providing a maximum of 120 working days of accumulated sick leave for each group of employees. Regular days off occurring during sick leave will not be charged as sick leave.

[*] Revised 10/28/09
[†] Revised 8/27/08
[‡] Revised 6/12/12

RULE VIII, SECTION 5

(c) [*]Sick leave is not a right for which employees may make demand, but a privilege granted in accordance with prescribed rules and regulations. Sick leave may be granted only for absence due to personal illness, maternity, legal quarantine, attendance upon members of the immediate family whose illness requires the care of the employee, or death in the immediate family of the employee. Immediate family is hereby defined to include spouse *(including common law), children, parents, grandparents, parents-in-law, and siblings. In order to qualify for the Basic Leave Entitlement of the FMLA, a child must be under the age of 18, or if 18 or older, incapable of self-care due to a mental or physical disability. Grandparents, parents-in-law and siblings are typically not covered under FMLA.

Unusually strong ties with other relatives may be recognized for leave purposes upon written justification by the employee and approval of the appointing authority. An employee must provide the Appointing Authority with evidence of a common law marriage as set forth in Alabama law. A common law marriage may only be terminated by death or divorce.

(d) An employee claiming sick leave may be required by the appointing authority to file a certificate from a physician stating that the employee was unable to work for the period of the absence, or that the employee is physically unable to perform the duties of his/her position, or that the employee has no contagious disease that might jeopardize the health of other employees, or that the employee is required to provide care of an ill family member. Accordingly, [†]unless the employee has requested FMLA leave, there are only two medical inquiries that the employer may make in connection with a request for sick leave.

A medical inquiry may be made to determine whether or not the employee is still able to perform the essential functions of the employee's job and to determine whether or not the employee will pose a direct threat to health and safety in the workplace due to the employee's medical condition.

[*] Revised 6/12/12
[†] Revised 1/13/10

RULE VIII, SECTION 5

(e) Sick Leave Bank - Where an employee, employee's spouse or dependent minor child suffers extended illness or disability lasting more than six (6) months, upon the recommendation of the appointing authority, the Personnel Board may approve the transfer of a specified number of unused sick leave days (within the maximum accrued) from one employee to another employee of equal or lower classification:

Provided that [*] all other available leave has been used, and such requests are:

(1) Made in writing
(2) Justified by catastrophic circumstances
(3) Recommended by the appointing authority
(4) Acted upon prior to leave being used

[†]Donated leave will be transferred to the sick leave bank as needed. The employee to whom leave is donated will not be paid for any unused leave upon separation.

(f) [‡§]Any permanent, provisional or probationary employee leaving the service in good standing shall be compensated for one-half (l/2) sick leave accrued to the date of separation, not to exceed 360 paid hours for 40 hour employees and 495 hours for 56 hour employees. No leave is accrued after effective date of resignation, dismissal or retirement. Employees on leave immediately preceding or pending resignation or retirement do not accrue leave. Employees may not transfer sick leave from one merit system agency to another.

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[*] Revised 1/13/10
[†] Revised 1/13/10
[‡] Revised 6/12/12
[§] Revised 8/27/08

RULE VIII, SECTION 6

*Section 6: Family and Medical Leave of Absence

(a) Basic Leave Entitlement - The Family and Medical Leave Act of 1993, as amended, (FMLA) requires covered employers to provide up to 12 workweeks of unpaid, job-protected leave to eligible employees for *any one or a combination of* the following reasons:

(1) for incapacity due to pregnancy, prenatal medical care or child birth;
(2) to care for the employee's child after birth or placement for adoption or foster care;
(3) to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
(4) for a serious health condition that makes the employee unable to perform the employee's job.

Employees may take up to 12 workweeks of leave within a 12 month period, measured forward from the first day FMLA leave is used, for a serious illness or injury.

(b) Eligibility Requirements - Employees are eligible if they have worked for a covered employer

(1) for a total of 12 months (need not be consecutive), **and**
(2) have physically worked for at least 1,250 work hours in the previous twelve (12) month period measured backwards from the date the leave begins.
(3) at a location where at least 50 employees are employed by the employer within 75 miles.

Note: Time spent on paid or unpaid leave, including FMLA, does not count towards the 1,250 hours worked during the previous 12-month period to establish eligibility for future leave.

* Revised 8/23/11

RULE VIII, SECTION 6

(c) Definition of a Serious Health Condition - A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

(1) any period of incapacity or treatment connected with an overnight stay in a medical care facility.

(2) continuing treatment by a health care provider for a condition which involves any period of incapacity due to:

A. a health condition lasting more than 3 consecutive, full calendar days <u>and</u>

B. two visits to a health care provider within 30 days of the onset of the condition; *or*

C. one visit and a regimen of continuing treatment (other than over the counter medication) under the supervision of a health care provider. The first (or only) in person treatment visit must take place within seven (7) days of the first day of incapacity.

(3) Incapacity due to pregnancy, child birth, or for prenatal care.

(4) Incapacity due to a chronic serious health condition which requires at least two visits per year for treatment, continues over an extended period of time including recurring episodes of a single underlying condition, and may cause sporadic rather than a continuous period of incapacity, such as asthma, migraine headaches, diabetes or epilepsy.

(5) Other conditions may meet the definition of continuing treatment (such as prenatal care) if the employee is under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Medical intervention may not be needed during the specific absence for an employee who is under medical care for pregnancy or a chronic, long term or permanent condition for which treatment may not be effective, and the absence does not have to last for three or more days.

RULE VIII, SECTION 6

(d) Use of Leave

(1) An employee does not need to use this leave entitlement in one block. Leave may be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis (see *Military Family Leave Entitlements)*.

(e) Substitution of Paid Leave for Unpaid Leave - All accrued paid annual, personal, compensatory and sick leave, pursuant to rules for the use of sick leave, must be exhausted against FMLA for any part of the twelve (12) or twenty-six (26) weeks of leave to which the employee may be entitled under FMLA before being placed on Leave Without Pay (LWOP). The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leave and the paid time will run concurrently with an employee's FMLA entitlement. The employer may designate the leave as FMLA leave even if the employee does not want the leave counted as such (29 CFR 825.207(a) and DOL Administrative Ruling FMLA-68).

Employees must use paid leave for FMLA leave, and employees must comply with the employer's normal paid leave policies provided those policies are applied consistently to all employees. For example, sick leave may only be used for illness, such as for the birth mother while under a doctor's care. After she is released to return to work, any additional paid leave used to care for the healthy child (by the mother or father) must be personal, compensatory or annual leave for the balance of the 12 weeks.

(f) Employee Responsibilities - Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures, including a requirement to report periodically his/her status and intention to return to work. An employee has an obligation to respond to an employer's questions designed to determine whether an absence is potentially FMLA-qualifying. Failure to respond to reasonable employer inquiries regarding the leave request may result in denial of FMLA protection and paid leave if the employer is unable to determine whether the leave is FMLA qualifying. Calling in "sick" without providing the reasons for the needed leave will not be sufficient. Sufficient information may include:

(1) that the employee is unable to perform the job functions
(2) the family member is unable to perform daily activities
(3) the need for hospitalization or continuing treatment by a health care provider
(4) or circumstances supporting the need for military family leave.

(g) Employer Responsibilities - Covered employers must inform employees within 5 days of the employee requesting leave or when the employer acquires knowledge that the employee's leave may be for an FMLA-qualifying reason whether they are eligible under FMLA. If they are, the notice must specify any additional information required including any requirement to furnish a certification and the consequences of not doing so, as well as the employee's rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility. Employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement.

The employer may retroactively designate leave as FMLA leave with appropriate written notice to the employee provided the employer's failure to designate leave as FMLA-qualifying at an earlier date did not cause harm or injury to the employee. In all cases where leave qualifies for FMLA protection, the employer and employee can mutually agree that leave be retroactively designated as FMLA leave.

Whenever the employer deems it appropriate to do so, it may waive its right to receive timely, complete and/or sufficient FMLA medical certification. For example, if the employer receives information that the employee is in the hospital due to a heart attack, the employer should notify the employee in writing that he/she has been placed on FMLA leave.

The employer is responsible in all circumstances for designating leave as FMLA-qualifying, and for giving notice of the designation to the employee. When the employer has enough information to determine whether the leave is being taken for an FMLA-qualifying reason (e.g. after receiving a certification), the employer must notify the employee whether the leave will be designated and will be counted as FMLA leave within five business days absent extenuating circumstances (29 CFR 825.300(d)). Once the employer has acquired knowledge that the leave is being taken for a FMLA-qualifying reason, the employer must notify the employee as provided in 29 CFR 825.300(d).

(h) Military Family Leave Entitlements

(1) *Qualifying Exigency (QE) - Eligible employees with a spouse, son, daughter or parent in the Armed Forces, including National Guard or Reserves, on covered active duty or call to covered active duty status, i.e. deployment to a foreign country (by order of the President), may use their basic 12-week leave entitlement to address certain qualifying exigencies, such as: short-notice deployment, military-sponsored events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, parental care, post-deployment activities and other activities that may arise.

(2) Military Caregiver Leave - FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member (i.e. one who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that occurred in the line of duty on active duty) during a single 12-month period if the employee is the spouse, son, daughter, parent or next of kin (nearest blood relative) of the covered service member. This leave also applies to a covered veteran.

(3) An eligible employee is entitled to a combined total of 26 workweeks of leave for any FMLA-qualifying event during the single 12-month period, provided that the employee is entitled to no more than 12 weeks of leave for one of the reasons listed under "Basic Leave Entitlement" or because of a qualifying exigency.

(i) Recordkeeping Requirements - All medical information, regardless of the reason it was collected, must be treated as confidential. Medical records should be maintained separately from other personnel records. Supervisors and managers may be informed regarding necessary restrictions and/or accommodations for an employee as needed.

(j) Employment Restoration**:** Any eligible employee who takes leave for a purpose intended by the law will be entitled upon return from such leave to be restored to the same position of employment as held when the leave began, or to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment, unless the employee would otherwise be dismissed or terminated from employment.

(k) Unlawful Acts by Employers - FMLA makes it unlawful for any employer to interfere with, restrain or deny the exercise of any right provided under FMLA. It is also unlawful for an employer to discharge or discriminate against any person for opposing any practice made unlawful by FMLA, or for involvement in any proceeding under or related to FMLA.

(l) Problem Resolution - Any employee who thinks they have been treated unfairly should seek administrative remedies within the department and if that is not possible or if for any reason the problem cannot be resolved at the administrative level, the employee should contact the City-County Personnel Department. An employee may also file a complaint with the U. S. Department of Labor or may bring a private lawsuit against an employer.

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[*] Revised 3/1/13

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RULE VIII, SECTION 7

Section 7: Military Leave

(a) All officers and employees of the State of Alabama, or of any county, municipality or other agency or political subdivision thereof, or officers or employees of any public or private business or industry who are active members of the Alabama National Guard, Naval Militia or the Alabama State Guard organized in lieu of the National Guard, or any other reserve component of the armed forces of the United States, shall be entitled to military leave of absence from their respective civil duties and occupations on all days that they are engaged in field or coast defense or other training or on other service ordered under the National Defense Act, or of the federal laws governing the United States Reserves, without loss of pay, time, efficiency rating, annual vacation or sick leave. Notwithstanding the foregoing, no person granted a leave of absence with pay shall be paid for more than one hundred sixty-eight (168) working hours per calendar year, and those persons shall be entitled in addition thereto to be paid for not more than one hundred sixty-eight (168) working hours at any one time while called by the governor to duty in the active service of the state. This section shall apply to all schools and institutions of learning supported by state funds.

(b) Credit for active federal service - Service in the National Guard or Naval Militia of Alabama, when called, drafted or ordered into the service of the United States, shall be considered as equivalent service in the Alabama National Guard or Naval Militia for any and all state purposes regarding privileges, honors, pay, allowances and exemptions provided by law for members of the National Guard and Naval Militia of Alabama. Code of Alabama 1975, Section 31-2-13.

RULE VIII, SECTION 8

Section 8: Worker's Compensation

(a) Local government employees are entitled to the protections of the Worker's Compensation Act (WCA). The Act provides protection to those workers who are injured on the job. If an employee is released by the employee's physician or other medical professional to return to work prior to full recovery, modified duty is permitted if there is temporary, meaningful work for the employee to perform. Employers are not required to create modified duty positions. Modified duty assignments are to be evaluated every six months.

(b) [*]Upon certification to the Personnel Director by the appointing authority that an employee is absent from duty because of bodily injury or occupational illness incurred in line of duty benefits are provided in accordance with Alabama Worker's Compensation Law, Title 25, Chapter 5, Code of Alabama 1975, as amended 1981.

(c) [†]Worker's Compensation Leave that is deemed to be a serious health condition, according to the Family and Medical Leave Act (FMLA), will run concurrently with FMLA leave. However, modified duty is provided only to those employees on Worker's Compensation Leave. Employees who are on FMLA leave only may not be required to accept a modified duty assignment.

[*] Formerly Section 6(a), moved 8/23/11
[†] Revised 8/23/11

RULE VIII, SECTION 9

Section 9: Other Leave With Pay

(a) *Leave with pay may be authorized by appointing authorities during official investigation by appointing authorities, pending pre-termination hearings as defined by federal law, or for the attendance by employees of official meetings, or for attendance by subpoena at Federal, State, or Municipal Court for other than personal matters, or to attend authorized training or education courses, or for other just cause provided such leave is reported to the Personnel Director.

(b) Leave with pay may be granted for hazardous weather conditions or other emergency events only when all local non-essential employees have been advised, for safety reasons, not to report to work. It is the responsibility of the employee to contact the employee's supervisor, assistant department head, department head, department, or anyone designated by the appointing authority, prior to the time the employee is to report to work, to determine whether they are to report for work. If the department is open for business, and the employee does not report to work, the employee will be charged annual leave. If the employee has no annual leave, the employee may be charged compensatory leave or placed on leave without pay.

(c) †An employee who receives a summons to report for jury duty shall, on the next working day, show the summons to his/her immediate supervisor. The employee shall be excused from work for the day or days required of him or her in serving as a juror. The employee shall be entitled to his/her usual compensation and will be placed on administrative leave with pay. The employee will inform his/her supervisor of any postponement, excusal or cancellation of jury service as soon as possible. The employee will return to work on his or her next regularly scheduled hour after being dismissed from any jury except that an employee who is scheduled to work a shift other than 8 to 5 may not be required to report to work or complete his/her shift after having served on a jury if he/she is required to report for jury duty the next day. (See Code of Alabama §12-16-8 and §12-16-8.1) The employee may be required to provide documentation of the hours of attendance in court.

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* Revised 3/25/09
† Revised 3/25/09

RULE VIII, SECTIONS 10, 11 & 12

Section 10: Leave Without Pay

(a) An employee may be granted leave without pay (LWOP) for a period not to exceed one year for sickness, disability, education, or other good and sufficient reasons which are considered to be in the best interest of the service upon the approval of the appointing authority and Personnel Director. Except for military leave, to be eligible for LWOP, an employee must have exhausted all annual and comp leave and, if the employee is sick, all sick leave. An employee may not be absent from work for a period exceeding one year, for any reason, except military leave and worker's compensation leave.

(b) An employee may, in addition, be involuntarily and immediately placed on leave without pay by the appointing authority upon the employee's arrest for, whether by indictment, complaint, or otherwise, or upon admission by an employee of any felony, or a misdemeanor (other than routine traffic violations) alleged to have occurred on the job or which materially and directly impairs the employee's ability to perform his assigned duties, for a reasonable time, not to exceed fifteen (15) [*]working days, pending investigation and the giving of a pre-deprivation hearing in compliance with federal law. If following the pre-deprivation hearing, the appointing authority imposes no discipline, the employee shall be given full back pay and benefits.

(c) [†]If an employee does not follow established procedures to obtain approval to be absent from work for any reason, the appointing authority may place the employee on Unauthorized Leave Without Pay for the period of absence. Unauthorized or unreported absence from work for a period of three days or more may be considered by the appointing authority as a resignation pursuant to Rule X, Section 1 (b).

Section 11: Absence Reports

Administrative officers shall make reports to the Personnel Director of all absences of each employee during such payroll period.

Section 12: Service Rating

The Personnel Director may prescribe a form for the service rating of employees by administrative officers. Service ratings may be considered in determining salary adjustments within designated salary ranges, as a factor in the order of layoffs, and rating of employees for promotional purposes.

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[*] Revised 9/14/10
[†] Revised 8/27/08

RULE IX – RIGHTS OF REVIEW AND APPEAL*

†Section 1: Conditions of Employment

A permanent employee may submit at any time a written statement to the head of the department regarding any situation related to employment status or condition of employment. The department head and appointing authority shall give the employee full opportunity to present views and shall take such action as deemed proper. If the employee desires, a written request for a review by the Personnel Board of the questions relating to employment may be made except in instances where the right of appeal is prohibited by Act 2280. The Personnel Board shall have investigated such requests and if required or requested hold an informal hearing within twenty (20) calendar days after the request on such questions. Within ten (10) calendar days after concluding the hearing, the Personnel Board shall certify its findings and order to the authority from whose action the appeal was taken. Such official shall then affirm, revoke or modify the action taken so as to conform with the findings and order of the Board. The findings and order of the Personnel Board shall be final and conclusive.

Section 2: Pre-determination Hearing

A permanent employee is entitled to a hearing before the appointing authority, or the appointing authority's designee**,** prior to his demotion, dismissal or suspension as to any charges which might cause the employee to be dismissed, demoted, or suspended. No merit system employee can be demoted, dismissed or suspended "for cause" by any appointing authority unless and until such employee has been given written notice, setting forth with particularity the charges against him/her and an opportunity to be heard prior to demotion, dismissal, or suspension. Copies of the written charges, notice of the hearing and notice of the action taken shall be furnished to the Personnel Director.

‡Section 3: Personnel Board Hearing

A permanent employee who has been dismissed, demoted, or who has received a suspension which is appealable under these Rules to the Personnel Board shall receive a written statement of the reasons for such action from the appointing authority within three (3) calendar days after the action is taken and within three (3) calendar days from the date of such notice may provide the appointing authority a written answer to the charges which formed the basis of the action. Copies of both statements shall be furnished to the Personnel Director. Within ten (10) calendar days from the time for answering, or if no answer is filed within ten (10) calendar days after the action taken, such employee may file a written request with the Personnel Director for a hearing before the Personnel Board. The Board shall conduct a hearing within twenty (20) calendar days which shall be informal and in accordance with procedures established by the Board. Within ten (10) calendar days after

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* Revised 1/13/10
† Revised 9/14/10
‡ Revised 9/14/10

concluding the hearing, the Personnel Board shall certify its findings and order to the authority from whose action the appeal was taken. Such official shall then affirm, revoke or modify the action taken so as to conform with the findings and order of the Board. The findings and order of the Personnel Board shall be final and conclusive.

RULE X – SEPARATIONS AND DISCIPLINARY ACTION

[*]Section 1: Resignation

(a) Any employee wishing to leave the classified service in good standing shall file with the appointing authority, at least one week before leaving, a written resignation stating the effective date of the resignation and the reason for leaving. Such notice shall be promptly reported to the Personnel Director. The number of calendar days less than seven (7) given as notice of resignation may be subtracted from accrued vacation leave and failure to comply with the procedures may be the cause for denying the person future employment.

(b) [2] Unreported absence from work for a period of three (3) working days or more may be considered by the appointing authority as a voluntary resignation. Written notice must be sent to the employee on the fourth day, or as soon as possible following the absence.

Section 2: Demotion

An appointing authority may demote an employee for inefficient performance of duties, for disciplinary reasons or for other good cause to a classification with a lower maximum salary range. [†]See Rule IX, Section 2: Pre-Determination Hearing. Removal from Special Duty Assignment Pay designated in the pay plan as such, including but not limited to removal from assignments as [‡]Shift Differential and Motor Pay in the Police Department, and Fire Medic Pay in the Fire Department, for other than reasons for which one could be demoted, is not a demotion.

[§]Section 3: Suspension

(a) [1]An appointing authority may suspend an employee without pay for cause. Suspensions in excess of thirty (30) calendar days cumulatively in any fiscal year may be appealed by a permanent employee to the Personnel Board. Suspensions of thirty (30) calendar days or less cumulatively in any fiscal year may not be appealed to the Personnel Board except as they are provided for in Personnel Rules and Regulations, Rule VII, Sections 14 or 15. See Rule IX, Section 2: Pre-Determination Hearing.

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[*] Revised 9/14/10
[†] Revised 1/13/10
[‡] Revised 1/13/10
[§] Revised 1/13/10
[1] Revised 6/12 /12
[2] Revised 3/25/14

(b) Special rules apply to employees who are classified as exempt under the Fair Labor Standards Act. Disciplinary deductions may be made from the wages of those employees, without loss of exempt status, for:

(1) Partial day deductions or more for a violation of a safety rule of major significance, which involves the prevention of danger to the plant or other employees.

(2) Full day deductions or more for violations of workplace conduct rules provided that the policy:

A. Covers serious workplace misconduct (not performance or attendance).

B. Is written.

C. States that violations could result in unpaid disciplinary suspension.

D. Applies to all employees.

(3) Suspensions for other violations must be for a full work week.

Section 4: Dismissal

Any permanent employee may be dismissed by an appointing authority for cause. [*]See Rule IX, Section 2: Pre-determination Hearing.

Section 5: Position Abolishment

Whenever in the judgment of the governing body of the county or municipality or any elected county official it becomes necessary in the interest of the economy or because the necessity for any position in its or his department no longer exists, it or he may abolish any position or employment in the competitive service and layoff the employee holding such position or employment without filing written charges and without the right of appeal. The name of such an employee so laid off shall be placed at the top of the appropriate employment list or lists as provided by the rules. (See Rule X, Section 6)

[*] Revised 1/13/10

RULE X, SECTIONS 6 & 7

Section 6: Layoff

An appointing authority may lay off any employee in the classified service when it is necessary by reason of shortage of funds or work, or changes in organization. No permanent employee shall be laid off while there are temporary, emergency or probationary employees serving in the same class of employment within the same department. A person with seniority over another employee may not be laid off first unless such services are inferior to those of other employees in the same class ^and the inferior performance has been documented. [*]For purposes of lay off, seniority means the total time of service in the agency affected by the lay off less any break in service not covered by approved leave of absence with or without pay. If two or more employees in the same classification and department have equal seniority, the employee with the longest time of service in the classification will have preference. The names of employees laid off shall be certified on the appropriate classification's re-employment list for a period of two (2) years. No one else may be appointed in that class in the department concerned while the name of any "laid off" employee remains on the re-employment register during the two year period. ^ The names of the employees can remain on the re-employment list after two (2) years; however, their names will only be certified when a hiring authority requests a re-employment list.

[†]Section 7: Furlough

(a) An appointing authority may implement a furlough by temporarily reducing the hours of work of a class of employees within a department due to budgetary constraints whereby revenue is not available to meet the obligations of a department and other means of reducing costs have been exhausted. The Personnel Director must approve the reduction in pay of any employee.

(b) The furlough is limited to a maximum of one (1) unpaid regularly scheduled work day per pay period for a maximum of 26 days per fiscal year and may be less than one day per pay period depending on the financial needs of the department. The appointing authority may implement the furlough in hourly increments as long as the reduction does not exceed one (1) day per pay period. The furlough may be implemented department-wide, by classification or by classification series.

(c) An employee may volunteer for furlough but the appointing authority may accept or reject the employee's request. An employee may not use leave in lieu of the scheduled furlough. Employees who are placed on furlough shall be considered in full pay status for benefit purposes, including leave accrual and seniority.

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[*] Revised 3/25/09
[†] Revised 3/25/09
[^] Revised 7/23/13

(d) If the employee is required to work on a designated furlough day, the employee must take another day off. The status of an exempt employee will become non-exempt for any week in which his/her pay is reduced due to a furlough.

RULE XI – PROHIBITIONS OF POLITICAL ACTIVITY

Laws governing political activity of public officials and employees are found in Act 2280, Sections 13 and 14, and in Act 83-497, 1983 Regular Session, which is also known as the Equality of Citizenship Act.

(a) As provided in Act 2280 the following prohibitions apply:

(1) City officials and employees, including employees of certain Authorities or Boards of the city who are covered by the merit system act shall not:

A. seek or accept election, nomination or appointment as an officer, or serve as a member of a committee of any municipal political club or organization.
B. take an active part in, or make any contribution or donation to any municipal political campaign.
C. seek signatures to any petition provided for by any municipal election law.
D. act as a worker at the polls for a municipal election.
E. distribute badges, pamphlets, dodgers or hand bills of any kind favoring or opposing any candidate for municipal election.

(2) County officers and employees shall not:

A. seek or accept election, nomination or appointment as an officer or serve as a member of a committee of any county political club or organization.
B. take an active part in, or make any contribution or donation to any county political campaign.
C. seek signatures to any petition provided for by any county election law.
D. act as a worker at the polls for a county election.
E. distribute badges, pamphlets, dodgers or hand bills of any kind favoring or opposing any candidate for county elections.

(3) All such officers and employees may:

A. become or continue to be a member of a political club or organization.
B. attend political meetings.
C. enjoy freedom from all interference in casting his vote.
D. seek or accept election to a public office.

(b) Section 17-1-7, Code of Alabama, as amended by Act 83-497, (Regular Session 1983) is as follows:

Section 1. This act shall be known as the Equality of Citizenship Act

Section 2. Sections 17-1-7 and 36-26-38, Code of Alabama 1975, are amended to read as follows:

A.

(1) No person in the employment of any city, whether classified or unclassified, shall be denied the right to participate in city, county or state political activities to the same extent as another citizen of the State of Alabama, including endorsing candidates and contributing to campaigns of his or her choosing.
(2) No person in the employment of any county, whether classified or unclassified, shall be denied the right to participate in city, county, or state political activities to the same extent as any other citizen of the State of Alabama, including endorsing candidates and contributing to campaigns of his or her choosing.
(3) No person in the employment of the State of Alabama whether classified or unclassified, shall be denied the right to participate in city, county, or state political activities to the same extent as any other citizen of the State of Alabama, including endorsing candidates and contributing to campaigns of his or her choosing. Notwithstanding the foregoing, any person within the classified service shall comply with, Section 36-26-38.
(4) All persons in the employment of any city, county, or state shall have the right to join local political clubs and organizations, and state or national political parties.

(5) All persons in the employment of any city, county, or state shall have the same right to publicly support issues of public welfare, circulate petitions calling for or in support of referendums, and contribute freely to those of his or her choosing.

B. No person shall attempt to use his or her official authority or position for the purpose of influencing the vote or political action of any person. Any person who violates this subsection (B) shall be guilty of a felony and punishable by a fine not to exceed ten thousand dollars ($10,000) or imprisonment in the state penitentiary for a period not to exceed two years, or both.

C. No person in the employment of the State of Alabama, a county, or a city whether classified or unclassified, shall use any state, county, or city funds, property or time, for any political activities. Any person who is in the employment of the State of Alabama, a county, or a city shall be on approved leave to engage in political action or the person must be on personal time before or after work and on holidays. It shall be unlawful for any officer or employee to solicit any type of political campaign contributions from other employees who work for the officer or employee in a subordinate capacity. It shall also be unlawful for any officer or employee to coerce or attempt to coerce any subordinate employee to work in any capacity in any political campaign or cause. Any person who violates this section shall be guilty of the crime of trading in public office and upon conviction thereof, shall be fined or sentenced, or both, as provided by Section 13A-10-63.

D. Notwithstanding subsection (C), any employee of a county or a city, whether in the classified or unclassified service, who qualifies to seek a political office with the governmental entity with which he or she is employed, shall be required to take an unpaid leave of absence from his or her employment, or use accrued overtime leave, or use accrued vacation time with the county or city from the date he or she qualifies to run for office until the date on which the election results are certified or the employee is no longer a candidate or there are no other candidates on the ballot. For purposes of this subsection, the term "employing authority" means the County Commission for county employees or the City Council for city employees. Any employee who violates this subsection shall forfeit his or her employment position. In no event shall subsection (D) of this act apply to elected officials.

RULE XI

E. When off duty, out of uniform, and acting as a private citizen, no law enforcement officer, firefighter, or peace officer shall be prohibited from engaging in city, county, or state political activity or denied the right to refrain from engaging in political activity so long as there is compliance with this section.

PROCEDURE FOR CONDUCTING HEARINGS
MONTGOMERY CITY AND COUNTY PERSONNEL BOARD

On receiving a request for a hearing which complies with Personnel Rule VIII, Section 12, the Personnel Board shall determine whether a pre-conference hearing will be held or whether the Personnel Board will proceed immediately with a public hearing.

NOTICE

The Personnel Board shall set the matter for hearing and shall give notice in writing of the date and place of such hearing. In discharge or reduction hearings, similar notice shall be given to the department heads.

BOARD QUORUM

Two members of the Personnel Board constitute a quorum. Hearings will proceed with two members of the Board present except in instances where the Board may continue a hearing. In the event of a tie vote the matter will be rescheduled for hearing before the full Board.

RIGHTS OF EMPLOYEE

When a hearing is granted the employee shall attend, unless excused by the Personnel Board, and shall be entitled to:

a. Be represented by counsel or by a representative of the employee's choice;
b. Testify under oath;
c. Subpoena witnesses to testify for employee. If witnesses are to be subpoenaed by Personnel Board, the names must be submitted to the Personnel Director at least [*]three (3) business days prior to time set for hearing;
d. Cross-examine all witnesses appearing against employee;
e. Impeach any witness before the Personnel Board;
f. Present such affidavits, exhibits, and other evidence as the Personnel Board deems pertinent to the inquiry;
g. Argue employee's case.

The appointing authority shall be entitled to the same privileges.

[*] Revised 9/14/10

APPEARANCE OF EMPLOYEE

The appearance of the employee shall be required at all hearings unless excused by the Personnel Board.

Unexcused absence of the employee at such a hearing may, in the discretion of the Personnel Board, be deemed a withdrawal of the appeal.

DISCOVERY

Any party to any hearing conducted by the Personnel Board may subpoena records which are relevant to the matters which are the subject of any such hearing and which are reasonable with respect to the quantity of the documents and the time required to produce the documents. Notice of any request for a subpoena to produce documents should be given to the opposing party by the requesting party or, if the requesting party has failed to do so, by the Director of the Personnel Board. Any objections by any party to a request for a subpoena to produce documents shall be promptly filed in writing with the Personnel Board which will address and rule upon any such objection.

To the extent possible, documents subpoenaed prior to the date of any hearing should be produced prior to the date of the hearing. If no time is specified for the production of the documents, they may be produced at the hearing.

[*]Parties are to exchange witness lists and are to provide documents to be used at the hearing [†]at least three (3) business days in advance of the hearing.

EVIDENCE

Prior to the hearing and in order to expedite the hearing process, the parties shall confer in good faith for the purpose of stipulating to the uncontested facts. At the beginning of the hearing, the parties will be expected to submit their stipulation to the Board and/or report on their efforts to reach a stipulation. If no stipulation is reached prior to the hearing, the parties may be asked at the hearing to stipulate to uncontested facts.

The hearing shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules of privilege and of official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant and repetitious evidence shall be excluded. Oral evidence shall be taken only under oath or affirmation.

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[*] Revised 5/13/09
[†] Revised 9/14/10

EXCLUSION OF WITNESSES

The Personnel Board may at its discretion exclude witnesses not under examination, except that the employee and the agency representative may be present throughout the hearing and may testify. When hearing testimony of scandalous or indecent conduct, all persons not having a direct interest in the hearing may be excluded.

TESTIMONY OF EMPLOYEE

In discharge or reduction [*](demotion or suspension) hearings, the petitioning employee shall not be required to testify, but may be cross-examined as to any matter relevant to the hearing if the employee takes the stand voluntarily. In any other type of hearing the petitioner, if not testifying in own behalf, may be called and examined as if under cross-examination.

BURDEN OF PROOF

In discharge or reduction hearings, the burden of proof shall be on the appointing authority. In all other types of hearing the burden of proof shall be on the petitioner.

FINDINGS AND DECISIONS

Formal findings of fact are not required.

The Personnel Board may convene an executive session to deliberate and discuss evidence or testimony presented during the hearing. All media, members of the public and other interested parties are excluded from the executive session. At the conclusion of the executive session, the meeting will be adjourned, unless the Chairperson announces prior to the executive session that the meeting will be reconvened. The Board will issue its decision in writing and enter the same in its minutes.

Unless the decision provides otherwise, it shall be effective immediately. Notice of the decision shall be mailed promptly to the petitioner and to any interested party. Except for the correction of clerical error such decision shall be final and conclusive.

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[*] Revised 1/25/11

REPORT OF HEARINGS

[*]All due process hearings held by the Personnel Board will be recorded by a court reporter. The attorney for the Appointing Authority is responsible for securing the services of the court reporter. The record will not be transcribed except as requested by a party to the hearing who will be responsible for paying the fee for such transcription.

[1]CONTINUANCES

The Personnel Board may grant a continuance of any hearing upon such terms and conditions as it may deem proper; including in its discretion the condition that the employee shall be deemed to have waived salary for the period of the continuance. [1]Requests for a continuance must be made in writing no less than (1) business day prior to the time set for the hearing. The request should include the reason for the continuance request. The request may be denied unless good cause is shown for the continuance. The Board will issue a written notice regarding the status of the employee's request for a continuance. Upon the Board's written approval of the continuance, the employee has ten (10) calendar days to file a written request with the Personnel Department for a new hearing date. Upon the employee's request for a new hearing date, the Board shall conduct a hearing within twenty (20) calendar days.

[*] Revised 9/14/10
[1] Revised 3/25/14

Rules of Procedure
Montgomery City-County Personnel Board

I. Scope of Rules.

a. The following Rules of Procedures were duly adopted by the Montgomery City-County Personnel Board as required by the Alabama Open Meetings Act (Act 2005-40) and shall govern the conduct of the meetings of the Montgomery City-County Personnel Board beginning on the 1st day of October, 2005.

b. The following Rules of Procedure may be amended by affirmative vote of a majority of the members of the Board. Provided; however, such changes in the Rules of Procedure shall not take affect until the next regular meeting of the Board following the adoption of such change.

II. Access to Meeting Facilities.

a. Meetings Open to Public. All regular meetings of the Board shall be open to the public as required by the Alabama Open Meetings Act (Act 2005-40).

b. Accessibility. All regular meetings of the Board will be conducted in a building which is open to the public.

c. Signs, Placards, Banners. For public safety purposes, no signs or placards mounted on sticks, posts, poles or similar structures shall be allowed in Board meeting rooms. Other signs, placards, and banners shall not disrupt meetings or interfere with others' ability to observe the meeting.

d. For public safety purposes, the Board may establish rules for the removal of weapons from inside the meeting chamber.

e. [*]Notice. Notice of all regular meetings and hearings will be posted at least seven (7) calendar days prior to the meeting and/or hearing in the lobby of the Personnel Department. A preliminary agenda, if available, will be included in the notice, along with the date, time, and place of the meeting.

[*] Revised 9/14/10

III. Quorum.

a. Quorum. A majority of the members of the Board shall constitute a quorum. No ordinance, resolution, policy, or motion shall be voted on and approved by the Board unless a quorum is present in the meeting chamber while the vote is taken and the matter is approved by an affirmative vote of the majority of the members present and voting, unless otherwise required by Alabama law.

b. Remaining in the meeting. During a Board meeting, members should be present at all times unless an emergency or illness should occur. A member of the Board who leaves the meeting chamber shall not be included in the determination of quorum.

c. Abstaining from Voting. Any member of the Board who is present in the meeting chamber may, when he or she determines it to be necessary, abstain from voting or otherwise participating in the proceedings related to a particular matter. Such member who abstains but remains in the chamber shall be deemed to be present for the purpose of constituting a quorum but he or she shall not be deemed to be "present and voting" for the purpose of determining whether a motion has received an adequate number of affirmative votes for passage.

d. Loss of Quorum. In the event that a member departs a meeting prior to adjournment, and the departure causes a loss of quorum, no further official action may be taken until or unless a quorum is restored, except to vote on a motion to adjourn. If, after a reasonable time not to exceed 15 minutes, the Board still lacks a quorum of its members, the meeting shall be automatically adjourned.

e. Failure to Obtain Quorum. Should no quorum attend within 30 minutes after the time appointed for the beginning of the meeting of the Board, the Chair or the Vice Chair, or in their absence, another member, in order of seniority, shall announce that no quorum was present and that the meeting is cancelled. The names of the members present for the meeting shall be recorded in the minutes of the next meeting of the Board.

IV. Presiding Officer.

a. Chair. The Presiding Officer is the Chair of the Montgomery City-County Personnel Board. The Chair presides at all meetings of the Board. The Chair's responsibilities shall include, but not be solely limited to:

    1. Open the meeting, ascertain that a quorum is present at the appropriate time and call the meeting to order, if a quorum is present.
    2. Announce the business to come before the Board, in accordance with the prescribed order of business.
    3. Recognize all members, the Personnel Director, or others who seek the floor pursuant to these procedures. All questions and comments are to be directed through the Chair and restated by him or her. The Chair shall repeat every motion and state every question coming before the Board, call for the vote and announce the decision of the Board on all matters coming before it.
    4. Preserve decorum and order, and in case of disturbance or disorderly conduct in the Board chambers, may cause the same to be cleared or cause any disruptive individual to be removed.
    5. Call to order any member of the Board who violates any of these procedures.
    6. Expedite business in every way compatible with the rights of the members.
    7. Remain objective. The Chair must remain objective and may only make a motion, second a motion or vote as provided in these Rules of Procedures.
    8. Declare the meeting adjourned when the Board so votes, when a quorum is no longer present or at any time in the event of an emergency affecting the safety of those present.

b. Vice Chair. In the absence of the Chair or in the event of the Chair's inability to serve, the Vice Chair (or other member designated by local law) shall perform the duties and functions of the Chair until the Chair's return. The Board shall establish its own procedures for the election of a Vice Chair, provided that any such election of a new Vice Chair shall not take affect until the next regular meeting of the Board.

V. Order of Business.

a. Official Agenda. There shall be an official agenda for every meeting of the Board, including special and emergency meetings. As required by Alabama law, the official agenda for special and emergency meetings shall include only those items necessitating the holding of the special or emergency meeting.

   The agenda for regularly-scheduled meetings shall identify the items to be considered and determine the order of business to be conducted at the meeting. All proceedings and the order of business at all meetings of the Board shall be conducted in accordance with the official agenda. This agenda shall be established prior to each meeting under procedures to be adopted by the Board. Such procedures may include the conducting of an "administrative" or "agenda-setting" meeting prior to the Board's regular meeting. These procedures may be amended or altered by the Board, but such changes shall not take effect until the next regularly-scheduled meeting of the Board.

b. Agenda Format for Regularly-Scheduled Meetings. The official agenda for a regularly-scheduled Board meeting shall be in substantially the form as set forth below:

   1. Call to Order, Welcome
   2. Public Comment from Citizens. Such comment shall be limited to 3-minutes per speaker and no more than two speakers may be heard on the same subject as provided elsewhere in the Rules of Procedure.
   3. Public Comment from Other Elected Officials.
   4. Call of Roll to Establish Quorum
   5. New Business
   6. Reports from Staff:
      Personnel Director
   7. Old Business
   8. Any Scheduled Public Hearings
   9. Discussion Items by Board members. Discussion items may only be acted upon by affirmative vote of all members in attendance.
   10. Adjourn

c. Consent Agenda. On the portion of the agenda designated as “Consent,” all items contained therein may be voted on with one motion. Consent items are only those items considered to be routine in nature, non-controversial and that do not deviate from past Board direction or policy. However, any member of the Board, including the Chair, may withdraw an item from the consent agenda, provided that such withdrawal is declared at least one (1) hour before the beginning time of the meeting. An item removed from the “Consent” agenda as provided herein shall be moved to the “New Business” portion of the agenda and it shall then be considered individually.

d. Public Comment from Citizens and Other Elected Officials. Citizens and other elected officials who wish to be heard by the Board shall be afforded such opportunity during the portion of the meeting so designated. The comment shall conform to the requirements of decorum and order that apply to the members of the Board and the Chair shall take whatever steps are necessary (including the removal of any citizen or other elected official) to preserve such decorum and order. Comments shall be addressed to the Board and shall not include any personal or other comments addressed at any member of the Board or Board employee. There shall be no debate and no action by the Board during this portion of the agenda.

e. New Business. New Business items are items of a general nature that require Board action or pertain to Board policy. Items of New Business that are neither approved nor defeated by action of the Board shall be considered under Old Business at the next regular meeting of the Board, unless tabled.

f. Reports from Staff. The senior staff members shall make reports to the Board as directed by the Chair or by majority vote. The Board may, by majority vote of those members in attendance at the meeting, take action on any items contained in the report of the staff members.

g. Old Business. Any item which was included on the “New Business” portion of the previous meeting, but was not approved, defeated or tabled by majority vote of the members of the Board present and voting. Motions postponed or carried over to a day certain shall be included on the agenda under “Old Business” on the next regular meeting following the conclusion of the time for which the motion was postponed or carried over.

h. Hearings conducted by the Board pursuant to Personnel Rule VIII, Section 12 will follow the attached *Procedure for Conducting Hearings* previously established by the Board.

i. The Board may conduct any public hearings during this portion of the meeting. Any notice required by law prior to the conduct of the public hearing shall be given by the Board.

   Individual speakers are required to adhere to a three (3) minute time limit when speaking on issues scheduled for public hearing. The Board may, by majority vote, either extend or reduce time limits, based on the number of speakers. The comment shall conform to the requirements of decorum and order that apply to the members of the Board and the Chair shall take whatever steps are necessary (including the removal of any citizen or other elected official) to preserve such decorum and order. Comments shall be addressed to the Board and shall not include any personal or other comments addressed at any member of the Board or Board employee.

j. The Board shall take no action on an item raised during this discussion portion of the agenda unless such is accomplished through a motion adopted by an affirmative vote of all members of the Board present at the meeting.

k. Departure from Order of Business. Any departure from the order of business set forth in the official agenda shall be made only upon affirmative vote of all the members of the Board present at the meeting.

l. Additions, Deletions, or Technical Corrections to Agenda. Deletions or technical corrections to the agenda may be considered by the Board and adopted by the passage of a single motion approved by majority vote of those members in attendance at the meeting. Additions to the agenda shall only be made by affirmative vote of all the members of the members present at the meeting.

m. Announcing Agenda Items. The Chair shall announce each item on the agenda. The Personnel Director or other appropriate staff member shall then be called to present the item to the Board, when appropriate.

VI. Rules of Debate.

a. Decorum.

1. Every member desiring to speak should address the Chair, and upon said recognition by the Chair, should confine discussion to the question under debate, avoiding all personalities and unprofessional language.
2. Board members shall refrain from: attacking a member's motives; speaking on a prior motion not pending; speaking while the Chair or other Board members are speaking; speaking against their own motions; and disturbing the Board.
3. A member once recognized should not be interrupted when speaking unless said member is being called to order. The member should then cease speaking until the question of order is determined, without debate, by the Chair. If in order, said member shall be at liberty to proceed.
4. A member shall be deemed to have yielded the floor when he or she has finished speaking. A member may claim the floor only when recognized by the Chair.

b. Motions

1. A motion and a second to the motion is to precede any action or debate on an agenda matter unless there are speakers (who are not members of the Board) to be heard on the agenda matter.
2. All motions shall be made and seconded before debate may proceed.
3. When a motion is presented and seconded, it is under consideration and no other motion shall be received thereafter, except motions to adjourn, to lay on the table, to postpone, to carry over, to substitute, or to amend which shall have preference in the order in which they are listed.
4. Motions to "lay on the table" are made to end debate on a matter and to "remove" it from consideration by the body. The adoption of a motion to "lay on the table" has the affect of defeating the original motion and that item shall not be considered again during the same meeting unless a motion to "reconsider" is adopted as provided herein.

5. Motions to “postpone” or “carry over” must be made by stating the date or time for which the item shall be postponed or carried over. Should such a motion be adopted, the matter will be back before the Board under “Old Business” at the first regular meeting of the Board following the expiration of the time for which it was postponed or carried over.
6. Motions to “substitute” or “amend” a motion are used to make changes or revisions in the original motion. Such motions are made only after the original motion has received a second but prior to the adoption of the original motion. If the motion to “substitute” or “amend” is approved, the Board then must the take a second vote to approve the motion “as substituted” or “as amended”, as the case may be.
7. Any Board member may move to close, or end, debate and “move the question” on the motion being considered. This motion to “move the question” shall be non-debatable. A successful vote on the motion to “move the question” will end discussion of the item and a vote on all pending motions shall be taken immediately without the offering of any other motions. The member moving the adoption of the original motion shall have the privilege of making closing remarks (of not more than one minute) before the vote on the motion to “move the question” is taken.
8. The following motions are not debatable and must be voted upon without debate: to adjourn; to lay on the table; and to move the question.

c. Motions to Amend

An amendment to a motion must be germane, that is, it must relate to the substance of the main motion. An amendment may not introduce an independent question, and an amendment may not serve as the equivalent of rejecting the original motion. A member may amend the main motion in either of the following two ways:

1. By Consent of the Members. The Chair, or another member through the Chair, may ask for certain changes to be made to the main motion. If there are no objections from the maker of the motion, the motion shall stand as amended.

2. Formal Amendment. An amendment may be presented formally by moving to amend the motion in some way. If it is in the form of a formal motion to amend, a second shall be required and discussion shall follow on the amendment. If an amendment passes, the main motion shall be the motion as amended. If it fails, the motion shall be the motion as it was before the amendment was presented.

d. Motions to Reconsider

1. A motion to reconsider any vote or proceeding of the Board may only be made and seconded by a Member who had previously voted on the prevailing side. Such motion must be made before the conclusion of the meeting during which the original motion was made and approved. A motion to reconsider must be adopted by a majority of those members of the Board present and voting.

VII. Voting.

a. Voice Vote; Secret Ballots. Unless otherwise directed by the Chair or requested by a member of the Board, all votes shall be taken by voice and the result shall be announced by the Chair, whose decision shall be final. Such ruling may not be appealed. No vote may be taken by secret or paper ballot.

b. Tabulating the Vote. Should a roll call vote be directed by the Chair or requested by a member of the Board, the person designated by the Chair shall call the members for the purpose of announcing his or her vote. The Chair shall announce the results. Upon any roll call, there shall be no discussion by any member after the roll call has begun.

c. Voting. Every member in the meeting room or chamber when the question is put must give his or her vote, unless the member has publicly stated that he or she is abstaining. The Chair shall only vote once on each motion and shall not cast an additional vote to make or break a tie vote.

d. Absent for Vote; Changing Vote. Any member absent for a vote on a particular item may record his or her vote, and any member may change his or her vote before the next item is called for consideration, or before a recess or adjournment is called, whichever occurs first, but not thereafter, except with the consent of all the members who voted thereon.

e. Majority Vote; Tie Vote. The passage of any motion, policy, or resolution shall require the affirmative vote of at least the majority of the members of the Board who are present and voting. In the case of a tie in votes on any proposal, the proposal fails.

VIII. Public Input: Addressing the Personnel Board.

a. Public Input. The Board recognizes the importance of allowing citizens, including other elected officials, to express their opinions on matters coming before the Board. The Board also recognizes the necessity for conducting orderly and efficient meetings in order to complete Board business in a timely manner. Public Input during the meeting, from both citizens and other elected officials, shall only be given during the time provided in the agenda and only within the procedures set out herein. Citizens or other elected officials shall not address the Board at any time other than as specifically provided in the agenda unless authorized by unanimous consent.

b. Procedure for Public Input

1. At regularly scheduled Board meetings, the Board provides comment periods for citizens and other elected officials to speak and to offer input and comments on items pending before the Board as well as items that are of concern to the public. The remarks of each speaker shall be limited to no more than three (3) minutes, unless the Chair extends the time, and no more than two (2) speakers may be heard on each subject unless authorized by affirmative vote of all members of the Board who are present.
2. A form will be provided for those citizens who wish to make comments. Each person wishing to speak must sign this form prior to the beginning of the Public Comment portion of the agenda.
3. Any citizens wishing to make written comments may provide those to the Personnel Director before the conclusion of the meeting. A copy of the written comments will then be provided to the members of the Board.

c. Addressing the Board.

1. When the person's name is called, the person shall step up to the speaker's lectern and shall give the following information in an audible tone of voice for the minutes:
   - name;
   - place of residence or business address;
   - if requested by the Chair, the person may be required to state whether the person speaks for a group of persons or a third party, if the person represents an organization, whether the view expressed by the person represents an established policy or position approved by the organization, and whether the person is being compensated by the organization.

2. All remarks shall be addressed to the Board as a body and not to any member thereof.
3. No person, other than a member of the Board, and the person having the floor, may be permitted to enter into any discussion, either directly or through a member of the Board, without permission of the Chair. No question may be asked except through the Chair.
4. Speakers should make their comments concise and to the point, and present any data or evidence they wish the Board to consider. No person may speak more than once on the same subject unless specifically granted permission by the Chair.

d. Decorum.

1. Order must be preserved. No person shall, by speech or otherwise, delay or interrupt the proceedings or the peace of the meeting, or disturb any person having the floor. No person shall refuse to obey the orders of the Chair or the Board. Any person making irrelevant, impertinent, or slanderous remarks or who becomes boisterous while addressing the Board shall not be considered orderly or decorous. Any person who becomes disorderly or who fails to confine remarks to the identified subject or business at hand shall be cautioned by the Chair and given the opportunity to conclude remarks on the subject in a decorous manner and within the designated time limit. Any person failing to comply as cautioned shall be barred from making any additional comments during the meeting by the Chair, unless permission to continue or again address the Board is granted by the majority of the members present.
2. If the Chair declares an individual out of order, he or she will be requested to relinquish the podium. If the person does not do so, he or she is subject to removal from the meeting room.
3. Any person who becomes disruptive or interferes with the orderly business of the Board may be removed from the meeting room for the remainder of the meeting.

IX. Executive Session.

The Board is authorized to enter into executive session as provided in The Alabama Open Meetings Act (Act 2005-40).

X. Committees.

The Chair, with the consent of the Board, may appoint committees as may be needed to assist in the business of the Board. The meetings of the Board shall be governed by the Rules of Procedures. All such committees shall be provided a formal charge and shall report to the Board its findings and recommendations, unless otherwise directed. The Chair shall designate the Chair for each committee appointed. Agendas for committee meetings shall be furnished to all members of the Board.

XI. Adjournment.

No meeting should be permitted to continue if a quorum is not present. The Board may adjourn by majority vote.

POLICY FOR RECORDING PROCEEDINGS OF THE MONTGOMERY CITY-COUNTY PERSONNEL BOARD

In order to maintain the proper decorum required for conducting the business of the Board while, at the same time allowing members of the media or general public to record the proceedings of the Board in accordance with the Open Meetings Act (Act 2005-40), the Montgomery City-County Personnel Board hereby adopts the following policy for the recording of any such proceedings:

The use of audio or video recording equipment shall be allowed during any meeting provided that the use of such equipment does not disrupt or disturb the proceedings or interfere with the ability of others in attendance to observe and understand the proceedings. All equipment shall be in proper working condition, and if any malfunction of equipment causes disruption to the proceedings, use of the equipment shall be immediately discontinued. Any persons desiring to record the proceedings shall do so openly and shall sign in at the outset of the proceedings.

Video recording shall only be allowed to the extent that there is adequate space in the meeting facilities to accommodate the recording equipment without disturbing or inconveniencing the members of the Board or those in attendance at the proceedings. The chairperson may limit or prohibit the use of tripods or other video recording accessories if space limitations warrant such restrictions. Unless the equipment can be operated from a seat without unduly disrupting or disturbing the proceedings or others in attendance, all video recording shall take place in the area along the back or side of the room designated for that purpose. No one will be allowed to obstruct the view of others in attendance.

Persons who are video recording the proceedings may leave the meeting room with their equipment during the proceedings provided there is no undue disruption. However, such persons shall only be allowed to return and resume recording if this can be accomplished without disrupting the proceedings or disturbing those in attendance.

If any set up of equipment is required, the set up shall be completed prior to the beginning of the proceedings or during a recess. Persons may be allowed to dismantle the equipment during the proceedings only if done without disruption to the proceedings and without interfering with the ability of others in attendance to observe and hear the proceedings.

Any persons desiring to place microphones or recording devices at the Board table, at the podium, or at any other location within the meeting room shall obtain permission from the chairperson prior to the beginning of the proceedings, and shall make arrangements with the Personnel Director or other designated personnel for placement of all equipment. The microphones or recording devices cannot be removed during the proceedings, unless there is a recess of the proceedings called by the chairperson, and the equipment can be removed within the time frame of that recess.

No audio or video recording equipment shall be allowed during any executive session proceedings.

All persons or organizations, including any media organization, shall fully comply with these procedures at all times. Any person or organization violating this policy or otherwise causing undue disruption to the proceedings shall be instructed by the chairperson to discontinue the use of the recording equipment, and any person or organization that refuses to cooperate will be instructed to vacate the proceedings. Failure to comply with instructions to leave may result in removal by law enforcement personnel.

Approved by the Personnel Board on September 27, 2005.