

EMPLOYEE HANDBOOK

CITY OF MONTGOMERY, ALABAMA

EFFECTIVE OCTOBER 1, 2021

As amended through September 24, 2021

Approved:

A large, stylized handwritten signature in black ink, appearing to be the name of an official.

Date:

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INTRODUCTORY STATEMENT

This handbook describes many responsibilities as an employee and outlines the various programs developed by the City to benefit its employees. This employee handbook is designed to acquaint each individual with employment with the City of Montgomery, Alabama (hereinafter referred to as the “City”) and to provide information about its personnel policies and practices including the terms, conditions, and privileges of 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. Each employee 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 Montgomery City-County Personnel Board Rules and Regulations is mandatory for all employees. Failure to comply may result in disciplinary action including termination for the first offense for serious violations (Category B and/or C under Progressive Discipline Policies/Charts).

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 their 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.

Employees will be notified when changes to the handbook occur. The changes to the handbook will be reflected in the electronic copy. Please understand that no supervisor, manager, or officer of the City other than the appointing authority or the designee has the authority to enter into any agreement with an individual for employment for any specified period or to make any promises or commitments contrary to the above.

Unless otherwise specified herein, 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 and other official City policies shall be considered

together and interpreted as one publication.

Each employee is also responsible for being familiar with the Montgomery City-County Personnel Board Rules and Regulations. The M CCP Board Rules and Regulations provide detailed information about leave, holidays, due process, pay plans, working conditions, general personnel practices, political activity rules, and separations. Employees 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.

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

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

EQUAL EMPLOYMENT OPPORTUNITY POLICY

The City believes that all employees have the right to work in an environment free of unlawful discrimination, retaliation, or harassment. The City is committed to providing equal employment opportunity. It is our policy to recruit, hire, train, promote, and compensate individuals, and to administer all personnel actions in accordance with applicable laws, without regard to race, color, religion, creed, age, sex, national origin or ancestry, genetic history, sexual preference, sexual identity, gender identity, status as a current or former member of the uniformed services, whistleblower (protected communication), or status as an 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 employees of the City and vendors prohibit any such conduct. Persons who feel they have been discriminated against, retaliated against, or otherwise harassed shall report the incident to

the Montgomery City-County Personnel Board and/or the Office of City Investigations for investigation.

CODE OF ETHICS / CONFLICTS OF INTEREST

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

Some employees will have to complete an annual questionnaire for the state Ethics Commission. The City will notify these employees by e-mail when information is required or documents need to be completed. These employees are responsible for filing the reports in a timely manner.

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

Employees of the City of Montgomery are subject to the provisions of the Ethics Law and the decisions of the Alabama Ethics Commission. Employees may visit the Alabama 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 their 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. Violations of the Alabama Ethics Laws may rise to the level of criminal activity.

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.

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 each employee 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 an employee, they should contact their supervisor for approval. Failure to do so could result in disciplinary action up to and including termination of employment with the City.

Employees may accept greeting cards, items 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.

NOTE: Even a gift that is “de 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

The purpose of this policy is to establish the fraternization policy for the City of Montgomery. This policy is intended to avoid conflicts of interest between work-related and personal/family obligations; reduce favoritism or even the appearance of favoritism; prevent personal/family conflicts from affecting the workplace; and decrease the likelihood of sexual harassment and/or gender discrimination in the workplace.

The following definitions apply to each section of this policy:

- A “romantic and/or sexual relationship” exists when two City employees become personally involved with each other to the point that there is dating, exchange of personal affection, sexual or physical intimacy, and/or cohabitation.
- The term “dating” includes but is not limited to one or more social meetings under circumstances that may lead to exchange of personal affection and sexual or physical intimacy.
- “Cohabitation” applies to those employees who live together in a romantic relationship without being married to one another.
- A “significant other” means a relationship between an employee of the City and another individual as defined herein in (a), (b), (c), and/or (d) and elsewhere in the policy.

Effective Date of Policy:

Relationships covered under this policy which were in existence on the effective date of the directive will be allowed to continue provided both member(s) and/or employee(s) provide written notification of the relationship to their department heads within 10 days of the date this policy became effective.

The provisions of this fraternization policy are not applicable to individuals married or cohabitating and employed by the City on or before the date of adoption of this policy. As such, a change in marital status/cohabitation, etc. of any current employee, will result in the applicability of this policy.

Romantic relationships between supervisors and subordinate employees are prohibited.

Public trust, safety, and City morale require that employees avoid the appearance of a conflict between their professional responsibilities and any involvement that they may have in a romantic or sexual relationship with other City employees. In order to promote efficient operation of the City and to avoid misunderstandings, complaints of favoritism, other problems of supervision, security, morale, and possible claims of sexual harassment and/or gender-based discrimination, romantic and/or sexual relations between supervisors and subordinate employees within any department are prohibited.

This provision applies to all supervisors and employees within a department. No supervisor shall have a romantic or sexual relationship with any employee within their department, regardless of whether the supervisor exercises any supervisory authority over the employee.

Romantic Relationships between Co-Employees In the Same Department

Romantic and/or sexual relationships between co-employees in the same Department (except as indicated above) are allowed except when the Department Head determines that the circumstances of that employment raises an undue hardship upon the other employees within the particular work unit or that such continued employment is detrimental to the supervision, safety, security and/or morale of the particular work unit.

Enforcement

Any relationship that interferes with the company culture of teamwork, the harmonious work environment, or the productivity of employees, will be addressed by applying the progressive discipline policy up to and including employment termination.

DOING BUSINESS WITH OTHER EMPLOYEES

Employees of the City are expected to follow all laws, rules and regulations. Employees 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.

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 known outstanding warrants will face disciplinary action and may be referred to City Investigations. 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 in writing to his or her immediate supervisor within one (1) working day. Failure to comply with this policy may result in disciplinary action. Supervisors are responsible for reporting an employee's arrest to City Investigations to determine any potential policy violations. The employment-related consequences of an arrest or conviction will be evaluated on a case-by-case basis.

WORK RESPONSIBILITIES

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

- Attend work on a regular and predictable basis
- Complete assigned tasks in a safe manner and in a constant state of alertness
- Uphold City policies, including the harassment, discrimination, retaliation policies,

- etc.
- Work in a cooperative manner with managers, supervisors, coworkers, clients, and the public
 - Work effectively and efficiently under deadlines
 - Uphold the highest standard of integrity, honesty, and ethical behavior

Employees should remember that job descriptions do not necessarily cover every task or duty that might be assigned and that additional responsibilities may be assigned as necessary. Contact the supervisor and/or department head or Montgomery City-County Personnel Board if there are any questions or concerns about a job description.

The Montgomery City-County Personnel Board develops job descriptions when new job classifications are created. Existing job descriptions are also maintained and revised periodically in order to ensure that they are up to date. Job descriptions may also be rewritten periodically to reflect any changes in the classification's duties and responsibilities. Employees are expected to comply with any revised or rewritten job descriptions for their classification. All employees will be expected to help ensure that their job descriptions are accurate and current and reflect the work being done.

EMPLOYEE ASSISTANCE PROGRAM

A wide range of problems not directly associated with an employee's job function can have an effect on any employee's job performance. In most instances, the employee will overcome such personal problems independently, and the effect on job performance will be negligible. In other instances, normal supervisory assistance will serve either as motivation or guidance by which such problems can be resolved so the employee's job performance will return to an acceptable level. In some cases, however, the efforts of the employee and the supervisor may not have the desired effect of resolving the employee's problems, and unsatisfactory performance persists over a period of time, either constantly or intermittently. Therefore, the City of Montgomery has established an Employee Assistance Program (EAP) to address employee concerns and/or problems in a constructive manner. In general terms, employees experiencing medical/behavioral problems are encouraged to consult with an EAP counselor before such problems affect job performance.

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

When elected officials/appointing authorities, managers and/or department heads have reason

to believe that a referral to EAP would improve job performance or job management issues, they may initiate a formal management referral through the Risk Management Department. The employee must attend the initial session that will be scheduled by the elected officials/appointing authorities, managers and/or department heads. Continued participation is voluntary. Failure to comply with this paragraph will be grounds for disciplinary action up to and including separation from employment. The EAP provides problem clarification, treatment resource referrals, and crisis intervention for employees relating to a medical/behavioral problem that may involve psychological or emotional problems, alcoholism or drug dependencies, marital or family difficulties, some medical conditions (including those related to stress), and some financial problems. The EAP staff may consult with supervisors, managers, and personnel staff when there is a question as to whether or not a medical/behavioral problem exists, as well as how to understand and manage a troubled employee.

The procedure is as follows:

- a. Employees experiencing personal or family problems are strongly encouraged to use EAP.
- b. If an employee's job performance or attendance is unsatisfactory, it will be called to their attention pursuant to the regular procedure.
- c. If unsatisfactory performance or attendance continues, the elected official/appointing authority and/or manager will discuss the problem privately with the employee.
- d. Supervisors will not delve into personal problems in an attempt to find the causes of unsatisfactory job performance. This is the responsibility of the trained professionals within the EAP. If it appears that the employee cannot or will not improve their performance or attendance to a satisfactory level, the elected appointing authority, department head and/or manager will refer the employee to the EAP with trained professionals to diagnose problems and help find solutions. EAP counselors are responsible for providing professional consultation to employees and supervisors regarding medical/behavioral problems that affect or could potentially affect City operations.

The counselors provide this assistance by:

- Evaluating employees referred pursuant to employees' and/or supervisors' requests, and recommending resources for treatment or assistance. The employee assistance counselor may be available as a resource to employees throughout the treatment process.

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

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

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

Employees have the following responsibilities:

- Attend the initial EAP session when directed/scheduled by the appointing authorities, department heads and/or managers (or their designees). Participation after the first scheduled session is voluntary.
- To take whatever steps are necessary to resolve any medical/behavioral problems that are affecting their job performance.
- **To accept personal responsibility for work performance and to seek assistance if outside help is necessary to overcome problems that interfere with job performance. However, regardless of an employee's involvement, noninvolvement, or promise of involvement with the EAP, employees remain accountable to their supervisors for resolving performance discrepancies.**
- To provide medical clarification from a physician when required by elected officials/appointing authorities and/or managers because of a concern that the employee is not fit for duty. Employees may request that the EAP administer this clarification process and screen from physician reports any confidential information not relevant to job performance or safety issues.

FITNESS FOR DUTY EVALUATIONS

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

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

DISABILITY ACCOMMODATION (ADA REQUESTS)

It is the policy of the City to comply with federal and state laws concerning the employment of individuals with a disability. Accordingly, it is the City's policy not to discriminate against qualified individuals who have a disability with respect to selection and hiring,

advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment. Further, the City reasonably accommodates qualified individuals with a disability so that they can perform the essential functions of a job.

A request for reasonable accommodation by an employee is the first step in an interactive process between the individual and the City. The next step in this interactive process is to clarify what the individual needs and identify the appropriate reasonable accommodation. An individual who cannot be reasonably accommodated for a job, without undue hardship, will not be selected for that position.

Definition of Reasonable Accommodation

Reasonable accommodation is an adjustment to job duties, performance methods, and/or work setting or service delivery to meet the individualized need of an individual, applicant, or employee with a disability that will allow him/her to do the essential functions of the job. 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.

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

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 and safety of themselves or others in the workplace are placed on appropriate leave. All employees are expected to comply with the City's Drug- Free Workplace Policy. The department head is responsible for implementing this policy, including resolution of reasonable accommodation, safety, and undue hardship issues.

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

Employees should immediately contact the Department Head, Cabinet Member, or City Investigations about any violations of the City's disability accommodation policy. All complaints will be promptly investigated.

Requesting a Religious Accommodation:

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

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

If an employee believes they need an accommodation because of their religious beliefs, practices, or lack thereof, they should request an accommodation from the department head or City Investigations. They may make the request orally or in writing; however, the City encourages employees to make their request in writing and to include relevant information, such as:

1. A description of the accommodation requested
2. The reason the accommodation is needed
3. How the accommodation will help resolve the conflict between the employee's religious beliefs, practices, or lack thereof and one or more of their work requirements.

After receiving the employee's oral or written request, the City will engage in a dialogue with the employee to explore potential accommodations that could resolve the conflict between their religious beliefs and practices and one or more of their work requirements. The City encourages the employee to suggest specific reasonable accommodations that they believe would resolve any such conflict. However, the City is not required to make the specific accommodation requested by the employee and may provide an alternative, effective accommodation to the extent any accommodation can be made without imposing an undue hardship on the City. The City may ask the employee to provide additional information about their religious practices or beliefs and the accommodation requested. If the employee fails to provide the requested information, the request for an accommodation may be denied.

The City makes determinations about religious accommodations on a case-by-case basis considering various factors and based on an individualized assessment of each situation. The City strives to make determinations on religious accommodation requests expeditiously and

will inform the individual once a determination has been made. Employees and applicants should immediately contact the Office of City Investigations about any violations of the City's religious accommodation policy. All complaints are promptly investigated.

CITY EQUIPMENT

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

Vehicles or equipment owned by the City **may not be used for personal business of any kind** unless specific written permission has been given by the appointing authority or their designee.

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

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

The use of handheld communication devices by the driver in City vehicles/equipment or in personal vehicles while on City business while the vehicle/equipment is in motion, is not allowed, except for first responders on official business or in the case of an emergency.

The use of a handheld and wireless device when driving a City van or bus while transporting children, residents, participants, or clients is prohibited.

All employees who drive City vehicles must be insurable, have present proof of insurance, a valid and current driver's license, and authorize release of their driving records. Employees who drive City vehicles must report any suspension or revocation of their driver's license in writing to their immediate supervisor within 24 hours.

If an employee receives a traffic citation while operating a City vehicle, the employee will be responsible for paying any fine or penalty. Traffic citations must be reported within the next business day to the department head.

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

Employees must notify their immediate supervisor if any equipment, machines, tools, or vehicles appear to be damaged, defective, or in need of repair. Prompt reporting of damages, defects, and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. The immediate supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment or vehicles used on the job. The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles can result in disciplinary action, up to and including payment for equipment damage and/or termination of employment.

NO CITY EMPLOYEE may operate any vehicle, personal or City-owned, on any City property unless the employee has a current driver's license and valid liability insurance for their 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 their supervisor in writing of any changes in their name, address, telephone number, number of dependents, emergency contact person, driver's license status, and status of insurance. By doing so, personal 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 their 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, employees should assume the City is open, and employees not reporting to work shall be charged against available annual leave or placed on leave without pay. Refer to the practices posted or announced for emergencies.

PROBATIONARY PERIOD

Except as otherwise noted, all new, rehired, and promoted employees work on a probationary basis for the first six (6) months after their date of hire or promotion.

Exceptions: Service Maintenance Workers, Recreation Aides, and Library Pages serve a two (2) month probationary period. Police Officers serve a twelve (12) month probationary period.

The probationary period is intended to give employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the position meets their expectations.

The City uses this working period to evaluate employee capabilities, work habits, provide suggested or appropriate resources, and evaluate overall performance. Employees are encouraged to ask questions so that they will have a clear understanding of the job and performance expectations.

All new employees shall receive an orientation to advise him/her of the policies of the City. Each employee shall complete all necessary forms and sign for their copy of this handbook. Each employee shall also attend all required orientation sessions as required. Upon satisfactory completion of the probationary period, employees may enter the “permanent” employment status.

WORKPLACE RULES OF CONDUCT AND JOB PERFORMANCE

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.

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

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

- Stealing, misappropriation, or removing private or City property from City premises
- Dishonest act characterized by lack of truth, honesty, probity, or trustworthiness or by an inclination to mislead, lie, cheat or defraud
- Falsification (including material omissions) of personnel, time records, leave requests, sick leave, medical excuses, financial requests, reports, City records, the employment application or other documents and/or submitting these documents to the City
- Intentionally cheating or falsifying any examination or not reporting another person violating these provisions relating to cheating or falsifying information
- Violating the City Drug-Free Workplace Policy
- Illegal or unauthorized drugs in an employee system and refusal to submit to cooperate with a drug or alcohol test

- Being involved in a crime involving moral turpitude or crimes which can be construed to indicate the continued presence of the employee would constitute a hazard to fellow employees or its property (Each case shall be determined on an independent basis.)
- Commission of a criminal act or misdemeanor of any degree in any manner connected with or involving City employees, property, or equipment
- On-duty or Off-duty violation of any law adversely affecting the employee or conviction in court of any crime which may cause the employee to be regarded as unsuitable for continued employment
- Actual or threatened misconduct in connection with work after prior written warning
- Act endangering safety of others
- Violating the nondiscrimination and/or professional conduct policy and prohibition against harassment, such as sexual, racial, or other unlawful harassment policies
- Threatening, intimidating, coercing or interfering with employees or supervision at any time
- Insubordination
- Abuse or deliberate destruction of City property, tools, equipment, or vending machines
- Not reporting an incident, injury, or accident to a supervisor at the earliest possible time
- Sleeping on the job
- Violating the Conflict of Interest Policy
- Failure to report gifts or gratuities (see conflict of interest reporting requirement) which an employee receives from vendors, contractors, or residents

The above list is not 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 employees will be subject to progressive discipline under the Progressive Disciplinary Policy include, but are not limited to:

- Failing to follow instructions or to perform work as requested

- Failing to meet reasonable standards of efficiency and productivity, or otherwise unsatisfactory job performance and/or repeated substandard work
- Unauthorized or excessive absences (including failure to report for work, late arrival, early departure, unauthorized absence from duty, excessive break times, or repeatedly attending to personal affairs during working hours) from work
- Failure to prepare and submit required reports and/or records in a timely manner

Examples of workplace rules of conduct for which employees may be subject to a letter of reprimand up to and including termination or disciplinary action as set forth in the Progressive Disciplinary Policy include, but are not limited to:

- Lack of cooperation
- Abuse of authority over employees or citizens

***Definition:** The improper use of power that flows from a supervisor or manager's position of authority over an employee; in particular, intimidation, threats, or coercion, which could reasonably be expected to endanger an employee's ability to perform their job, threaten the employee's economic livelihood, or significantly affect their physical or emotional well-being. It is not abuse of authority to exercise managerial responsibility legitimately.*
- Inappropriate conduct

***Definition:** Conduct, either nonverbal or verbal, that, while not rising to the level of unlawful discrimination, harassment, or retaliation, communicates a hostile derogatory, or negative message about persons.*
- Offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, derogatory slurs, offensive objects or pictures, and interference with work performance
- Abusing, damaging, wasting, stealing, inappropriately removing, or possessing City-owned property, records, or the property of other employees
- Falsifying the employment application or making misrepresentations on any other personnel records
- Fighting, threatening violence, or otherwise starting a disturbance on City premises or while performing job duties, including, but not limited to, assaulting or intimidating a City employee or non-employee
- Unauthorized possession of firearms, knives, explosives, any device capable of discharging a projectile (i.e. bow and arrow, slingshot, etc.) or dangerous substances while performing job duties or on City property, except while having a firearm in their vehicle as allowed by state law while the vehicle is parked in accordance with federal or state law. Possession of a firearm license does not authorize an employee to possess a firearm on City property where firearms are prohibited or in City buildings
- Reporting to work in a condition unfit to perform duties, including reporting to work

with measurable amounts of illegal drugs, excessive amounts of prescription drugs, intoxicants or controlled substances in the system, or being under the influence of alcohol, drugs, or controlled substances

- Possessing, consuming, or selling alcohol, illicit drugs or controlled substances on City premises or while performing job duties and/or any violation of the City Drug-Free Workplace Policy, including reporting to work under the influence of drugs/alcohol or testing positive for illegal or non-prescribed drugs during a drug screen
- Violating a City safety, fire prevention, health, or security rule, policy, or practice, or creating or contributing to unhealthy or unsanitary conditions
- Using tobacco in unauthorized areas
- Boisterous or disruptive activity or horseplay in the workplace
- Disclosing unauthorized, confidential City information
- Unauthorized solicitation or distribution on City property
- Calling in absent, including sick leave without a doctor's excuse, after a denied request for annual, comp, or personal leave
- 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
- 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
- Failure to alert a supervisor, department head, or other officials about situations that may be fraudulent or that may involve an employee in an area of fraud, misuse, abuse, etc.
- Abuse of position to obtain access to records, information, or equipment for personal or non- City related purposes
- Engaging in a dishonest act characterized by lack of truth, honesty, probity, or trustworthiness or by inclination to mislead, lie, cheat, defraud, or be evasive regarding questioning from any supervisor, City official, and/or City Investigations concerning an investigation

JOB PERFORMANCE

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

- Below average work quality or quantity
- Poor attitude, including rudeness or lack of cooperation

- Excessive absenteeism, tardiness, or abuse of break and meal privileges
- Failure to follow instructions or City policies and procedures

The above list is not all-inclusive.

INSUBORDINATION

Insubordination is the willful or intentional failure or refusal of an employee to carry out lawful and reasonable instructions, express or implied, of the employer.

There are two types of insubordination:

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

Some examples of insubordination are as follows:

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

The above list is not all-inclusive.

The category of insubordination is determined by the supervising authority. Employees must follow all rules, regulations, and instructions of the employer to ensure efficiency, safety, and functioning of the work place. Insubordinate employees may be disciplined, up to and including termination for the first offense, as determined by the City policies and due process requirements.

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 which is necessary to achieve that purpose and may be requested by the supervisor. Results of any inspection shall be immediately reported to the department head.

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

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

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

WORKPLACE VIOLENCE PREVENTION POLICY

The City is committed to maintaining a safe environment and preventing workplace violence. All employees should be treated with courtesy and respect at all times. Conduct that threatens, intimidates, or coerces another employee, a client, or a member of the public at any time, including off-duty periods, will not be tolerated.

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

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

Employees are prohibited from possessing unauthorized weapons, including but not limited to, firearms, knives, and other dangerous instruments or hazardous devices inside City

buildings or while working as a City employee. Employees may have firearms stored in their vehicle in City parking lots as may be allowed by state or federal law. However, no unauthorized employee shall have a firearm on their person or in a vehicle while performing the duties of their job.

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

All threats of (or actual) violence, both direct and indirect, should be reported as soon as possible to an immediate supervisor or any other member of management. This includes threats by employees, as well as threats by residents, vendors, solicitors, or members of the public. When reporting a threat of violence, the employee should be as specific and detailed as possible. All suspicious individuals or activities should also be reported as soon as possible to a member of management.

The City will promptly and thoroughly investigate all reports of threats, acts of violence, and suspicious individuals or activities. The identity of the individual making a report will be protected as much as is practical. In order to maintain workplace safety and the integrity of its investigation, the City may suspend employees, either with or without pay, pending investigation.

Anyone determined to be responsible for threats, acts of violence, or other conduct that violates these guidelines will be subject to prompt disciplinary action up to and including termination of employment.

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

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

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

- **If the employee has a concealed weapons permit:**

The employee is permitted to have a pistol or long gun (shot gun or rifle) in his or her car out of sight and locked.

- **If the employee does not have a concealed weapons permit:**

The employee can, during hunting season, have an unloaded rifle or shotgun legal for hunting (not a pistol) out of sight in his or her locked vehicle.

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

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

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

Employees charged with a crime may be placed on administrative leave without pay for a maximum of fifteen (15) working 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.

ANTI-HARASSMENT, DISCRIMINATION, AND BULLYING POLICY

POLICY

The City believes that all persons are entitled to equal employment opportunities. The City does not sanction, and will not tolerate, any form of discrimination, bullying, or harassment of, or by, any employee or non-employee based on race, sex, religion, color, national origin, age, disability, citizenship status, military membership, veteran status, genetic information, participation in protected conduct, or any other factor prohibited by law. The City strictly adheres to the guidelines issued by the U.S. Equal Employment Opportunity Commission (EEOC). The City is proud of its professional and congenial work environment and will take all necessary steps to ensure that the work environment remains pleasant for all who work here. The policy applies to each and every employee, and includes the behavior of peers, superiors, and subordinates.

DEFINITIONS

Adverse employment action: an action that substantially affects the terms, conditions, or privileges of employment

Bullying: a form of aggressive behavior in which someone intentionally and repeatedly causes another person injury or discomfort, which involves a real or perceived social power imbalance

Unlawful Discrimination: unfairly or unequally treating an individual or group of people based on a protected status

Discrimination can include:

- **Color discrimination** which is discrimination based on a person's skin pigmentation, complexion, shade, or tone
- **Sex Discrimination** which is treating someone unfavorably because of that person's sex, including sexual orientation, gender identity, or pregnancy
- **National origin discrimination** which is discrimination because an individual (or their ancestors) is from a certain place or shares the physical, cultural, or language characteristics of a national origin (ethnic) group
- **Race discrimination** which is discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race, such as skin color, hair textures or styles, or certain facial features
- **Religious discrimination** which is treating applicants or employees differently based on their religious beliefs or practices – or lack thereof – in any aspect of employment; subjecting employees to harassment because of their religious beliefs or practices, or lack thereof; denying a requested reasonable accommodation of an applicant's or employee's sincerely held religious beliefs or practices, or lack thereof

Workplace Harassment: unwelcome conduct based on a protected status that unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment

Protected Status: an employee's sex, age, disability, national origin, race, color, religion, pregnancy, gender, gender identity or expression, genetic information, sexual orientation, veteran or military status, and any other status protected by federal, state, and local law

Retaliation: occurs when an employer takes a materially adverse action, or threatens a materially adverse action, because an individual has engaged in, or may engage in, activity in furtherance of the investigation or enforcement of City policy or the laws the EEOC enforces

Sexual harassment: unwelcome verbal or physical conduct of a sexual nature which is, or effects, a term or condition of employment

EXAMPLES OF HARASSMENT OR DISCRIMINATION

- Offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, derogatory slurs, offensive objects or pictures, and interference with work performance
- Sexual innuendoes, sexual epithets, off-color jokes, sexual propositions, sexual threats, leering or obscene gestures and suggestive or insulting sounds
- Unwanted physical contact, including but not limited to, pinching, patting, or brushing against another's body
- Making or threatening reprisals as a result of a negative response to harassment

Specific examples of verbal and physical harassment based on race, color, religion, national origin, age, sexual preference, sexual identity, and disability include, but are not limited to:

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

because of another's membership in a protected category

EXAMPLES OF BULLYING:

- Verbal bullying: Slandering, ridiculing or maligning a person or his or her family; persistent name-calling that is hurtful, insulting or humiliating; using a person as the butt of jokes; abusive and offensive remarks.
- Physical bullying: Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property.
- Gesture bullying: Nonverbal gestures that can convey threatening messages.
- Exclusion: Socially or physically excluding or disregarding a person in work-related activities.

Specific examples of bullying:

- Persistent singling out of one person.
- Shouting or raising one's voice at an individual in public or in private.
- Using obscene or intimidating gestures.
- Personal insults and use of offensive nicknames.
- Public humiliation in any form.
- Constant criticism on matters unrelated or minimally related to the person's job performance or description.
- Public reprimands.
- Repeatedly accusing someone of errors that cannot be documented.
- Deliberately interfering with mail and other communications.
- Spreading rumors and gossip regarding individuals.
- Encouraging others to disregard a supervisor's instructions.
- Manipulating the ability of someone to do his or her work (e.g., overloading, underloading, withholding information, setting deadlines that cannot be met, giving deliberately ambiguous instructions).
- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property (defacing or marking up property).

This list is not an exhaustive list of actions or behaviors that can be considered harassing, bullying, or discriminatory.

Additionally, downloading, displaying, or disseminating materials which may be considered by some people to be racist, sexist, defamatory, or otherwise offensive, or which may invade another person's privacy, may constitute harassment by creating a hostile work environment or bullying. These actions are strictly prohibited and forbidden.

The City is committed to providing a work environment in which employees may complain about alleged discrimination or other problems without fear of retaliation. The City strictly prohibits discrimination against any employee who asserts their rights to be free from employment discrimination, harassment, or bullying, by making a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing

regarding such alleged discrimination or harassment. Those who engage in retaliatory behavior will be subject to discipline, up to and including termination. It is also a violation of policy for anyone to retaliate, threaten, or seek any type of reprisal against any other individual who reports discrimination, harassment, or bullying, or who participates in or cooperates with an investigation regarding prohibited behavior.

Department and division heads and other supervisors are responsible for enforcement of the City's anti-discrimination and harassment policy. They are expressly required to:

- Ensure that all 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 Montgomery City-County Personnel Board, and/or outside consultants
- Take immediate and appropriate action, including corrective action if appropriate, to ensure compliance with this policy

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 retaliation 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 in the section entitled "Reporting Harassment, Discrimination, or Retaliation". Employees can raise concerns and make reports without fear of reprisal or retribution.

It is also a violation of policy for anyone to retaliate, threaten, or seek any type of reprisal against an individual who reports discrimination or harassment or who participates or cooperates in an investigation. **If an employee believes that reprisal, intimidation, or retaliation has occurred, report to City Investigations: (334) 625-2490.**

Those who engage in retaliatory behavior will be subject to discipline up to and including termination.

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

Any employee, supervisor, or manager who becomes aware of possible retaliation shall promptly advise a supervisor or contact the Office of City Investigations or Montgomery City-County Personnel Board. Anyone engaging in retaliation will be subject to disciplinary action, up to and including immediate termination of employment.

REPORTING HARASSMENT, DISCRIMINATION, OR RETALIATION

If an employee believes they have been discriminated against, bullied, or harassed, or they have witnessed such conduct, the employee must report this violation to their supervisor, City Investigations, **or** the Montgomery City-County Personnel Board. 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 behavior prohibited by this policy.

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

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

An employee who intentionally files a false report of wrongdoing will be subject to discipline up to and including termination.

Whistleblower Procedures

A whistleblower as defined by this handbook as an employee of the City of Montgomery who reports an activity that he/she considers to be illegal or dishonest to one or more of the parties specified in this handbook. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities. Examples of illegal or dishonest activities are violations of federal, state or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting.

If an employee has knowledge of or a concern of illegal or dishonest fraudulent activity, the employee is to contact their immediate supervisor or the director of City Investigations. This action is considered to be a “protected communication” as defined in this handbook. The employee must exercise sound judgment to avoid baseless allegations.

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

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

provisions.

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

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

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

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

(A) Files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

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

Employees with any questions regarding this policy should contact their department head or the Office of City Investigations.

REPORTING REQUIREMENTS

Any employee who feels that this policy and/or handbook has been violated must notify their supervisor, the Office of City Investigations, or another person with authority to request an investigation.

Any employee may contact the Office of City Investigations (334-625-2490) to report any alleged violation.

OPEN DOOR GRIEVANCE POLICY

The City maintains an open-door policy that permits an employee to discuss problems, concerns, or grievances with City officials. If an employee has a problem that relates to his or her job, and particularly if the problem is in the nature of a complaint, the employee is strongly urged to contact their supervisor immediately. The supervisor should report to the department head unless the department head is the subject of the complaint. 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. 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 or 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 their immediate supervisor who will make careful inquiry into the facts and circumstances of the complaint. The supervisor will attempt to resolve the problem promptly and fairly and will give an answer to the employee within seven (7) calendar days from the date the grievance is submitted. If the immediate supervisor is the person accused by the employee, the grievance may be filed with the department head, or with the appropriate cabinet member if the department head is the

accused. An employee may alternatively file a grievance with the Office of City Investigations and/or the Montgomery City-County Personnel Board 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 their designee. If the grievance is against the department head, the grievance will be filed with the Office of City Investigations, the Montgomery 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

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.

City employees have the right to contact any supervisor, senior official, or City Investigations (CI) 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.

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.

TOBACCO USE POLICY

The City of Montgomery has adopted a Tobacco-Free Policy. Tobacco use, including any tobacco products and non-tobacco substitutes, and vaping is prohibited on City property except in designated areas. This prohibition includes any and all buildings owned, leased, or rented, grounds maintained, parking lots, ramps, 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 Category A offense under the Progressive Discipline Policy.

DRUG AND ALCOHOL ABUSE POLICY

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

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

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

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

Responsibility

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

Illegal Drug or Alcohol Use in the Workplace

If it is determined that an employee is under the influence of, used, consumed, possessed, or

manufactured: (a) illegal drugs either during work hours or while on duty, or while off duty if such use or consumption in any way impairs their ability to perform their job duties while at work, or (b) alcohol, during work hours or while off duty if such use or consumption in any way impairs their ability to perform their job duties, that employee may be terminated. A drug screen or breath alcohol test will be performed, if possible, to confirm the consumption or use by the employee.

An “illegal drug”, for purposes of this policy, shall include cocaine, marijuana, PCP, opiates, amphetamines, ecstasy, as well as any prescription narcotic, opiate, and/or amphetamine-based drug for which the employee does not have a current valid prescription in their name and/or is not being used as prescribed. All drivers are prohibited from using alcohol within four hours prior to reporting for driving duty, driving a City vehicle, or during the hours that they are on call. Furthermore, in adherence with Title 49 Code of Federal Regulations Part 40, a breath alcohol concentration of .04 or greater and/or not using medication as prescribed shall constitute a positive finding for purposes of this policy. Employees who engage in any prohibited conduct will be subject to dismissal.

DRUG AND ALCOHOL SCREENING AND TESTING

Testing Based on Reasonable Suspicion during Employment

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

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

Circumstances which provide a basis for determining reasonable suspicion may include, but are not limited to:

- Direct observation of drug or alcohol use
- Presence of physical symptoms consistent with drug or alcohol use, i.e. alcohol odor, slurred speech, poor coordination and/or reflexes
- Abnormal or erratic behavior by the employee

- Information concerning recent drug or alcohol use by the employee, from a reliable and credible source

On-the-Job Testing

Any employee who suffers an on-the-job injury that may result in a workers' compensation claim will be subject to a drug screen and/or Breath Alcohol Test pursuant to the City drug and alcohol testing procedure. The test result must be verified by a qualified medical review officer (MRO). If the test results are positive for drug or alcohol use, workers compensation benefits may not be paid to the employee. Furthermore, the employee will be subject to paragraph "G" of the drug and alcohol testing procedure. A drug screen will be performed after each and every on-the-job injury that is treated by a physician; furthermore, if the physician or supervisor has reasonable suspicion to believe that the injured employee is under the influence of alcohol, a breath alcohol test will be administered as well.

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

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

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

Random Testing

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

Post-Vehicular Accident

A driver/operator of a City of Montgomery vehicle involved in an accident must be given a drug screen *and* breath alcohol test immediately following any vehicular accident involving any vehicle owned by the City of Montgomery where there is loss of life, bodily injury, or significant property damage (in excess of \$100.00). “Immediately” is defined as “as soon as reasonably possible in the circumstances”. The immediate supervisor (or superior) of the driver/operator and/or the Director of Risk Management (or designee) will be responsible for the timing of the drug and alcohol screening.

PREMISE/CAREHERE clinic is designated as the provider for post vehicular drug and alcohol screens during PREMISE/CAREHERE operating hours.

Jackson Hospital Emergency Room is the designated provider for post vehicular drug and alcohol screens outside of PREMISE/CAREHERE operating hours.

If the law enforcement officer who investigates the accident determines that the City driver was not at fault, and there is no injury to any person involved in the accident, and no vehicle has to be towed because of damage, and the driver does not show signs of being under the influence, the drug test/alcohol test may not be immediately required. The investigating police officer shall document their findings and determinations and supply that document to the Director of Risk Management and/or designee of the City of Montgomery the following business day. The Director of Risk Management and/or designee, after reviewing the documents, may require that the drug and alcohol testing be administered.

Drug and alcohol testing will follow the Drug and Alcohol Testing Procedure to include verification by an MRO.

If the driver is seriously injured and cannot provide a specimen for the screen, the driver must authorize the release of any hospital reports that would indicate the presence or non-presence of alcohol or controlled substances in their system. Failure to adhere to the time constraints of the testing procedure and to the release of records, could subject the employee to termination of employment. Drivers who operate under a CDL license must also comply with the CDL regulations relating to accidents.

For Public Safety and Other Safety Sensitive Employees

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

All public safety and safety sensitive employees are subject to random testing. Public Safety employees include sworn Police and Fire Department employees. Employees who are considered to hold safety sensitive positions will be identified as such by their respective department heads and notified of this status. These positions will include, but not be limited to, positions requiring or having direct access to a controlled substance, having access to

NCIC information, a position where the employee's action or inaction directly affects public safety, and/or supervisors of those safety sensitive functions. Random testing shall be ensured through a computer-generated list or other non-discriminatory method using random names from the employment population of each public safety and/or safety sensitive employee sector.

Annually, the total number of random tests should be at least fifty per cent (50%) of the number of the public safety and/or safety sensitive employees in each department.

Drug and Alcohol Testing Procedure

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

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

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

Substances Covered By Drug/Alcohol Testing

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

Testing Methods and Procedure

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

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

Right to Explain Test Results

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

Right to Review Records

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

Confidentiality Requirements

All records concerning test results will be kept in secured medical files that are maintained separately from the City's personnel files. Testing laboratories may conduct testing only for substances included on the disclosure list provided to the individual, and may not conduct general testing related to the medical conditions of the individual which are unrelated to drug usage.

The drug or alcohol test results will be forwarded to the City's Director of Risk Management and/or designee by the testing facility. Risk Management will retain all drug test results, in separate files, for at least three years. The results will be sent to the employee's department head or designees and are to be kept secure and confidential. Each department head will assign only two other employees access to drug testing results. Also, these designated employees will sign a statement acknowledging the need to maintain the confidentiality and privacy of these files. No other employee shall have access to these files without the express authorization of the Mayor.

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

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

The first violation shall result in a recommendation of termination of employment. The Mayor shall have the discretion, based upon the nature of the employee's work

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

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

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

Drug and Alcohol Abuse Treatment

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

Upon completion of treatment, the employee must adhere to all aftercare contracts and

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

Miscellaneous

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

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

Any employee arrested by law enforcement for illegal possession, use, sale, or consumption of a controlled substance shall be subject to discipline up to and including termination for the first offense. If an employee purposely skews the results of a drug test, the employee may be terminated.

POLYGRAPH EXAMINATIONS

Because it is important for members of the public to be able to place faith and trust in City employees to whom they give cash and checks, the City has established a policy on the administering of polygraphs examinations to City employees. No City official shall randomly administer polygraph examinations. Polygraph examinations will be used only as an investigative tool and will serve as an adjunct to, not as a substitute for, other investigative efforts.

Polygraph examinations may be used as an investigative tool when any department that collects cash or checks from the public cannot account for those funds or when those funds are being wrongfully or illegally used or applied by an employee. Polygraph examinations may also be conducted at the request of the Office of City Investigations in furtherance of official investigations.

EMPLOYEE PAY

If at any time an employee has reason to believe that improper deductions have been made from their pay, or for any other reason they believe a mistake has been made concerning compensation, the employee should immediately bring the matter to the attention of the

supervisor, department head, Payroll, Office of City Investigations, and/or Montgomery City-County Personnel Board.

Workweek

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

Overtime

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

Overtime status must, in general, be approved in advance. Each department will instruct employees on how to apply, approval process, etc.

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 their 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.

Calculating Overtime

Each employee is designated as either EXEMPT or NON-EXEMPT from the Fair Labor Standards Act (FLSA) provisions governing overtime compensation.

- **Exempt Employees:** Straight time- an hour for an hour for all hours worked in excess of forty hours physically worked in a workweek
- **Non-Exempt Employees:** One and one-half hours for each hour worked in excess of forty hours physically worked in a workweek

Special rules apply for Public Safety employees, and the employee should abide by those particular provisions (FLSA).

Working more than 40 hours in a given workweek without advance written authorization shall be a violation of this handbook. Working “off the clock”, and underreporting or over reporting hours worked are also violations of this handbook. Employees shall report any and all work done while not on duty (including text, e-mails, and telephone calls) to their supervisor during the next work period. Supervisors and employees are responsible for not

engaging in these practices unless an emergency exists.

Reporting Procedures:

Departments may create their own reporting requirements so long as any hours worked over 40 during any given workweek are reported during that work week.

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

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 workweek 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 workweek. 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

Employees may be eligible (please check with applicable department's payroll staff to determine 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 40-hour basis for 80-hour biweekly personnel. **Physically working means the employee was physically on the job; usage of accrued leave time and/or holiday pay does not count as time physically worked.**

Compensatory Time

Employees can choose to accrue compensatory leave instead of being paid for overtime. If an employee is eligible for time and a half overtime and has accrued the compensatory leave limit, the employee will not be allowed to continue accruing compensatory leave and must be paid for any overtime earned.

Please refer to the Montgomery City-County Personnel Board Rules and Regulations for compensatory leave limits.

On Call Pay

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

Pay Advances

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

Direct Deposit

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

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

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.

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 an employee is absent, co-workers bear the responsibility of attempting to accomplish the absent employee's job as well as their own. Accordingly, unauthorized or excessive absences or tardiness will not be tolerated and will result in disciplinary action, up to and including termination. This policy applies to all non-exempt employees. Exempt employees are also required to maintain good attendance and be punctual, but different guidelines may apply given the nature of their responsibilities.

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

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

Tardiness and Partial Absences

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

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

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

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

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

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

SICK LEAVE

Sick leave days are provided for use during periods of temporary absence due to illnesses, bereavement, or injuries. The Montgomery City-County Personnel Board Rules and Regulations contain specific information about sick leave. All regular full-time and certain qualifying part-time employees shall be allowed to earn sick leave. Sick leave days are not a right for which employees may make a demand, but a privilege granted in accordance with prescribed rules and regulations.

Eligible employees may only use sick leave for the following:

- Personal illness of the employee, including inability to work due to pregnancy, childbirth, or related medical conditions

- Personal medical and dental appointments
- Illness arising from exposure to contagious disease endangering the health of the other employees for the employee to receive treatment, care, and/or counseling, as either an inpatient or an outpatient, for substance abuse at a duly licensed treatment facility
- Illness in the employee's immediate family, which necessitates their absence from work (Immediate family is defined in the City and County of Montgomery Personnel Board Rules and Regulations.)

Employees who are unable to report to work due to illness or injury should notify their supervisor before the scheduled start of their workday if possible. The supervisor must also be contacted on each additional day of absence.

A physician's statement or verification may be required at the discretion of the appointing authority or their designee. Such verification may be required as a condition to receiving sick leave benefits or for the absence to be excused. Excused absences are not counted against an employee during annual evaluations.

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

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

Sick leave is intended solely to provide income protection for the events described in this handbook, and may not be used for any other absence. (SEE ADDITIONAL PROVISIONS OF FMLA ISSUES IN THIS HANDBOOK and in the Montgomery City-County Personnel Board Rules and Regulations.)

Sick Leave Donation

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

OUTSIDE WORK OR ACTIVITIES

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

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

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

Notification- City employees engaging in outside employment must submit written notification to their department head, including the nature of the work and the estimated number of hours to be worked.

Impact- Employee shall demonstrate to the department head's satisfaction that such outside employment or self-employment will not detract from the efficiency of the employee's completion of their assigned duties, create a real or potential conflict of interest or the appearance of impropriety, or otherwise conflict with the best business interest of the City. Under no circumstances may City equipment or resources be used in outside employment unless there is a demonstrable benefit to the public, and the use is authorized by the department head.

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

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

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

POLITICS

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

SAFETY

The City is committed to providing a safe, sanitary, and healthy 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.

TECHNOLOGY AND COMMUNICATIONS

The City's information network and electronic communication resources are available to assist employees with successfully performing their job duties. Certain restrictions are necessary to avoid improprieties and to ensure that established standards are met. To reduce potential liability, the risk of inappropriate use, and possible adverse public perceptions, employees shall use the provided phones, network, and internet for *official City business purposes only*. 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 information network and 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 City resources available now or in the future:

- Computers
- Computer networks
- Software and hardware resources
- Citynet
- Internet
- E-mail (both internet and Citynet based)
- Telephone systems (including voice-mail)
- Mobile (cell) phones
- Office phones
- Faxes
- Video conferencing (webinars and conference calls)
- Closed-circuit television
- Documents, files or other information contained in these resources
- Instagram, Facebook, Twitter, or other such electronic or social media

Employees should utilize the City's information network and electronic communication

resources in a professional and thoughtful manner. 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. The use of these technologies is a **privilege and business requirement**, not a right. Employees have no legitimate expectation of privacy in any use of the City’s electronic communication resources.

Employees are responsible for the content of communications that they create, access, transmit, receive, or store by means of these resources. Information network resources and any data, as well as electronic communication resources and any messages either created, accessed, transmitted, received, or stored by the employee 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 information network and 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 information network and electronic communication resources will be monitored by authorized personnel to ensure compliance with this policy.

Violations of the City’s Technology Policy may include progressive discipline up to and including termination for the first offense. Employees are strictly prohibited from engaging or attempting to engage in the following acts, including but not limited to:

- Illegal or illicit activities
- Activities that violate copyright and licensing laws.
- Interfering with the ability of others to make effective use of City phones, computers and all associated equipment, software, hardware, and information network access.
- Accessing or transmitting or defamatory, threatening, offensive, suggestive, obscene or harassing materials, pornography or any other adult materials
- Accessing or transmitting materials that advocate violence or discrimination, racism, sexism, or any other material that advocates “hate” crimes
- Installing or transmitting destructive programs or files (such as a worm or virus) or any actions intended to damage or place an excessive load on a computer system or network
- Transmitting spam, chain letters, multi-level marketing, or mass/ unsolicited mails
- Disabling or altering 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 either one’s identity or the identity of another 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 City electronic communication resource
- Violating the City policies and procedures relating to information network and electronic communication resources, including unauthorized transmission of confidential or restricted information or work products to unauthorized persons
- Engaging in gambling or external chat room activities
- Soliciting or advertising for non-City purposes
- Engaging in personal cell phone/text messaging during working hours that interferes with work duties

CELLULAR PHONES AND OTHER HANDHELD ELECTRONIC DEVICES

For purposes of this policy, personal cellular phone and other handheld electronic devices are collectively referred to as "handheld devices"; and the City will not be liable for the loss of handheld devices brought into the workplace.

While at work, employees are expected to exercise the same discretion in using handheld devices as is expected for the use of all City devices and equipment. Excessive use of these handheld devices during the workday can interfere with employee productivity and be distracting to others. A reasonable standard is to limit personal calls during work time to only as necessary. Employees are therefore, asked to use these handheld devices on non-work time and to ensure that friends and family members are aware of this City policy. Flexibility will be provided in circumstances demanding immediate attention.

Employees are not permitted to use their camera phones to photograph any client, customer, or co-worker without the express permission of that person unless it is for purposes of documenting illegal activity or policy violations. In such circumstances, photographs shall be turned over to a supervisor or the Office of City Investigations. In no circumstances, should photographs of clients, customers or co-workers be shared on social media without their express consent.

Recording Devices

To maintain the security of our premises and systems, the City prohibits unauthorized photography and audio or video recording of employees' confidential information or confidential documents. Employees may not use a cell phone or any other handheld device in a manner that violates our Harassment Policy, Equal Employment Opportunity Policy, or other City policies. Employees may not use a cell phone or any other handheld device in any way that may be seen as insulting, disruptive, obscene, offensive, or harmful to morale.

Employees who violate this policy are subject to discipline, up to and including termination.

This is a City-wide policy. Departments are not authorized to implement more restrictive policies related to audio and video recording by City employees.

E-MAIL USER RESPONSIBILITY

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

- Check e-mail regularly.
- Never assume that e-mail is private. It is not private and is not intended to be private. The administration can, and others may be able to, read or access any employee's e-mail.
- Report any misuse of the e-mail system to a supervisor immediately upon discovery.
- Do not send/forward any external e-mail not related to business without consent from a supervisor and IT personnel. This includes chain letters, jokes, hope letters, request for passing letters, etc.
- Any document or e-mail containing confidential information subject to the Privacy Act shall not be transferred outside of the computer network.

SOCIAL MEDIA AND SOCIAL NETWORKING

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

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

The same principles and guidelines found in City policies apply to the employee's activities online. Ultimately, the employee is solely responsible for what they post online. Before creating online content, consider some of the risks and rewards that are involved. Keep in mind that any conduct that adversely affects job performance, the performance of fellow employees, or otherwise adversely affects citizens, suppliers, people who work on behalf of the City, or the

City's legitimate business interests may result in disciplinary action up to and including termination.

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

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

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

- Be cautious and use discretion when "friending," or otherwise networking with fellow employees, residents, vendors, suppliers, and especially with

subordinates, and be cautious and use discretion concerning the content of posts. This includes being mindful to ensure that posts are reflective of the professional relationship the employee should maintain with the individual that has access to the employee's social networking sites, on-line blogs, or commentaries.

- Consider the option of maintaining professional accounts separate from personal accounts.
- Develop a healthy suspicion when asked about information that may be confidential or otherwise privileged. Don't be tricked into disclosing confidential information. Be suspicious if asked to ignore identification procedures.
- Think before making statements or posting comments on social networking sites or on-line blogs or commentaries as they can easily be misconstrued or misinterpreted by the recipient.
- Make sure to always be honest and accurate when posting information or news, and if a mistake is made, correct it quickly. Be open about any previous posts that were altered.
- Never post any information or rumors that are known to be false about the City, fellow workers, citizens, contractors, or others from work or are known from business relationships, or other people working on behalf of the City.
- Employees are to never represent themselves as a spokesperson for the City without proper authorization.
- If the City is a subject of the content to be created, employees are to be clear and open about the fact that they are an associate and make it clear that expressed views do not represent those of the City, fellow employees, members, suppliers, or people working on behalf of the City.

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

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

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

This section is in no way intended to violate any person's constitutional or federal rights. If an employee feels that their rights have been violated, they should bring that issue to the attention of their supervisor, department head, cabinet member, and/or City Investigations.

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 during work hours by any means:

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

Prohibited Solicitation by Employees. The City prohibits solicitations in all work areas as provided herein. Employees may not solicit other employees or distribute materials while they are supposed to be working. Employees can solicit or distribute materials while on break or lunch or otherwise off the clock, but only to other employees who are not supposed to be working. The City has designated the City Council Chambers as the "public forum",

and any general solicitation shall take place in that facility with prior written approval of the Mayor or their designee.

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

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

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

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

IDENTIFICATION BADGES

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

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. **Any questions regarding identification badges should be directed to the department head.**

City employees shall not allow their identification badges or access cards to be used by any other individuals to access any secured work areas.

PERFORMANCE APPRAISALS

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, 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 their recommendation to the cabinet member for approval and/or further action.

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, their progress in correcting deficiencies, and their 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 four reasons:

- Failure to meet job expectations
- 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 their 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. 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.

Definitions:

Day: For disciplinary purposes a "day" constitutes 8 hours.

Minor Infractions: *Policy violations which include* deficient job performance including unsatisfactory work performance, work practices, or unsatisfactory work habits. These are Category A violations on the Progressive Discipline Chart Discipline must start at step 1 on the scale and proceed progressively through the steps.

Major Infractions: Policy violations other than unsatisfactory work performance, work practices or work habits. These are Category B violations on the Progressive Discipline Chart and recommended disciplinary action may begin anywhere on the scale.

Intolerable Infractions: These offenses are so egregious that they are subject to immediate termination. These are Category C violations on the Progressive Discipline Chart. If there is a question about whether a violation constitutes an intolerable offense, a supervisor may contact the Legal Department.

Referral to Office of City Investigations:

Any potential policy violation that could result in a disciplinary action entitling the employee to a hearing before the appointing authority shall be referred to the Office of City Investigations. 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). Upon completion of the investigation, if any charges are substantiated, two copies of the

report shall be presented to the Department. One unredacted copy of the report is for review by the department head to determine appropriate disciplinary action. The employee's copy of the report may be redacted as required by policy and/or the law. The employee will be presented a copy of the report at the initial meeting with the supervisor or department head and be provided an opportunity to respond as specified below.

Steps of Progressive Discipline:

All disciplinary forms and the progressive discipline chart are being revised effective October 1, 2021. Refer to the form revision date to ensure proper forms are being utilized.

Probationary Employees

Employees may be counseled or suspended while in probationary status but are not entitled to due process and supervisors are not required to follow the steps of progressive discipline.

If a probationary employee's performance is not satisfactory and it is clear that the employee cannot perform at an acceptable level, the department head should complete Notification of Rejection of Probationary Appointment/Promotion (Form 38) and forward to the appropriate cabinet member for review, recommendation, and forwarding to the appointing authority for review and signature. Once the form has been executed by the appointing authority, it will be returned to the department head to be served upon the employee and Montgomery City-County Personnel Board.

***Minor Infraction (Category A):**

Must follow the steps of the progressive discipline policy.

Supervisors shall continue to move forward through the steps of the progressive discipline process, as provided in the Progressive Discipline Chart, so long as each subsequent infraction occurs within a 12-month period of the original disciplinary action.

To determine which step an employee falls under, supervisors will calculate the number of policy violations over the twelve month period as of the date of the **occurrence** of the most recent violation. (*updated 3/29/2022)

Example:

Employee has had the following minor policy violations:

February 1	Step 1 violation
April 1	Step 2 violation
July 1	Step 3 violation
October 1	Step 4 violation

Employee has a new violation on March 15. Only violations which occurred within the previous 12 months (from the date of the new violation) will be included in determining the next step in the progressive discipline policy.

The February 1 disciplinary will not be considered in calculating where the employee falls on the progressive discipline schedule because it occurred over 12 months prior to the most recent violation. Therefore, only the previous three disciplinary actions will be considered and the employee will be at step 4 of the progressive discipline chart.

Major Infraction (Category B):

May begin at any step on the progressive discipline chart but the appropriate procedures as specified below shall be followed for implementation of any disciplinary action. For the purpose of determining the next corrective action, these offenses roll off every 36-months. For any subsequent major infraction, the recommended disciplinary action need not be the next step of the progressive disciplinary chart, but must be progressive. (i.e. an employee cannot be disciplined for a second major infraction at a lesser step or at the same step as the previous major infraction)

Steps of Progressive Discipline:

All disciplinary forms and the progressive discipline chart are being revised effective October 1, 2021. Refer to the form revision date to ensure proper forms are being utilized.

Employees are not prohibited from recording the meetings.

Step 1 – Notice of Performance Deficiency

Step 1 creates an opportunity for the immediate supervisor to bring attention to new performance, conduct or attendance issue. The supervisor shall draft a Form 28 Notice of Performance Deficiency (do not sign) then meet with the employee to discuss the nature of the problem or policy violation. The supervisor shall ensure that another supervisor is present as a witness and that the meeting is digitally recorded. The supervisor will clearly describe expectations and steps the employee must take to improve his or her performance or resolve the problem. The employee then has an opportunity to submit a written response by close of business the following business day. If the employee elects to waive submission of a response, this will be noted on the Form 28, and the supervisor will then finalize the document.

If the employee elects to submit a response, after the supervisor reviews the response, and within five (5) business days after the date of the initial meeting, the supervisor will finalize

the Form 28, provide a copy to the employee and place the original in the employee's departmental file. Repeated or more serious problems will result in more serious disciplinary action. The employee will be asked to sign this document to demonstrate his or her understanding of the issues and the corrective action. If the employee elects not to sign, this will be noted in the appropriate location on the Form 28. Failure of the employee to sign will not result in further disciplinary action.

A copy of the Form 28 shall be forwarded to the Office of City Investigations.

Step 2 – Counseling Statement:

If the conduct addressed in Step 1 is repeated or additional problems occur within 12 months, the supervisor shall draft a Form 30A Counseling Statement (do not sign) then meet with the employee to discuss any on-going or newly arising issues which have occurred since the Step 1 violation, as well as any prior relevant corrective action plans. The supervisor will clearly describe expectations and steps the employee must take to improve his or her performance or resolve the problem. The supervisor shall ensure that another supervisor is present as a witness and that the meeting is digitally recorded. The employee then has an opportunity to submit a written response by close of business the following business day. If the employee elects to waive submission of a response, this will be noted on the Form 30A, and the supervisor will then finalize the document.

If the employee elects to submit a response, after the supervisor reviews the response, and within five (5) business days after the date of the initial meeting, the supervisor will finalize the Form 30A, provide a copy to the employee and place the original in the employee's departmental file. Repeated or more serious problems will result in more serious disciplinary action. The employee will be asked to sign this document to demonstrate his or her understanding of the issues and the corrective action. If the employee elects not to sign, this will be noted in the appropriate location on the Form 30A. Failure of the employee to sign will not result in further disciplinary action.

A copy of the Form 30A shall be forwarded to the Office of City Investigations.

Step 3 – Letter of Reprimand:

If the conduct addressed in Step 2 is repeated or additional problems occur within a 12-month period, discipline may progress to a letter of reprimand. The immediate supervisor shall draft a memorandum describing the allegations and any documentation obtained by the department supporting the allegations against the employee. (This may include a Report of Investigation provided by the Office of City Investigations). The immediate supervisor shall meet with the employee to discuss the allegations and shall ensure that another supervisor is

present as a witness or that the meeting is digitally recorded. The employee then has an opportunity to submit a written response by close of business the following business day.

The department head will review the memorandum, supporting documentation and employee response to determine if a letter of reprimand is warranted.

If the department head determines a letter of reprimand is warranted, within five (5) business days after the date of the initial meeting with the employee, the department head or his designee will prepare written documentation (Form 30B). The department head or his/her designee and immediate supervisor will then meet with the employee to present the letter of reprimand, discuss the employment related issues and the necessary corrective action. This meeting shall be digitally recorded. This is the formal record noting the date of the discussion between the department head and the employee, the problem that is discussed, the employee's response and the plan for correcting the problem. The department head and immediate supervisor shall present the letter of reprimand to the employee. It should be made and maintained in the employee's departmental file. Employees should be advised that repeated or more serious problems could result in more serious disciplinary action. The employee will be asked to sign this document to demonstrate his or her understanding of the issues and the corrective action. If the employee elects not to sign, this will be noted in the appropriate location on the Form 28. Failure of the employee to sign will not result in further disciplinary action.

A copy of the Form 30B shall be forwarded to the Montgomery City-County Personnel Board and the Office of City Investigations.

Step 4 – Suspension or Termination:

NOTE: Exempt employees are only subject to suspension for Major Violations. If there is a question about whether an employee is exempt or non-exempt, supervisors may contact Montgomery City-County Personnel Department. If there is a question about whether an infraction is categorized as major or minor, a supervisor may contact the Legal Department.

If the conduct addressed by the letter of reprimand is repeated or additional problems occur within a 12-month period, discipline may progress to suspension or termination. (Refer to progressive discipline chart for steps of suspension). The immediate supervisor shall draft a memorandum describing the allegations and any evidence to be produced at the hearing along with the supervisor's recommendation for disciplinary action. This packet shall be presented to the department head or his/her designee who shall complete a Form 31 setting a departmental hearing. The Form 31 and attachments shall be provided to the employee by personal delivery or U.S. Mail to their last known official address as found in their

departmental file. The charges should be detailed and specific so that the employee clearly understands and can prepare his/her defense.

Departmental Hearing Procedure

The employee shall be entitled to due process for this hearing, including a written statement of the charges, a copy of any investigative report (redacted as required by policy and/or the law), and a copy of any evidence to be introduced at the hearing. This information shall be provided with the notice of departmental hearing (Form 31). The charges should be detailed and specific so that the employee clearly understands and can prepare his/her defense. The employee shall have the right to refute the charges and/or to call witnesses. A hearing shall be scheduled at least three (3) calendar days after the date of notification. The first day shall be the day after mailing or personal service.

Notice to the employee shall be by U.S. Mail or personal delivery to their last known official address as found in their departmental file. The employee is not entitled to an attorney at any departmental hearing but may bring an independent witness as an observer.

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, and 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 or documentary only, to establish the policy violations as outlined in the notice. The employee shall have the right to cross-examine any witnesses. 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.

Within five (5) business days following the hearing, the department head shall complete the appropriate forms and the supervisor or department head shall present the forms to the employee.

➤ For recommendations of suspensions of five (5) days or less: (Suspensions of more than seven (7) days are calendar days)

- Within five (5) business days of the date of the hearing, prepare a Form 32 and Form 35.
NOTE: Do not sign the Form 35.
- Provide a copy of the Form 32 to the employee.
- Forward the Form 32, the unsigned Form 35, the disciplinary packet and transcript of the

hearing to the appointing authority.

- Within fourteen (14) calendar days, the appointing authority will review the packet, sign the Form 35 and return all documentation to the department head.

NOTE: The appointing authority is not required to follow the recommendation of the department head.

- Within five (5) business days of receiving the completed disciplinary paperwork from the appointing authority, the department head will finalize the Form 35 (insert dates of suspension), provide a copy to the employee, forward a copy to the Office of City Investigations and forward all required paperwork to Montgomery City-County Personnel.

➤ For recommendations of suspensions of more than five (5) days, demotions or terminations: (Suspensions of more than seven (7) days are calendar days)

- Within five (5) business days of the date of the departmental hearing, prepare the Form 32, appropriate notification of disciplinary action. (Form 35 or Form 36) and Form 39 (waiver of right to hearing)

NOTE: Do not sign the notification of disciplinary action.

- Provide a copy of the Form 32 and Form 39 to the employee.

NOTE: The employee may elect to execute the Form 39 and waive the hearing before the appointing authority at any point prior to the hearing. If that happens after the packet has been forwarded to the appointing authority, the Form 39 shall be added to the packet and the appointing authority shall be notified of the employee's waiver of his right.

- The department head shall forward the following to the appointing authority:

- Form 32
- Unsigned notice of disciplinary action,
- Form 39 (if the employee elects to waive the hearing before the appointing authority)
- Disciplinary packet
- Transcript of the hearing

- Within fourteen (14) calendar days, the appointing authority will review the packet, and if the employee has not waived his/her right to a hearing, set a hearing

Procedure for Hearing before the Appointing Authority

For recommendations of any suspension of more than five (5) days or a recommendation of termination or demotion, a hearing before the appointing authority shall be scheduled. The employee may have representation at this hearing. The appointing authority or his designee shall complete Form 33, Notice of Appointing Authority Disciplinary Hearing, and place a copy in the U.S. Mail to the employee at the address listed in the employee's city personnel records. A hearing shall be scheduled at least five (5) working days after the date of notification. The first day shall be the day after mailing.

If the employee who is subject to the disciplinary hearing is a Cabinet Member, the Mayor must serve as the Hearing Officer but may not also be the charging party.

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 (3) business days prior to the hearing before the appointing authority. The appointing authority may designate any person(s) to be their designee to conduct these hearings, including a cabinet level official, or any other person at their discretion. The charging officer may not be the hearing officer. The designee shall conduct the pre-determination hearing and make a report to the appointing authority about the hearing.

The appointing authority shall review the report and evidence presented at the hearing, then make the decision regarding the disciplinary action. Within fourteen (14) days of the date of the hearing, the appointing authority shall complete Forms 35 and/or 36 and forward the documents to the employee's Department Head for finalization of paperwork. 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.

Time Requirements

Failure of a department head to complete appropriate paperwork within five (5) business days or the appointing authority to complete appropriate paperwork within fourteen (14) calendar days as specified above, does not constitute a violation of the employee's due process rights. The timeframe is provided as a guideline to ensure efficient implementation of disciplinary action.

All other deadlines related to notice, witnesses and evidence are mandatory. Any evidence or witnesses not properly identified in accordance with the above deadlines are specifically excluded.

Finalizing Paperwork Following Suspension or Termination

Once the appointing authority has completed the Form 35 or Form 36, the form will be forwarded to the employee's Department Head to serve the employee in person, or by mailing to the address given by the employee in the employee's departmental file. This should be done within five (5) business days.

The Department Head will then complete the Form 10 and attach the disciplinary package with all supporting documentation to be forwarded to the Mayor's Office. The Mayor's

Office then forwards the disciplinary package, with all supporting documentation, to the Personnel Department and a copy of the disciplinary form to the Office of City Investigations.

Disciplinary Forms

FORM 28. NOTICE OF PERFORMANCE DEFICIENCY: This is the written record noting the date of the discussion between the supervisor and the employee, the problem that is discussed and the plan for correcting the problem. It should be made and maintained in the employee's departmental file.

FORM 30A. COUNSELING STATEMENT: This is the second step of Category A offenses of the progressive discipline policy. The form is completed by the supervisor after the problem is thoroughly discussed with the employee, the employee has had an opportunity to respond and goals for improvement are agreed upon.

FORM 30B. LETTER OF REPRIMAND: For more serious infractions, or in the event that the identified problem is not corrected following Step 1 and Step 2 for Category A offenses, a department head may issue a detailed written letter of reprimand which describes the problem and requirements for correcting the problem.

FORM 31. CITY OF MONTGOMERY NOTICE OF DEPARTMENTAL DISCIPLINARY HEARING: This form serves as official notice to the employee of charges to be considered in a hearing before the Department Head who is the Mayor's designee for purposes of this hearing.

FORM 32 RECOMMENDATION FOR DISCIPLINARY ACTION: This form is used to recommend disciplinary actions, including suspensions, demotion, or termination following the departmental disciplinary hearing. A copy of the form, with all supporting documentation, is given to the employee and the original form, with all supporting documentation, is forwarded to the Cabinet Member to review and forward to the appointing authority.

FORM 33. NOTICE OF APPOINTING AUTHORITY DISCIPLINARY HEARING: Completed for suspensions of five (5) or more days. This form serves as official notice to the employee of the date, time and place of the disciplinary hearing scheduled before the appointing authority or his designee for the hearing. The notice is prepared in the Hearing Officer's office, signed by the hearing officer and should be served by mail, addressed the employee's official address as it appears in his departmental record. Hearings should be scheduled no sooner than 72 hours from the time the employee receives the notice. Charging

party and/or witness may not serve as the hearing officer.

FORM 34. RECORD OF DISCIPLINARY HEARING: This is a record of the hearing before the appointing authority or his designee. It is prepared in the office of the Hearing Officer and becomes a permanent part of the disciplinary package along with the transcript of the hearing. It is always signed by the appointing authority and is mailed as prescribed above or hand delivered to the employee.

FORM 35 NOTIFICATION OF SUSPENSION: A department head may recommend a suspension of up to five (5) days without right of appeal to the appointing authority. The recommendation should be submitted to the appointing authority on this form, stating only the number of days recommended, not the dates of the suspension. The department head does not sign this form. It is submitted to the appointing authority for his review and signature.

FORM 36. NOTIFICATION OF DISMISSAL/DEMOTION: The department head may recommend dismissal or demotion by completing this form. The recommendation should be submitted to the appointing authority on this form. The department head does not sign this form. It is submitted to the appointing authority for his review and signature.

After the hearing by the appointing authority or his designee, if the appointing authority elects to follow the recommendation of the department head, he will sign the Form 36 and forward to the department. The employee will be served with a copy of the form, in person or by mail as prescribed. Employees who are demoted or dismissed may appeal to the Personnel Board. The disciplinary package with all supporting documentation is attached to the Form 10 and routed through the office of the appointing authority to the Personnel Department.

FORM 39. WAIVER OF RIGHT TO HEARING BEFORE THE APPOINTING AUTHORITY: An employee may choose to accept the recommendation of the department head and not appear at a hearing before the appointing authority. The employee should be advised that the appointing authority may accept or reject the recommendation of the department head and that the discipline may be more or less severe than the discipline recommended. This form serves as official notice from the employee to waive his/her right to a hearing before the appointing authority to contest the charges.

EMPLOYEE BENEFITS

Family Medical Leave Act of 1993 (FMLA)

Please refer to the Montgomery City-County Personnel Board Rules and Regulations for more detailed rules governing the application and eligibility of FMLA.

The Family and Medical Leave Act (FMLA) requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for qualifying events. The City of Montgomery is a covered employer and employees are individually evaluated to determine eligibility.

Interaction with Paid Leave

All paid annual, personal, compensatory, and accrued vacation and sick leave (in accordance with sick leave rules) must be exhausted against FMLA before being placed on leave without pay for FMLA purposes. The substitution of paid leave time for unpaid FMLA leave time does not extend the length of FMLA leave, and the paid time will run concurrently with the employee's FMLA entitlement.

Benefits while on FMLA

The City maintains group health plan benefits for employees on FMLA leave. Employees are required to pay their premium co-payments while they are on FMLA leave and are notified how to make the payments for their share of their group health plan premiums during leave.

Concurrent Use of Short-Term Disability and Workers' Compensation with FMLA Leave

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

Return from Leave

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

Privacy and Leave Requests. Employees must inform their supervisors that they need family or medical leave and when they expect to be absent. Supervisors should then refer the employee to the appropriate individual within their department to complete the necessary paperwork. The department head or designee will review the paperwork, 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.

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.

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.

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 Board 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 their 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

Credit for Time Spent on Military Leave

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

Pension Benefits

Time spent on military leave (whether paid or unpaid) is not considered a break in employment for pension benefit purposes. Upon return to the City from military leave, if applicable, the employee must request to purchase retirement credit in the Teachers' Retirement System and pay whatever amount that employee would have contributed had he/she not been absent. The returning service member who is eligible for reinstatement under USERRA has up to three (3) times the length of military leave (up to a maximum of 5 years) to make the retirement contribution payments he or she would have made to establish retirement credit.

Please refer to Montgomery City-County Personnel Board Rules and Regulations for more information.

HOLIDAYS

The City has **eleven (11)** paid holidays per year and employees earn personal leave for the number of holidays the State of Alabama observes in excess of our eleven holidays. Employees must be in PAY status immediately before AND after the holiday to be paid for the holiday. All personal leave days must be used by the end of each fiscal year, which is September 30. (Any accrued personal leave days must be used before any annual or comp time is used.) Refer to Montgomery City-County Personnel Board Rules and Regulations for specific details. Different holiday schedules are applicable for some departments including Sanitation.

Each employee will schedule with their 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 their 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.

Departments may make less restrictive reporting and scheduling guidelines to better serve their departmental needs.

EXCEPTIONS:

Police Department personnel should check with the Police Department’s 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 seven holidays in which the department does not work. **(This schedule is subject to change.)** 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 seven holidays NOT WORKED are:

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

ACCRUED LEAVE TIME

See the Accrued Leave Chart in Montgomery City-County Personnel Board Rules and Regulations.

HEALTH INSURANCE AND OTHER BENEFITS

Refer to the City of Montgomery current “Employee Benefits Booklet”.

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 employees and their dependents of enrollment rights when declining health coverage.

If employees decline enrollment for health plan benefits for themselves or their dependents (including a spouse) because of other health insurance coverage, they may in the future be able to enroll themselves or their dependents in this plan, provided they request enrollment within 30 days after their other coverage ends.

In addition, if an employee has a new dependent as a result of marriage, birth, adoption, or placement for adoption, they may be able to enroll themselves, their dependents, or both,

provided they 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 Risk Management Department in City Hall of a divorce, death, marriage, or any other event making a spouse or dependent ineligible for coverage under their insurance contract within 30 days of the event.

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

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 employees in writing, at the time of enrollment, notice that pre-existing exclusions may be imposed. There are no benefits under the group health plan for pre-existing conditions during the employee's pre-existing exclusion period. Employees should refer to the summary plan description and other benefit information provided by the group's benefits administrator for specific information about the pre-existing exclusion period applicable to the employee's group. A pre-existing exclusion period is not permitted to extend for more than 12 months (365 days) after enrollment, if the employee enrolls when first eligible, and 18 months (546 days), if the employee is 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 the employee becomes 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 the employee's 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 the employee presents evidence of prior coverage from a previous insurance carrier. If the employee has a Certificate of Creditable Coverage or other documentation, they should attach it to this enrollment application.

Even if the employee has 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 THE SUMMARY PLAN DESCRIPTION FOR DETAILS.

NOTE: If an employee has the **Certificate of Creditable Coverage**, it is the employee's responsibility to present it to the Risk Management Benefits Division Room 108 within 30 days of the termination of the previous insurance coverage.

Basic Disclosure Requirement:

Basic Disclosure Requirements (prepared by the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) www.dol.gov/agencies/ebsa

The following Notices are in the Employee Benefits Booklet. The Benefits Division has a web page: www.montgomeryal.gov/work/city-employee-resources/benefits whereas a wealth of information can be obtained.

Notice to Employees of Health Insurance Marketplace Coverage Options and Your Health Coverage Medicare Part D Creditable Coverage Notice Premium Assistance Under Medicaid Notice Regarding Wellness Programs. Please review to make reference to them as needed.

Primary Care & Wellness Centers

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

MISCELLANEOUS PROVISIONS

Dress Code

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

Meals/Breaks

All full-time employees are provided with one (1) meal period each workday. This meal period is non-paid, and employees will not work during the mealtime. Staffing needs and operational demands of some departments may necessitate rotation in meal times. The department head will issue guidelines for meal periods consistent with the needs and operating requirements of each respective department.

Employees are relieved from any job duties during the meal period and will not be compensated for that time. Employees are encouraged not to eat at their desks or workstations. Each department may allow reasonable breaks for employees. The length and time of such breaks shall be determined by each department.

Official Travel

See section XI. TRAVEL PROCEDURES in CITY FISCAL POLICY AND PROCEDURE MANUAL.

CALCULATION OF TIME

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

NEPOTISM

City of Montgomery Nepotism Policy

Purpose and Intent

The purpose of this policy is to avoid situations in which one spouse supervises the other or relatives work in a supervisory role with each other. This policy is designed to alleviate concerns that family ties between employees, particularly those working in the same department, could create conflicts of interest in the workplace.

Definition of Relative for purposes of this policy: a relative is defined as an individual related by blood (consanguinity) or marriage (affinity) to another City employee or official.

Prohibited Degrees of Consanguinity

1ST DEGREE: Father, Mother, Son or Daughter

2ND DEGREE: Grandfather, Grandmother, Grandson, Granddaughter, Brother or Sister
3RD DEGREE: Aunt, Uncle, Niece, Nephew, Great-Grandson, Great-Granddaughter, Great-Grandmother, or Great-Grandfather

Prohibited Degrees of Affinity

1ST DEGREE: Father-in-law, Mother-in-law, Son-in-law, Daughter-in-law, Spouse

2ND DEGREE: Sister's Spouse, Brother's Spouse, Spouse's Brother, Spouse's Sister, Spouse's Grandfather, Spouse's Grandmother, Spouse's Grandson, Spouse's Granddaughter

Declaration of Relation

Effective upon implementation date of this policy, any employee related to another City employee shall be declared prior to the effective date of a personnel action on the Position Fill Request Form. This applies to new hires, promotions, reclassifications, upgrades, and/or transfers of employees with the City of Montgomery.

Nepotism Restrictions

Nepotism restrictions for all employees are as follows:

- An individual related within the third degree of consanguinity or second degree of affinity to a member of the City Council, Mayor or Executive Assistant to the Mayor

shall not be appointed to serve or be employed in any position in the City

- An individual related within the third degree of consanguinity or second degree affinity to a department head shall not be appointed to a position within that department

An individual shall not be appointed to any position directly supervised by someone to whom he/she is related within the third degree of consanguinity or second degree of affinity.

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. All City Vehicles shall be appropriately marked by insignia as designated by the IRS. The blue MU tag alone is not sufficient.

Driver's License Requirements

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

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

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

During the hiring, promotion, or transfer of a current or prospective City employee, whose duties include the operation of a City vehicle, said employee shall produce a valid and current Alabama driver's license, which shall be in their 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 their department head (or delegated official) of any change in the

status of their 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, Montgomery City-County Personnel Board Rules and Regulations and this section.

An employee who fails to report a change in the status of their 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
- suspension without pay
- revocation of driving privileges and transfer to a job not requiring the ability to drive
- 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 their 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 their 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 their expense and must complete the course at its next offering and provide proof of completion. If it is not done in a timely manner, the employee's driving privileges will be suspended until such proof of completion is presented.

Any current employee arrested for driving under the influence of alcohol or drugs will be immediately prohibited from operating City vehicles. No employee may refuse a blood alcohol test or Breathalyzer test for an accident that occurs while working or in a City vehicle. If the person is ultimately found not guilty of driving under the influence of alcohol or drugs, driving privileges will be returned immediately. If the person is found guilty,

driving privileges will be taken away for an additional period not to exceed one (1) year starting with the initial date driving privileges were revoked. If greater than one year has elapsed between the date of arrest and conviction for DUI, the employee's driving privileges will be revoked for, at least, an additional 90 days from the date of conviction. It is the responsibility of the employee to report such an arrest to their 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 herein above, 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 their 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.

Take Home Vehicles and City Vehicles

Please see department head for take home vehicle policy.

Cabinet Member Vehicles

Cabinet members who are City employees will receive a motor vehicle allowance to cover travel on behalf of the City as part of their job responsibilities. The members will use their personal vehicle for such travel except as provided otherwise herein. Cabinet members do not turn in mileage or expense reports for travel around the city as part of their job responsibilities or commuting from home to business office.

In the event cabinet members travel out of town for City business or a conference, they will be entitled to allowances as described in the City Fiscal Policy and Procedure Manual,

Section XI, Travel Procedures.

On occasion, a cabinet member may use a vehicle from a City fleet if their personal vehicle is not sufficiently equipped to conduct the City business for which it is needed. For example, if a cabinet member needs to travel on rough terrain to conduct City business but their personal vehicle is not equipped to handle such terrain, the cabinet member may utilize a vehicle from City fleet.

Cabinet members are responsible for all gasoline, upkeep, tires, maintenance, and insurance on their vehicles.

SEPARATION FROM EMPLOYMENT

Upon separation of employment with the City, if the individual has departed in good standing the individual will be paid for their accrued leave time up to the maximum of their annual leave, one-half of their sick leave up to 360 paid hours, all eligible compensatory time, and any unused personal days. **An employee is not considered to have separated employment in good standing** if the employee has not given a 14-days' notice of separation, is under investigation by a department, Montgomery City-County Personnel Board, or City Investigations for potential policy violations, or has pending disciplinary action(s).

Resignation

All employees must give at least fourteen (14) calendar days (two weeks) notice of resignation/retirement or other voluntary separation from employment before the employee's final working day. Upon receipt of such notice, the department head may, at his or her discretion, waive or reduce the requirement that the employee must work the full time period. If the City waives the requirement that the employee work for this period, the employee will 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.

Withdrawal of Retirement Contributions

Upon termination of employment, an individual may choose to withdraw retirement contributions. The individual must sign a form with the retirement specialist/Risk Management Department at City Hall to withdraw retirement contributions. A refund may be requested by completing a Notice of Final Deposit and Request for Refund Form. This form may be found on the RSA website. For any questions, contact the Risk Management/Retirement Specialist at City Hall. **Please note: Allow 2-4 weeks after the last City check for RSA to process a refund.**

Final Checks and W2 Forms

This check will include all leave payouts and will be processed by the next payday following the date of termination. Final checks will be disbursed by the department following termination of employment. W2s will be mailed to the individual from the City by January 31st of each year. If an individual leaves the City's employment at any time, they are responsible for notifying the payroll department of a change in address. Duplicate W2s 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 Workers' Compensation Benefits". Falsely reporting or claiming workers' compensation may result in termination from employment. Any person placed in a workers' compensation status shall also be charged with FMLA leave.

Always report an injury to an authorized official or supervisor immediately. No matter how large or small an injury, it MUST be reported to be covered by workers' 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 Workers' Compensation Law.

If an employee incurs a compensable 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 Workers' 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.
- 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 Workers' Compensation Office.
- Before seeing the approved physician, an employee must obtain a

Physician Authorization and Treatment Report. This must be returned to the Workers' Compensation Office before any expense will be paid.

- Any other questions about Workers' Compensation can be answered by referring to the City of Montgomery Risk Management Office located at City Hall.

Please note: If injured after regular business hours while on the job, employees are to go to Jackson Hospital.

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 (Code of Alabama 1975):

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

Employee personnel files are subject to public records laws. However, certain records are classified as sensitive personnel records and will not be released pursuant to a public records request.

The City will provide employee information to outside agencies as requested in writing. Either the employee's department or the Finance Department may verify an employee's employment. The department head is the only person authorized to respond to requests for references, and any phone calls or written inquiries seeking such information should be directed to the department head. Information is limited to confirming the dates of employment, job title, and whether the employee is eligible for rehire.

Any requests to view a City file after separation from employment must be made through the Office of the City Clerk as a public records request or through Montgomery City-County Personnel Board.

BENEFIT CONTINUATION UNDER COBRA

The Cobra Law is a means of continuing health coverage after termination of 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.

Continuing or Converting Group Health Insurance Coverage (COBRA)

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

Questions concerning the plan or COBRA continuation coverage rights should be addressed to the plan administrator. For more information about 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 the employee's 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 website.