

# EMPLOYEE HANDBOOK

---

CITY OF MONTGOMERY, ALABAMA

EFFECTIVE FEBRUARY 1, 2018

As amended through December, 2017

APPROVED: \_ /s/ Todd R. Strange

DATE: 1/3/2018

## Table of Contents

INTRODUCTORY STATEMENT .....	7
EQUAL EMPLOYMENT OPPORTUNITY POLICY .....	8
CODE OF ETHICS / CONFLICTS OF INTEREST .....	9
ROMANTIC AND/OR SEXUAL RELATIONSHIP WITH OTHER EMPLOYEES .....	10
DOING BUSINESS WITH OTHER EMPLOYEES.....	10
OUTSTANDING WARRANT POLICY .....	11
REPORTING ARRESTS.....	11
IMMIGRATION LAW COMPLIANCE.....	11
JOB DESCRIPTIONS .....	13
DISABILITY ACCOMMODATION (ADA REQUESTS).....	16
Definition of reasonable accommodation.....	17
Examples of reasonable accommodation .....	17
VEHICLES AND CITY EQUIPMENT .....	19
CHANGES IN PERSONAL DATA .....	21
EMERGENCY CLOSING PLAN .....	21
PROBATIONARY PERIOD.....	21
WORKPLACE RULES OF CONDUCT .....	22
<b>DRESS CODE</b> .....	26
INSUBORDINATION .....	26
JOB PERFORMANCE .....	26
SECURITY INSPECTIONS.....	30
WORKPLACE VIOLENCE PREVENTION POLICY.....	30
PROFESSIONAL CONDUCT POLICY AND PROHIBITION AGAINST HARASSMENT .....	34
DEFINITIONS OF HARASSMENT.....	35
Prohibited Acts of Harassment .....	36
<b>REPORTING AND INVESTIGATION OF CHARGES OF HARASSMENT, RETALIATION, OR DISCRIMINATION</b> .....	36
Whistleblower Procedures.....	37
ANTI-RETALIATION POLICY.....	38
REPORTING REQUIREMENTS.....	38

OPEN DOOR GRIEVANCE POLICY.....	38
Grievance Procedures .....	39
Policy Interpretation and Application Appeal .....	39
PROTECTED COMMUNICATIONS .....	40
CITY INVESTIGATIONS .....	40
TOBACCO USE POLICY .....	41
DRUG AND ALCOHOL ABUSE POLICY .....	41
Responsibility .....	41
Illegal Drug or Alcohol Use in the Workplace.....	41
DRUG AND ALCOHOL SCREENING AND TESTING .....	42
Testing Based on Reasonable Suspicion During Employment.....	42
On-the-Job Testing.....	42
Random Testing .....	43
Post-Vehicular Accident .....	43
<i>For Public Safety and Other Safety Sensitive Employees</i> .....	44
Drug and Alcohol Testing Procedure.....	44
Drug and Alcohol Abuse Treatment .....	46
Miscellaneous .....	47
POLYGRAPH EXAMINATIONS .....	47
EMPLOYEE PAY.....	48
Workweek .....	48
Overtime .....	48
Employee Status.....	49
Calculating Overtime.....	49
Submitting Overtime/Record-Keeping.....	49
Time and One-Half Overtime .....	49
Compensatory Time .....	50
On Call Pay .....	50
Pay Advances .....	50
Direct Deposit .....	50
EMPLOYEE OBLIGATIONS.....	50
Attendance Policy .....	50

SICK LEAVE .....	51
POLITICS .....	53
SMOKING AND/OR VAPING .....	53
SAFETY.....	54
ELECTRONIC COMMUNICATIONS.....	54
WIRELESS COMMUNICATIONS DEVICES USE POLICY WHILE DRIVING.....	60
SOCIAL MEDIA AND SOCIAL NETWORKING.....	60
NON-DISCLOSURE .....	63
SOLICITATION AND DISTRIBUTION.....	64
IDENTIFICATION BADGES .....	65
Control and Issuance of Badges .....	65
Requirements and Enforcement .....	66
Employee Identification Badge .....	66
Rules for Identification Badge Holders.....	67
PERFORMANCE APPRAISALS .....	69
The Performance Appraisal.....	70
The Appraisal as It Effects Employees Eligible for Merit Increases .....	70
The Appraisal for Employees Not Eligible for Merit Increases .....	71
PROGRESSIVE DISCIPLINE/DUE PROCESS.....	71
Senior Management Responsibility .....	71
Probationary Employees .....	71
Section 1. Minor Infractions: Unsatisfactory Work Performance, Work Practices Or Work Habits (Less Than major Or Serious Infractions.....	72
Due Process.....	73
Hearing Procedure .....	73
Section 2. Major and/or Serious Violations Other Than Unsatisfactory Work Performance, Work Practices Or Work Habits .....	74
Special Rules for Exempt Employees.....	76
Hearing Before the Appointing Authority or His/Her Designee .....	76
EMPLOYEE BENEFITS.....	77
Time Off (Paid and Unpaid).....	77
FAMILY MEDICAL LEAVE ACT OF 1993 (FMLA).....	77

Reasons for and Amount of FMLA Leave Eligible employees can take up to 12 weeks of FMLA leave in a 12-month period because:.....	78
Requesting leave .....	78
Medical Certification .....	79
Scheduling FMLA Leave.....	79
Pay and Benefits During FMLA Leave.....	80
Concurrent use of short-term disability and workers' compensation with FMLA leave.....	80
Return From Leave .....	80
JURY/WITNESS DUTY.....	82
MILITARY LEAVE .....	82
Refer to City/County Rules and Regulations in addition to the following:.....	82
HOLIDAYS .....	86
ACCRUED LEAVE TIME.....	87
LEAVE LIMIT CHARTS.....	87
HEALTH INSURANCE AND OTHER BENEFITS.....	87
Notice for Individuals Declining Health Coverage .....	87
Additional Notice of Responsibility .....	88
MANDATORY DEDUCTIONS TAXES.....	89
RETIREMENT: SEE APPENDIX FOR THE POLICY AND OTHER INFORMATION.....	89
MISCELLANEOUS PROVISIONS .....	89
Meals.....	89
Breaks.....	89
Official Travel .....	89
<b>CALCULATION OF TIME</b> .....	90
NEPOTISM .....	90
AUTOMOBILE POLICIES .....	90
Vehicle Operations Policy.....	90
Driver's License Requirements:.....	90
Seat Belt Use .....	92
Procedures for Obtaining Certification to Operate City Vehicles.....	92
ACCIDENT REVIEW BOARD.....	92
TAKE HOME VEHICLES AND CITY VEHICLES.....	95

SEPARATION FROM EMPLOYMENT.....	99
Resignation.....	99
Separation from Employment.....	99
Final Checks and W2 Forms .....	100
WORKERS' COMPENSATION .....	100
UNEMPLOYMENT COMPENSATION BENEFITS .....	101
EXIT INTERVIEWS.....	102
REFERENCES .....	102
BENEFIT CONTINUATION UNDER COBRA.....	102
APPENDIX AND FORMS .....	108

## **INTRODUCTORY STATEMENT**

This handbook describes many of your responsibilities as an employee and outlines the various programs developed by the City to benefit its employees. This Employee Handbook is designed to acquaint you with employment with the City of Montgomery, Alabama (hereinafter referred to as the "City") and to provide you with information about its personnel policies and practices including the terms, conditions and privileges of your employment. This Employee Handbook has been adopted by the City of Montgomery. The cabinet and department heads have been authorized to interpret, implement, and administer the provisions of this handbook. You should read, understand, and comply with all provisions of the handbook. One of our objectives is to provide a work environment that is conducive to both personal and professional growth.

**Compliance with this handbook, departmental rules and regulations, any other official City policies, and the City/County Personnel Handbook is mandatory for all employees. Failure to comply may result in disciplinary action.**

No employee handbook can anticipate every circumstance or question involving policy. Consequently, the need may arise to revise the handbook. Therefore, the City expressly reserves the right to revise, supplement, or rescind any policies or portions of the handbook from time to time, as it deems appropriate. The provisions contained in this handbook supersede all existing policies and practices and may not be amended or added to except by an appropriate action by the Mayor and/or departmental action consistent with this Handbook. **The statements set forth in this Handbook are not intended to create, nor are they to be construed to constitute contractual obligations of any kind whatsoever between the City and its employees.** If an employee has a work-related question not specifically covered in this handbook, it should be discussed with his/her supervisor and/or the department head. Likewise, if an employee requires assistance to comply with this policy, he/she should request such assistance from the supervisor and/or department head.

Each Department of the City may develop additional policies and procedures relating to their department at their discretion. Additional policies and procedures may be more restrictive than the provisions of this handbook, but may not be less restrictive. All departmental policies, any other official City policies, and the City/County Rules and Regulations Handbook shall be considered together and interpreted as one publication.

You are also being given a copy of the City and County of Montgomery Personnel Board Rules and Regulations. These Rules and Regulations provide detailed information about leave, holidays, disciplinary due process, pay plans, working conditions, general personnel practices, political activity rules, and separations. You should read these rules and regulations and refer to them in addition to this Handbook.

Every employee is also regularly provided a City of Montgomery Employee Benefits Booklet that describes insurance, prescription drugs, flex plan, etc. rules, coverage and procedures. If a conflict

arises between the provisions of this handbook and the summary plans for health care or flex plans, the summary plan takes precedence.

Copies of the complete official policies referred to in this Handbook are available on the City's Web Page if you should want to review the official policies in full.

No employee handbook can anticipate every circumstance or question involving policy. Consequently, the need may arise to revise the handbook. The City reserves the right to change, interpret, modify, amend, withdraw and/or supplement any of the policies, benefits, or terms and conditions of employment, at its sole discretion, and without prior notice or consideration to any employee. It also reserves the right to publish and disseminate its personnel policy handbook electronically. You will be notified when changes to the personnel handbook occur. The changes to the handbook will be reflected in the electronic copy. Please understand that no supervisor, manager, or officer of the City other than the appointing authority or his/her designee has the authority to enter into any agreement with you for employment for any specified period or to make any promises or commitments contrary to the above.

**UPDATES: ANY REVISIONS TO THIS HANDBOOK WILL BE POSTED ON THE CITY'S WEBSITE. NOTICE OF CHANGES WILL BE POSTED ON YOUR DEPARTMENT BULLETIN BOARD.**

The City reserves the right to amend or terminate any of its fringe benefit programs or to require or increase employee premium contributions toward any benefits with or without advance notice at its discretion. This reserved right may be exercised in the absence of financial necessity, including premium contributions. The respective plan administrator will notify plan participants of all approved amendments or plan terminations. The City also reserves the discretionary authority to interpret all provisions of these programs in its sole discretion. If there is a conflict between language in the employee handbook and language in an official plan document (such as the group health insurance policy), the official plan document governs. The various employee benefits which are available to you as a City employee are more accurately and fully described in our benefit packages. If there are any differences between this handbook and the benefits packages, the provisions of the benefit packages prevail.

## **EQUAL EMPLOYMENT OPPORTUNITY POLICY**

**The City believes that all employees have the right to work in an environment free of unlawful discrimination, retaliation or harassment.** The City is committed to providing equal employment opportunity. It is our policy to recruit, hire, train, promote, and compensate individuals, and to administer all personnel actions in accordance with applicable laws, without regard to race, color, religion, creed, age, sex, national origin or ancestry, genetic history, sexual preference, sexual identity, status as a current or former member of the uniformed services, whistleblower (protected communication) or status as a qualified individual with a disability (physical or mental).

This policy governs all aspects of employment, including selection, job assignment, promotions, compensation, discipline, termination, and access to benefits and training. The City will not



tolerate any unlawful discrimination, harassment or retaliation and any such conduct is prohibited by employees of the City and vendors. **Persons who feel they have been discriminated against, retaliated against, or otherwise harassed shall report the incident to the City County Personnel Department and/or the Montgomery Department of City Investigations for investigation.**

## **CODE OF ETHICS / CONFLICTS OF INTEREST**

Every employee of the City of Montgomery is a “public employee”. The taxpayers of this City entrust every employee with the responsibility of carrying on business beneficial to the taxpayer.

Some employees will have to complete an annual questionnaire for the state Ethics Commission. The City will give these employees the forms and other required information. These employees are responsible for filing the reports in a timely manner.

Employees cannot use any City equipment, including cell phones and computers, to make money or gain a personal benefit. Any employee who engages in the activities described above will be subject to severe disciplinary action in addition to any prosecution by the Alabama Ethics Commission.

Employees of the City of Montgomery are subject to the provisions of the Ethics Law, the decisions of the Ethics Commission and the Alabama Ethics Commission. Employees may visit the Ethics Commission’s website to acquire further information of interest.

The Ethics Law states in part:

“No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his/her discretion or control for the private benefit or business benefit of the public official, public employee, any other person....” Section 36-25-5(c) Code of Alabama 1975.

If an employee uses City/taxpayer time, equipment, facilities, materials, his or her work time, someone else’s work time or other public property for personal gain that employee is guilty of violating the above quoted section.

It is against the City’s policy for employees to deal in private transactions that compete with the City or to engage in any way in any other business that competes with the City.

It is important to the City that all employees observe high ethical standards and treat their fellow employees fairly. Employees must not allow personal or financial relationships with clients or those people seeking business with the City to interfere with the best interests of the City. Similarly, personal or family relationships between employees within the same department will not be allowed to create the appearance of favoritism or otherwise affect the workplace.

Giving, soliciting, or accepting a gift from citizens, clients and/or suppliers is contrary to City policy except as provided in this section. To protect you and the City, every employee must understand

the serious implications of accepting **any monetary** gift in any form or any “gifts” from any citizen, client, fellow employees and/or supplier. If a “gift” is offered to you, contact your supervisor for approval. Failure to do so could result in disciplinary action up to and including termination of your employment with the City.

You may accept greeting cards, items, services with little intrinsic value that are intended solely for presentation (such as plaques, certificates, and trophies), promotional items commonly distributed to the general public, and items or services of de minimis value.

There is currently no definition of “de minimis”. A rule of thumb you might use would be to ask: “Could I put this on **eBay** and make some money?” Or: “Is this gift the type of item I might throw in the trash can when I get home?”

**NOTE: Even a gift that is “di minimis” in value could be considered to be inappropriate and in violation of the law and this handbook if the intent of the gift was to try to influence a City employee for the benefit of the person or entity giving the gift.**

## **ROMANTIC AND/OR SEXUAL RELATIONSHIP WITH OTHER EMPLOYEES**

Engaging in a romantic relationship or sexual relationship with a subordinate employee, fellow departmental employee or co-worker may constitute a conflict of interest. Such information should be disclosed to your supervisor who will consider the issue and advise the employee accordingly.

## **DOING BUSINESS WITH OTHER EMPLOYEES**

Employees of the City are expected to follow all laws, rules and regulations. You should be very careful that nothing is done that would be perceived to have an “appearance of impropriety”.

In order that not even the slightest hint of possible wrongdoing be attached to City employees who hire other City employees to do work for them on their off-time, the following procedures have been adopted:

City employees will not directly hire another City employee to do work for them if the hiring employee directly supervises, recommends for promotions, or makes other recommendations concerning continued employment of the employee he/she seeks to hire to do private work. Therefore a person who directly supervises an employee may not hire that particular employee for any personal job.

Any City employee who does hire another City employee shall:

- Reach an arm-length agreement and pay a fair amount of money for the services. This must be documented.

- Maintain proof of other estimates received and ensure that the person hired has a current business license.
- Not give anything other than money for services: i.e. not additional time off, any preferential treatment, etc.

This section of the handbook is intended to be for the protection against those who would try to suggest that because of the job relationship, favors, promotions or other preferential treatment was given to a fellow employee by a supervisor.

## **OUTSTANDING WARRANT POLICY**

Municipal Court personnel have been directed to perform random warrant checks. City employees with outstanding warrants will face disciplinary action that may include termination. Warrants that are brought to light in the wake of traffic stops are also cause for disciplinary action. Every City employee is a representative of Montgomery. It is unacceptable for employees to disregard the law and the City of Montgomery will not tolerate such behavior.

## **REPORTING ARRESTS**

Any employee of the City who has been arrested for any reason must report the arrest and surrounding circumstances to his or her immediate supervisor within one (1) working day. Failure to comply with this policy may result in disciplinary action. The employment related consequences of an arrest or conviction will be evaluated on a case-by-case basis.

## **IMMIGRATION LAW COMPLIANCE**

### **Verifying Employment Eligibility**

**Purpose:** The City is committed to meeting its obligations under U.S. immigration law. Accordingly, the City neither hires nor continues to employ an individual who is not legally authorized to work in the United States. Moreover, the City does not discriminate on the basis of citizenship status or national origin in recruitment, hiring, or discharge.

**Employment Eligibility Verification Procedures:** The appointing authority or his/her designee is responsible for implementing, administering, and reviewing procedures necessary to comply with the employment eligibility verification and nondiscrimination requirements of the Immigration Reform and Control Act (IRCA), as amended. All new employees:

- Complete and sign the employee's portion of Form I-9, Employment Eligibility Verification; and
- Present original documentation supporting the employee's identity and employment eligibility. Employees must complete the employee section of Form I-9 before the day they begin work and provide the required supporting documentation within three business days of starting work.
- Are cleared to work in the USA through the E-Verify system.

- An employee's failure to produce required documentation within allotted time periods is grounds for immediate separation from employment. Employment can be resumed only when the required documentation is furnished.

The appointing authority or his/her designee arranges for a periodic audit of I-9s on file to ensure that the City is complying with employment eligibility verification requirements.

**Expiration of Work Authorization:** The City payroll system maintains a reminder system that tracks the expiration date of each nonresident employee's authorization to work in the United States. The City notifies the employee of the need for the employee to show that his or her authorization to work in the United States has been renewed. It then must update an employee's Form I-9 to show the employee's renewed authorization to work. The person updating the form will draw a single line through the previous authorization information when the new information is entered. Updated information will be initialed and dated by the City representative performing the re-verification. **An employee's failure to provide proof of his or her renewed authorization to work prior to the expiration of the authorization documented on the employee's Form I-9 results in the immediate suspension of the employee without pay or the termination of the employee.**

An employee is eligible to continue working during a 30-day grace period after the expiration of the employee's original work permit if the employee has filed an application to extend his or her work permit. To be eligible for the 30-day grace period, the employee must provide the City with proof of having filed a work permit renewal application prior to the expiration of the employee's original work permit.

**Nondiscrimination:** Supervisors, the hiring personnel, and other employees and agents of City are prohibited from discriminating against an applicant or employee based on national origin or status as an undocumented immigrant. Hiring personnel should never infer from an individual's appearance or accent that he or she is unauthorized to work.

The appointing authority or his/her designee representatives and any other employees involved in the hiring process are prohibited from asking employees for any document not specifically designated on Form I-9 as acceptable for purposes of verifying an employee's identity and employment eligibility. The hiring personnel cannot refuse to honor tendered documents that, on their face, reasonably appear to be genuine and relate to the employee in question. Any employee found to have engaged in illegal discrimination is subject to discipline, up to and including termination of employment.

**Recordkeeping:** A copy of each employee's I-9 form is retained by the City until three years after the employee's hiring date or one year after the employee's separation, whichever is later. When an employee transfers within the City's organization to another physically separate location, a copy of the employee's I-9 form and copies of supporting documentation must transfer with the employee. **All original I-9 forms shall be kept in a secure area in City Hall by approved personnel of the Finance Department.** A copy of the forms shall be provided to City/County Personnel for their records.

**Re-employment:** If a terminated employee is re-employed within three years of initially completing an I-9 form, the Finance Department is responsible for updating and verifying the information on the form.

## **JOB DESCRIPTIONS**

All employees, regardless of their classification, are expected as an essential function of their jobs to:

- Attend work on a regular and predictable basis
- Complete assigned tasks in a safe manner and in a constant state of alertness
- Uphold City policies, including the harassment, discrimination, retaliation policies, etc.
- Work in a cooperative manner with managers, supervisors, coworkers, clients and the public
- Work effectively and efficiently under deadlines
- Uphold the highest standard of integrity, honesty and ethical behavior

Employees should remember that job descriptions do not necessarily cover every task or duty that might be assigned, and that additional responsibilities may be assigned as necessary. Contact the supervisor and/or department head, or Personnel Department if you have any questions or concerns about your job description.

The City/County Personnel Board prepares and approves job descriptions when new positions are created. Existing job descriptions are also reviewed and revised in order to ensure that they are up to date. Job descriptions may also be rewritten periodically to reflect any changes in the position's duties and responsibilities. Employees are expected to comply with any revised or rewritten job descriptions for their position. All employees will be expected to help ensure that their job descriptions are accurate and current, reflecting the work being done.

Each job description states whether the position is "Exempt" or "Non-Exempt". Non-exempt employees are subject to all of the provisions of the Fair Labor Standards Act particularly relating to "Overtime" and/or "Comp-Time". Any employee who actually works over 40 hours in a workweek which includes a holiday, or beyond the normal tour of duty shall receive overtime or comp time. Non-Exempt employees shall receive time and one-half. Exempt employees receive straight time.

## **EMPLOYEE ASSISTANCE PROGRAM**

A wide range of problems not directly associated with an employee's job function can have an effect on any employee's job performance. In most instances, the employee will overcome such personal problems independently, and the effect on job performance will be negligible. In other instances, normal supervisory assistance will serve either as motivation or guidance by which such problems can be resolved so the employee's job performance will return to an acceptable level. In some cases, however, the efforts of the employee and the supervisor may not have the desired

effect of resolving the employee's problems, and unsatisfactory performance persists over a period of time, either constantly or intermittently.

Therefore, the City of Montgomery has established an **Employee Assistance Program ("EAP")** to address employee concerns and/or problems in a constructive manner. In general terms, employees experiencing medical/behavioral problems are encouraged to consult with an EAP counselor before such problems affect job performance.

An employee's use of the EAP is voluntary except as provided in this section. Employees demonstrating job performance deterioration or unsafe practices are encouraged to consult with the EAP to resolve these problems. Elected officials/appointing authorities and managers are also encouraged to consult with an EAP counselor regarding the management of an employee with an identified medical/behavioral problem.

When elected officials/appointing authorities, managers and/or department heads have reason to believe that a referral to EAP would improve job performance or job management issues, they may initiate a formal management referral through the Risk Management Department. The employee must attend the initial session that will be scheduled by the elected officials/appointing authorities, managers and/or department heads. Continued participation is voluntary. Failure to comply with this paragraph will be grounds for disciplinary action up to and including separation from employment.

The EAP provides problem clarification, treatment resource referrals, and crisis intervention for employees relating to a medical/behavioral problem that may involve psychological or emotional problems, alcoholism or drug dependencies, marital or family difficulties, some medical conditions (including those related to stress), and some financial problems. The EAP staff consults with supervisors, managers, and personnel staff when there is a question as to whether or not a medical/behavioral problem exists, as well as how to understand and manage a troubled employee.

The procedure is as follows:

- a. Employees with personal or family problems that can adversely affect job performance are strongly encouraged to use EAP.
- b. If an employee's job performance or attendance is unsatisfactory, it will be called to his/her attention pursuant to the regular procedure.
- c. If unsatisfactory performance or attendance continues, the elected official/appointing authority and/or manager will discuss the problem privately with the employee.
- d. Supervisors will not delve into personal problems in an attempt to find the causes of unsatisfactory job performance. This is the responsibility of the trained professionals within the EAP. If it appears that the employee cannot or will not improve his/her performance or attendance to a satisfactory level, the elected appointing authority, department head and/or manager will refer the employee to the EAP with trained professionals to diagnose problems and help find

solutions. - EAP counselors are responsible for providing professional consultation to employees and supervisors regarding medical/behavioral problems that affect or could potentially affect city operations.

The counselors provide this assistance by:

- Evaluating employees referred pursuant to employees' requests, and recommending resources for treatment or assistance. The employee assistance counselor may be available as a resource to employees throughout the treatment process.
- Informing employees contacting the EAP of their rights as defined in the policies and practices of the EAP. These employee rights are listed as a supplement to the Standard Practice.
- Consulting with elected officials/appointing authorities and/or managers on how to appropriately motivate employees with possible medical/behavioral problems to initiate involvement with EAP.
- Ensuring that once the employee has initiated contact with EAP, counseling information may not be disclosed, except with the employee's informed consent. Such disclosures may involve arranging for time off work; processing benefits; complying with legal requirements, such as pursuant to subpoena; or when the counselor and employee mutually agree that counselor-to-supervisor communication is in the employee's best interest.
- Offering education and training to appointing authorities, department heads and/or managers in the use of the EAP.

Appointing authorities, department heads and/or managers (or their designees) are responsible for:

- Knowing the EAP's policies and procedures, working within the established guidelines for referrals and feedback, and referring employees to the EAP when appropriate.
- Prohibiting any employee from working who in the judgment of the elected official/appointing authority and/or manager appears mentally or physically unfit to perform his/her duties safely and efficiently until satisfactory evidence of fitness is secured and using EAP to facilitate the medical clarification process when a medical/behavioral problem is the likely cause.
- Identifying employees whose work performance, unavailability for work, or on-the-job behavior indicates possible medical/behavioral problems, and advising such employees in performance counseling sessions that use of the EAP by the employee is recommended by the appointing authority, department head and/or manager.
- Documenting the offer of EAP to the employee and the employee's response to that offer, and advising the employee that the offer and response are being documented.

- Continuing to monitor job performance of employees with medical/behavioral problems in the manner appropriate to all employees.

Employees have the following responsibilities:

- Attend the initial EAP session when directed/scheduled by the Appointing authorities, department heads and/or managers (or their designees). Participation after the first scheduled session is voluntary.

- To take whatever steps are necessary to resolve any medical/behavioral problems that are affecting their job performance.

- To accept personal responsibility for work performance and to seek assistance if outside help is necessary to overcome problems that interfere with job performance. However, regardless of an employee's involvement, noninvolvement, or promise of involvement with the EAP, employees remain accountable to their supervisors for resolving performance discrepancies.

- To provide medical clarification from a physician when required by elected officials/appointing authorities and/or managers because of a concern that the employee is not fit for duty. Employees may request that the EAP administer this clarification process and screen from physician reports any confidential information not relevant to job performance or safety issues.

**FITNESS FOR DUTY EVALUATIONS:** You may be requested to undergo an evaluation relating to your "fitness for duty" to perform the functions of your job descriptions **with or without a reasonable accommodation** or any other formal standard relating to your job. The Director of Risk Management of the City will evaluate all requests from department heads, make the final decision, and coordinate the evaluation with the appropriate providers. The City pays for these exams. Any person who does not comply with the reasonable request from the Director of Risk Management or any medical provider can be subject to disciplinary action, up to and including termination from employment.

### **DISABILITY ACCOMMODATION (ADA REQUESTS)**

It is the policy of the City to comply with federal and state laws concerning the employment of individuals with a disability. Accordingly, it is the City's policy not to discriminate against qualified individuals who have a disability with respect to selection and hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment. Further, the City reasonably accommodates qualified individuals with a disability so that they can perform the essential functions of a job. A request for reasonable accommodation by an applicant or employee is the first step in an informal, interactive process between the individual and the City. The next step in this informal process is to clarify what the individual needs and identify the appropriate reasonable accommodation. An individual who cannot be reasonably accommodated for a job, without undue hardship, will not be selected for that position



Offers of employment may be conditioned on completion of a medical examination, to ensure that the person is capable of performing the job's essential functions with reasonable accommodation, if necessary. This medical examination is given after a conditional employment offer is made and before the commencement of employment. Failure to submit to or complete a medical examination is viewed as a rejection of the offer of employment. All information obtained by the City concerning the medical condition or history of applicants or employees is maintained in separate medical files and treated as confidential records that are disclosed only according to ADA and other applicable state and federal law.

All employees are required to comply with safety standards. If an applicant's physical or medical condition poses a direct threat to the health or safety of individuals in the workplace and this threat cannot be eliminated by reasonable accommodation, the individual will not be hired. Current employees who have a physical or medical condition that poses a direct threat to the health or safety of themselves or others in the workplace are placed on appropriate leave. All employees are expected to comply with the City's Drug-Free Workplace Policy. The Department Head is responsible for implementing this policy, including resolution of reasonable accommodation, safety, and undue hardship issues.

Open door policy. Employees and applicants should immediately contact the Department Head, Cabinet Member, or City Investigations about any violations of the City's disability accommodation policy. All complaints are promptly investigated.

### **Definition of reasonable accommodation**

Reasonable accommodation is an adjustment to job duties, performance methods, and/or work setting or service delivery to meet the individualized need of an individual, applicant or employee with a disability that will allow him/her to do the essential functions of the job with or without a reasonable accommodation.

The provision of a reasonable accommodation removes barriers in a specific situation, which prevent or limit the application process, recruitment, employment and upward mobility of a qualified person with a disability or prevents their participation in a program, activity or event.

### **Examples of reasonable accommodation**

- Making facilities accessible and usable;
- Job restructuring;
- Modifying work schedules;
- Implementing flexible leave policies;
- Reassigning to a vacant position;
- Providing assistive equipment at City programs;
- Modifying test, training materials and policies; or
- Providing qualified readers or interpreters
- Extension of leave

A request for reasonable accommodation by an employee is the first step in an informal, interactive process between the individual and the City. The next step in this informal process is to clarify what the individual needs and identify the appropriate reasonable accommodation.

Offers of employment or promotion may be conditioned on completion of a medical examination to ensure that the person is capable of performing the job's essential functions with or without reasonable accommodation, if necessary. This medical examination is given after a conditional employment offer is made and before the commencement or promotion in employment. The City and/or its agents may not ask for genetic information or family medical history concerning the proposed employee and/or his/her family members. Failure to submit to or complete a medical examination is viewed as a rejection of the offer of employment. All information obtained by the City concerning the medical condition or history of applicants or employees is maintained in separate medical files and treated as confidential records that are disclosed only as allowed according to ADA, HIPPA and other applicable state and federal law.

All employees are required to comply with safety standards. If an applicant's physical or medical condition poses a direct threat to the health or safety of individuals in the workplace and this threat cannot be eliminated by reasonable accommodation, the individual will not be hired. Current employees who have a physical or medical condition that poses or may pose a direct threat to the health or safety to themselves or others in the workplace may be placed on appropriate leave and the disciplinary process may begin as appropriate. All employees are expected to comply with the City's Drug Free Workplace Policy.

The City will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship to the City.

You should contact your supervisor, department head or the Office of City Investigations to request more information and/or to receive the application for a reasonable accommodation.

## **RELIGIOUS ACCOMODATION**

### **Requesting a Religious Accommodation:**

Any employee that requires a reasonable accommodation for reasons based on religion should contact the Department Head. Reasonable accommodation will be granted unless it would cause an undue hardship on the City.

The City complies with Title VII of the Civil Rights Act of 1964, and is committed to providing equal employment opportunities to all individuals, regardless of their religious beliefs and practices or lack thereof. Consistent with this commitment, the City will provide a reasonable accommodation of an applicant's or employee's sincerely held religious belief if the accommodation would resolve a conflict between the individual's religious beliefs or practices and a work requirement, unless doing so would create an undue hardship for the City.

If you believe you need an accommodation because of your religious beliefs or practices or lack thereof, you should request an accommodation from the Department Head or City Investigations. You may make the request orally or in writing. The City encourages employees to make their request in writing and to include relevant information, such as:

- A description of the accommodation you are requesting.
- The reason you need an accommodation.
- How the accommodation will help resolve the conflict between your religious beliefs or practices or lack thereof and one or more of your work requirements. After receiving your oral or written request, the City will engage in a dialogue with you to explore potential accommodations that could resolve the conflict between your religious beliefs and practices and one or more of your work requirements. The City encourages you to suggest specific reasonable accommodations that you believe would resolve any such conflict. However, the City is not required to make the specific accommodation requested by you and may provide an alternative, effective accommodation, to the extent any accommodation can be made without imposing an undue hardship on The City. The City may ask you to provide additional information about your religious practices or beliefs and the accommodation requested. If you fail to provide the requested information, your request for an accommodation may be denied. The City makes determinations about religious accommodations on a case-by-case basis considering various factors and based on an individualized assessment of each situation. The City strives to make determinations on religious accommodation requests expeditiously, and will inform the individual once a determination has been made. Open door policy. Employees and applicants should immediately contact the Office of City Investigations about any violations of the City's religious accommodation policy. All complaints are promptly investigated.

## VEHICLES AND CITY EQUIPMENT

Any employee, who is furnished a City-owned vehicle for use during business hours, is furnished a motor vehicle to "take home" or who uses their personal motor vehicle for City business must review the provisions of this Handbook relating to these subjects.

Any employee whose duties include the operation of City vehicles who is cited for D.U.I. or for any other serious moving violation must report that citation to the Department Head or his/her designee within twenty-four (24) hours or the next working day, whichever is longer.

Vehicles or equipment owned by the City **may not be used for personal business of any kind** unless specific permission has been given by the Appointing Authority or his/her designee. Seat belts must be used at all times by all passengers (including law enforcement). No one may use tobacco in any City vehicle.

Alabama law prohibits **texting** while driving. The City prohibits employees from using wireless communications devices, including cell phones and text messaging, when driving on City business, whether driving a City vehicle or private vehicle. Drivers who need to read a text message or use wireless communications device must pull over to a safe location before using the device.

“Texting” or “Text Messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. “Driving” means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

No use of personal/office cell phones/two way radios in City vehicles/equipment by the driver, or by a driver in his/her personal vehicle while on city business while the vehicle/equipment is in motion, except law enforcement on official business, or in the case of an emergency.

No use of a wireless device when driving a City van or bus while transporting children, residents, participants or clients.

Any employee whose duties include the operation of City vehicles who is cited for D.U.I. or for any other serious moving violation must report that citation to the Department Head within twenty-four (24) hours or the next working day, whichever is longer.

All employees who drive City vehicles must be insurable, present proof of insurance, a valid and current driver’s license and authorize release of their driving records.

All employees who drive City vehicles must be insurable, present proof of insurance, maintain a valid and current driver’s license and must authorize release of their driving records.

If an employee receives a traffic citation while operating a City vehicle, the employee will be responsible for paying any fine or penalty. Traffic citations must be reported within 24 hours or the next working day (whichever is later) to the Department Head.

Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. When using property, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards, and guidelines.

Employees must notify his/her immediate supervisor if any equipment, machines, tools, or vehicles appear to be damaged, defective, or in need of repair. Prompt reporting of damages, defects, and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. The immediate supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment or vehicles used on the job.

The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles can result in disciplinary action, up to and including payment for equipment damage and/or termination of employment.

**NO CITY EMPLOYEE may operate any vehicle, personal or City owned, on any City property unless the employee has a current driver's license and valid liability insurance for his/her personal vehicle. All City drivers must be insurable. Any violation of this provision may result in disciplinary action up to and including termination for the first offense.**

## **CHANGES IN PERSONAL DATA**

It is required that an employee informs the supervisor in writing of any changes in his/her name, address, telephone number, number of dependents, emergency contact person, and driver's license status and status of insurance. By doing so, personnel information will always be up-to-date and this will help the City in handling benefits, pay, and other matters important to an employee and his/her family. The information provided by the employee shall be deemed to be the official information for any correspondence.

## **EMERGENCY CLOSING PLAN**

At times, emergencies such as severe weather, fires, or power failures can disrupt City operations. In extreme cases, these circumstances may require the closing of some or all of the departments of the City. Unless there is an announcement that the facility is closed, you should assume that the City is open and employees not reporting to work shall be charged against available Annual Leave. Refer to the practices posted or announced for emergencies.

## **PROBATIONARY PERIOD**

The Probationary Period is intended to give new and rehired employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The City uses this working period to evaluate employee capabilities, work habits, provide suggested or appropriate resources and evaluate overall performance. Employees are encouraged to ask questions so that they will have a clear understanding of the job and performance expectations. All new employees shall receive an orientation to advise him/her of the policies of the City. Each employee shall complete all necessary forms and sign for his/her copy of this Handbook. Each employee shall also attend all required orientation sessions as required.

All new and rehired employees work on a probationary basis for the first (6) six-months after their date of hire or rehire. All promoted and transferred employees work on a probationary basis for the first (6) six-months after the date of promotion or transfer.

Upon satisfactory completion of the probationary period, employees may enter the "permanent" employment classification.

## WORKPLACE RULES OF CONDUCT

It is not possible to provide a complete list of every work rule or performance standard. As a result, the following are presented only as examples. You are responsible for understanding and following these standards and work rules. Employees who do not comply may be subject to disciplinary action, up to and including possible termination.

One of the City's most paramount principles is to demonstrate respect and dignity in service to the citizens of Montgomery and interactions with each other.

Employees may be disciplined, up to and including possible termination, for poor job performance, as determined by the city. Some examples of poor job performance are as follows:

- Below average work quality or quantity;
- Poor attitude, including rudeness, or lack of cooperation;
- Excessive absenteeism, tardiness, or abuse of break and meal privileges;
- Failure to follow instructions or City policies and procedures.
- This list is not all inclusive

Some examples of misconduct that can result in **immediate termination** are as follows:

- Stealing, misappropriation or removing private or City property from City premises.
- Falsification of personnel, time records, leave requests, financial requests, City records or the employment application.
- Disorderly conduct on City property, including fighting, attempted bodily injury, or the use of profane, abusive, or threatening language toward others, or possession of a weapon not in strict accordance with Alabama law;
- Abuse or deliberate destruction of City property, tools, equipment, or vending machines.
- Violating the nondiscrimination and/or professional conduct policy and prohibition against harassment.
- Violating the City Drug-Free Workplace Policy;
- Illegal drugs in an employee system and refusal to submit to cooperate with a drug or alcohol test.
- Unauthorized possession of weapons or firearms on City property.
- Sleeping on the job.
- **Being involved in a crime** involving moral turpitude or crimes which can be construed to indicate the continued presence of the employee would constitute a hazard to fellow employees or its property. Each case shall be determined on an independent basis.
- Threatening, intimidating, coercing or interfering with employees or supervision at any time.

- Violating the Conflict of Interest Policy.
- Failure to report gifts or gratuities (see conflict of interest reporting requirement) which an employee receives from vendors, contractors, or residents.
- Insubordination;
- Act endangering safety of others;
- Actual or threatened misconduct in connection with work after prior written warning;
- Dishonest act characterized by lack of truth, honesty, probity or trustworthiness or by an inclination to mislead, lie, cheat or defraud;
- Falsifying or making a material omission on records, reports, or other documents, including payroll, personnel, and employment records;
- Intentionally cheating or falsifying any examination or not reporting another person violating these provisions relating to cheating or falsifying information;
- Submitting false or misleading documents to the city (i.e. medical excuses)
- Commission of a criminal act or misdemeanor of any degree in any manner connected with or involving City employees, property or equipment;
- On-duty or Off-duty violation of any law adversely affecting the employee or conviction in court of any crime which may cause the employee to be regarded as unsuitable for continued employment;
- **Not reporting an incident, injury or accident to your supervisor at the earliest possible time.**

This list is not all-inclusive.

Basic guidelines that foster respect and dignity:

- Treat people the way they want to be treated, not the way you THINK they should be treated.
- What might be amusing to you may not be amusing to someone else, and may be insulting and/or offensive to some other person. **THINK before you speak.**
- All employees must be treated with respect.
- All employees must get along with co-workers.
- Explain WHY when you can. People accept things better if they know why you want them to do it. None of us likes to be told, "This is the way it is, or this is the way we have always done it."
- Recognize someone when he/she does a good job or shows improvement in an area. Positive feedback can and should come from all sources.
- Avoid gossiping about co-workers. Gossip hurts people.
- Your extra efforts will pay off for both you and your co-workers.

*The above list is not all encompassing or all-inclusive.*

To assure orderly operations and provide the best possible work environment, the City from time to time establishes general work rules. Although it is not possible to list all the forms of behavior that are considered unacceptable in the workplace, the following are examples of the types of infractions which can result in disciplinary action up to and including termination. In order to avoid such severe consequences, just follow simple common sense, read and understand this list of examples, and ask management before engaging in any questionable activity. Many of these policies and rules are outlined elsewhere in this handbook.

Examples of workplace rules of conduct for which you will be subject to progressive discipline under the Progressive Disciplinary Policy **from counseling up to and including termination** include, but are not limited to:

- Failing to follow instructions or to perform work as requested.
- Failing to meet reasonable standards of efficiency and productivity, or otherwise unsatisfactory job performance and/or repeated substandard work.
- Unauthorized or excessive absences (including failure to report for work, late arrival, early departure or unauthorized absence from duty) from work.
- Excessive break time or repeatedly attending to personal affairs on work time.
- Sleeping or giving the appearance of sleeping while on City property or during the time in which the employee is supposed to be working.
- Failure to prepare and submit required reports and/or records in a timely manner.

**Examples of workplace rules of conduct for which you may be subject to a letter of reprimand up to and including immediate discharge or disciplinary action as set forth in the progressive disciplinary policy include, but are not limited to:**

- Lack of cooperation.
- Abuse of authority over employees or citizens.
- Abusing, damaging, wasting, stealing, inappropriately removing, or possessing City property, records, or the property of other employees.
- Falsifying your employment application or making misrepresentations on any other personnel records.
- Falsifying City reports or committing fraud with regard to any records (including time sheets, expense accounts, absence excuse, etc.).
- Fighting, threatening violence, or otherwise starting a disturbance on City premises or while performing job duties, including, but not limited to, assaulting or intimidating a City employee or non-employee.
- Unauthorized possession of firearms, knives, explosives, any device capable of discharging a projectile (i.e. bow and arrow, slingshot, etc.) or dangerous substances while performing job duties or on City property, except while having a firearm in his/her vehicle as allowed by state law while the vehicle is parked in accordance with federal or state law. Possession



of a firearm license does not authorize an employee to possess a firearm on City property where firearms are prohibited or in City buildings.

- Reporting to work in a condition unfit to perform your duties, including reporting to work with measurable amounts of illegal drugs, excessive amounts of prescription drugs, intoxicants, or controlled substances in your system or being under the influence of alcohol or drugs or controlled substances.
- Possessing, consuming or selling alcohol, illicit drugs or controlled substances on City premises or while performing your job duties and/or any violation of the City Drug-Free Workplace Policy, including reporting to work under the influence of drugs/alcohol or testing positive for illegal or unprescribed drugs during a drug screen.
- Violating a City safety, fire prevention, health, or security rule, policy or practice -- or creating or contributing to unhealthy or unsanitary conditions.
- Using tobacco in unauthorized areas.
- Acting in conflict with the interests of City.
- Boisterous or disruptive activity or horseplay in the workplace.
- Conduct leading to damage of City-owned property.
- Disclosing unauthorized confidential City information.
- Unauthorized solicitation or distribution on City property.
- Performing work other than City assignments during working hours.
- Calling in absent after refusal of request for time off.
- Sexual, racial or other unlawful harassment or any violation of the Rules of Conduct and Harassment policies.
- Failing to fully cooperate in any City investigation.
- Failure to notify the City for wrongdoings of co-workers or for violation of any rules, regulations or law.
- Failing to notify City of an accident as soon as possible.
- Abuse of phone or other communication systems for personal use.
- Abuse or misuse of the City telephone system, computer system or data.
- Entering a restricted area without authorization.
- Not bringing to the attention of a supervisor, Department Head or other official situations that may be fraudulent or that may involve an employee in an area of fraud, misuse, abuse, etc.
- Abusing your position to obtain access to records, information, or equipment for personal or non-city related purposes.
- **Not being truthful or attempting to mislead or evade a direct question or inquiry from any supervisor or City official.**
- **Failing to cooperate with or truthfully answer questions concerning investigations conducted by City Investigations.**

## **DRESS CODE**

All employees shall dress in an appropriate manner so as to best reflect the status of his/her job with the City of Montgomery. Each employee shall adhere to and follow any departmental dress code.

## **INSUBORDINATION**

Insubordination- employees may be disciplined, up to and including **immediate termination**, for insubordination, as determined by the City policies and due process requirements. Insubordination is the willful or intentional failure or refusal of an employee to carry out lawful and reasonable instructions, express or implied, of the employer.

There are two types of insubordination:

- Minor insubordination- is the result of a failure by the employee to carry out lawful and reasonable instructions and there is no overt, express or verbal refusal.
- Major insubordination- is the result of a direct, overt refusal, to carry out lawful and reasonable instructions.

Some examples of insubordination are as follows:

- Disobedience;
- Failure or refusal to carry out a lawful and reasonable instruction;
- Failure or refusal to submit to manager or supervisor as shown by demeanor or words;
- Disrespectful behavior towards manager or supervisor; and
- Failure or refusal to sign as received a written warning;

*The above list is not all encompassing or all-inclusive.*

The category of insubordination is determined by the supervising authority. Insubordination follows the ordinary discipline process, up to and including **immediate termination**. Employees must follow all rules, regulations, and instructions of the employer to ensure efficiency, safety, and functioning of the work place.

## **JOB PERFORMANCE**

Job Performance - employees may be disciplined, up to and including possible termination, for poor job performance, as determined by the City. Some examples of poor job performance are as follows:

- Below average work quality or quantity;
- Poor attitude, including rudeness, or lack of cooperation;
- Excessive absenteeism, tardiness, or abuse of break and meal privileges;

- Failure to follow instructions or City policies and procedures.
- This list is not all inclusive

**Some examples of misconduct that can result in disciplinary action up to and including immediate termination are as follows:**

- Failure to call in or show for scheduled work shift – one time only.
- Stealing, misappropriation or removing private or City property from City premises.
- Fraud
- Falsification of personnel, time records, leave requests, medical excuses, City records or the employment application.
- Failing to return required documentation within a timely manner as required by the City, i.e., FMLA forms, etc.
- Disorderly conduct on City property, including fighting, attempted bodily injury, or the use of profane, abusive, or threatening language toward others, or possession of a weapon not in strict accordance with Alabama law;
- Abuse or deliberate destruction of City property, tools, equipment, or vending machines. This includes official information which has not been backed up contained on computers, portable hard drives, etc. without the express permission of the department head.
- Violating City’s nondiscrimination and/or professional conduct policy and prohibition against harassment.
- Violating the Drug-Free Workplace Policy;
- Illegal drugs in an employee’s system and refusal to submit to or cooperate with a drug or alcohol test.
- Unauthorized possession of weapons or firearms on City property.
- Sleeping on the job.
- Being arrested for or conviction of a felony or other crime involving moral turpitude or crimes which can be construed to indicate the continued presence of the employee would constitute a hazard to fellow employees, City, or its property.
- Threatening, intimidating, coercing or interfering with employees or supervision at any time.
- Violating the Conflict of Interest Policy.
- Failure to report gifts or gratuities (see conflict of interest reporting requirement) which an employee may receive from vendors or clients.
- Insubordination (including refusal to sign as received a written warning);
- Act endangering safety of others;
- Actual or threatened misconduct in connection with work after prior written warning;
- Dishonest act characterized by lack of truth, honesty, probity or trustworthiness or by an inclination to mislead, lie, cheat or defraud;

- Falsifying or making a material omission on records, reports, or other documents, including payroll, personnel, and employment records;
- Commission of a criminal act or misdemeanor of any degree in any manner connected with or involving City property;
- Off-duty violation of any law adversely affecting City or conviction in court of any crime which may cause the employee to be regarded as unsuitable for continued employment;

This list is not all-inclusive.

**Bullying:** The City defines bullying as persistent or repetitive behavior that is insulting, disrespectful, abusive, or otherwise unwelcome or objectionable, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment. Bullying can occur either in or outside of the workplace.

- The purpose of this policy is to communicate to all employees, including supervisors, managers and executives that the City will not in any instance tolerate bullying behavior. Persons found in violation of this policy will be disciplined, up to and including termination.
- If you believe you are the victim of bullying, you are obligated to immediately report the bullying behavior. If you believe someone else is the victim of bullying, you are obligated to report the bullying behavior. Reports of objectionable conduct may be made to your direct supervisor, cabinet member, Office of City Investigations, or any other official. Below is a non-exhaustive list of examples of bullying behavior:
- **Verbal Bullying:** treating abusively, using language that indicates force or coercion, using browbeating language or behavior, slandering, ridiculing or maligning a person or his/her family; spreading rumors or gossip regarding individuals; offensive name calling or nicknaming; persistently interrupting an individual, using a person as the target of jokes; abusive and offensive remarks, shouting, raising voice at an individual, publicly humiliating a person, constant unwarranted criticism or accusations, manipulating work performance or ability to perform job functions, requiring menial or demeaning tasks that are beyond normal job responsibilities, duties or expectations;
- **Physical Bullying:** pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; tampering with or damage to a person's work area or property; and
- **Non-verbal Bullying:** non-verbal threatening gestures, looks or actions that convey threatening messages; purposefully singling out, ignoring, excluding or disregarding a person in work-related activities. This can also include so entries under circumstances which include discriminatory remarks, harassment, and threats of violence or similar inappropriate or unlawful conduct. If you decide to post complaints or criticism, avoid using statements, photographs, video or audio that can be viewed as malicious, obscene, threatening or intimidating, that disparage co-workers, or that could contribute to a hostile

work environment on the basis of race, sex, disability, religion, sexual preference, sexual identity or any other status protected by law or this Handbook.

**Any employee who believes that he/she is or may be subjected to objectionable conduct must report it immediately one of the persons named above. You may also inform a supervisor, department head, cabinet member or City Investigations about your concerns, which can make the initial report on your behalf. You should assume that no report has been made following your discussion with a supervisor or manager if you have not been contacted within 48 hours. Do not allow an inappropriate situation to continue by not reporting it, regardless of who is creating that situation. No employee in this organization is exempt from this policy. In response to every complaint, the City will take prompt investigatory actions and corrective and preventative actions where necessary. An employee who brings such a complaint to the attention of the City in good faith will not be adversely affected because of reporting the harassment. The organization will not tolerate retaliation by employees against any employee reporting incidents of harassment or for participating in an investigation of a harassment claim.**

Any employee who engages in objectionable conduct is subject to discipline up to and including termination. If an employee is not satisfied with the handling of a complaint or the action taken, then the employee should bring the complaint to the next higher level of authority set forth in the "Open Door Grievance Policy" section of this Handbook. In all cases, the employee will be advised of the findings and conclusion.

*The above list is not all encompassing or all-inclusive.*

The City also prohibits any harassment based on the legally protected categories set forth above. Harassment is verbal or physical conduct that degrades or shows hostility or aversion towards an individual because of these protected attributes, and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive working environment as defined by law; or
- Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- Otherwise adversely affects an individual's employment opportunities.

Conduct that threatens, intimidates, bullies or coerces another employee, a customer, or a member of the public at any time, including off-duty periods, through social media, email, texting, internet posting, or any other forms of communication, will not be tolerated. This prohibition includes all acts of harassment, including harassment that is based on an individual's sex, race, age, national origin, sexual orientation, religion, disability or any characteristic protected by federal, state, or local law.

All employees, regardless of position or title, will be subject to severe discipline up to and including termination from employment should the City determine that an employee is engaged in unlawful discrimination, retaliation or harassment.

## **REPORTING HARASSMENT, DISCRIMINATION, OR RETALIATION**

Any employee who feels that this policy is not being observed **must immediately report the alleged violation to the City County Personnel Board or the Department of City Investigations.** All reports will be treated as confidential to the extent practicable. No one will be subject to any form of discipline or retaliation for reporting incidents of unlawful discrimination or harassment or pursuing any such claim.

The City will promptly and thoroughly investigate the facts and circumstances of any reported incident.

## **SECURITY INSPECTIONS**

The City wishes to maintain a work environment that is free of illegal drugs, alcohol, firearms, explosives or other instrumentality or substances that could jeopardize the safety of its employees. The City requires the cooperation of all employees in administering this policy. Towards this end, the City reserves the right to request any employee to submit to a security inspection at any time (including during breaks and the lunch period) while on City premises or while performing work for the City while off-site based on individualized reasonable suspicion or legitimate work-related reasons. The inspection shall be limited in scope to that necessary to achieve that purpose and may be requested by the supervisor. Results of any inspection shall be immediately reported to the department head.

Desks, lockers, and other storage devices may be provided for the convenience of employees but remain the sole property of the City and are subject to being searched. Inspections may also include, but are not be limited to property, equipment, storage rooms, the City vehicles, buildings, rooms, facilities, offices, computer hard drives, diskettes, voice mail, electronic mail, desks, or cabinets. Any items that an employee does not want to have inspected should not be brought to work.

Entry onto any City premises or job site constitutes consent to searches and inspections. In addition, every employee is required to consent in writing to inspections as a condition of employment.

An employee's refusal to consent to a search or inspection when requested by the City constitutes a violation of City policy and is grounds for an adverse employment action, up to and including immediate dismissal.

## **WORKPLACE VIOLENCE PREVENTION POLICY**

The City is committed to maintaining a safe environment and preventing workplace violence. All employees should be treated with courtesy and respect at all times. Conduct that threatens,

intimidates, or coerces another employee, a client, or a member of the public at any time, including off-duty periods, will not be tolerated.

In an effort to prevent violence that may occur during business hours or on City premises, the City has developed the following to identify and define prohibited conduct, which includes, but is not limited to the following:

- Physically or verbally threatening another individual;
- The intentional destruction or threat of destruction of City property or a co-employee's property while at work;
- Harassing or threatening phone calls or written communications;
- Stalking;
- Advocating or threatening the illegal use of weapons or bombs;
- Threats or attempts to commit suicide;
- Fighting;
- Horseplay;
- Bullying;
- Gossiping;
- Profanity;
- Advocating or threatening revenge based upon a workplace occurrence.

Employees are prohibited from possessing unauthorized weapons, including but not limited to, firearms, knives and other dangerous instruments or hazardous devices inside City buildings or while working as a City employee. Employees may have firearms stored in their vehicle in City parking lots as may be allowed by state or federal law. However, no unauthorized employee shall have a firearm on his/her person or in a vehicle while performing the duties of his/her job.

Except in strict accordance with the eligibility criteria established by Alabama Law, employees are prohibited from the possession of firearms or weapons of any description on the premises of City buildings or lots or while such employees are performing work for City. While Alabama law may allow the possession of firearms in limited locations within specific restrictions (noted below), the City discourages the exercise of those rights as part of its violence prevention program. Additionally, employees generally are urged not to discuss any firearms which they may have in their locked vehicle in the City parking lots, as such disclosure may result in the City seeking to make a determination as to whether the employee is in strict compliance with the exceptions required by Alabama law to our prohibition against firearms. Any employee in possession of a firearm on City property or while performing work for City who does not meet all of the statutorily required exception criteria may be subject to discipline, up to and including termination.

All threats of (or actual) violence, both direct and indirect, should be reported as soon as possible to your immediate supervisor or any other member of management. This includes threats by employees, as well as threats by residents, vendors, solicitors or members of the public. When

reporting a threat of violence, you should be as specific and detailed as possible. All suspicious individuals or activities should also be reported as soon as possible to a member of management.

The City will promptly and thoroughly investigate all reports of threats, acts of violence, and suspicious individuals or activities. The identity of the individual making a report will be protected as much as is practical. In order to maintain workplace safety and the integrity of its investigation, City may suspend employees, either with or without pay, pending investigation. Anyone determined to be responsible for threats, acts of violence, or other conduct that violates these guidelines will be subject to prompt disciplinary action up to and including termination of employment.

The City encourages employees to bring their disputes or differences with other employees to the attention of their supervisors or another member of management before the situation escalates into potential violence. The City is eager to assist in the resolution of employee disputes and will not discipline employees for raising such concerns.

**Eligibility Criteria based on Alabama Law to have guns in  
locked vehicle in City Parking Lots**

Alabama law prohibits an employer from restricting an employee from having a firearm in a locked vehicle in the parking lot under certain limited circumstances. For such statutory protections to apply, the employee must also meet certain other statutory eligibility criteria, some of which are shown below:

<p><b>If the employee has a concealed weapons permit:</b></p> <ul style="list-style-type: none"><li>• The employee is permitted to have a pistol or long gun (shot gun or rifle) in his or her car out of sight and locked.</li></ul>
<p><b>If the employee does not have a concealed weapons permit:</b></p> <ul style="list-style-type: none"><li>• The employee can, during hunting season, have an unloaded rifle or shotgun legal for hunting (not a pistol) out of sight in his or her locked vehicle.</li></ul>



**An employer may also restrict an employee who does not have a concealed weapons permit from having a firearm in his or her car for any of these reasons, as well as other reasons set forth in the law:**

- The employee does not have a valid Alabama hunting license;
- The employee has been convicted of a crime of violence;
- The employee has been convicted of a crime involving domestic violence;
- The employee is subject to a domestic violence restraining order; or
- The employee has prior documented incidents of workplace threats or violence.

If the City learns that an employee does possess a weapon in their locked vehicle, the law allows the City to take the steps necessary to determine whether the employee is in compliance with Alabama law. The City may take disciplinary action against any employee upon finding that the employee is not in compliance with the law. However, the City will not take any action against an employee solely based on the presence of a lawful firearm in the employee's locked vehicle, out of plain sight, and otherwise in compliance with Alabama law.

All threats of violence, violent acts, potentially volatile situations, and all conduct prohibited by this policy should be reported as soon as possible to the supervisor. This includes threats by employees, as well as threats by clients, vendors, solicitors, or other members of the public. Reports should be as specific and detailed as possible. Additionally, any emergency, crisis, or situation posing an imminent danger should be immediately reported to the police department and department head.

The City will promptly and thoroughly investigate all reports. The identity of the individual making a report will be protected as much as is practical. No person will be subject to retaliation or reprisal because of making a report. In order to maintain workplace safety and the integrity of its investigation, the City may place employees on administrative leave, either with or without pay (subject to Section 10(b) of the Personnel Rules), pending investigation. Employees charged with a crime may be placed on administrative leave without pay for a maximum of 15 days for investigation.

Anyone determined to be responsible for threats of violence; violent acts or other conduct that is in violation of these guidelines will be subject to prompt disciplinary action up to and including termination of employment.

The City encourages employees to bring their disputes or differences with other employees to the attention of the supervisor before the situation escalates into potential violence. The City is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns.

## **PROFESSIONAL CONDUCT POLICY AND PROHIBITION AGAINST HARASSMENT**

The City is proud of its professional and congenial work environment, and will take all necessary steps to ensure that the work environment remains pleasant for all who work here. All employees must treat each other with courtesy, consideration, and professionalism. The City will not tolerate harassment of any employee by any other employee or supervisors or by City residents, vendors, or contractors. In addition, harassment for any discriminatory reason, such as race, gender/pregnancy, sex, religion, sexual orientation, gender identity, national origin, disability, or age, is prohibited by state and federal laws. Violations may subject the individual harasser to liability for any such unlawful conduct. With this policy, the City prohibits not only unlawful harassment but also other unprofessional and discourteous actions. There will be zero tolerance for derogatory racial, ethnic, religious, age, sexual or other inappropriate remarks, slurs, or jokes.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or any other visual, verbal, or physical conduct of a sexual nature when:

1. Submission to the conduct is made either implicitly or explicitly a condition of the individual's employment;
2. Submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed employee; or
3. The harassment has the purpose or effect of unreasonably interfering with the employee's work performance or creating an environment that is intimidating, hostile, or offensive to the employee.

Each employee must exercise his or her own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of harassment include, but are not limited to:

1. Verbal: Sexual innuendoes, racial or sexual epithets, derogatory slurs, off-color jokes, propositions, threats or suggestive or insulting sounds;
2. Visual/Non-verbal: Derogatory posters, cartoons, or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures;
3. Physical: Unwanted physical contact including touching, interference with an individual's normal work movement or assault; and
4. E-Mail and Internet: Offensive, demeaning, disruptive messages, or sexually explicit screen views.
5. Other: Making or threatening reprisals as a result of a negative response to harassment. Same sex harassment or harassing conduct from non-employees, such as vendors, contractors or residents, is also in violation of this policy.

It is the policy of the City of Montgomery that harassment in the workplace will not be tolerated. Department/Division Heads, supervisors, employees and third-party contractors are prohibited from engaging in verbal, physical or other conduct that harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile working environment. Harassment based on race, color, religion, sex, sexual preference, national origin, age, disability and any other protected status, is against the law. Violators of this policy are subject to prompt disciplinary action, including termination from employment.

Department/Division Heads and other supervisors are responsible for enforcement of this harassment policy, and they are required to:

- Ensure that all current employees, newly hired employees, and contractors are made sensitive to harassment issues by providing training with assistance from the City Attorney's Office, the Office of City Investigations, the Personnel Department, and/or outside consultants.
- Take immediate and appropriate action, including corrective action, if appropriate, to ensure compliance upon observing or being advised of words and/or actions that may violate this policy, even if no complaint has been made; and
- Refrain from retaliating against the complainant, witnesses, and/or participants in the investigation of the complaint.
- Refer complaints to the Office of City Investigations and/or the Personnel Board.

Any supervisor who receives a complaint **or investigative report** and fails to take prompt corrective action or any supervisor who retaliates against any person mentioned herein shall be subject to disciplinary action, up to and including termination from employment. In addition, any supervisor whose actions result in an arbitrary and capricious exercise of power over an employee may receive disciplinary action for abuse of authority.

## **DEFINITIONS OF HARASSMENT**

**Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, or verbal or physical contact of a sexual nature when any of the following occurs:

Submission to such conduct is made a term or condition of an individual's continued employment, promotion, or other condition of employment. This may occur by clearly stated acts or words, or implied acts or words;

Submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant; or

Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance, or creates an intimidating, hostile, or offensive work environment.

**Race, Color, Religion, National Origin, Age, and Disability Harassment:**

- Unwelcome statements, name-calling, or other offensive verbal, written, graphic, e-mail or physical conduct based upon an employee's race, color, religion, national origin, sexual preference, age, or disability is prohibited if or when any of the following occurs:
- Submission to such conduct is made a term or condition of an individual's continued employment, promotion, or other condition of employment;
- Submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee; or

- Such conduct has the purpose or effect of unreasonably interfering with an employee’s work performance, or creates an intimidating, hostile, or offensive work environment.

## **Prohibited Acts of Harassment**

Examples of verbal and physical sexual harassment:

- Sexually vulgar language;
- Remarks about a person’s physical anatomy;
- Distribution or display of written or graphic sexual materials including “sexting”;
- Touching another person in a sexually suggestive way; or
- Positioning one’s self to look at another person’s breasts, genital area or buttocks.
- Stalking
- Staring or leering in an offensive manner or bullying.

Examples of verbal and physical harassment based on race, color, religion, national origin, age and disability include, but are not limited to:

- Derogatory racial references: “coon”, “cracker”, “nigger”, “redneck”, “honky”, “jungle bunny”, etc.;
- Prohibited disability references: “deaf and dumb”, “cripple”, “spastic”, “retard”, “crazy”, etc.;
- Demeaning national origin references: “dago”, “polack”, “pedro”, “wetback”, “slant eyes”, “jap”, “spic”, etc.;
- Derogatory age references: “old-timer”, “old fart”, “old hag”, “dinosaur”, “mummy”, etc.;
- Display of signs, pictures, cartoons, written statements or other material that denigrates or discriminates against any employee(s) based on his or her race, color, religion, national origin, sexual orientation, gender preference or identity, age or disability; or
- Pushing, shoving or other intentional act or conduct perpetrated in whole, or in part, because of another’s membership in a protected category.

**Violations of these provisions will subject the employee to disciplinary proceedings that may include a recommendation for termination for the first offense.**

## **REPORTING AND INVESTIGATION OF CHARGES OF HARASSMENT, RETALIATION, OR DISCRIMINATION**

Any employee who believes that he or she is being harassed should report it immediately in writing or verbally **to the City County Personnel Board and/or the Department of City Investigations**. If the complaint is made verbally, the complainant should make and maintain a written account detailing the date of the incident(s), what was said or done, and the names of all witnesses.

## **Whistleblower Procedures**

A whistleblower as defined by this Handbook as an employee of the City of Montgomery who reports an activity that he/she considers to be illegal or dishonest to one or more of the parties specified in this Handbook. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities.

Examples of illegal or dishonest activities are violations of federal, state or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting.

If an employee has knowledge of or a concern of illegal or dishonest fraudulent activity, the employee is to contact his/her immediate supervisor or the City Investigations Director. This action is considered to be a “protected communication” as defined in this Handbook. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to discipline up to and including termination.

Whistleblower protections are provided in two important areas -- confidentiality and against retaliation. Insofar as possible, the confidentiality of the whistleblower will be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law and to provide accused individuals their legal rights of defense.

Bringing attention to a matter under this section shall be considered to be a “protected communication” as defined in this Handbook and the employee is protected under those provisions.

The City will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistleblower who believes he/she is being retaliated against must contact the Office of City Investigations immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

Defend Trade Secrets Act (DTSA) Compliance: "Immunity from Liability for Confidential Disclosure of a Trade Secret to the Government or in a Court Filing:

(1) Immunity—An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that—(A) is made—(i) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

(2) Use of Trade Secret Information in Anti-Retaliation Lawsuit—An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court

proceeding, if the individual—(A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order."

All reports of illegal and dishonest activities will be promptly submitted to the Office of City Investigations who is responsible for investigating, reporting and coordinating corrective action.

Employees with any questions regarding this policy should contact their Department Head or City Investigations.

## **ANTI-RETALIATION POLICY**

The City is committed to providing a work environment in which employees may complain about alleged discrimination or other problems, including harassment, without fear of retaliation. The City strictly prohibits discrimination against any employee because he or she has opposed any unlawful employment practices or because he or she has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing regarding such alleged practices.

Any employee who wants to report an incident of retaliation should promptly report the matter as outlined above "Reporting and Investigating Harassment Charge". Employees can raise concerns and make reports without fear of reprisal or retribution.

**All reports of retaliation will be maintained in confidence to the extent practicable. The City will promptly conduct a thorough and unbiased investigation of all reports**

Any employee, supervisor, or manager who becomes aware of possible retaliation shall promptly advise any of the persons listed above. Anyone engaging in retaliation will be subject to disciplinary action, up to and including immediate termination of employment.

## **REPORTING REQUIREMENTS**

Any employee who feels that this policy and/or handbook has been violated must notify his/her supervisor, or another person with authority to request an investigation. Reporting requirements shall include harassment, retaliation, fraud, misuse of city property, the filing of false reports or city documents, misusing leave, or any other area that may be considered to be harassment, retaliation, bullying, fraud, etc.

**Any employee may contact the Office of City Investigations to report any alleged violation.**

## **OPEN DOOR GRIEVANCE POLICY**

The City maintains an open-door policy that permits an employee to discuss problems, concerns, or grievances with City officials. If an employee has a problem that relates to his or her job, and

particularly if the problem is in the nature of a complaint, the employee is strongly urged to contact his/her supervisor immediately.

The employee should also submit a written summary of the problem so that the City will have complete and properly documented information.

The employee may be assured that his or her personal concerns can be voiced without fear of reprisal. However, it is not proper for an employee to complain in bad faith or solely for the purpose of delay or harassment.

The most effective accomplishment of the work of the City requires prompt consideration and equitable resolutions of employee grievances. It is the desire of the City to resolve grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. The complaint and investigative files shall be confidential except where necessary to pursue investigation of the allegations and question necessary witnesses. However, it is recognized that there will be grievances that will be resolved only after a formal complaint and review.

## **Grievance Procedures**

In all cases, the procedures below will be followed by every employee. Failure to follow the grievance and appeal procedure may result in a greater penalty being imposed by the City or in the dismissal of the grievance/appeal. Failure to timely file a grievance shall result in its rejection, unless the grievant presents compelling justification of the delay.

## **Policy Interpretation and Application Appeal**

Any regular employee, who is aggrieved as a result of the interpretation and application of the policies, disciplinary action (other than harassment or discrimination or disciplinary action resulting in demotion, suspension without pay, reduction of salary or dismissal), must follow these procedures:

Within seven (7) calendar days from the date of the occurrence of the grievance, an employee will first present the grievance to his/her immediate supervisor who will make careful inquiry into the facts and circumstances of the complaint. The supervisor will attempt to resolve the problem promptly and fairly and will give an answer to the employee within seven (7) calendar days from the date the grievance is submitted. If the immediate supervisor is the person accused by the employee, the grievance may be filed with the department head, or with the appropriate cabinet member if the department head is the accused. An employee may alternatively file a grievance with the Office of City Investigations and/or the City/County Personnel Department who may refer it for investigation and reporting.

If the employee is still aggrieved, the employee or authorized representative may request in writing, a review of the grievance by the department head or his/her designee. If the grievance is against the department head the grievance will be filed with the Office of City Investigations, the City County Personnel Board and/or the cabinet level member. Such request will be accompanied by all

documents relating to the grievance, and will be presented within seven (7) calendar days of the date of receipt of the supervisor's answer. The employee or the authorized representative will send copies of the written request for review at the same time to the employee's supervisor.

All complaints shall be handled in a timely and confidential manner. This process shall be completed as quickly as possible, but will generally not exceed 21 calendar days from the date of receipt of the complaint.

The time frames referred to in this section may be expanded with the consent of all parties to the hearing.

## **PROTECTED COMMUNICATIONS**

City employees have the right to contact any supervisor, senior official or City Investigations (CI) (See below) at any time to report suspected wrongdoing or mistreatment. No one may *restrict* an employee from contacting CI or reporting wrongdoing to a supervisor or more senior official. When an employee reports suspected wrongdoing to a supervisor, senior official or CI, it is known as a *protected communication*.

Restriction occurs when an employee is *prevented* from contacting CI, a supervisor or other senior official, in order to complain or make any allegation of wrongdoing. Restriction also occurs when an employee is required to report through the chain of command *prior* to making a protected communication. Restriction denies an employee the effective use of the City's CI system or access to senior officials.

A *protected communication* is any complaint regarding wrong-doing, violations of rules, law or policy, accusations of fraud, waste and abuse, or other misconduct, made by an employee to CI, a senior supervisor, department head, or any other senior/government official.

It is the policy of the City of Montgomery that any employee has the right to contact the Office of City Investigations at any time; or complain or point out wrongdoing to any senior City official at any time (i.e., make a protected communication). However, the employee should first consider (though it is not mandatory) to try and handle complaints at the lowest supervisory level or through normal personnel or chain of command channels.

## **CITY INVESTIGATIONS**

The Mayor has established the Office of City Investigations to investigate complaints and accusations of wrongdoing against and/or by City employees. When a citizen or an employee makes a complaint, they will be interviewed by one of the investigators. If another employee is named in the complaint in any manner, he/she may be called to the office for an interview. Before any employee is interviewed, he/she will be advised of the rights associated with the interview, the interview process, and will be asked to sign a "Garrity" form. **All employees must be completely honest in the interview process and must give complete information as requested.** The employee



will be advised to not discuss the interview or the case with any other employee. Failure or refusal to honestly give information or divulging information about the interview or case can lead to severe disciplinary action up to and including termination for the first offense.

## **TOBACCO USE POLICY**

The City of Montgomery has adopted a Tobacco-Free Policy. Tobacco use is prohibited on all City property, City facilities and premises, and City-owned, leased, rental or borrowed vehicles. This prohibition includes any and all buildings, owned, leased, rented and grounds maintained, parking lots, ramps, and contiguous sidewalks; and in vehicles owned or leased by the City. The City may designate smoking areas on its property.

Any employee who violates this policy shall be subject to disciplinary action as a Section 1 offense under the Progressive Discipline Policy.

## **DRUG AND ALCOHOL ABUSE POLICY**

The City of Montgomery **demand**s an alcohol and drug-free workplace. The manufacture, distribution, dispensation, being under the influence, possession or use of illegal drugs (including prescription drugs) and of alcohol in the workplace is, therefore, prohibited. The City also recognizes that use and abuse of alcohol and of prescription drugs, illegal drugs outside the workplace may also cause problems in the workplace.

The implementation of a drug and alcohol abuse policy by the City of Montgomery will further the overall interests of the City by (1) ensuring public safety; (2) developing public trust and integrity; (3) discouraging corruption; (4) developing high morale and safety in the workplace; (5) preventing a loss of productivity; and (6) minimizing or eliminating liability.

The City is concerned for the well-being of its employees. The City believes it has a responsibility to provide a safe, healthy, and productive working environment for all of its employees.

The City of Montgomery adopts the following policy in furtherance of its goal to establish a drug-free workplace.

### **Responsibility**

The implementation of, and compliance with, the City of Montgomery Drug and Alcohol Abuse Policy is primarily the responsibility of the department heads. Each department head is responsible for ensuring that all aspects of this policy are followed. The City of Montgomery Director of Risk Management and/or designee will receive confidential drug testing information and will be available to assist each department head in the implementation of this policy.

### **Illegal Drug or Alcohol Use in the Workplace**

If it is determined that an employee is under the influence of, used, consumed, possessed or manufactured: (a) illegal drugs either during work hours or while on duty, or while off duty if such

use or consumption in any way impairs his/her ability to perform his/her job duties while at work, or (b) alcohol, during work hours or while off duty if such use or consumption in any way impairs his/her ability to perform his/her job duties, that employee may be terminated. A drug screen or breath alcohol test will be performed, if possible, to confirm the consumption or use by the employee. An “illegal drug”, for purposes of this policy, shall include cocaine, marijuana, PCP, opiates, amphetamines, ecstasy as well as any prescription narcotic, opiate, and/or amphetamine-based drug for which the employee does not have a current, valid prescription in his/her name. Furthermore, in adherence with Title 49 Code of Federal Regulations Part 40, a breath alcohol concentration of .04 or greater shall constitute a positive finding for purposes of this policy.

## **DRUG AND ALCOHOL SCREENING AND TESTING**

### **Testing Based on Reasonable Suspicion During Employment**

If there is reasonable suspicion to believe that an employee is using or possessing illegal drugs or is under the influence of alcohol while working for the City, this employee may be administered a drug screen and/or breath alcohol test. These tests must be in accordance with the City drug and alcohol testing procedure to include verification of the test results by a qualified Medical Review Officer (MRO) as defined in 49 CFR Part 40.

Supervisors are required to specify in writing the exact facts, symptoms, and/or observations of drug or alcohol use. Any corroboration by other sources, which formed the basis for a reasonable suspicion, must also be documented. The documentation is to be immediately forwarded to the supervisor’s department head or his designee. The department head or designee will, in turn, forward the documentation to the City Director of Risk Management and/or designee who will, in turn, set up the collection of the sample provided it meets the requirements for a “reasonable suspicion drug and alcohol test.”

- Circumstances which provide a basis for determining reasonable suspicion may include, but are not limited to:
- Direct observation of drug or alcohol use
- Presence of physical symptoms consistent with drug or alcohol use, i.e. alcohol odor, slurred speech, poor coordination and/or reflexes
- Abnormal or erratic behavior by the employee
- Information concerning recent drug or alcohol use by the employee, from a reliable and credible source.

### **On-the-Job Testing**

Any employee who suffers an on-the-job injury that may result in a Workers’ Compensation Claim will be subject to a drug screen and/or breath alcohol test pursuant to the City drug and alcohol testing procedure. The test result must be verified by a qualified medical review officer (MRO). If the test results are positive for drug or alcohol use, workers compensation benefits may not be paid to the employee. Furthermore, the employee will be subject to paragraph “G” of the drug and

alcohol testing procedure. A drug screen will be performed after each and every on-the-job injury that is treated by a physician; furthermore, if the physician or supervisor has reasonable suspicion to believe that the injured employee is under the influence of alcohol, a breath alcohol test will be administered as well.

The injured employee has twelve (12) hours, from the time of the injury, to submit to the required drug screen. The injured employee must submit to the breath alcohol test immediately upon request absent an overriding cause for delay. Failure to adhere to these time restraints may subject the employee to termination of employment and/or denial of workers compensation benefits.

**FOR ALL CITY OF MONTGOMERY COMMERCIAL DRIVERS AND OTHER AUTHORIZED OPERATORS OF CITY OWNED VEHICLES**

In addition to the above stated policy, the following testing must be implemented for commercial drivers pursuant to the Omnibus Transportation Employee Testing Act, Public Law 102-143, which amends the Commercial Motor Vehicle Safety Act of 1986. All non-commercial drivers are directed to follow this provision due to their authorized operation of City owned vehicles and not resulting from Federal Law.

**Random Testing**

All authorized drivers of City owned vehicles who are required to drive as a part of his/her job, transport employees, or work in an area where injury can occur, commercial or otherwise, shall be subject to at random drug and alcohol testing during work hours. The City of Montgomery Director of Risk Management and/or designee shall submit at random a list of commercial and other authorized drivers from each applicable department for testing following the City Drug and Alcohol Testing Procedure to include verification of results by the MRO. The Director of Risk Management and/or designee will be responsible for ensuring that all technical aspects of this at random testing follow U.S. Department of Transportation rules and regulations. The random testing will be conducted in phases and will ensure that the federally mandated percentage of commercial drivers is tested annually.

**Post-Vehicular Accident**

An authorized driver with the City of Montgomery may be given a drug screen *and* breath alcohol test following any vehicular accident involving a commercial or other vehicle owned by the City of Montgomery where there is loss of life, bodily injury, or significant property damage (in excess of \$100.00). If the law enforcement officer who investigates the accident determines that there is no evidence nor reasonable suspicion to believe that the City driver was at fault, there is no injury to any person involved in the accident, no vehicle has to be towed because of damage, and the driver does not show signs of being under the influence, the drug test/alcohol test may not be immediately required. The police officer shall document his/her findings and determinations and supply that document to the Director of Risk Management and/or designee of the City of Montgomery the following business day. The Director of Risk Management and/or designee, after reviewing the documents, may require that the testing be administered. The testing will follow the

Drug and Alcohol Testing Procedure to include verification by an MRO. The drug screen should be performed as soon as possible but no later than twelve (12) hours after the accident if the accident is on the weekend (after 5:00 p.m. on Friday through Monday) or other non-work day. If the accident is after normal business hours, then the test shall be done by 10:00 a.m. the next business day. If the driver is seriously injured and cannot therefore, provide a specimen for the screen, the driver must authorize the release of any hospital reports that would indicate the presence or non-presence of alcohol or controlled substances in his/her system. Failure to adhere to the time constraints of the testing procedure and to the release of records, could subject the employee to termination of employment.

Drivers who operate under a CDL license must **also** comply with the CDL regulations relating to accidents.

### ***For Public Safety and Other Safety Sensitive Employees***

This policy does not supersede any drug or alcohol testing policies already in place in the public safety area. It is merely designed to supplement and in no way intended to repeal any policies utilized by the Montgomery Police or Fire Departments with the exception of Section IV Drug and Alcohol Testing Procedure.

All public safety and safety sensitive employees are subject to random testing. Public Safety employees include sworn Police and Fire Department employees. Employees who are considered to hold safety sensitive positions will be identified as such by their respective department heads and notified of this status. These positions will include, but not be limited to, positions requiring or having direct access to a controlled substance, having access to NCIC information, a position where the employee's action or inaction directly affects public safety, and/or supervisors of those safety sensitive functions. Random testing shall be ensured through a computer-generated list or other non-discriminatory method using random names from the employment population of each public safety and/or safety sensitive employee sector.

Annually, the total number of random tests should be at least twenty five per cent (25%) of the number of the public safety and/or safety sensitive employees in each department.

### **Drug and Alcohol Testing Procedure**

An employee who is requested to submit to a drug or alcohol screen pursuant to this policy must submit to such testing and be tested or be subject to termination. The testing may include, but is not limited to, the collection of urine, hair (non-pubic), and/or breath. If the testing involves the collection of hair and the employee intentionally cuts or removes hair thus making the testing reasonably impossible, without a valid medical or other excuse, the employee will be given a maximum of thirty (30) days from the date of notification to provide the required hair sample. Failure to provide such a sample will be deemed a refusal to submit to testing and could subject the employee to punishment, up to and including, termination.

An employee who is requested to submit to a drug or alcohol screen will report immediately to the City designated testing or collection facility. **This is a priority over all other duties.**

All drug and alcohol testing procedures shall be in accordance with rules and regulations of the testing or collection facility.

### **Substances Covered By Drug/Alcohol Testing**

Employees will be tested for their use of commonly-abused controlled substances, including, but not limited to: Amphetamines, Barbiturates, Benzodiazepines, Opiates, Cannabinoids, Cocaine, Methadone, Methaqualone, Phencyclidine (PCP), Propoxyphene and chemical derivatives of these substances.

### **Testing Methods and Procedure**

All testing will be conducted by a licensed independent medical laboratory, which will follow established testing standards. Testing will be conducted on a head or body hair sample provided by the candidate to the testing laboratory under procedures established by the laboratory to insure privacy of the employee, while protecting against tampering/alteration of the test results.

The City of Montgomery will pay for the cost of the initial testing. The testing lab will retain samples in accordance with the law, so that a candidate may request a retest (safety net) of the sample at his/her own expense if he or she disagrees with the test result.

### **Right to Explain Test Results**

All candidates have the right to present their explanation for the positive test results. This meeting will be with the MRO for the City. These conversations shall be considered confidential except that information disclosed in such tests will be communicated to personnel within the City or within the Lab who need to know such information in order to make proper decisions regarding the test results or regarding the employment of the individual.

### **Right to Review Records**

The City will only provide a copy of test results to candidates who test positive.

### **Confidentiality Requirements**

All records concerning test results will be kept in secured medical files that are maintained separately from the City's personnel files.

Testing laboratories may conduct testing only for substances included on the disclosure list provided to the individual, and may not conduct general testing related to the medical conditions of the individual which are unrelated to drug usage.

The drug or alcohol test results will be forwarded to the City's Director of Risk Management and/or designee by the testing facility. Risk Management will retain all drug test results, in separate files,

for at least three years. The results will be sent to the employee's department head or designee and are to be kept secure and confidential. Each department head will assign only one other employee access to drug testing results. Also, these designated employees will sign a statement acknowledging the need to maintain the confidentiality and privacy of these files. No other employee shall have access to these files without the express authorization of the Mayor.

All positive urine and/or hair specimens of drug tests will, to the maximum degree possible, be retained at the testing facility for at least thirty (30) days following the written report to the City. Any employee whose test results are positive may secure the split urine specimen sample and have an independent test performed, or in the case of hair collections, may request a retest comparison retest. The employee should notify the Director of Risk Management and/or designee of such a request. The retest will be performed at the expense of the employee and will conform to commercially acceptable practices.

If an employee tests positive for the use of illegal drugs that were used, consumed or ingested at work or outside of work hours, or is under the influence of alcohol consumed outside of work hours but impairing behavior during work hours, that employee will be disciplined as follows:

**The first violation shall result in a recommendation of termination of employment.** The Mayor shall have the discretion, based upon the nature of the employee's work responsibilities, prior work history, circumstance of the positive finding, and/or other information to discipline the employee in any other manner deemed appropriate to include, but not be limited to suspension, treatment, or immediate termination of employment. Prior to an employee's returning to work after a positive drug or alcohol screen, he must first take and pass a subsequent drug or alcohol test. Any number of follow-up tests can be administered to the employee without notification during the twelve (12) month period following the return to work.

**The second violation shall automatically result in termination.** A violation by a commercial driver may also result in suspension of the driver's Commercial License based upon U.S. Department of Transportation rules and regulations.

If an employee is suspended under this policy, the employee shall, within the first five (5) days of the suspension, agree to and undergo an assessment by a medical professional, selected by the City of Montgomery, to determine whether the employee will benefit from substance abuse treatment. If such professional recommends treatment, the employee shall be given prompt written notice of such recommendation and shall be given up to 72 hours from receipt of notification to comply with such recommendation. A failure on the part of said employee to comply with such recommendation, in a timely fashion, as provided for in this subparagraph, may result in a forfeiture of rehabilitation benefits.

### **Drug and Alcohol Abuse Treatment**

If an employee voluntarily admits to abusing alcohol, or the use of illegal drugs, or other mood or mind-altering substances and desires treatment, that employee may request treatment from any supervisory personnel of his/her department or request help from a medical provider outside the

department. This request shall be kept confidential. The City of Montgomery supports such requests for help and will accommodate the needs of such employees. There will be no disciplinary action taken against an employee for requesting such treatment; so long as such request is made prior to any of the following having occurred: an alleged violation of this policy, any City mandated drug screen or breath alcohol test request, and/or the arrest of such employee for a drug or alcohol related offense or crime. An employee shall be permitted to take advantage of the provisions of this subparagraph on no more than two (2) occasions during employment with the City. (Treatment is defined as the admission to a recognized inpatient or outpatient rehabilitation program and the subsequent follow-up care.) Providing false or misleading information to a treatment facility, department head, or other City official concerning the use of drugs is prohibited, and a violation shall result in termination from employment under this and other provisions of this Handbook.

Upon completion of treatment, the employee must adhere to all aftercare contracts and agreements imposed by the healthcare provider and the City and may be subject to a random drug screening. If the employee does not adhere to the terms and conditions of these agreements, disciplinary action, up to and including termination, may be brought against the employee. Each employee utilizing the provisions of this subparagraph shall be required to sign a form agreeing to be bound by this requirement.

## **Miscellaneous**

The City of Montgomery's testing guidelines and procedures have been adopted primarily for administrative purposes. The testing is not designed to enforce the criminal laws of the State of Alabama or to bring criminal charges against an employee suspected of using drugs. The program *seeks* to provide the employee with a regimen of testing that is minimally intrusive while still providing accurate results. The goal is to balance the integrity and benefits of testing procedures with the employee's right to privacy.

An individual's test results will not be released publicly unless agreed to by the employee or ordered by a court or administrative body. Information may be used for internal administrative purposes; however, the City will strive not to breach the employee's expectation of privacy.

Any employee arrested by law enforcement for illegal possession, use, sale or consumption of a controlled substance shall be subject to discipline up to and including termination for the first offense.

## **POLYGRAPH EXAMINATIONS**

Because it is important for members of the public to be able to place faith and trust in City employees to whom they give cash and checks, the City has established a policy on the administering of polygraphs examinations to City employees. No City official shall randomly administer polygraph examinations.

Polygraph examinations will be used only as an investigative tool and will serve as an adjunct to, not as a substitute for, other investigative efforts. Polygraph examinations may be used as an investigative tool when any department that collects cash or checks from the public cannot account for those funds or when those funds are being wrongfully or illegally used or applied by an employee. Polygraph examinations may also be conducted at the request of the Office of City Investigations in furtherance of official investigations.

## **EMPLOYEE PAY**

If at any time an employee has reason to believe that improper deductions have been made from their pay, or for any other reason they believe a mistake has been made concerning compensation, the employee should immediately bring the matter to the attention of the Supervisor, Department Head, City Investigations, Payroll, and/or Personnel Board.

### **Workweek**

The workweek begins at 5:01 on Thursday afternoons and ends at 5:00 the following Thursday. (Departments may have different work hours but the “week” begins one minute after the close of the work day on Thursday and ends the following Thursday at the close of the work day.)

### **Overtime**

Overtime is: Any time worked after the employee has actually (physically) worked 40 hours in a work week for which payment will be made as follows:

Overtime status must, in general, be approved in advance. Your department will instruct you on how to apply, approval process, etc. Working “off the clock” must be approved in advance by the supervisor and may be subject to overtime/pay.

**Reporting Procedures:** Any employee who works any overtime, including working during lunch or during times other than normal working hours (running errands, answering emails, answering phones, reading and responding to texts, working at their desk before or after hours, or during lunch) shall at the start of the next shift, inform the supervisor of the amount of time worked.

Exempt Employees: Straight time – an hour for an hour.

Non-Exempt Employees: One and one-half hours for each hour worked.

Over time is NOT: Hours worked in excess of eight hours in one day.

Working more than 40 hours in a given workweek without advance written authorization shall be a violation of this Handbook. Working off the clock, underreporting or over reporting hours worked is likewise a violation of this Handbook. Employees shall report any and all work done while not on duty (including text, emails, and telephone calls) to his/her supervisor during the next work period. Supervisors and employees are responsible for not engaging in these practices unless an emergency exists.



Employees are prohibited from working while “off the clock” without advance approval of his/her supervisor and shall report any time “worked off the clock” at the earliest possible time, but no later than the start of the next shift to the supervisor.

## **Employee Status**

Employees may be required to work overtime from time to time, and all employees may perform such overtime when, and only when, specifically instructed to do so by his/her immediate supervisor except in emergencies. Non-exempt employees shall not take work home unless specifically instructed in writing in advance by their immediate supervisor and then only when an agreement has been reached as to the amount of after hours work time is allowed. Each employee is designated as either NON-EXEMPT or EXEMPT from the Fair Labor Standards Act (FLSA) provisions governing overtime compensation.

## **Calculating Overtime**

Non-exempt employees are paid at a rate of one and one half times the regular rate of pay for all hours worked in excess of (40) forty-hours actually worked in a workweek. Special rules apply for Public Safety employees, and the employee should abide by those particular provisions (FLSA).

## **Submitting Overtime/Record-Keeping**

Overtime: For eligible employees any time worked after (8) eight-hours in any day but before (40) forty-hours in the current work week will be taken off, at the rate of hour for hour, at the discretion of City management before the employee has accumulated (40) forty-hours in the current work week. If the employee is not given time off, hour for hour, before (40) forty-hours in the current workweek are accumulated the employee will be paid overtime for any hours over (40) forty-hours at the rate of time and one-half.

## **Time and One-Half Overtime**

You may be eligible (please check with your payroll department to determine your eligibility) for time and a half overtime after PHYSICALLY working 40 hours in a weekly pay period. Time and a half overtime is computed on a 40-hour basis for 80-hour biweekly personnel. LEAVE TIME AND HOLIDAYS DO NOT COUNT TOWARD PHYSICALLY WORKING. Employees who are not eligible for time and a half overtime can choose to be paid for any time worked in excess of their scheduled hours.

### **EXCEPTIONS**

Police (Sworn Officers below the rank of Captain, including Municipal Jail Corrections Officers and Municipal Jail Supervisors) employees are eligible for time and a half overtime after PHYSICALLY working 86 hours in a biweekly pay period. LEAVE TIME AND HOLIDAYS DO NOT COUNT TOWARD PHYSICALLY WORKING.

Fire (Sworn Officers below the rank of Lieutenant on shift assignment, Fire Medics equal to the rank of Lieutenant) employees are eligible for time and a half overtime after PHYSICALLY working

106 hours in a biweekly pay period. LEAVE TIME AND HOLIDAYS DO NOT COUNT TOWARD PHYSICALLY WORKING.

### **Compensatory Time**

Employees can choose to accrue compensatory leave instead of being paid for overtime. If you are eligible for time and a half overtime, any time you have accrued your compensatory leave limit, you must be paid for any additional overtime earned.

Employees who are exempt from time and a half overtime may carry over 160 hours of compensatory leave at the end of the fiscal year.

Please refer to the chart from City/County Personnel for compensatory leave limits for your classifications that work more (or less) than 40 hours per week (excluding overtime) for exceptions to the above information.

### **On Call Pay**

Employees who are on call and who are provided with a cell phone or pager are free to spend such non-working hours whenever and however they please. Employees who are on-call shall not use alcoholic beverages or any impairing effect drugs or medications. They should be able to respond in a reasonable time. All employees will be paid only for the time responding and doing actual work.

### **Pay Advances**

Pay advances are not allowed under any circumstances. Travel advances **are not** pay advances.

### **Direct Deposit**

Direct deposit is available for City employees to be made directly to the financial institution of your choice. Please contact the payroll office for further information.

Contract employees and those paid under professional services contracts are NOT eligible for direct deposit.

## **EMPLOYEE OBLIGATIONS**

### **Attendance Policy**

Regular and predictable attendance is an essential function of every City position. Every employee is an important part of the City. When you are absent, your co-workers bear the responsibility of attempting to accomplish your job as well as their own. Accordingly, unauthorized or excessive absences or tardiness will not be tolerated and will result in disciplinary action, up to and including termination. This policy applies to all non-exempt employees. Exempt employees are also

required to maintain good attendance and be punctual, but different guidelines may apply given the nature of their responsibilities.

Employees must notify their immediate supervisor, as far in advance as possible whenever they are unable to report for work or know they will be late. If an employee's immediate supervisor is unavailable, the employee should leave voice mail. In addition, the employee shall contact another supervisor and request that the message be relayed to his/her supervisor. Failure to notify the supervisor in a timely manner of any absence or delay may be grounds for termination.

Employees must obtain permission from their immediate supervisor in order to leave the City premises (assigned work place) during working hours for other than their normally scheduled lunch.

#### **TARDINESS AND PARTIAL ABSENCES**

All employees are expected to report to work at their assigned stations on time during scheduled working hours. Each employee shall be considered late if he/she has not punched in on or before the required work time. The reporting of such tardiness shall apply to any tardiness including lunch hours and work breaks.

All employees are expected to contact their immediate supervisor (30) thirty-minutes prior to the commencement of regular working hours, if, for any reason, they will be unable to report to work as scheduled.

Absences, which are neither supported in writing by the employee's physician nor authorized by the employee's supervisor, will subject an employee to disciplinary action, up to and including termination.

Supervisors are responsible for notifying the Department Head of any unauthorized absences or excessive tardiness. This notification should be in writing and will become part of the employee's personnel file.

Absences, which are neither supported in writing by the employee's physician nor authorized by the employee's immediate supervisor, may be regarded as an unauthorized leave without pay and may subject an employee to disciplinary action, up to and including termination.

The supervisor shall be notified of any unauthorized absences or excessive tardiness. This notification should be in writing and will become part of the employee's personnel file.

#### **SICK LEAVE**

Sick leave/personal days are provided for use during periods of temporary absence due to illnesses, bereavement or injuries. The provisions of the City and County of Montgomery Personnel Board Rules and Regulations have additional information about sick leave. All regular full-time and certain qualifying part-time employees shall be allowed to earn sick leave/personal days. Sick leave

days are not a right for which employees may make a demand, but a privilege granted in accordance with prescribed rules and regulations.

Eligible employees may only use sick leave for the following:

- Personal illness of the employee, including inability to work due to pregnancy, childbirth or related medical conditions;
- Personal medical and dental appointments;
- Illness arising from exposure to contagious disease endangering the health of the other employees;
- For the employee to receive treatment, care and/or counseling, as either an inpatient or an outpatient, for substance abuse at a duly licensed treatment facility;
- Illness, in the employee's immediate family, which necessitates his/her absence from work. Immediate family is defined in the City and County of Montgomery Personnel Board Rules and Regulations.
- Employees who are unable to report to work due to illness or injury should notify their supervisor thirty minutes before the scheduled start of their workday if possible. The supervisor must also be contacted on each additional day of absence. A physician's statement or verification may be required at the discretion of the Appointing Authority or his/her designee.

Such verification may be required as a condition to receiving sick leave benefits or for the absence to be excused. Excused absences are not counted against an employee during annual evaluations.

Employees should advise the supervisor or department head what, if anything, the city can do to help them get back to work.

Before returning to work from a sick leave absence an employee may be required to provide a physician's verification they have reviewed the employee's job duties (job description) that he or she may safely return to work and can perform the essential functions of their position with or without a reasonable accommodation. Sick leave will be calculated based on the employee's base pay rate at the time of the absence.

Sick leave is intended solely to provide income protection for the events described in this Handbook, and may not be used for any other absence.

(SEE ADDITIONAL PROVISIONS OF FMLA ISSUES IN THIS HANDBOOK and in the City and County of Montgomery Personnel Board Rules and Regulations.)

## **SICK LEAVE DONATION**

Refer to provisions of the City and County of Montgomery Personnel Board Rules and Regulations.

## **OUTSIDE WORK OR ACTIVITIES**

The outside activities or outside employment of any employee, whether on or off the job, which in the judgment of the City, may interfere with an employee's proper performance or attendance on the job will not be tolerated.

Certain activities that obviously are not proper for employees include, but are not limited to:

- The use of City time, facilities, or equipment to engage in another business or occupation;
- Participating in any outside activity or employment that results in lost time from work, causes distractions from work or unsatisfactory work performance or creates an appearance of a conflict with the best interest of the City.
- Jobs that may create a bad image on the City of Montgomery.

Notification – City employees engaging in outside employment are encouraged to submit written notification to their Department Head, including the nature of the work and the estimated number of hours to be worked.

Impact – Employee shall demonstrate to the Department Head's satisfaction that such outside employment or self-employment will not detract from the efficiency of the employee's completion of their assigned duties, create a real or potential conflict of interest or the appearance of impropriety, or otherwise conflict with the best business interest of the City. Under no circumstances may City equipment or resources be used in outside employment.

Revocation – The Department Head shall have the right to take disciplinary action, up to and including dismissal, if at any time the Department Head determines that the employee's outside employment or self-employment, detracts from the efficiency of the employee's completion of their assigned duties, created a real or potential conflict of interest or the appearance of impropriety, or otherwise conflicts with the best business interest of the City.

Injury – Employees who become injured or ill through any outside employment shall not be eligible to receive workers compensation through the City of Montgomery.

All employees must receive the written approval of the department head before engaging in any activity *that might be covered* by this policy.

## **POLITICS**

Refer to the Rules and Regulations of City/County Personnel.

## **SMOKING AND/OR VAPING**

It is the intent of the City to create a smoke-free environment for our employees. Smoking or vaping is prohibited on City property (except in designated areas) or in City vehicles.

## **SAFETY**

The City is committed to providing a safe, sanitary, and healthful work environment for employees, clients, and visitors. This is a top priority for the City. The success of this goal depends on the alertness and personal commitment of all employees and staff.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe or unhealthy condition including all building and grounds managed by the City and any on-the-job or work-related injury or illness, to their supervisor.

Employees who violate safety standards, who cause hazardous or dangerous situations, or who fail to report or, where appropriate, remedy such situations, may be subject to disciplinary action, up to and including immediate termination of employment and may be denied Workers' Compensation Benefits.

In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees should immediately notify their immediate supervisor. Such reports are necessary to comply with laws and initiate insurance and workers' compensation benefit procedures.

## **ELECTRONIC COMMUNICATIONS**

The City's electronic communication resources are available to assist you to successfully perform your job duties. Supervisors may permit limited personal use of City owned electronic communication devices; however, they are not intended for misuse or excessive personal use. The City strives to protect its employees, its customers and the public from inappropriate use of the City's electronic communication resources, and to ensure that the use of these resources is consistent with the City's objectives and goals. This policy applies to, but is not limited to the following list of the City's electronic communication resources available now or in the future:

1. Computers
2. Computer networks
3. E-mail (both Internet and Citynet based)
4. Telephone systems (including voice-mail)
5. Faxes
6. Mobile (cell) phones
7. Pagers
8. Personal digital assistants (PDA's)
9. Software and hardware resources

10. Citynet
11. Internet
12. Video conferencing (webinars and conference calls)
13. Closed-circuit television
14. Documents, files or other information contained in these resources

Employees should utilize the City's electronic communication resources in a professional and thoughtful manner. Employees are responsible for the content of communications that they access, create, transmit, receive, or store by means of these resources. With respect to "public" activities, such as visits to websites and other Internet use, employees are associated with the City and must conduct themselves accordingly.

Employees are strictly prohibited from engaging or attempting to engage in the following acts, including but not limited to:

- Engaging in any illegal activities
- Transmitting or accessing defamatory, threatening, offensive, suggestive, obscene or harassing materials, sexting, including adult material, pornography, and "off-color jokes"
- Transmitting or accessing racist, sexist or other "hate" materials, materials that advocate illegal acts, or materials that advocate violence or discrimination toward others
- Transmitting or installing destructive programs or files (such as a worm or virus) or unauthorized software, or any actions intended to damage or place an excessive load on a computer system or network
- Spamming, chain letters, multi-level marketing, mass, or un-solicited e-mails.
- Disabling or changing the configuration of any anti-virus software preloaded on a workstation or failing to scan attachments with anti-virus software before opening
- Accessing, reviewing, duplicating, installing, damaging, removing, tampering with, or modifying computer systems, programs, documents, databases, applications, accounts, access codes, user profiles, passwords, existing files, or Intranet sites
- Concealing, altering, forging, or obscuring their identities or another's identity as the source of a communication or accessing electronic communication resources by using another's password
- Circumventing data or system firewalls or security measures or accessing unauthorized information
- Intercepting, redirecting, or otherwise interfering with e-mail or other communications intended for others
- Gaining access to any third-party computer system or to any unauthorized the City electronic communication resource
- Violating the City policies and procedures relating to electronic communication resources
- Engaging in gambling or external chat room activities

- Soliciting or advertising for non-City purposes
- Personal cell phone/text messaging during working hours that interfere with work duties.

Alabama law prohibits texting while driving. The City prohibits employees from using wireless communications devices, including cell phones and text messaging, when driving on City business, whether driving a City vehicle or private vehicle. Drivers who need to read text message or use wireless communications device must pull over to a safe location before using the device.

“Texting” or “Text Messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. “Driving” means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

No use of personal/office cell phones/two way radios in City vehicles/equipment by the driver, or by a driver in his/her personal vehicle while on city business while the vehicle/equipment is in motion, except law enforcement on official business.

No use of a wireless device when driving a City van or bus while transporting children, residents, participants or clients.

Employees have no legitimate expectation of privacy in any use of the City’s electronic communication resources. Electronic communication resources and data, information, messages, or other communications created, accessed, or distributed through them are the property of the City. In accordance with applicable law, the City can, at any time, with or without notice, intercept, or investigate any use of its electronic communication resources, and can retrieve, display, and review the contents of any communication to or from an associate. Employees should be aware that the City’s electronic communication resources will be monitored by authorized personnel to ensure compliance with this policy. For example the City will monitor Internet message boards and websites accessed by Employees.

## **CITY COMPUTER NETWORK, PHONE, AND INTERNET USE POLICY**

City information network resources are made available to the staff to improve communications and information exchanged with employees and others and to provide communication, information, and research resources. Certain restrictions are necessary to avoid improprieties and ensure that established standards are met. To reduce potential liability, the risk of inappropriate use, and possible adverse public perceptions, personnel shall use the provided phones, network, and Internet



for *official City business purposes only*. Information network resources, including email, are not to be used for entertainment, or for illegal, harassing, or libelous purposes.

All employees shall use the phones, Internet and E-Mail in a responsible manner. Use of electronic information resource is a **privilege and business requirement**, not a right.

All phones, computer equipment, and software are for business purposes only, except as may be permitted by the supervisor. Computer equipment may not be used for video games, private chat rooms or similar entertainment endeavors.

#### PROCEDURE FOR USE

- (1) The City provides employees with phones and access to the Internet for the purpose of fulfilling the City's mission of serving the City. Uses are to be related to the operations of the City or for personal use as may be allowed by the supervisor.
- (2) The City phones and E-Mail accounts are owned by the City and therefore are not private. The City retains the right to review, audit, intercept, access and disclose all messages created, received, or sent over the electronic mail system as necessary.

#### Employees shall:

Use phones and computing equipment, software, and network access in a manner consistent with appropriate City policies. Be aware of and abide by copyright and licensing laws. Be sensitive to the security/safety issues related to publishing names, addresses, and pictures on the Internet.

Protect City information and insure that it is not used inappropriately and does not fall into the wrong hands.

#### Employees shall not:

Interfere with the ability of others to make effective use of City phones, computing, and network resources. Use any form of obscene, harassing, racist, sexist or abusive language or behavior on the phones or online or at any time.

Send messages using someone else's name without consent, read mail, delete, copy, or modify files created by others without permission from your supervisor, or other person designated as being responsible by the City. Intentionally access Internet sites containing hate materials. Forge or attempt to forge electronic mail messages and/or documents. Install any software, screensavers, and/or programs to their computers. Any needed applications must be approved and installed by IT personnel. Installation of third party screensavers is prohibited. Install any hardware without consent of IT personnel. This includes flash drives. Transfer in any manner any personal files to your computer. This includes, but is not limited to, transfers made by email, CD's, floppies or flash drives.

- No personal cell phone, text messaging, or communicating via social media during working

hours which interferes with work duties and these shall be kept to a minimum.

*Employees are encouraged to use their own device rather than the city's network for personal use.*

- No texting while driving a City vehicle or a private vehicle while on a mission for the City.
- No use of a wireless device when driving a City van while transporting children/employees, or program participants.
- No use of personal/office cell phones/two way radios in PHA vehicles/equipment while the vehicle/equipment is in motion.
- Employees may not use a cell phone, PDA or any other handheld device in a manner that violates our No Harassment Policy, Equal Employment Opportunity Policy, or other City policies.

#### E-MAIL USER RESPONSIBILITY

The content and maintenance of a user's electronic mailbox and data folder is the user's responsibility.

(1) Check E-Mail regularly.

(2) Keep messages remaining in your E-Mail inbox to a minimum. Emails must be moved to your personal folders for storage.

(3) Never assume that your E-Mail is private. It is not private and is not intended to be private. The administration can, and others may be able to, read or access your mail. Never send or keep anything that you would not mind seeing on the evening news.

(4) Report any misuse of the E-Mail system to your supervisor immediately upon discovery.

(5) Do not send / forward any external email not related to business without consent from your supervisor and IT personnel. This includes chain letters, jokes, hope letters, request for passing letters, etc.

(6) Any document or email containing confidential information subject to the Privacy Act shall not be transferred outside of the computer network.

#### **HARASSMENT, DEFAMATION, AND INVASION OF PRIVACY**

Downloading and displaying or disseminating materials which may be considered by some people to be racist, sexist, defamatory or otherwise offensive, or which may invade another person's privacy, may constitute harassment by creating a hostile work environment. This is no different from telling racial jokes or displaying a "pin-up" calendar in the office. Such actions are expressly forbidden.

Moreover, they may subject both you and the City to legal action.

Downloading or viewing of materials of a racist, sexist, defamatory or otherwise offensive nature, or which constitute an invasion of another person's privacy, is **STRICTLY PROHIBITED**. All such materials and actions are subject to the City's harassment policies.

## **VIOLATIONS OF POLICY**

Employees are expressly advised that violations of these procedures or rules will result in appropriate disciplinary action up to and including written reprimand, suspension without pay, and discharge.

### **CELLULAR PHONES, PDAS, AND OTHER HANDHELD ELECTRONIC DEVICES**

While at work, employees are expected to exercise the same discretion in using personal cellular phones, PDAs, and other handheld electronic devices as is expected for the use of all City devices and equipment. In the remainder of this policy, these devices are collectively referred to as "handheld devices". Excessive use of these handheld devices during the workday can interfere with employee productivity and be distracting to others. A reasonable standard is to limit personal calls during work time to no more than one per day as needed. Employees are, therefore, asked to use these handheld devices on non-work time and to ensure that friends and family members are aware of City's policy. Flexibility will be provided in circumstances demanding immediate attention. The City will not be liable for the loss of handheld devices brought into the workplace.

The City understands that camera phones and audio recording devices are used by many of its employees and recognizes that their use is normally harmless in social or purely personal settings. In certain situations, however, using camera phones or audio recording devices puts the City's confidential information, trade secrets and employees' privacy at risk. The City permits the use of the photographic or audio function of these phones only in public areas of the City premises, such as the reception and waiting areas, or on areas that can be viewed from public property.

Employees cannot use their camera phones to photograph any client, customer, or co-worker without the express permission of that person.

**Recording Devices:** To maintain the security of our premises and systems, the City prohibits unauthorized photography, audio or video recording of its employees, confidential documents, or citizens. Employees may not use a cell phone, PDA or any other handheld device in a manner that violates our Harassment Policy, Equal Employment Opportunity Policy, or other City policies. Employees may not use a cell phone, PDA or any other handheld device in any way that may be seen as insulting, disruptive, obscene, offensive, or harmful to morale. Employees who violate this policy are subject to discipline, up to and including immediate termination of employment.

## **WIRELESS COMMUNICATIONS DEVICES USE POLICY WHILE DRIVING**

Employees cannot use wireless communications devices, including cell phones and text messaging, when driving a city vehicle or his/her personal vehicle while on City business. Drivers who need to use a wireless communications device must pull over to a safe location before using the device.

"Texting" or "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. "Driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

Alabama law prohibits texting while driving. The City prohibits employees from using wireless communications devices, including cell phones and text messaging, when driving on City business, whether driving a City vehicle or private vehicle. Drivers who need to read a text message or use a wireless communications device must pull over to a safe location before using the device.

“Texting” or “Text Messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. “Driving” means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

## **SOCIAL MEDIA AND SOCIAL NETWORKING**

Purpose: To encourage responsible use by employees of social networking sites.

In the rapidly expanding world of electronic communication, social media can mean many things. Social media includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else’s website or blog, journal or diary, personal web site, social networking or affinity web site, web bulletin board or a chat room, whether or not employed or affiliated with City, as well as any other form of electronic communication.

The same principles and guidelines found in City policies apply to your activities online. Ultimately, you are solely responsible for what you post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any of your conduct that adversely affects your job performance, the performance of fellow employees or otherwise adversely affects citizens, suppliers, people who work on behalf of the City or the City’s legitimate business interests may result in disciplinary action up to and including termination.

Prohibited Conduct: Employees of the City, who choose to be a member of social networking sites, or participate in on-line blogs or commentaries, may not do the following:

- Post anything on the Internet in the name of the City or any of its entities, nor in a manner that could reasonably be attributed to the City or any of its entities unless authorized to do so by the Appointing Authority or his/her designee.
- Claim or imply that the employee is authorized to speak as a representative of the City unless authorized to do so by the Appointing Authority or his/her designee.
- Represent any opinion or statement as the policy or view of the City, any of its entities, or of any individual in their capacity as an employee or otherwise on behalf of the City.
- Use statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening, or intimidating, that disparage residents, employees or suppliers, or that might constitute sexual or racial harassment, bullying, discrimination, or retaliation that would not be permissible in the workplace is not permissible between co-workers online, even if it is done after hours, from home and on home computers. Such use may violate our Equal Opportunity Statement or Professional Conduct Policy and Prohibition Against Harassment Policy. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or City Policy.
- Violate the confidentiality of City's private or confidential information. Do not post internal reports, policies, procedures or other internal business-related confidential communications.
- Discuss on social networking sites or on-line blogs or commentaries employees by name divulging confidential information or information to unauthorized persons or otherwise prohibited by this Handbook;
- Use City's name in the online identity (e.g., username, "handle," or screen name), which could imply or be interpreted that the user is the official representative of City.
- Use City's computers, equipment, or network(s) to access or utilize social networking sites or on-line blogs or commentaries unless directly related to or required by his/her position.
- Access social networking sites from mobile devices, such as smart phones, during employee's working time.

Recommendations: Employees who set up social networking sites or on-line blogs or commentaries do so at their own risk; however, employees are strongly encouraged to follow the recommended actions below regarding the use of social networking sites or on-line blogs or commentaries:

- Be cautious and use discretion when "friending," or otherwise networking with fellow employees, residents, vendors, suppliers and especially with subordinates, and be cautious and use discretion concerning the content of posts. This includes being mindful to ensure that your posts are reflective of the professional relationship the employee should maintain with the individual that has access to the employee's social networking sites or on-line blogs or commentaries
- Consider the option of maintaining professional accounts separate from personal accounts.
- Develop a healthy suspicion when asked about information that may be confidential or

otherwise privileged. Don't let anyone trick you into disclosing confidential information. Be suspicious if asked to ignore identification procedures.

- Think before making statements or posting comments on social networking sites or on-line blogs or commentaries as they can easily be misconstrued or misinterpreted by the recipient.
- Make sure you are always honest and accurate when posting information or news, and if you make a mistake, correct it quickly. Be open about any previous posts you have altered.
- Never post any information or rumors that you know to be false about the City, fellow workers, citizens, contractors or others with whom you work or know from business relationships or other people working on behalf of the City.
- Never represent yourself as a spokesperson for the City without proper authorization.
- If the City is a subject of the content you are creating, be clear and open about the fact that you are an associate and make it clear that your views do not represent those of the City, fellow employees, members, suppliers or people working on behalf of the City.

Remember that social networking sites and on-line blogs or commentaries have the potential to be read by thousands of people, including individuals about whom the employee may post comments.

The City maintains the authority to inspect all social media that may be in violation of the social media policy as found in this section.

If you comment on the service of the City, certain Federal Trade Commission Guides Concerning the Use of Endorsements and Testimonials in Advertising may apply requiring that you identify your association with the City to avoid any claim of false or deceptive advertising. If you do make any comment or endorsement please notify your department head and print a copy of your comments.

This Section is in no way intended to violate any person's constitutional or federal rights. If you feel that your rights have been violated, you should bring that issue to the attention of your supervisor, department head, cabinet member and/or City Investigations.

Consider the option of maintaining professional accounts separate from personal accounts. Think before making statements or posting comments on social networking sites or on-line blogs or commentaries as they can easily be misconstrued or misinterpreted by the recipient.

Make sure you are always honest and accurate when posting information or news, and if you make a mistake, correct it quickly. Be open about any previous posts you have altered. Never post any information or rumors that you know to be false about the City, fellow employees, citizens, suppliers, or people working on behalf of the City. Remember that social networking sites and on-line blogs or commentaries have the potential to be read by thousands of people, including individuals about whom the employee may post comments.

Do not post internal reports, policies, procedures or other internal business-related confidential communications. Discuss on social networking sites or on-line blogs or commentaries citizens by name;

Do not use City's name in the online identity (e.g. username, "handle," or screen name) which could imply or interpreted that the user is the official representative of City. Use City's computers, equipment.

Do not access social networking sites from mobile devices, such as smart phones, during employee's working time.

Recommendations: Employees who set up social networking sites or on-line blogs or commentaries do so at their own risk; however, employees are strongly encouraged to follow the recommended actions below regarding the use of social networking sites or on-line blogs or commentaries:

Be cautious and use discretion when "friending," or otherwise networking with fellow employees, citizens, vendors, suppliers and especially with subordinates, and be cautious and use discretion concerning the content of posts. This includes being mindful to ensure that your posts are reflective of the professional relationship the employee should maintain with the individual that has access to the employee's social networking sites or on-line blogs or commentaries

## **NON-DISCLOSURE**

The City prohibits disclosure of any information relating to the City's clients or prior clients. Therefore, personal information or other information relating to the City's employees or vendors may not be used by employees for any purpose which is not directly related to the City's business. Likewise, information relating to the City's business may not be disclosed by employees to any person or entity who is not employed by the City and/or is not authorized to receive or use the information. The City is subject to the Public Records Laws, and any requests for information from an employee should be referred to the Office of the City Clerk to complete the required forms and be given the requested information in accordance with the law and the policies of the City.

Any employee who improperly discloses or uses confidential information will be subject to disciplinary action, up to and including termination of employment and/or legal action.

Employees who are exposed to confidential information will be required to sign an employee confidentiality agreement as a condition of employment. Upon termination of employment, all the City's records, including but not limited to manuals, disks, and computer records relating to confidential information, must be returned to the City.

Employees interviewed by City Investigations shall not, under any circumstances, disclose to any third person the information, questions asked, testimony, or any other information relating to the interview or discussion had between the employee and City Investigations.

Violation of this section is considered to be a serious offense, and disciplinary action may include termination for a first offense.

## **SOLICITATION AND DISTRIBUTION**

This policy establishes rules governing solicitation and the distribution of literature on the City's premises in any manner, including electronically.

Solicitation includes asking employees while you are supposed to be working by any means:

- for funds or contributions;
- to purchase goods for charitable or commercial purposes;
- to sign petitions;
- to join or become members of a group;
- to support political candidates;
- to support or commit to causes, groups, or interests.
- to support religious activities

**Prohibited Solicitation by Employees.** The City prohibits solicitations in all work areas as provided herein. You may not solicit other employees or distribute materials while you are supposed to be working. You can solicit or distribute materials while you are on break or lunch or otherwise off the clock, but only to other employees who are not supposed to be working. The City has designated the City Council Chambers as the “public forum”, and any general solicitation shall take place in that facility with prior written approval of the Mayor or his/her designee.

**Under no circumstances shall employees use City electronic communications to promote or solicit money for or memberships in any outside organization, including, but not limited to, social, civic, business, union, trade, and community groups. Certain City sponsored charities are our exception.**

**Prohibited Literature Distribution by Employees.** The City prohibits employees from distributing literature at all times except as provided above or to “broadcast” the solicitation on the City internet system.

**Exceptions to Restrictions on Solicitation/Literature Distribution.** The City does not restrict employees' involvement in company-sponsored activities such as the annual United Way Campaign. The City also allows employees to solicit funds for the City-sanctioned events and activities, such as sending flowers to sick or bereaved co-workers or collecting funds for the City-sponsored events.

**Prohibited Discrimination and Harassment.** The City prohibits any solicitation or distribution of literature that is discriminatory, hateful, harassing, illegal, defamatory, profane, or obscene. The City prohibits employees from pressuring co-workers to contribute to or get involved in any causes or activities, even if the City supports the causes or activities.

**Solicitation/Literature Distribution by Nonemployees.** The City prohibits nonemployees from entering the City's premises to solicit support, proselytize, distribute literature, or sell products or services. The City has the right to contact local law-enforcement authorities to take action against nonemployees who trespass on company property. The City requires employees



to contact Security or the supervisor immediately to report nonemployee violations of this policy. Nonemployees can solicit or distribute literature in public spaces outside the City's premises. The City has a designated "Public Forum" area that may be used under certain guidelines for solicitation from members of the public. Information may be obtained from the Mayor's office.

## **IDENTIFICATION BADGES**

The City of Montgomery is committed to providing a safe and healthful workplace for all employees. As part of this goal, the City has instituted an identification badge system for all City employees.

An Identification Badge Policy serves the dual purpose of readily identifying City employees and other authorized personnel, while providing measured protection against unauthorized personnel and intruders from entering designated work areas. The system is effective only if there is active cooperation and compliance by all employees at all times. Any laxity in compliance and enforcement subjects the entire system to failure.

In the best interests of the City and to make identification as easy as possible, one standard will be implemented Citywide. City/County EMA will provide Identification Badges for all departments that do not have an existing system. Any department that has their own badges (i.e., Fire, Police, Museum, etc.) shall require their employees to display their badges in accordance with their own policy/procedure.

Employee Identification Badges shall be worn **in plain sight** at all times by all employees on any City site (the only exception is for safety or when employees are working at an external job site). For the purpose of this Handbook, employees include permanent full-time and permanent part-time, temporary/intermittent employees, volunteers, and interns. An exception to this Policy would be for uniformed fire and law enforcement officers.

NOTE: A secured work area is an area within the Department in which access is controlled, and the general public or clients are normally not permitted to enter freely. Many designated secure areas are protected by coded combination locks, locked doors, or other physical barriers that limit public access. The overriding factor in designating areas as secure is to ensure the safety and security of staff within those areas. The designation of secure areas is within the discretion and prerogative of department heads.

### **Control and Issuance of Badges**

New employees will be issued badges within the first two weeks of their employment. Identification Badges will be requested by departments and issued by departments to employees.

Badges are the property of the City and are to be returned upon separation from the City. On an employee's last workday, the employee's supervisor shall require the employee to surrender the badge, and the supervisor shall destroy the badge.

An employee who is on extended leave will be required to turn in his or her Identification Badge to the supervisor pending return to work. If the employee is terminated, resigns or retires after the extended leave, the badge should then be returned to the department head.

Identification Badges that become damaged or are otherwise unserviceable shall be returned to the issuing office for replacement at no cost to the employee.

Each employee shall not have more than one Identification Badge in his or her possession at any one time.

## **Requirements and Enforcement**

Because the policy and procedures described herein are intended to provide for the safety and security of City staff, any employee who violates such policy may be subject to disciplinary action.

### **Employee Identification Badge**

Identification Badges are to be worn at all times. Identification Badges are to be prominently displayed on the front of the person between the neck and above the hips and are to be worn clipped to a piece of outer clothing or worn around the neck on a chain or necklace. Identification Badges shall not be defaced or altered with stickers, decals, etc. Employee Identification Badges are to be worn so that the photo is clearly visible to others. For safety, employees performing certain jobs, such as maintaining or operating equipment, etc. should either, clip the Identification Badge to their clothing or put the badge in their pocket.

Each employee is responsible for safeguarding his or her own Identification Badge, and any lost Identification Badge is to be reported immediately to his or her supervisor along with a memo documenting how the badge was lost and what appropriate measures were taken to locate it. A copy of the memo will be placed in the employee's personnel file. The supervisor will then authorize a replacement Identification Badge. A lost Identification Badge may be replaced without charge on a one-time basis. All subsequent replacements of lost Identification Badges may be subject to a charge.

If an employee reports to work without his or her Identification Badge, the following procedures will be followed:

**First Occurrence:** The employee will be issued a "Temporary" Identification Badge for that day. The supervisor will arrange for issuance of the "Temporary" Identification Badge from his or her department issuance point. The Supervisor shall maintain a record of "Temporary" Identification Badges issued to employees, recording the employee's name, date of issuance and a brief notation of the circumstances. The issuance of a "Temporary" Identification Badge to an employee shall be restricted to one time only.

**Subsequent Occurrences:** Will be handled at the department level and this will follow progressive disciplinary action as appropriate to insure compliance with this policy. Employees shall be sent

home to retrieve their identification badges, and the time charged against appropriate earned accruals or leave without pay.

### **Rules for Identification Badge Holders**

- Do not lend your Identification Badge to anyone.
- Do not copy your badge in any manner whatsoever.
- Do not allow people to follow you into the building without knowing them or checking their Identification Badge.
- Do not leave badge on dash of vehicle or other locations where exposed to extreme temperatures. Do not fold, bend, pry open or mutilate your Identification Badge.
- Do not use your Identification Badge as an ice scraper.
- Notify your Department if your Identification Badge is no longer in your possession.
- Notify your Department of any difficulties or problems with any Identification Badge.

### **I.D. BADGES AT CITY HALL**

The purpose of this policy is to enhance the protection of City Hall facility and for the City of Montgomery employees at City Hall. This policy will **account for all visitors and employees** to City Hall.

#### **POLICY:**

- A. ID Badges:** All employees assigned to City Hall will wear their City issued Employee ID Badge at all times when they are in the building. The Employee ID Badge must be worn on the outer most garments and located where it can be seen by any person walking by.
- B. Access Log:** All visitors to City Hall will be required to show identification upon request and log entry and exit on an Access Log.
- C. Security Checks:** Security Personnel will be responsible for conducting security checks of the interior and exterior of the facility to prevent all unauthorized entry.

#### **SCOPE:**

This policy applies to all City of Montgomery Employees and all members of the public citizenry

#### **RESPONSIBILITY:**

It shall be the responsibility of all personnel employed by the City of Montgomery and members of the public citizenry to comply with this policy

#### **DEFINITIONS:**

- A. Non-Uniformed employees: City of Montgomery employees that are not required to wear a uniform or are off-duty and wearing civilian clothing.
- B. Uniformed Employees: City of Montgomery employees assigned to either the Police or Fire Departments that perform a front line roll and wear a uniform.
- C. Civilians: Members of the public citizenry not employed by the City of Montgomery.

**PROCEDURES:**

**A. ID Badges:**

1. Uniformed Employees are required to have a name tag visible and show a City ID Badge (upon request).
2. Non-Uniformed Employees will have to produce an employee ID, Driver License or some form of ID to enter the building.
3. Civilians, not employed by the city, will produce an ID card with a picture on it.

**B. Visitation:**

1. All uniformed city employees will sign in on the log sheet and then be able to proceed to their destination unaccompanied. After their business is concluded they will come back to the Front Desk and log out.
2. All non-uniformed employees will sign in on the log sheet. If the employee produced a valid city employee ID, the employee will be asked to display their employee ID and then the employee will be allowed to proceed to their destination. If the employee was unable to produce a valid employee ID, but did show another form of ID, the employee will be given a Visitor ID Badge that must be visible at all times. The department that they are visiting will be called and confirm that the person is welcomed into their office. This person will then be accompanied to that office by security. The Department is responsible for escorting that individual back to the Security desk to retrieve their ID card when their business is completed. After their business is concluded they will come back to the Front Desk and log out.
3. Civilians will fill out the sign in sheet and be given a Visitor Badge. The department that they are visiting will be called and verified that the person is welcomed into their office. This person will then be accompanied to that office by security. The Department is responsible for escorting that individual back to the Security desk to retrieve their ID card when their business is completed and log out.

4. The log sheet must be completely filled out. Any visitor given a **VISITOR ID BADGE** will be required to leave their ID at the Front Desk to make sure that they return the **VISITOR ID BADGE**. Upon returning they will be given their identification back.
5. If an employee or Citizen does not want to comply with this policy they will not be allowed into City Hall. If they refuse to leave then one of the DPU officers will be called. If they are not in the Building then a patrol unit will be called and the person will be escorted from the Building. This person's information will be recorded on the log sheet with an asterisk to mark that they were confrontational

**C. Security Checks:**

1. Security personnel will be responsible for walking the interior and exterior of City Hall at the beginning and end of each day and during the day.
2. A log sheet will be kept and recorded each time a Security check is done.
3. All log sheets at the end of the day will be checked and all Visitor ID Cards will be accounted for.
4. The log sheets will be given to the DPU officer assigned to Director Murphy's Office to maintain on file.

**ADMINISTRATIVE OVERSIGHT:**

Each employee has the responsibility to not only wear their ID but to question someone observed with no visible ID's.

Each Employee is also responsible to assure the magnetic door properly close behind them and under no circumstances will an unknown or improperly identified person follow them through any entrance except the manned security access point at the front door of City Hall.

**PERFORMANCE APPRAISALS**

The purpose of a performance appraisal system is to provide a mechanism for directing and supervising the work of employees in order to maintain and/or improve employee performance. Performance appraisals can be very effective in improving employee performance. The success of any performance appraisal system is directly related to the training provided for supervisors who will appraise performance and the employees who will be subject to appraisal. Supervisors will be held accountable for the fair, consistent and accurate appraisal of their employees and for using the system to improve employee performance. Employees should see the system not only as an indicator in their pay increase but also as an effective performance motivator.

## **The Performance Appraisal**

Supervisors and department heads are to use the City of Montgomery Job Appraisal Form(s), which is designed to be a performance management as well as a performance appraisal tool. Supervisors will document good and bad performance and review strengths and need for improvement with all employees at regularly established intervals throughout the employee's work year. These reviews are required at least annually and may be done on a semi-annual basis in order to allow for time for improvement as needed. Some departments may have more frequent evaluations. After the review, the supervisor will complete the appropriate form and will provide a copy of the form to the employee and place a copy, with supporting documentation in the employee's file. Recommendations for merit increases will be sent to the department head for review and his/her recommendation to the cabinet member for approval and/or further action. All supervisory personnel MUST complete training on the appraisal process.

## **The Appraisal as It Effects Employees Eligible for Merit Increases**

Employees who are eligible and who meet or exceed job expectations will be awarded a merit increase when such an increase is warranted based on documented job performance and based upon availability of funds. One month prior to the employee's merit date, the supervisor and department head will review the employee's file, his/her progress in correcting deficiencies and his/her current performance in order to make a recommendation to the Mayor for awarding of a merit increase. The objective is to improve and maintain employee performance, not to delay or withhold an employee's merit increase. (Supervisors will be held responsible for the fair and consistent application of the policy)

Merit Increases **shall not be approved** for any of the following three reasons:

- Suspensions of 40 hours (5 days) or more since the last merit date.
- Three (3) documented disciplinary infractions since the last merit date.
- Documented lack of care, misuse or negligence involving City property since the last merit date, to include recommendations from the Accident Review Board.

***When performance is unsatisfactory and has not improved to a satisfactory level, the Supervisor may either deny the merit increase or request that the increase be delayed for up to three months.***

Employees who have shown improvement during the last appraisal period should be considered for a delayed merit raise if the deficiency is being satisfactorily corrected. Supervisors must keep accurate records relating to the deficiency, including the nature of the deficiency, the correction plan and progress made toward satisfactory performance and completion of the plan. If the supervisor recommends to the department head that a delayed merit increase be considered, he/she shall present all of the documentation to the department head for his/her approval or denial. The interim appraisal form shall be used as part of the documentation. This must be done and completed prior to the actual anniversary date. Employees whose merit increase is postponed or withheld will retain their old merit date. If the increase is postponed, any merit increase shall not be retroactive to the merit date. It will be the responsibility of the department head to submit

a Form 10 to request that a merit increase be awarded to those employees whose merit increase is postponed for up to ninety days.

### **The Appraisal for Employees Not Eligible for Merit Increases**

Employees who are not eligible for merit increases due to their years of service to the City of Montgomery shall also be subject to regular Performance Appraisals as outlined in Section 1. Job behavior that results in poor performance appraisals may be the subject of disciplinary actions under the City's Progressive Disciplinary Policy.

### **PROGRESSIVE DISCIPLINE/DUE PROCESS**

This is the progressive disciplinary policy for all departments, supervisors and employees in the City of Montgomery, Alabama. Compliance is mandatory. It is divided into two main sections: minor infractions and major infractions. All cabinet members, department heads and supervisors shall use this policy and shall insure that all City employees are familiar with the policy. Any questions shall be directed to the office of the City Attorney.

Supervisors and department heads are responsible for the consistent application of discipline to all employees within a department according to this policy. It is understood that certain infractions are more consequential in some departments than others. For example, a tardy in one department may result in one employee starting to work late whereas a tardy in another department may result in an entire work crew starting to work late.

**NOTE:** When used in this policy, the term "Mayor" shall mean the Mayor and/or his designee with the exception that the Mayor is the Appointing Authority and has the sole authority to make a final determination on any disciplinary case/action.

### **Senior Management Responsibility**

Supervisors and department heads are responsible for the consistent application of discipline to all employees within a department. Senior management shall be responsible for and required to assure due process and progressive discipline as described in this Handbook. In deciding any disciplinary action to be recommended or taken, management shall consider the severity of the offense, the prior disciplinary history of the employee, and similar infractions/actions taken by or against other employees.

### **Probationary Employees**

A new employee of probationary status whose performance is not satisfactory should be terminated if he or she fails to demonstrate ability or desire to perform at an acceptable level. Notification of Rejection of Probationary Appointment/Promotion (Form 38) should be completed, provided to the employee and forwarded to the appropriate cabinet member for review, recommendation and forwarding to the Mayor's Office and Personnel.

**NOTE:** The word “day” as used hereafter refers to 8 hours. Recommendations for suspensions may be in hours.

## **Section 1. Minor Infractions: Unsatisfactory Work Performance, Work Practices Or Work Habits (Less Than major Or Serious Infractions)**

This Section is designed to address deficient job performance including unsatisfactory work performance, work practices or unsatisfactory work habits. It does *not* apply when an employee commits an infraction that warrants immediate suspension up to immediate dismissal such as theft of City property, assault on another employee, using City time or property for personal gain and/or any number of other serious infractions. The named serious infractions listed above are not intended to be all-inclusive. Offenses other than unsatisfactory work performance, work practices or unsatisfactory work habits are to be treated as specified in Section 2.

### **Regular Employees**

When it is determined that an employee is not fulfilling the essential functions and responsibilities of the position to which he or she is assigned, all reasonable counseling and disciplinary steps should be taken prior to discharge. In order to determine objectively that the employee has been given an opportunity to correct a deficiency, the following policy has been written and approved. Disciplinary situations involving employees who have completed their probationary period should be dealt with by progressive discipline. Consistently applied progressive discipline will assure equitable treatment and encourage acceptable performance.

#### **Step 1: Informal Discussion or Verbal Counseling**

When a performance problem is first identified, the problem should be thoroughly discussed in private with the employee by his/her supervisor. Bringing the problem to the attention of the employee is often enough to prompt him or her to correct it willingly. The supervisor shall complete a memo that identifies the date, time, substance and response of this meeting if it is an informal discussion. A Form 28 shall be used if this is Verbal Counseling.

#### **Step 2: Counseling**

If a private informal discussion with the employee has not resulted in corrective action, following a thorough investigation, the supervisor should meet with the employee and:

Review the problem, (b) permit the employee to present his or her views on the problem, (c) advise the employee that the problem must be corrected and make suggestions and/or give direction for correcting the problem, (d) inform the employee that failure to correct the problem will result in further disciplinary action which will be a Written Reprimand, and (e) issue Written Warning (Form 30a) to the employee and put a copy into the personnel file.

#### **Step 3: Written Reprimand**



If satisfactory performance and corrective action are not achieved under Steps 1 and 2, the supervisor and his or her department head's designee should meet with the employee and his/her representative in private and proceed via (a) through (d) above, and issue a written reprimand to the employee.

A Written Reprimand (Form 30b) shall be prepared and shall be discussed with the employee. The employee shall sign the form acknowledging receipt of the Reprimand. Signing the form shall not indicate that the employee agrees with the allegations, only the receipt of the document.

#### Step 4: Suspension

Four Days or Less: If satisfactory performance and corrective action are not achieved under Steps 1 through 3, the supervisor and his or her department head shall notify the employee in writing (Form 31a) of the charges against him/her, set a date and time for the hearing and should meet with the employee and his/her representative in private and proceed via (a) through (d) above, and suspend the employee for up to four days without pay.

NOTE: The Mayor has designated the department head to conduct the pre-determination hearing if the suspension is four (4) days or less. The charging officer may not be the hearing officer.

### **Due Process**

The employee shall be entitled to due process for this hearing, including a written statement of the charges, a copy of any investigative summary and a copy of any evidence to be introduced at the hearing. This information shall be provided with the notice of hearing. The employee shall also have the right to cross-examine any witnesses, the right to refute the charges and/or to call witnesses, and the right to be represented. The hearing shall be scheduled three (3) business days in advance. Notice to the employee shall be by personal service or personal delivery to his/her last known official address as found in his/her personnel file.

### **Hearing Procedure**

The department head shall conduct the hearing. The following may be present at the hearing: department head, immediate supervisor, recording secretary, City Attorney, witnesses for the City, the employee, his/her representative, relevant witnesses. The department head shall insure that all persons in the room are identified, all proceedings are digitally recorded, all witnesses are put under oath, and that the hearing is conducted in a fair and impartial manner. The charges shall be read to the employee and the employee shall be given the opportunity to admit or deny the charges. The City has the burden of presenting enough evidence, which may be hearsay, to establish the rule violation(s) as outlined in the notice. The employee shall have the right to cross-examine the witness. After the City has concluded its case, the employee shall have the right to call and examine witnesses who are present with the City having the right to cross-examine these witnesses. After the conclusion of testimony, the department head shall cause the recording to be electronically stored in a safe manner and shall complete the necessary documents to send to the Appointing Authority.

Form 35 shall be completed and forwarded to the appointing authority through the appropriate cabinet member for review and recommendation to the Mayor for final action by the Mayor.

Step 5: Recommendation to the Mayor for Disciplinary Action: Five (5) Days or More:

If satisfactory performance and corrective action are not achieved under Steps 1 through 4, the supervisor and his or her department head should meet with the employee and his/her representative in private and proceed by making a recommendation, as outlined below, to the Mayor, who is the Appointing Authority for the City of Montgomery, or his/her designee, for disciplinary action.

If the anticipated recommendation is a suspension of Five (5) days or more, the department head shall conduct a meeting with the employee to notify him/her of the charges and give him/her a chance to respond or refute the charges. The meeting shall be scheduled three (3) business days in advance. Notice to the employee shall be by personal service or personal delivery to his/her last known official address as found in his/her personnel file. The notice shall state the charges with particularity, a summary of the investigation (if available), copies of any documents intended to be used at the meeting, and shall give the date, time and location of the meeting with the Department head. Form 31b shall be used for this notification.

The department head shall make his/her recommendation to the Mayor through the appropriate cabinet member within two business days by completing a Form 32, and including the notice of charges and a synopsis of the meeting including a summary of the evidence presented at the meeting, and a summary of any testimony and/or response. A copy of any exhibit used at the meeting shall also be attached. There shall also be included a list of previous disciplinary infractions for the past three (3) years. The department head shall complete Form 32 (Recommendation for Disciplinary Action) and deliver a copy to the employee and forward the original to the office of the appropriate cabinet member for further proceedings as necessary. The Mayor or his/her designee shall schedule a hearing before the Mayor or his designee.

The employee may waive his/her right to the hearing by completing Form 39 prior to the date set for the hearing before the Mayor or his/her designee.

## **Section 2. Major and/or Serious Violations Other Than Unsatisfactory Work Performance, Work Practices Or Work Habits**

An employee of the City will be subject to disciplinary action or discharge at any time if the employee commits an offense for which discipline or immediate termination is appropriate, or if in the judgment of the department head the employee's continued presence would be contrary to the well-being of the City and/or any other person.

All disciplinary infractions do not call for immediate termination. For violations involving Section 2 offenses, the department head or his/her designee may begin the disciplinary process with a Letter of Reprimand, Suspension Recommendation of Demotion and/or Termination, depending on the severity of the offense and the employee's prior disciplinary record.

Whenever a supervisor or department head suspects that an employee has committed a major or serious infraction, or other infraction that cannot be handled within their department, he/she may request the Office of City Investigations to investigate the facts and circumstances of the alleged incident and make a report of their investigation. (ROI). These reports must be kept CONFIDENTIAL by the department head/supervisor and will not be distributed.

If the supervisor or department head anticipates taking any disciplinary action against this employee based upon the information contained in the report, he/she may request that City Investigations, in association with the Legal Department, prepare a summary report that may be used in any administrative due process or disciplinary meeting or hearing and a copy furnished to the employee. Certain information may be redacted to protect confidential information.

NOTE: When completed Reports of Investigation are provided to department heads or supervisors, they will not be copied or reproduced in any form, nor will the ROI be released to the subject employee. *ROIs will not be placed in an individual's City personnel file.*

When an employee violates a policy or a rule and the City decides against immediately terminating the employee, either of the following Section 2 disciplinary actions may be used as deemed appropriate:

Written Reprimand: The immediate supervisor may, at his or her discretion, issue a formal written reprimand to the employee explaining the nature of the complaint, noting any previous violations by the employee, and warning the employee that any further violations could lead to discharge. Form 30b shall be completed and placed in the employee's file. A completed copy shall be provided to the employee.

The employee will be requested to sign an Acknowledgement of Receipt even though they may disagree with the reprimand, and are encouraged to note their disagreement on the warning notice. Refusal to sign the Acknowledgement of Receipt is considered insubordination.

A copy of the written reprimand shall be placed in the employee's personnel file. If additional violations are committed and, at the discretion of the department head, additional reprimands are not warranted, the employee may be recommended for suspension or involuntarily termination.

**Recommendation to the Mayor for Suspension of less than Five (5) Days: (Five days or less shall be work days)**

The Mayor has designated the Department Head (so long as he/she is not the charging officer) to conduct this hearing. The due process requirements and other matters related to this hearing are the same as in the prior section for Section 1 Offenses.

**Recommendation to the Mayor for Suspension of Five (5) Days or More: (Seven days or more shall be calendar days)**

If the recommendation is a suspension of Five (5) days or more, the department head shall conduct a meeting with the employee to notify him/her of the charges and give him/her a chance to respond or refute the charges. This meeting shall be digitally recorded. The meeting shall be scheduled three (3) business days in advance. Notice to the employee shall be by personal service or personal delivery to his/her last known official address as found in his/her personnel file. The notice shall state the charges with particularity and give the date, time and location of the meeting with the department head.

After the meeting, the department head shall make his/her recommendation to the Mayor through the cabinet member within two business days after the meeting by completing a Form 32, and including the notice of charges, a synopsis of the meeting including a summary of the evidence presented at the meeting, a copy of the digital recording, a copy of any exhibit used at the meeting, a list of previous disciplinary infractions for the past three (3) years, and a summary of any testimony and/or response. The department head shall complete Form 32 (Recommendation for Disciplinary Action) and deliver a copy to the employee and forward the original to the appropriate cabinet member or other designee who shall take further action as a designee of the office of the Mayor. The Mayor or his/her designee shall schedule a hearing before the Mayor or his designee.

The employee may waive his/her right to the hearing by completing Form 39 prior to the date set for the hearing before the Mayor or his/her designee.

### **Special Rules for Exempt Employees**

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 deduction or more for violations of workplace conduct rules provided that the policy:
  - Covers serious workplace misconduct (not performance or attendance).
  - Is written.
  - Stated that violations could result in unpaid disciplinary suspension.
  - Applies to all employees.

Suspensions for other violations must be for a full workweek.

City of Montgomery Notice of Departmental Hearing (Form 31) and Notification of Suspension (Form 35) must be completed, provided to the employee and forwarded to the Mayor's Office and Personnel.

### **Hearing Before the Appointing Authority or His/Her Designee**

For recommendations of any suspension of 5 days or more or a recommendation of termination or demotion, a hearing before the Appointing Authority shall be scheduled for the employee to have a hearing before the Mayor or his/her designee, unless waived by the employee. If a hearing is scheduled before the Appointing Authority, notice in writing will be given to the employee by U.S. Mail, addressed to his/her address as listed in the City's records. A hearing shall be scheduled at least five working days after the date of notification. The first day shall be the day after mailing. Both the City and the employee shall exchange any documents they intend to use as evidence and the name of their representative at least three business days prior to the hearing before the Appointing Authority.

The Mayor may designate any person(s) to be his/her designee to conduct these hearings, including a cabinet level official, or any other person in his/her discretion. The charging officer may not be the hearing officer. The designee shall conduct the pre-determination hearing and make a report to the Mayor about the hearing. The Mayor, as the appointing authority, shall then make his/her decision regarding the disciplinary action.

The Appointing Authority shall complete Forms 35 and/or 36 and enclose a copy of Form 37 if applicable and mail them to the employee by U.S. Mail, addressed to his/her address as listed in the City's records.

An appointing authority may suspend an employee without pay for cause. Suspensions in excess of thirty (30) calendar days in any fiscal year may be appealed by a permanent employee to the Personnel Board. Suspensions of thirty (30) calendar days or less may not be appealed to the Personnel Board except as they are provided for in Personnel Rules and Regulations.

ALL SUSPENSIONS SHALL BE FOR CONSECUTIVE WORK DAYS OR HOURS.

Employees shall also have the right to appeal the decision of the Appointing Authority to the City-County Personnel Board for any demotion or termination from employment under the City and County of Montgomery Personnel Board Rules and Regulations.

## **EMPLOYEE BENEFITS**

### **Time Off (Paid and Unpaid)**

#### **FAMILY MEDICAL LEAVE ACT OF 1993 (FMLA)**

Uses of FMLA leave. In accordance with the Family and Medical Leave Act, the City grants leave without pay to eligible employees for up to 12 weeks in a 12-month period measured *forward from the date employees take his/her first FMLA leave*. To be eligible for FMLA leave, employees must have worked for the City for 12 months and have worked at least 1,250 hours in the 12 months prior to taking FMLA leave. This FMLA leave is a guaranteed period of time eligible employees can be absent from work with job protection. The time off is not paid, unless the employee is taking

vacation or other paid leave concurrently with FMLA leave. Employees can request or use FMLA leave to cover the time they need to be away from work for any of the purposes listed below:

## **Reasons for and Amount of FMLA Leave**

### **Eligible employees can take up to 12 weeks of FMLA leave in a 12-month period because:**

- of the birth and to care for their newborn child;
- of the placement with them of a child for adoption or foster care;
- they want to care for their spouse, minor child, adult child as provided below, or parent who has a serious health condition;
- their own serious health condition prevents them from performing their job duties; or
- their spouse, child, or parent is called up for or is on active duty in the Armed Forces and employees' circumstances justify their need for leave.

Employees can take FMLA leave for their biological children, adopted children, foster children, stepchildren, legal wards, or children for whom employees have day-to-day and financial responsibility. Children must be under age 18, or over 18 and incapable of self-care because of a physical or mental disability.

***Service member family leave.*** Eligible employees can take up to 26 weeks of FMLA leave in a single 12-month period because their spouse, child, parent, or next of kin (nearest blood relative) is seriously ill or injured as a result of serving on active duty in the Armed Forces. (Please note that an employee's total combined FMLA leaves for all reasons cannot exceed 26 weeks in the twelve-month period.)

***Married co-workers.*** If two spouses both work for the City, they are limited to a combined total of 12 weeks of FMLA leave because of the birth, adoption, or foster care placement of a child, or to care for a parent with a serious health condition. If the spouses have taken less than the full 12 weeks of FMLA leave during the 12-month period, they are each entitled to take the difference between 12 weeks and the amount of FMLA leave they took individually due to their own serious health condition, or to care for a child or spouse with a serious health condition. If two spouses both work for the City, they are limited to a total of 26 weeks for service member family leave and all other FMLA-qualifying reasons in a single 12-month period.

## **Requesting leave**

Employees requesting FMLA leave must give 30 days' advance notice to their supervisors. If the need for leave is unforeseeable, such as in the case of medical emergencies, employees must inform the department head as soon as they are aware of the need for leave, but no less than five business days from the beginning of their absence, unless an emergency situation exists which makes this impossible in which case the department head must be informed as soon as practicable. Employees will receive a Request for Family and Medical Leave form to complete and submit to the department head. If FMLA leave is taken because of employees' or their family members' serious

health condition or for service member family leave, employees will receive a Certification of Health Care Provider form to complete and submit before the leave begins or within 15 days if advance notice is not provided. Employees who request FMLA leave because their spouse, parent, or child is called up for or is on active duty in the Armed Forces will receive an Active Duty Certification form to complete and submit.

### **Medical Certification**

The City requires a medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member. If the leave is foreseeable, the employee should give 30 days' notice and provide Medical Certification before the leave begins. If leave is unforeseeable the employee shall provide notice to the department head as soon as practicable.

The employee must return the Medical Certification form within 15 calendar days of receipt. Once the certification has been received and reviewed, or the City otherwise determines that the employee has a qualifying event that makes him/her eligible for FMLA benefits, the employee shall be on FMLA status. If the employee submits appropriate certification at a later date that demonstrates that leave should not have been determined as FMLA qualifying, the City shall consider the leave not to be FMLA and shall restore any FMLA leave charged to that employee for that event. If the employee fails to supply appropriate certification, the City may take appropriate disciplinary action against the employee and shall consider the absences to be unexcused.

If the City has reason to doubt the validity of a medical certification it may require the employee to obtain a second opinion at the City's expense.

After employees submit all of the required forms, they will be notified in writing whether their request for FMLA leave is approved. During leave, employees must keep the department head informed of the estimated duration of leave and their intended date to return from leave. The City, in its sole discretion, reserves the right to waive the requirement that a Certification of Health Care Provider be provided. If you give notice to a supervisor that you need FMLA leave, and you have not been contacted by the department head within 48 hours, you should consider that no notice has been provided to the City regarding your need for FMLA leave and you must contact the department head to discuss your request.

### **Scheduling FMLA Leave**

FMLA leave can be taken all at once or, under certain circumstances, on an intermittent or reduced leave schedule. Intermittent leave is leave taken in separate blocks of time for a single FMLA-qualifying reason. An FMLA reduced leave schedule is a work schedule that reduces employees' usual number of working hours per workday or workweek. Where employees have some control over the timing of their leave, they are expected to consult with their supervisors to try to arrange a mutually acceptable time. Employees will be informed whether they can take intermittent leave or a reduced leave schedule when they apply for FMLA leave.

## **Pay and Benefits During FMLA Leave**

FMLA leave is unpaid. The City requires employees to substitute all of their accrued vacation, sick (in accordance with sick leave rules), compensatory, personal time or paid time off for FMLA unpaid leave. FMLA leave taken after employees' accrued vacation, sick, compensatory time and personal time is exhausted is unpaid. Holidays that occur during unpaid FMLA leave will not be paid. Employees will not accrue vacation, sick, and personal time during unpaid FMLA leave. The City maintains group health plan benefits for employees on FMLA leave. Employees are required to pay their premium copayments while they are on FMLA leave and are notified how to make the payments for their share of their group health plan premiums during leave.

## **Concurrent use of short-term disability and workers' compensation with FMLA leave**

Employees on short-term disability or workers' compensation, for which disability or injury are eligible for FMLA, are required to take FMLA leave concurrently. For example, employees who are absent from work for four months due to a workers' compensation injury will have the first 12 weeks of that absence applied to FMLA leave.

## **Return From Leave**

Employees returning from FMLA leave will be reinstated to their former positions or to positions with equivalent pay, benefits, and other employment terms and conditions. Certain "key" employees, who are among the highest paid employees of employers who have some control over the timing of their leave, are expected to consult with their supervisors to try to arrange a mutually acceptable time, and might not be reinstated to any position; "key" employees will be notified of their status when they apply for FMLA leave. Employees returning from FMLA leave retain all benefits they accrued prior to the start of leave. Taking FMLA leave does not count as a break in service for pension or retirement plan purposes. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. Each department may decide whether or not the employee must provide a "Fitness for Duty" statement from the health care provider in addition to a certification of health care provider **that the employee can perform the job with or without a reasonable accommodation.** (U.S. Dept. of Labor Form WH-380-E, or F for a family member.)

**Privacy and leave requests.** Employees must inform their supervisors that they need family or medical leave and when they expect to be absent. However, supervisors should not ask or inquire about the reasons for the employee's leave request. Instead, to ensure the employee's privacy, the department head or qualified personnel professional, or a management official will make any necessary inquiries and evaluate whether there is a medical need for the leave. **In no**



**case shall the employee's direct supervisor contact the employee's health care provider.** The department head is responsible for ensuring that all medical information provided by employees is maintained in the strictest confidence.

**Compensation and benefits during leave.** FMLA leave is unpaid unless it is taken together with accrued paid leave. However, employees on paid leave **and** FMLA leave continue to be covered by the City's group health benefits plan on the same terms that are applicable for active employees. FMLA leave does not cause employees to lose any previously accrued employment benefits. Employees are required to use all paid time, including sick leave (which meets the requirements of sick leave), compensatory time and vacation benefits before using unpaid FMLA.

**Employment Prohibited While on Leave.** Employees on FMLA leave are prohibited from engaging in outside employment while on leave.

**Resolution of Disputes.** If an employee disagrees with any FMLA related action or decision by the City it is the employee's responsibility to submit their disagreement in writing to the department head within ten (10) days of the action or decision. The department head and the employee will then meet to discuss the matter and seek to arrive at an agreeable resolution.

**Post-FMLA Unpaid Leave.** In some exceptional circumstances, the City might allow employees who have exhausted the leave available to them under FMLA to take additional unpaid leave. The City does not guarantee that it will be able to reemploy individuals who take post-FMLA leave. Further, during a period of post-FMLA leave, an employee's health care benefits do not continue in force, unless the worker elects to pay the full cost of COBRA coverage. Employees should be aware that a lapse in benefits coverage or plan participation during a period of post-FMLA leave might affect coverage after the employee returns to work.

**Compliance With FMLA Requirements.** This policy is intended to comply with the FMLA and should be interpreted in light of regulations implementing that act. In particular, terms used in this policy have the meanings they are given in the regulations implementing the FMLA.

An employee has no greater right to reinstatement or other benefits than if he or she had not taken FMLA leave. Therefore, if in the absence of FMLA leave the employee would have been terminated, he or she may not be entitled to reinstatement.

Direct any questions regarding eligibility, definitions, or requirements of the FMLA to the department head

It is unlawful for an employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discriminate against an individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

Employees should also refer to the Montgomery City County Personnel Rules and Regulations for additional information.

## **JURY/WITNESS DUTY**

The City believes that jury duty is an important civic responsibility and grants time off for service on federal, state, or local juries as required by law. Any employee summoned for jury service or as a witness in any legal action not of his/her own initiation and/or involvement must report it to his or her immediate supervisor at once. An employee will receive his or her regular earnings, exclusive of overtime, during the time for which he/she serves as a juror during normal working hours. A copy of the Subpoena or Notice to Appear shall be provided to the City. Any mileage or per diem allowance an employee receives in connection with jury service is his or hers to keep and is not offset against the pay adjustments. If the employee is dismissed from jury service early, he or she is expected to report to work immediately. Upon release from jury duty, the employee should provide notice of this release to the immediate supervisor as soon as practical. Failure to return to work immediately may subject the employee to disciplinary action up to and including termination.

## **MILITARY LEAVE**

Refer to City/County Rules and Regulations in addition to the following:

### **Purpose**

This policy has been developed to provide general guidance on some of the current provisions of USERRA and Alabama law pertaining to leave of absence, compensation, health insurance, reinstatement, and pension benefits for employees requesting a military leave of absence.

### **Policy**

The City will comply with the Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA) and applicable Alabama laws pertaining to military leave. This policy supersedes any other policy/practice of the City related to military leave rights and benefits.

As the laws change, or as interpretations of the laws change, military leave benefits for City employees may change accordingly. No attempt is made in this policy to cover all possible situations and circumstances that may arise when an employee is ordered to active duty. Therefore, as military leave situations arise, employees should consult with their supervisor and/or department head for current and complete details regarding their military leave rights as a City employee.

### **Eligibility for Military Leave of Absence**

In accordance with USERRA and Ala. Code § 31-12-2 (2002), City employees who perform service in the uniformed services (as defined by USERRA) are entitled to a military leave of absence from their City positions, subject to the limitations and restrictions set forth in federal and state laws and City policy. Upon receiving an assignment for military service, employees should promptly provide notice to their supervisors prior to going on military duty, unless precluded by military necessity.

## **Compensation for Military Leave**

Except as provided below, eligible employees who perform service in the uniformed services (as those terms are defined by USERRA) will be placed on unpaid military leave status for all days that they are engaged in such military service. Affected employees are not required to use annual leave in lieu of paid or unpaid military leave; however, they may elect to use accrued annual leave or earned comp time at their discretion.

- a. Compensation for 168 working hours per calendar year for federal military leave. City employees eligible for Military Leave of Absence who are active members of the Alabama National Guard or of any other reserve component of the Armed Forces of the United States will receive, pursuant to Ala. Code § 31-2-13 (1995), up to 168 hours of paid military leave per calendar year for performance of federal military duty. This military service includes drills, annual training, or military schools. It is not necessary for employees who are still on military leave to return to work for the City in order to receive 168 hours of paid military leave for the calendar year subsequent to being placed on military leave. Once the 168 hours of paid military leave is exhausted, an employee may use other leave available, such as annual leave or earned comp time.
- b. Compensation for 168 working hours at any one time called to active service by the Governor. In addition to the 168 hours per calendar year mentioned in section a) above, if these particular employees are called into active service of the State of Alabama by the Governor (typically in times of natural disaster), they will receive, pursuant to Ala. Code § 31-2-13 (1995) an additional 168 hours of paid military leave at any one time while called by the Governor to duty in the active service of the state.
- c. Salary differential for employees activated during war on terrorism.

If the military base pay of an employee called into active service for the war on terrorism is less than the salary he/she would have continued to receive if not called to active service, he/she may receive a salary differential (pursuant to Ala. Code § 31-12-5 (2002)) that is equal to the difference between the lower active duty military base pay and the higher public salary.

## **Health Insurance Benefits**

Per USERRA, the City will at a minimum maintain health benefits and other benefits for the first 30 days of military leave as if the employee was actively employed. Employees on military leave of absence will be entitled to participate in any rights and benefits not based on seniority that is available to employees on non-military leaves of absence. Consequently, for the first 12 weeks of an approved unpaid military leave, upon request from the employee, the City will continue health benefits and other benefits as if the employee was actively employed. After the initial 12 weeks period, employees on military leave may continue their benefits, similar to COBRA, for a period up to 18 months. The employee must pay his or her portion of any benefit(s) premiums in order to keep the benefits active. If the employee does not return to work at the end of the military leave, the employee may be required to reimburse the City for the cost of the benefit premiums paid by the City for maintaining applicable coverage.

A City employee called into active service in any of the armed forces of the United States during the war on terrorism, which commenced in September 2001, and who receives a salary differential

under Alabama Code § 31-12-5 while he/she is serving on such active duty may elect, pursuant to Ala. Code § 31-12-7 (2002), to continue with his/her individual or family coverage under the City's health insurance plan for the duration of the time he or she receives the salary differential. Premiums for family coverage shall be the amount in effect at the time for an active employee with family coverage.

### **Credit for Time Spent on Military Leave**

Time spent on eligible military leave counts as time served on the job for any calculation, determination or other decision that is dependent upon the length of employment.

### **Pension Benefits**

Time spent on military leave (whether paid or unpaid) is not considered a break in employment for pension benefit purposes. Upon return to the City from military leave, if applicable, the employee must request to purchase retirement credit in the Teachers' Retirement System and pay whatever amount that employee would have contributed had he/she not been absent.

The returning service member who is eligible for reinstatement under USERRA has up to 3 times the length of military leave (up to a maximum of 5 years) to make the retirement contribution payments he or she would have made to establish retirement credit.

### **Reemployment Rights**

USERRA places a 5-year limit (with some exceptions) on the cumulative length of time a person may voluntarily serve in the military and remain eligible for reemployment rights. The USERRA reinstatement rights do not extend, however, to employees who are employed for brief, non-recurrent periods with no reasonable expectation that employment will continue indefinitely. Under certain circumstances employees are eligible to be reinstated to their former position unless the City establishes that the circumstances have so changed as to make reemployment impossible or unreasonable. If on military leave for 90 days or less, eligible employees may be reinstated to their own position. If on military leave for over 90 days, eligible employees may be reinstated to their own position or a similar position of like seniority, status or pay. Upon return from military leave, employees must comply with the current provisions of the law in regards to notification of and time frame in which they must return to work. These limits are specified in 38 USC § 4312 and vary depending on the length of military service.

A military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). Advance notice of military service is required unless military necessity prevents such notice or it is otherwise impossible or unreasonable.

The leave will be unpaid. However, employees may use any available paid time off for the absence.

Continuation of health insurance benefits is available as required by USERRA based on the length of the leave and subject to the terms, conditions, and limitations of the applicable plans for which the employee is otherwise eligible.

Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during the leave and will resume upon the employee's return to active employment.

Employees on military leave for up to 30 calendar days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. Employees on longer military leave must apply for reinstatement in accordance with USERRA and all applicable state laws.

Employees returning from military leave will be placed in the position they would have attained had they remained continuously employed or a comparable one depending on the length of military service in accordance with USERRA. They will be treated as though they were continuously employed for purposes of determining benefits based on length of service.

Eligible employees returning to work from military service or training are guaranteed job restoration if the cumulative length of absence does not exceed five (5) years. To be eligible, the employee must seek reinstatement within the time limits established by federal law (see chart below) and be qualified for work.

LENGTH OF DUTY	TIME LIMITS TO RETURN
1 to 30 calendar days	First work day 8 hours after return
31 to 180 calendar days	Within 14 calendar days after service completion
180 calendar days or more	Within 90 calendar days after service completion

Time limits to return to work may be extended for up to two (2) years if necessary due to a service-connected disability. The City will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship to the City. Reasonable efforts will also be made by the employer to retrain/upgrade as required by federal law.

While on military leave for less than thirty-one (31) calendar days, the City will maintain the employee's group insurance benefits at the same level and under the same conditions as if the employee had been actively working. If military leave exceeds thirty-one (31) calendar days, the City will cease making premium payments on the employee's behalf; however, the employee has the option to continue coverage at his or her expense for up to eighteen (18) months. If coverage is discontinued, the employee's group insurance benefits will be reinstated upon his or her return to work at the same level, and under the same conditions, as if the employee had been actively

working, with no waiting period or exclusion of pre-existing conditions, except for service-connected disabilities.

The City is committed to complying fully with the Uniformed Services Employment and Reemployment Rights Act and ensuring equal opportunity in employment for qualified persons with military obligations. All employment practices and activities are conducted on a non-discriminatory basis.

## **HOLIDAYS**

The City has 10 paid holidays per year and you earn Personal Leave Days for the number of holidays the State of Alabama observes in excess of our 10 holidays. You must be in PAY status immediately before AND after the holiday to be paid for the holiday. All Personal Leave Days must be used by the end of each fiscal year, which is September 30. (Any accrued personal leave days must be used before any annual or comp time is used.) Refer to City County Personnel Manual for specific details. Different holiday schedules are applicable for some departments including sanitation.

Each employee will schedule with his/her supervisor the days when the Personal Leave Days will be taken. The scheduling must be done prior to August 1 of each year. If the leave has not been scheduled by that date, the supervisor will discuss the days to be taken and the employee will comply with the schedule. If the employee does not take the leave day(s) as scheduled, he/she may be subject to disciplinary action for insubordination.

By the end of July of each year, each supervisor will be furnished with a list of all employees under his/her supervision who have not taken their personal leave days. The supervisor will be in charge of scheduling the time off and adhering to the policy to assure that all employees have used their personal leave days prior to October 1.

### **EXCEPTIONS**

**Police Department** personnel should check with the Police Departments payroll clerk or the Chief's office for any questions or clarifications to the above policy for holidays.

**Fire Department** personnel due to the 24/48 rotational shift should speak with a supervisor for any questions or clarifications to the above policy for holidays.

The **Sanitation Department** has only six holidays the department does not work. The other five are called "working" holidays. A memo from the Director of the department will explain the options given to the employee, at the time of the "working" holiday. The six holidays NOT WORKED are:

New Year's Day, Martin Luther King, Jr., Day Fourth of July, Labor Day, Thanksgiving Day, Christmas Day

## **ACCRUED LEAVE TIME**

See Accrued leave Chart in City/County Personnel Rules and Regulations.

## **LEAVE LIMIT CHARTS**

Leave accrual charts are available on the City web site and are designed so that you can locate the limits for sick, annual and compensatory leave. The limits are subject to exceptions for some classifications and if you have any questions or need clarifications, please contact your department's payroll clerk or the main payroll office.

To use the charts, look first for the number of hours per week that you are scheduled to work. Ex: You are scheduled to work 8:00 a.m. until 5:00 p.m., Monday through Friday and are paid on a biweekly basis; you would look for 80bw (bi-weekly), and go across to find your limits.

## **HEALTH INSURANCE AND OTHER BENEFITS**

For new employees only, there is a 30-day waiting period from the time of application for insurance before insurance is effective. Provided however, if the employee provides a certificate of credible coverage showing there had been no more than a 63-day gap in insurance coverage, the insurance goes into effect immediately upon successful application being made.

Refer to the City of Montgomery current "Employee Benefits Booklet".

If you are eligible for family coverage you must apply within 30 days of the date of employment or wait until the open enrollment period that normally begins the week after Memorial Day and ends in mid-July. Any changes for flexible spending accounts will not begin until September 1. The plan year begins October 1 for all other changes. The only other time you can change your benefits health care plan outside these periods is if you have a "qualifying event". Examples are: marriage, divorce, birth or adoption of a child, gaining custody of a child, or the death of a family member. You must make this change within 30 days of the qualifying event.

### ***IMPORTANT DISCLOSURE NOTICE***

#### **Notice for Individuals Declining Health Coverage**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires group health plans and issuers to advise you and your dependents of enrollment rights when you are declining health coverage.

If you are declining enrollment for health plan benefits for yourself or your dependents (including your spouse) because of other health insurance coverage, you may in the future be able to enroll yourself or your dependents in this plan, provided that you request enrollment within 30 days after your other coverage ends.

In addition, if you have a new dependent as a result of marriage, birth, adoption, or placement for adoption, you may be able to enroll yourself, your dependents, or both, provided that you request enrollment within 30 days after the marriage, birth adoption, or placement for adoption.

### **Additional Notice of Responsibility**

It is the employee or retiree's responsibility to immediately notify the Insurance Department in City Hall of a divorce, death, marriage or any other event making a spouse or dependent ineligible for coverage under your insurance contract.

Retirees are responsible for notifying the City when they or their spouse becomes eligible for Medicare or if they have primary coverage under another insurance plan.

The Cobra Law is a means of continuing your health insurance after termination of your employment with the City. Ex-spouses and ineligible dependents can also continue their coverage under the Cobra Law. Apply at City Hall within 60 days of termination of insurance coverage.

### **NOTICE OF GROUP HEALTH PLAN PRE-EXISTING CONDITIONS EXCLUSION**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires group health plans and issuers to advise you in writing, at the time of enrollment, notice that pre-existing exclusions may be imposed. There are no benefits under your group health plan for pre-existing conditions during your pre-existing exclusion period. Please refer to your summary plan description and other benefit information provided to you by your group's benefits administrator for specific information about the pre-existing exclusion period applicable to your group. A pre-existing exclusion period is not permitted to extend for more than 12 months (365 days) after you enroll, if you enroll when first eligible, and 18 months (546 days), if you are a late enrollee. A "pre-existing" condition is any condition (physical or mental, except pregnancy, and regardless of the cause of the condition) for which medical advice, diagnosis, care or treatment was recommended or received during the first six months before you become covered by the plan. A "late enrollee" is any eligible person who does not enroll during the first 30 days he or she is eligible or during a special enrollment period.

Blue Cross and Blue Shield of Alabama will accept a Certificate of Creditable Coverage from a prior plan toward your pre-existing exclusion period, if there was no greater than a 63 day gap. "Creditable Coverage" means coverage under an individual or group health plan including COBRA, Medicare, Medicaid, U.S. Military, Champus, Federal Employee Program, Indian Health Service, Peace Corps Service, a state risk pool, or a public health service.

A pre-existing exclusion period may be reduced if you present evidence of prior coverage from a previous insurance carrier. If you have a Certificate of Creditable Coverage or other documentation, please attach it to this enrollment application.

Even if you have no pre-existing conditions, benefits may not be available under other provisions of the plan. For example, the services may be excluded or may require pre-approval.



**BE SURE TO READ YOUR SUMMARY PLAN DESCRIPTION FOR DETAILS.**

NOTE: If you do not have the **Certificate of Creditable Coverage**, it is your responsibility to present it to the Insurance Department Room 108 within 30 days of the termination of your previous insurance coverage.

**IT WILL TAKE 6 TO 8 WEEKS FROM YOUR DATE OF HIRE TO RECEIVE YOUR BLUE CROSS-BLUE SHIELD CARDS.**

**MANDATORY DEDUCTIONS TAXES**

You will be paying Federal, State, Social Security and Medicare Taxes. Please note: Police and Fire Sworn Personnel do not pay Social Security tax, but if hired or rehired on or after April 1, 1986, you will pay Medicare. You may change your filing status with the main Payroll office at City Hall at any time.

**Summary**

The money you earn is important to you and your family. You need it to pay your bills, enjoy recreational activities and save for the future. Our flexible benefit plan will help you keep more of the money you earn by lowering the amount of taxes you pay. The Plan is the result of our continuing efforts to find ways to help you get the most from your earnings.

**RETIREMENT: SEE APPENDIX FOR THE POLICY AND OTHER INFORMATION.**

**MISCELLANEOUS PROVISIONS**

**Meals**

All full-time employees are provided with one (1) meal period each workday. This meal period is non-paid, and employees will not work during the mealtime. Staffing needs and operational demands of some departments may necessitate rotation in meal times. The department head will issue written guidelines for meal periods consistent with the needs and operating requirements of each respective department. Non-exempt employees are relieved from any job duties during the meal period and will not be compensated for that time. Non-exempt employees are relieved of all duties during the meal period and may not eat at their desks or at workstations.

**Breaks**

Each department may allow reasonable breaks for employees. The length and time of such breaks shall be determined and posted by each department.

**Official Travel**

SEE SECTION XI. TRAVEL PROCEDURES IN CITY FISCAL POLICY AND PROCEDURE MANUAL.

## **CALCULATION OF TIME**

In calculating time periods, seven days or more shall be calendar days. Less than seven days shall be work days.

## **NEPOTISM**

Under no circumstances shall an employee supervise a relative nor a person with whom he/she cohabitates. The Nepotism Policy is available for review on the City web site.

## **AUTOMOBILE POLICIES**

The following are policies relating to the assignment, use, and procedures when an accident occurs.

### **Vehicle Operations Policy**

Definition of a City Vehicle: Any vehicle that is owned, leased, rented, in the custody of, or loaned to the City of Montgomery. This includes equipment that does not require a driver's license but will be operated on a public street.

### **Driver's License Requirements:**

Prospective and current employees, whose job duties include the operation of a City vehicle, or who may use their personal vehicle for City business, must be in possession of a valid and current Alabama driver's license to include the appropriate class of commercial license for the vehicle being operated. Should a prospective employee have a valid out of state license when employed, he/she shall obtain a valid Alabama drivers' license within 30 days of employment.

All employees who drive a vehicle into a city owned lot shall be properly licensed and must have proof of liability insurance as provided by law. Failure to abide by this provision may result in disciplinary action up to and including termination for the first offense.

**Under no circumstances shall a City employee, whose license has been cancelled, revoked, suspended, or expired, operate a vehicle around or about a roadway, including any City-owned property, including parking lots, parking decks, etc.**

During the hiring, promotion, or transfer of a current or prospective City employee, whose duties include the operation of a City vehicle, said employee shall produce a valid and current Alabama driver's license, which shall be in his/her possession at all times while driving, operating, or in readiness to operate a motor vehicle.

An employee, whose job duties include the operation of a City vehicle, shall immediately, within 24 hours, notify his/her department head (or delegated official) of any change in the status of his/her driver's license or the receipt of any citation for a moving violation in the operation of a motor

vehicle whether the citation is on or off the job. Failure to immediately report a driver's license revocation, suspension, cancellation, or citation, as required by this paragraph, shall result in disciplinary action in adherence with Rule IX, City of Montgomery Personnel Rules and regulations and this section.

- An employee who fails to report a change in the status of his/her driver's license or the receipt of any citation for a moving violation shall be subject to one or more of the following:
- letter of reprimand, or
- suspension without pay, or
- revocation of driving privileges and transfer/demotion to a job not
- requiring the ability to drive, or
- termination of employment

### **Motor Vehicle Record (MVR) Requirements:**

An applicant for a position with the City of Montgomery, whose job duties include driving a City vehicle, will have his/her current MVR reviewed, prior to being employed, by the hiring authority or so delegated official. If the MVR has greater than eight points in a 24 month period listed for traffic violations or a conviction or pending charge for driving under the influence during that period, that applicant will be disqualified from consideration for the position in question.

If a current employee whose job description includes the duty to operate a City vehicle, has, at any time, an MVR that is found to be greater than eight (8) points according to the points scale for the State of Alabama UTC offense codes, that employee shall be required to attend a defensive driving course at his/her own expense. The accumulation of points is for a 24-month period. The date of reference for points accumulation shall be the date of the conviction. The Risk Management Division shall be responsible for reviewing on an annual basis the MVR of employees subject to this policy.

The employee who is identified as having an MVR greater than eight (8) points will be given two weeks from the date of notification to schedule an external defensive driving course at his/her expense and must complete the course at its next offering and provide proof of completion. If it is not done in a timely manner, the employee's driving privileges will be suspended until such proof of completion is presented.

**Any current employee arrested for driving under the influence of alcohol or drugs will be immediately prohibited from operating City vehicles.** No employee may refuse a blood alcohol test or Breathalyzer test for an accident that occurs while working or in a city vehicle. If the person is ultimately found not guilty of driving under the influence of alcohol or drugs, driving privileges will be returned immediately. If the person is found guilty, driving privileges will be taken away for an additional period not to exceed one (1) year starting with the initial date driving privileges were revoked. If greater than one year has elapsed between the date of arrest and conviction for DUI, the employee's driving privileges will be revoked for, at least, an additional 90 days from the date

of conviction. It is the responsibility of the employee to report such an arrest to his/her supervisor and the Risk Management Department. Failure to report the arrest may result in disciplinary action up to and including termination of employment.

### **Seat Belt Use**

Seat Belt use is mandatory in all City vehicles. This applies to both the driver and all passengers in seating locations equipped with seat belts.

### **Procedures for Obtaining Certification to Operate City Vehicles**

Police and Fire Departments: In addition to the provisions outlined hereinabove, the Police and Fire Department shall develop their own procedures for certifying employees and applicants to operate City vehicles. These procedures must comply with the driver's license and MVR requirements outlined in this policy. The Police and Fire Department shall provide the Safety and Training Supervisor with a roster of each graduating academy class. This roster should list new officers and firefighters by name and driver's license number. Annually, the Police and Fire Department shall provide the Safety and Training Supervisor with a list of authorized drivers.

All Other Departments: All new employees who may, as a part of his/her job duties, operate City vehicles or current employees being promoted or transferred into positions that may require operating City vehicles will have their driver's license and current MVR reviewed by the appropriate department head or designee. The MVR and the employee will be brought to the Safety and training Supervisor who will certify the employee to operate City vehicles and brief the employee on the City of Montgomery Motor Vehicle Operations Policy.

### **ACCIDENT REVIEW BOARD**

The City has a Central Accident Review Board. The purpose of this board will be to review all motor vehicle accidents that involve City of Montgomery employees and City vehicles. The Board, when meeting in an official session, will constitute the "departmental hearing" or the "departmental meeting" and any appeals will be to the Mayor or his/her designee and/or the City County Personnel Board. The employee shall give notice of appeal to the Mayor through the secretary of the Accident Review Board in writing within five business days.

The employee/driver involved in an accident which is to be reviewed shall be given *at least* two weeks written notice by the Board of the date he/she is to appear before the Board. Employees may be represented by an attorney at the Board meeting, but the attorney shall not participate in the hearing other than to consult with the employee.

The Board review will determine whether an accident was preventable or non-preventable and establish disciplinary action for implementation by the employee's department head. The Board will use the following criteria to make these decisions.

- Number of previous preventable accidents while operating a City vehicle.
- Severity of the loss.

- Contributing/mitigating circumstances to the accident.
- The egregious/wanton nature of the accident.
- Previous punishments given for similar offenses.
- Consideration of the preventability of the driver's actions.
- The employee's previous work record.

The improper, careless, negligent, wanton, destructive, or unsafe use or operation of equipment or vehicles can result in disciplinary action, up to and including payment for equipment damage and/or termination of employment.

Decisions of the Board that provide for suspensions of five days or more shall, if not waived by the Employee, be forwarded to the Mayor for scheduling a hearing before the Mayor or his/her designee. Any further appeals shall be done through the procedures outlined in this Personnel Handbook.

The Board will assess a deductible amount to be paid by the employee for a "preventable" accident which involves negligence per se or willful and/or wanton action by the employee. For the purpose of establishing monetary assessments/deductibles the Board shall use the following definitions:

*Preventable accident:* An accident that occurs because the driver fails to act in a reasonably expected manner to prevent it.

*Negligence per se:* Negligence which is due to a violation of a law meant to protect the public such as speed limits, traffic signs, rules of the road, etc. The conduct can also include violations of City or departmental rules and regulations. The conduct is automatically considered to be negligence.

*Willful and/or Wanton:* Conduct committed with an intentional or reckless disregard for the safety of others. This type of action is something more than negligence. It includes actions to the extent of being recklessly unconcerned with the safety of people or property. The term *wanton* implies a reckless disregard for the consequences of one's behavior.

The minimum deductible charged back to the employee is \$100.00 and the maximum deductible would be 25% of the total damages, including liability, injury, etc.

**PROVIDED HOWEVER, IF THE ACCIDENT IS DETERMINED TO BE BECAUSE OF GROSS NEGLIGENCE, INTENTIONAL WILLFULL AND WANTONNESS, OR EGREGIOUS CONDUCT, THE EMPLOYEE WILL BE REQUIRED TO REIMBURSE THE CITY FOR ANY AND ALL PROPERTY LOSSES INCURRED AS A RESULT OF HIS/HER ACTIONS. THIS DECISION REQUIRES A FINAL DETERMINATION BY THE MAYOR OR HIS/HER DESIGNEE.**

The Board will use the following factors in assessing the amounts as stated above:

- Number of previous preventable accidents within the previous five years while operating a City vehicle.
- Severity of the loss.

- Contributing/mitigating circumstances to the accident.
- Degree of negligence by employee.
- The egregious/wanton nature of the accident.
- Previous amounts assessed to other employees for similar offenses.
- Consideration of the preventability of the driver's actions.
- The employee's previous work record.

An employee can choose to pay the deductible with a one-time payment(in cash) directly to Risk Management within one payday of the date of assessment or elect to pay through payroll deduction (minimum payment schedule will be \$25.00 per payday). If employee elects to pay directly to Risk Management and fails to pay within the allotted time, payroll deduction will begin on the next pay period. Funds collected will be deposited by Risk Management into an account set up by the Finance Director and will be used to offset Vehicle Liability expenses.

**EMPLOYEES WHO ARE AUTHORIZED TO DRIVE A CITY VEHICLE MAY WANT TO CONSULT WITH HIS/HER INSURANCE COMPANY TO INQUIRE INTO INSURANCE FOR NON-OWNED VEHICLES.**

City Wide Backing/maneuvering Policy or Operating Within Close Proximity to Another Vehicle: **These procedures apply to large trucks (1 ton and up) all buses, and vans while backing and/or maneuvering in close proximity to other vehicles, buildings or other obstructions.**

If the vehicle operator is alone and does not have any other City employees in the area to act as a spotter, he is **required** to exit the vehicle and perform a walk-around inspection prior to attempting to back.

**Backing/maneuvering should not be attempted if any object, person, etc. is in the backing/maneuvering path.** By walking around the vehicle the driver is able to assure himself that he has sufficient rear clearances to safely back the vehicle. It is important to re-enter the vehicle and begin backing/maneuvering as soon as the walk-around is accomplished. By backing/maneuvering immediately after the inspection, the driver can safely back the vehicle before the situation changes and his rear clearance is compromised by other vehicles and/or pedestrians.

If there are two employees available, either riding in the vehicle or at the worksite, they will both act as spotters for the driver while /maneuvering. Both spotters will exit the vehicle and take a position at the rear of the vehicle, on the ground, where they can be seen by the driver. Their responsibilities include checking the rearward path for proper clearance, looking for pedestrians, and other vehicles. They will then use hand signals to guide the driver safely through the backing/maneuvering operation. **Backing/maneuvering should not be attempted if any object, person, etc., is in the backing/maneuvering path.**

The driver will not back his vehicle until such time as the spotter has positioned himself to the rear of the vehicle and gives the driver the signal to begin backing/maneuvering. **The driver will stop immediately if the spotter so signals. The driver must also stop immediately, if for any reason**

**one of the spotters disappears from sight. The driver will not resume movement of the vehicle until; the spotter has reappeared and resumes movement signaling.**

If there is only one employee available in the vehicle or at the worksite they will follow the same procedures as listed above with one spotter. Extreme caution must be taken as there is now only one set of “eyes” available. It may be necessary for the spotter to signal the driver to stop so that he can change positions to insure safe backing/maneuvering clearances.

**The driver is responsible for the safe operation of the vehicle and as such shall direct an employee(s), if available, to act as a spotter. Any driver who is found in violation of this policy will be subject to the Progressive Disciplinary Policy. In addition, any employee who refuses to act as a spotter or carry out those duties will be subject to the Progressive disciplinary Policy.**

#### **Mandatory Defensive Driver Training.**

All City Drivers who are involved in a preventable accident will attend refresher Defensive Driver Training within 45 days of meeting the Central Accident Review Board. The Police and Fire Department will be responsible for insuring their personnel receive this training. All other departments will have this training scheduled, coordinated, and conducted by the Risk Management Division.

## **TAKE HOME VEHICLES AND CITY VEHICLES**

1. Vehicles or equipment owned by the City may not be used for personal business, except as may be provided for marked public safety vehicles. Seat belts must be used at all times by all passengers (including law enforcement). No one may use tobacco in any City vehicle. All employees, other than those exempted as public safety employees, must certify in writing the number of days each pay period that the vehicle was used for commuting purposes. Drivers shall not transport (other than as required for official business purposes) any non-employee of the City of Montgomery, i.e. friends, family members, etc.

### **2. PURPOSE**

This policy defines City of Montgomery vehicles that are authorized to be taken home by employees.

### **3. AUTHORITY**

This policy has been approved by the Mayor of the City of Montgomery.

No City of Montgomery employee shall take a vehicle home without having a City of Montgomery Vehicle Take Home authorization form on file with the Vehicle Control Office (VCO) and the Office of Fleet Management.

This policy replaces any and all prior take home vehicle policies.

#### 4. DEFINITIONS

4.1 Clearly Marked Public Safety Vehicles - vehicles within the department of public safety that respond to incidents away from their normal place of business. The employee must be required to use the vehicle for commuting, is on call at all times, and is prohibited from personal travel outside the police jurisdiction.

4.2 Unmarked Law Enforcement Vehicles – vehicles used by **law enforcement officers** that are not clearly marked. A Law Enforcement Officer is an individual who: (1) is a full-time employee of a governmental unit that is responsible for preventing or investigating crimes involving injury to persons or property, (2) is authorized to carry firearms, execute warrants, and make arrests, AND (3) regularly carries firearms, except when it is not possible to do so because of the requirements of undercover work.

4.3 Department Head Vehicles- vehicles assigned to the position of Department Head as per the most current organizational chart ordained by the City of Montgomery.

4.4 Specialty On-Call Vehicles – vehicles assigned to employees whose functions are deemed necessary for them taking their vehicle to their place of residence for after hour response or while employee is officially “on-call” for emergencies.

4.5 Take Home Vehicle Mileage Rate – business rate per mile as set by the Internal Revenue Service. The City of Montgomery take home mileage rate will emulate the IRS business mileage rate and subject to any changes the IRS makes to the rate. This shall be the same rate that the City reimburses employees for official travel.

4.6 Vehicle Control Office (CVCO) – person designated by the Mayor of the City of Montgomery to oversee the Vehicle Take Home Policy and present recommendations for any policy changes or additions/subtractions to the approved vehicle take home list.

#### 5. POLICY

Take home vehicles are exclusive to the following:

##### 5.1 CABINET MEMBER VEHICLES



Cabinet member vehicles are addressed by separate procedures.

## 5.2 PUBLIC SAFETY VEHICLES

### 5.2.1 MPD

- (a) Officers living within the police jurisdiction of the City of Montgomery assigned marked vehicles (being a black and white vehicle or vehicle prominently “Montgomery Police Department”) and approved task specific unmarked vehicles may take their assigned vehicle to their place of residence within the police jurisdiction of the City of Montgomery when they are off-duty. All use of the vehicle is confined to being within the physical jurisdiction of the police officer’s arrest powers or a firefighter’s obligation to respond to an emergency. These approved individuals will complete a City of Montgomery Take Home Vehicle Authorization Form and a copy will be on file with the VCO and the Office of Fleet Management. All marked vehicles must be parked at their place of residence in a visible position in public view.
- (b) Command level law enforcement officers and task specific law enforcement officers are authorized to take their approved unmarked assigned vehicles to their place of residence, i.e. commuting. These vehicles are authorized to be taken to the officer’s residence outside of the Montgomery police jurisdiction with the approval of the Mayor as follows: the department head shall make a recommendation to his/her cabinet member describing the need for these vehicles to be used for commuting. The cabinet member shall then make his/her recommendation to the Mayor, who may approve the request. These approved individuals will complete a City of Montgomery Take Home Vehicle Authorization Form and a copy will be on file with the VCO and the Office of Fleet Management.

### 5.2.2 MFD

Vehicles assigned to command level positions and task specific positions within the Montgomery Fire Department are authorized to take their vehicle to their place of residence when they are off duty, i.e. commuting. These vehicles shall have prominent markings describing them as a Montgomery Fire/Rescue vehicle. These vehicles are authorized to be taken home outside the Montgomery police jurisdiction with the written approval of the Mayor as follows: the department head shall make a recommendation to his/her cabinet member describing the need for these vehicles to be used for commuting. The cabinet member shall then make his/her recommendation to the Mayor, who may approve the request. These approved individuals will complete a City of Montgomery Take Home Vehicle Authorization Form and a copy will be on file with the VCO and the Office of Fleet Management.

Unmarked vehicles (law enforcement officers): Law enforcement officers and task specific law enforcement officers, i.e. Investigators who are APOST certified, are authorized to take their approved unmarked assigned vehicles to their place of residence, i.e. commuting. These vehicles are authorized to be taken to the law enforcement officer's residence outside of the Montgomery police jurisdiction with the approval of the Mayor as follows: the department head shall make a recommendation to his/her cabinet member describing the need for these vehicles to be used for commuting. The cabinet member shall then make his/her recommendation to the Mayor, who may approve the request. These approved individuals will complete a City of Montgomery Take Home Vehicle Authorization Form and a copy will be on file with the VCO and the Office of Fleet Management.

PUBLIC SAFETY VEHICLES SHALL ALSO BE SUBJECT TO AND ADHERE TO THE "TAKE-HOME VEHICLE ASSIGNMENT AND USE POLICY, attached hereto as an addendum.

### 5.3 DEPARTMENT HEADS

All department heads may ask his/her cabinet member for approval to drive their assigned vehicle to their place of residence, i.e. commuting. These individuals will pay the take home mileage rate per day for the mileage round trip from their residence to their place of business. Each department head who is approved for this option will pay for only the days the vehicle was driven. The cabinet member will make his/her recommendation to the Mayor who shall have the authority to approve or disapprove the request. The mileage amount accrued will be deducted bi-weekly from the individual's paycheck one month in arrears. These approved individuals will complete a City of Montgomery Take Home Vehicle Authorization Form and a Copy will be on file with the VCO and the Office of Fleet Management.

### 5.4 SPECIALITY ON CALL VEHICLES

Employees authorized by the Mayor of his/her designee will be allowed to take their assigned vehicle to and from their place of residence, i.e. commuting. These specific drivers must reside within the police jurisdiction of the City of Montgomery. These approved individuals will complete a City of Montgomery Take Home Vehicle Authorization Form and a copy will be on file with the VCO and the Office of Fleet Management.

### 5.5 OVERNIGHT/OUT OF TOWN TRAVEL

Employees shall be authorized to take City of Montgomery vehicles to their residence for purposes of overnight or out-of-town City of Montgomery business when applicable. This authorization shall be requested in writing via the City of Montgomery "Request for Out-of-Town Travel" form by the department head to his/her respective Cabinet Member for approval. A copy of the approval will be sent to the VCO and the Office of Fleet Management.

## 6. EXCEPTIONS

Any department head within the City of Montgomery may request an employee be added to the authorized Take Home Vehicle Policy. These individuals will pay the take home mileage rate per day for the mileage round trip from their residence to their place of business. Each person approved for this option will pay for only the days the vehicle was driven. The mileage amount accrued will be deducted bi-weekly from the individual's paycheck one month in arrears. The employee must reside within the police jurisdiction of the City of Montgomery. This request must be submitted in writing to their Cabinet Member for approval and then forwarded to the VCO who will present the request to the Mayor with recommendation.

## **SEPARATION FROM EMPLOYMENT**

### **Resignation**

All employees must give at least fourteen (14) calendar days (two weeks) notice of resignation/retirement or other voluntary separation from employment before the employee's final working day. Upon receipt of such notice, the department head may, at his or her discretion, waive or reduce the requirement that the employee must work the full time period or may immediately accept the resignation effective immediately. If the City waives the requirement that the employee work for this period, the employee may not be paid for that period. Failure to give the City the required notice may jeopardize the employee's good standing and eligibility for rehire with the City. Failure of an employee to be actively at work for three (3) continuous days shall be considered to be a voluntary resignation unless on approved leave. Final compensation upon resignation, termination, or retirement will be within 30 calendar days of the date of resignation, termination, or retirement. **NOTE: Departments may have their own rule relating to an employee's "good standing" and what is not considered to be leaving in good standing.**

### **Separation from Employment**

Upon separation of your employment with the City, if you have left in good standing (14 calendar days notice or not under disciplinary action), you will be paid for your accrued leave time up to the maximum of your annual leave, one-half of your sick leave up to 360 paid hours, all of your eligible compensatory time, plus any unused personal days.

## **Withdrawal of Retirement Contributions**

Upon termination of your employment, you may choose to withdraw your retirement contributions. You must sign a form with the Retirement Systems Administrator at City Hall to withdraw your retirement contributions. Please note: There will be a 30-day processing period for any refund.

## **Final Checks and W2 Forms**

This check will include all leave payouts and will be processed by the next payday following your date of termination. Final checks will be disbursed by the department following termination of employment.

W2's will be mailed to you from the City by January 31st of each year. If you leave the City's employment at any time, you are responsible for notifying the payroll department of a change in an address. Duplicate W2's cost \$5.00 each and this charge will apply to forms sent to incorrect addresses.

## **WORKERS' COMPENSATION**

"Pursuant to Alabama Code 25-5-51, Misrepresentation as to pre-existing physical or mental conditions may void Worker's Compensation Benefits". Falsely reporting or claiming Workers' Compensation may result in termination from employment. Any person placed in a Workers' Compensation status shall also be charged with FMLA leave.

Always report an injury to an authorized official or supervisor immediately. No matter how large or small an injury, it **MUST** be reported to be covered by Worker's Compensation. All doctor visits must also be pre-authorized.

### **BENEFIT INFORMATION**

An employee who is injured while performing a job-related activity is entitled to benefits that are a part of the State of Alabama Worker's Compensation Law.

If an employee incurs an applicable injury, said employee shall be entitled to full payment for all medical expenses related to the injury. In addition, he/she shall receive compensation for lost wages during the period of time when he/she had to miss work due to the injury. (A determination of exact computations can be received from the Worker's Compensation Office).

In order for these benefits to be received the following procedures must be followed:

All injuries, regardless of severity, are to be reported immediately to the employee's supervisor. (See section 1.14 Worker's Compensation manual)

If the injury isn't reported within five days of the date of injury, all benefits to the date of notification shall not be the City's responsibility.

The injured employee will be seen by a City-authorized physician; however, a second opinion may be received by submitting a request to the Worker's Compensation Office.

Before seeing the approved physician, an employee must obtain a Physician Authorization and Treatment Report. This must be returned to the Worker's Compensation Office before any expense will be paid.

Any other questions about Worker's Compensation can be answered by referring to the City of Montgomery Worker's Compensation Manual or the Worker's Compensation Office located at City Hall.

\*\*\*\*If injured after regular business hours while on the job, you are to go to Jackson's Hospital or Baptist East and use Winn-Dixie or Walgreen for any prescriptions that may need to be filled.

## **UNEMPLOYMENT COMPENSATION BENEFITS**

The City is covered by the Alabama Unemployment Compensation Law, which is implemented by the Alabama Department of Industrial Relations. This government-operated system of insurance is intended to protect employees against the complete loss of income during temporary periods of unemployment by providing a weekly cash benefit to eligible employees who are not otherwise disqualified from receiving all or a portion of the benefits. The eligibility requirements and a list of reasons for disqualification are set out in the law. Employees do not pay any part of the fund that provides this benefit.

This policy also constitutes the City's warning and notice that unemployment benefits shall not be allowed to an employee having a confirmed positive drug test or to an employee who refuses to submit to or cooperate with a blood or urine test, or who knowingly alters or adulterates the blood or urine specimen.

Section 25-4-78 of the Alabama Unemployment Compensation Law provides in pertinent part as follows:

A confirmed positive drug test that is conducted and evaluated according to standards set forth for the conduct and evaluation of such tests by the U.S. Department of Transportation in 49 C.F.R. part 40 or standards shown by the employer to be otherwise reliable shall be a conclusive presumption of impairment by illegal drugs. No unemployment compensation shall be allowed to an employee having been warned that such a positive test could result in dismissal pursuant to a reasonable drug policy. . . . Further, no unemployment compensation benefits shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test as set forth above, or if the employee knowingly alters or adulterates the blood or urine specimen.

## **EXIT INTERVIEWS**

All employees terminating from the City are asked to attend an exit interview with the Supervisor and/or department head. The purpose of the interview is to get a departing employee's honest opinions about working at the City: what we do well and what needs improvement. Also, it is important during this process to determine if the employee has any unresolved claims. All employees are encouraged to be honest, candid, and forthright in providing feedback.

## **REFERENCES**

The City will provide employee information to outside agencies as requested in writing and only when accompanied by the original employee signed authorization for release of information. Information is limited to confirming the dates of employment and job title. The City does not provide letters of recommendation.

The department head is the only person authorized to disclose information and any phone calls or written inquiries seeking such information should be directed to the department head.

Any requests to view a City file, including personnel files, after separation from employment must be made through the Office of the City Clerk as a public records request.

## **BENEFIT CONTINUATION UNDER COBRA**

### **Continuing or Converting Your Group Health Insurance Coverage (COBRA)**

If you resign or are terminated from the City's employ or if your work hours are reduced, and if this event makes you or your dependents no longer eligible to participate in one of our group health insurance plans, you and your eligible dependents may have the right to continue to participate for up to eighteen months at your (or your dependents') expense. If you are determined to be disabled under the Social Security Act at the time your termination or reduction in hours occurs, you may be entitled to continuation coverage for up to twenty-nine months.

You are receiving this notice because you may be covered under one or more group health plans. The plan (or plans) under which you have become covered are listed at the end of this notice and are referred to collectively in this notice as "the plan." This notice contains important information about your right to COBRA continuation coverage, which is a temporary extension of coverage under the plan. This notice generally explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it.

The right to COBRA continuation coverage was created by federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). COBRA continuation coverage can become available to you when you would otherwise lose your group health coverage. It can also become available to other members of your family who are covered under the plan when they would otherwise lose their group health coverage. For more information about your rights and obligations under the plan and under federal law, you should review the plan's summary plan description or contact the

Plan Administrator for the plan. You will find the name, address, and telephone number of the Plan Administrator at the end of this notice.

#### What is COBRA Continuation Coverage?

COBRA continuation coverage is a continuation of plan coverage when coverage would otherwise end because of a life event known as a “qualifying event.” Specific qualifying events are listed later in this notice. After a qualifying event, COBRA continuation coverage must be offered to each person who is a “qualified beneficiary.” You, your spouse, and your dependent children could become qualified beneficiaries if coverage under the plan is lost because of the qualifying event. However, you and your family members are not entitled to COBRA coverage if you are employed as a nonresident alien who received no U.S. source income. Under the plan, qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage.

#### What are Qualifying Events for a Covered Employee?

If you are a covered employee, you will become a qualified beneficiary if you lose your coverage under the plan because either one of the following qualifying events happens:

- Your hours of employment are reduced, or
- Your employment ends for any reason other than your gross misconduct.

#### What are Qualifying Events for a Covered Spouse?

- If you are the spouse of a covered employee, you will become a qualified beneficiary if you lose your coverage under the plan because any of the following qualifying events happens:
  - Your spouse dies;
  - Your spouse’s hours of employment are reduced;
  - Your spouse’s employment ends for any reason other than his or her gross misconduct;
  - Your spouse becomes enrolled in Medicare (under Part A, Part B, or both); or
  - You become divorced from your spouse.

If your spouse cancels your coverage under the plan in anticipation of divorce and a divorce later occurs, the divorce may be considered a qualifying event even though you actually lost coverage under the plan earlier. If you timely notify the Plan Administrator of the divorce and can establish that the covered employee canceled your coverage under the plan in anticipation of divorce, COBRA coverage may be available to you beginning on the date of your divorce (but not for the period between the date your coverage ended and the date of the divorce). See the rules below under "You Must Give Notice of Some Qualifying Events" regarding your obligation to provide timely notice to the Plan Administrator and the procedures for doing so.

#### What are Qualifying Events for Covered Dependent Children?

- Your dependent children will become qualified beneficiaries if they lose coverage under the plan because any of the following qualifying events happens:
- The parent-employee dies;
- The parent-employee's hours of employment are reduced;
- The parent-employee's employment ends for any reason other than his or her gross misconduct;
- The parent-employee becomes enrolled in Medicare (under Part A, Part B, or both);
- The parents become divorced; or
- The child stops being eligible for coverage under the plan as a "dependent child."

A child of the covered employee or former employee who is receiving benefits under the plan pursuant to a qualified medical child support order is entitled to the same rights under COBRA as a dependent child of the covered employee. A child born to, adopted by, or placed for adoption with a former employee during the period of COBRA coverage may also be a qualified beneficiary if the former employee is a qualified beneficiary who has elected COBRA coverage.

#### Additional Qualifying Event for Covered Retirees

If the plan provides retiree health coverage, sometimes filing a proceeding in bankruptcy under title 11 of the United States Code can be a qualifying event. If a proceeding in bankruptcy is filed with respect to the employer sponsoring the plan, and that bankruptcy results in the loss of coverage of any retired employee covered under the plan, the retired employee will become a qualified beneficiary with respect to the bankruptcy. The retired employee's spouse, surviving spouse, and dependent children will also become qualified beneficiaries if bankruptcy results in the loss of their coverage under the plan.

#### When is COBRA Coverage Available?

The plan will offer COBRA continuation coverage to qualified beneficiaries only after the Plan Administrator has been notified that a qualifying event has occurred. When the qualifying event is the end of employment or reduction of hours of employment, death of the employee, commencement of a proceeding in Bankruptcy with respect to the employer if the plan provides retiree health coverage, or the employee's becoming enrolled in Medicare (under Part A, Part B, or both), the employer must notify the Plan Administrator of the qualifying event.

#### You Must Give Notice of Some Qualifying Events

For the other qualifying events (divorce of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), you must timely notify the Plan Administrator in writing (using the procedures specified in the paragraph below entitled "Qualifying Event Notice Procedures") within 60 days after the qualifying event occurs or within 60 days after the date on which coverage would be lost because of the event, whichever is later. If these procedures are not followed or if the notice is not provided in writing to the Plan Administrator during the 60-day



notice period, any spouse or dependent child who loses coverage under the plan will not be offered the option to elect COBRA coverage as a result of these qualifying events.

- **Qualifying Event Notice Procedures:** Any notice of a qualifying event that you provide must be in writing. Oral notice, including notice by telephone, is not acceptable. You must mail or hand deliver your notice to the Plan Administrator identified at the end of this notice. Your notice must be received by the Plan Administrator no later than the last day of the required 60-day notice period unless you mail it. If mailed, your notice must be postmarked no later than the last day of the required 60-day period. The notice you provide must state:
  - the name of the plan or plans under which you lost or are losing coverage,
  - the name and address of the employee covered under the plan,
  - the name(s) and address(es) of the qualified beneficiary(ies), and
  - the qualifying event and the date of the qualifying event.

If the qualifying event is a divorce, your notice must include a copy of the divorce decree. For your convenience, we have attached a form of Notice by Qualified Beneficiaries of Initial Qualifying Event that you may use to notify the Plan Administrator of a qualifying event. You may also get a copy of this form, at no cost to you, from the Plan Administrator.

**Other Notices You Must Give:** You must also give notice of other events that are described later in this notice. For example, please refer to the later paragraphs in this notice entitled "Disability extension of 18-month period of continuation coverage" and "Second qualifying event extension of 18-month period of continuation coverage" for the notice procedures and notice time periods that apply to you in those circumstances.

#### How is COBRA Coverage Provided?

Once the Plan Administrator receives timely notice that a qualifying event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each qualified beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage on behalf of their spouses, and parents may elect COBRA continuation coverage on behalf of their children. COBRA continuation coverage is a temporary continuation of coverage.

#### Duration of COBRA Coverage for Covered Employees

If you are the covered employee and the qualifying event is the end of employment or reduction in hours of employment, COBRA continuation coverage will continue for up to a total of 18 months from the date of your termination of employment or reduction in hours, assuming you pay your COBRA premiums on time. If, apart from COBRA, your employer continues to provide coverage to you after your termination of employment or reduction in hours (regardless of whether such extended coverage is permitted under the terms of the plan), the extended coverage you receive will ordinarily reduce the time period over which you may buy COBRA benefits.

If you are the covered employee and you are on a leave of absence covered by the Family and Medical Leave Act of 1993 (FMLA), and you do not return to work, you will be given the opportunity to buy COBRA coverage. The period of your COBRA coverage will begin when you fail to return to work following the expiration of your FMLA leave, or you inform your employer that you do not intend to return to work, whichever occurs first.

#### Duration of COBRA Coverage for Covered Spouses and Dependent Children

If you are a covered spouse or dependent child and the qualifying event is the end of employment or reduction of the employee's hours, COBRA continuation coverage generally lasts for up to a total of 18 months from the date of termination of employment or reduction in hours, provided that COBRA premiums are paid on time. However, if the covered employee became enrolled in Medicare before the end of his or her employment or reduction in hours, COBRA continuation for the covered spouse and dependent children will continue for up to 36 months from the date of Medicare enrollment or 18 months from the date of termination of employment or reduction in hours, whichever period ends last. For example, if a covered employee becomes enrolled in Medicare 8 months before the date on which his employment terminates, COBRA continuation coverage for his spouse and children can last up to 36 months after the date of Medicare enrollment, which is equal to 28 months after the date of the qualifying event that is termination of employment (36 months minus 8 months).

If you are a covered spouse or dependent child and the qualifying event is the death of the employee, the employee's becoming enrolled in Medicare (under Part A, Part B, or both), your divorce, or a dependent child's losing eligibility as a dependent child, COBRA continuation coverage lasts for up to a total of 36 months, provided that COBRA premiums are paid on time.

There are two ways in which the 18-month period of COBRA continuation coverage can be extended.

#### Disability extension of 18-month period of continuation coverage

If you or anyone in your family covered under the plan is determined by the Social Security Administration (SSA) to be disabled and you timely notify the Plan Administrator or its designee in writing, you and your entire family may be entitled to receive up to an additional 11 months of COBRA continuation coverage, for a total maximum of 29 months. The disability would have to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage. In order for this disability extension to apply, you must timely notify the Plan Administrator or its designee in writing (using the SSA Disability Notice procedures specified below) of the SSA disability determination before the end of the 18-month period of continuation coverage and within 60 days after the later of (i) the date of the initial qualifying event, (ii) the date on which coverage would be lost because of the initial qualifying event, or (iii) the date of the SSA disability determination.

SSA Disability Notice Procedures: Any SSA disability notices that you provide must be in writing. Oral notice, including notice by telephone, is not acceptable. You must mail, fax or hand deliver your notice to the Plan Administrator.

- Your notice must be received by the Plan Administrator no later than the last day of the required 60-day notice period unless you mail it. If mailed, your notice must be postmarked no later than the last day of the required 60-day notice period. The notice you provide must state:
- the name of the plan or plans under which you lost or are losing coverage,
- the name and address of the employee covered under the plan,
- the name(s) and address(es) of the qualified beneficiary(ies),
- the qualifying event and the date of the qualifying event,
- the name of the disabled qualified beneficiary,
- the date that the qualified beneficiary became disabled, and
- the date that the SSA made its determination of disability.

Your notice must also include a copy of the SSA disability determination. For your convenience, we have prepared a form of Notice by Qualified Beneficiaries that you may use to notify The Plan Administrator of an SSA disability determination. You may get a copy of this form, at no cost to you, from either the Plan Administrator or The Plan Administrator. If these procedures are not followed or if the notice is not provided in writing to The Plan Administrator within the required time period, there will be no disability extension of COBRA continuation coverage. You must also notify The Plan Administrator within 30 days of any revocation of Social Security disability benefits

#### Second qualifying event extension of 18-month period of continuation coverage

If your family experiences another qualifying event while receiving 18 months of COBRA continuation coverage, the spouse and dependent children in your family can get up to 18 additional months of COBRA continuation coverage, for a maximum of 36 months, if a timely notice of the second qualifying event is properly given to the plan. This extension may be available to the spouse and any dependent children receiving continuation coverage if the employee or former employee dies, becomes enrolled in Medicare (under Part A, Part B, or both), or gets divorced, or if the dependent child stops being eligible under the plan as a dependent child, but only if the event would have caused the spouse or dependent child to lose coverage under the plan had the first qualifying event not occurred.

For example, the former employee becoming enrolled in Medicare will rarely be a second qualifying event that would entitle the spouse or dependent children to extended COBRA coverage. This is so because, for almost all plans that are subject to COBRA, this event would not cause the spouse or dependent children to lose coverage under the plan had the first qualifying event not occurred.

In order for this 18-month extension to apply, you must timely notify the Plan Administrator in writing (using the notice procedures specified in the above paragraph entitled "Qualifying Event

Notice Procedures") of the second qualifying event within 60 days after the second qualifying event occurs or within 60 days after the date on which coverage would be lost because of the event, whichever is later. In addition, your notice must also name the second qualifying event and the date of the second qualifying event. For your convenience, we have prepared a form of Notice by Qualified Beneficiaries that you may use to notify the Plan Administrator of a second qualifying event. You may get a copy of this form, at no cost to you, from the Plan Administrator. If these procedures are not followed or if the notice is not provided in writing to the Plan Administrator during the required 60-day notice period, there will be no extension of COBRA coverage as a result of the second qualifying event.

#### If You Have Questions

Questions concerning your plan or your COBRA continuation coverage rights should be addressed to the Plan Administrator. For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at [www.dol.gov/ebsa](http://www.dol.gov/ebsa). (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.)

## **APPENDIX AND FORMS**

This section reserved for future addendums, forms, etc., and will be posted on the City Web Site.

