

EMPLOYEE HANDBOOK

CITY OF MONTGOMERY, ALABAMA

EFFECTIVE JANUARY 1, 2012

AMENDED SEPTEMBER 12, 2012

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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.

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 in 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.

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.

EQUAL EMPLOYMENT OPPORTUNITY POLICY

The City believes that all employees have the right to work in an environment free of unlawful discrimination or harassment. The City is committed to provide 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, status as a current or former member of the uniformed services, 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.

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 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.

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

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 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.

DISABILITY ACCOMMODATION (ADA REQUESTS)

It is the policy of the City of Montgomery not to discriminate on the basis of disability against any qualified person. To this end all decisions relating to employment including, but not limited to recruitment, selection, training, assignment, promotion, compensation, transfer, benefits, and education, will be determined by the applicant's or employee's ability with consideration of any requested reasonable accommodation. This policy is applicable to all employment policies and practices. The City also provides reasonable accommodation in connection with the provision of City services, programs and activities.

The City will 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 will make

reasonable efforts to make a reasonable accommodation to qualified individuals with a disability so that they can perform the essential functions of a job.

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 a individual, applicant or employee with a disability.

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

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 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. The City may not ask for genetic information concerning the proposed employee and/or his/her family members. Failure to submit to or complete a medical examination is viewed as 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 a direct threat to the health or safety to themselves or others in the workplace may be placed on appropriate leave. 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 or present other significant operational problems.

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.

VEHICLES

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 section of this Handbook relating to these subjects.

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, and 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 (who have not been employed by the City for more than two years) work on an introductory basis for the first (6) six-months after their date of hire or rehire. All promoted and transferred employees work on an introductory basis for the first (6) six-months after the date of promotion or transfer.

Upon satisfactory completion of the probationary period, employees enter the “permanent” employment classification.

WORKPLACE RULES OF CONDUCT

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.

The following are 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:

- Insubordination or lack of cooperation.
- Abuse of authority over employees or citizens.
- 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:
 - Abusing, damaging, wasting, stealing, inappropriately removing, or possessing City property, records, or the property of other employees.
 - Being arrested for a felony or any illegal drug or controlled substance offense.
 - 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, weapons, explosives, or dangerous substances while performing job duties or on City premises. 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, 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.
 - 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 being truthful or attempting to mislead or evade a direct question or inquiry from any supervisor or city official.**

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.

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.

Any employee who feels that this policy is not being observed must immediately report the alleged violation to his/her supervisor. The employee may also report the alleged violation to the City County Personnel Board staff and/or to 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 remains 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 these guidelines 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;
- 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 instrumentalities or hazardous devices inside City buildings or motor vehicles during business hours.

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 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, 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.

HARASSMENT IN THE WORKPLACE

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 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;
- Touching another person in a sexually suggestive way; or
- Positioning oneself to look at another person's breasts, genital area or buttocks.
- Stalking
- Staring or leering in an offensive manner.
- 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, 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.

Reporting and Investigating Harassment Charges

Any employee who believes that he or she is being harassed should report it immediately in writing or verbally through one of the officers listed below. 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. The complainant shall make the report to his or her immediate supervisor, (unless the complaint is against that person). If the complaint is against the immediate supervisor, the employee may then file the complaint with the department/division head (or designee). The employee may file his/her complaint **at any time** with the Office of City Investigations or the Personnel Department.

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.

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.

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 Department 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.

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, possession or use of illegal drugs and of alcohol in the workplace is, therefore, prohibited. The City also recognizes that use and abuse of alcohol and of 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. In addition, the department head should assign a contact person in each department who will receive confidential drug testing information. The City of Montgomery Risk Manager 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 used, consumed, possessed or manufactured: (a) illegal drugs either during work hours or while on duty, or (b) alcohol, during work hours or while on duty if such use or consumption in any way impairs his/her ability to perform his/her job duties, that employee will 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

Pre-Employment Testing

All potential merit system employees, both temporary and permanent, shall be given an initial drug screen test after receiving a conditional offer of employment. The conditional employee must pass the test before receiving final appointment to the position. If the test result is positive for illegal drugs, the applicant will be refused employment for the position he/she was applying and will, additionally, be refused employment for ANY City of Montgomery position for a period of five (5) years thereafter. The test administered will ascertain whether the conditional employee has traces of any illegal drug in his/her system.

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 Risk Manager 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, commercial or otherwise, shall be subject to at random drug and alcohol testing during work hours. The City of Montgomery Risk Manager 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 Risk Manager 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). 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. The employee shall submit to the breath alcohol test immediately absent an overriding cause for delay. 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 of 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.

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 at 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 accord with rules and regulations of the testing or collection facility.

The drug or alcohol test results will be forwarded to the City Risk Manager by the testing facility. The reports will be sent to the employee's department head or his designee and are to be kept secure and confidential, in a separate file, for at least three years. Each department head will assign only one other employee access to these files. 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 "safety net" comparison retest. The employee should notify the Risk Manager of such a request. The second test 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 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, at a minimum, a suspension of forty-five (45) calendar days. 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 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. An active employee who has his/her employment terminated due to a positive drug or alcohol test will be FOREVER barred from future re-employment with the City of Montgomery. 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.)

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 Department of City Investigations in furtherance of official investigations.

A copy of the complete polygraph policy is available on the City Web Site.

EMPLOYEE PAY

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 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.

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.

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 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 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 may 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.

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.

Outside Activities

The activities 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. Such activities may subject an employee to the City's disciplinary procedures up to and including immediate termination.

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.

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

It is the intent of the City to create a smoke-free environment for our employees. Smoking is prohibited on City property 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 Intranet-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. Intranet
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, 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 which interferes with work duties.
- No use of personal/office cell phones/two way radios in City vehicles/equipment while the vehicle/equipment is in motion, except law enforcement on official business.

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.

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 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. The city has designated the City Council Chambers as the “public forum” and any solicitation shall take place in that facility with prior written approval of the Mayor or his/her designee.

Prohibited Literature Distribution by Employees. The City prohibits employees from distributing literature at all times in work areas 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 Deputy 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 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.

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 proscribed in this policy. 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.

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 a 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 Five (5) Days or More:

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 six 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 the Deputy Mayor, 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.

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, 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 may return to work. (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

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. 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 which normally begins the week after memorial day and ends in mid-July. Any changes during this period will not begin until September 1. The only other time you can change your 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

Group I – Civilian Personnel

Permanent employees contribute 6% of their salary toward retirement. Employee contributions are paid with pre-tax dollars. You may retire after 25 years service at 50% of your highest paid salary - 12 consecutive months of the 5 - year period immediately preceding retirement. The accrual rate is based on 2% per year, not to exceed 100%. Please refer to the Retirement Section in this booklet for further information.

Group II – Police and Fire Sworn Personnel

Permanent employees contribute 6% of their salary toward retirement. Employee contributions are paid with pre-tax dollars. You may retire after 25 years service at 62.5% of your highest paid salary - 12 consecutive months of the 5 - year period immediately preceding retirement. The accrual rate is based on 2 1/2 % per year, not to exceed 100%. Please refer to the Retirement Section in this booklet for further information.

Courtesy Deductions Savings Bonds: *Not available at this time*

Payroll deductible savings bonds are available. You can set aside any amount of money and once you have accrued enough for the bond it will be bought and mailed to you. You will receive the bond approximately one month after you have accumulated enough for the bond. NOTE: The employee is responsible for a correct address and both Social Security numbers for the bond owners at all times. The City is not liable for bonds sent to incorrect addresses.

Deferred Compensation

Deferred Compensation is a retirement plan designed to defer paying federal and state taxes on up to 25% of your gross income, not to exceed \$15,500.00 per year. If you are interested, there are two plans offered - Pebco Securities Corporation - 277-7820 (office) or Public Employees Deferred Compensation Accounts (Retirement Systems of Alabama) - 832-4140.

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 meal time. 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

Employees of the City are, from time to time, required to travel for the conduct of city business or to attend meetings and conferences. Such travel and reimbursement for expenses incurred in connection therewith is authorized by this policy, but only with the prior approval of the department head and appropriate cabinet member. Travel authorizations and expense voucher approval of employees is delegated to the department head. Eligible reimbursable expenses and policies relating thereto are as follows:

Transportation

Transportation costs for travel will be reimbursable under the terms of this policy. If travel is by common carrier (airline, bus line, or rail) an amount not to exceed the cost of tourist or economy fare shall be eligible for reimbursement.

Travel by automobile for city business should be made in a city automobile. In the event circumstances exist where no city owned automobile is available, a private vehicle may be used with specific prior approval of the department head. The owner of the personal vehicle will be reimbursed as follows: at the rate per mile allowed by the IRS. Reimbursement will require a signed statement of actual miles. In no event will more than one person be allowed mileage expense reimbursement for a joint trip. If a city vehicle is available and the employee opts to use his/her private vehicle, only the actual costs of fuel will be reimbursed.

Subsistence Expenses

The costs of subsistence shall be reimbursable for travel on city business. Eligible reimbursable subsistence expenses include actual documented costs for lodging, taxi fares, meals (reasonable for the area), telephone calls, secretarial services, or other items necessary for the conduct of city business. (Actual subsistence expenses must be supported by actual receipts (credit card receipts are NOT acceptable for reimbursement) and other documentation of actual expenses. Receipts are to be secured for all expense items. Other documentation includes a listing of each item, date, place, and amount related thereto. Travel advances may be issued to employees. The city does not reimburse employees for the cost of alcohol.

Entertainment Expenses

No entertainment costs for an employee shall be reimbursable regardless of whether or not the expenditure is for city related business. However, complimentary meals paid for by a third person for employees shall not be considered as "gifts".

Expense Reports

All travel expenses shall be recorded, signed by the traveler, and approved by the department head prior to reimbursement or acceptance. Expense reports including all required receipts shall be filed in the office within ten (10) working days upon return. If the employee fails to comply with this provision without prior approval, the employee shall not be reimbursed.

IMMIGRATION LAW COMPLIANCE

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.

Expiration of Work Authorization: The Finance Department maintains a tickler system that tracks the expiration date of each nonresident employee's authorization to work in the United States. The

Finance Department 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. A single line should be drawn through the previous authorization information when the new information is entered. Updated information should be initialed and dated by the person 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-calendar 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-calendar day grace period, the employee must provide the Finance Department with proof of having filed a work permit renewal application prior to the expiration of the employee's original work permit.

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

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.

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. 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 authorized City drivers will attend a mandatory Defensive Driver Class within 45 days of being certified to operate a city vehicle. The Risk Management Division will conduct classes for all departments other than sworn officers and firefighters (the initial training provided to recruits in the academy will serve to fulfill this requirement). These classes will be scheduled, coordinated, and conducted by the Risk Management Division.

All drivers will complete refresher training every 18 months. The Police and Fire Department will be responsible for coordinating, scheduling, and conducting their refresher training. All other departments' training will be scheduled, coordinated, and conducted by the Risk Management Division.

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

If you have been authorized to take a city vehicle home or if you want to request that a city vehicle be taken home at night, refer to the "Take Home Vehicle" policy on the city web site.

SEPARATION FROM EMPLOYMENT

Resignation

All employees should give at least fourteen (14) days notice of resignation/retirement or other voluntary separation from employment. It is **required** that all employees choosing to resign give at least seven (7) days advance notice 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. 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.

Terminations

Upon termination of your employment with the City, if you have left in good standing (7 days notice), 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 pay day 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".

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 a 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 a 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 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. (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.