



2016 Candidate(s) for Elected Office Table of Contents
City of Mountain Brook
Information Packet

General Information

1. Disclaimer
2. Notice of Election of Municipal Officers
3. Minimum Qualifications for Public Office
4. 2016 Municipal Elections Calendar
5. City Organizational Chart (2014-2016)
6. “Welcome to Mountain Brook, Alabama” brochure
7. 2014 Benchmarking Summary Report
8. 2014 Citizen Survey (slides)
9. Duties of the Mayor and Council
10. Ordinance 1950, Re-affirm Voting Districts and Polling Locations—Local Elections Only
11. Guidelines for Public Officials and Employees
12. Register to Vote
13. State of Alabama Mail-In Voter Registration Form (NVRA-2)
14. Alabama Photo Voter ID Guide
15. “Code of Ethics for Public Officials, Employees, etc.”
16. Sec. 2 of the *Mountain Brook City Code*, “Administration”
17. Chapter 121 of the *Mountain Brook City Code*, “Signs”
18. Fair Campaign Practices Act (“FCPA”) (<https://www.alabamavotes.gov>. . . .)
19. FCPA Elections Division Form Downloads
(<http://www.alabamavotes.gov/electionsForms.aspx>)
20. Section 17 of the *Alabama Code*, “Fair Campaign Practices Act”
21. FCPA Candidate Filing Guide (Fourteenth Edition)
22. Act 2015-495: Candidates must file a Statement of Economic Interests form . . .

Forms

23. Affidavit of Indigency
24. Important Candidate Information (from the Alabama Ethics Commission)
25. Statement of Economic Interests (SEI)
26. Line-by-Line Instructions to Complete SEI
27. Application for Absentee Ballot (Form AV-R1) [customized for the August 23, 2016 City election]
28. Instructions for Taking Absentee Ballots
29. Statement of Candidacy

Articles and Publications

30. “Council-Manager Form of Government Frequently Asked Questions (published by ICMA)
31. “What Every Potential Candidate Should Know About Municipal Government,” prepared by the Alabama League of Municipalities
32. “The Fair Campaign Practices Act: What Municipal Candidates Need to Know” by Lori Lein, General Counsel for the Alabama League of Municipalities, *The Alabama Municipal Journal* (March 2012).

DISCLAIMER

This information packet is provided as a service to persons interested in running for public office in the City of Mountain Brook, Alabama in the general municipal election to be held August 23, 2016, with a run-off on October 4, 2016, if necessary. The use of this information is at the sole risk of the user. It is the responsibility of the user to verify any information provided (or inadvertently omitted). The City of Mountain Brook, its officers, and employees which may distribute this information disclaim any responsibility or liability for failure to comply with any filing requirement or any other election law.



Notice of Election of Municipal Officers City of Mountain Brook, Alabama

Notice is hereby given that on Tuesday, August 23, 2016, an election for the purpose of electing the Mayor and two (2) members of the City Council (places 2, and 4) will be held. All registered and qualified electors of the state, who reside within the corporate limits of the City of Mountain Brook, Alabama, and have resided therein for thirty (30) days or more immediately preceding the date of the election, and who are qualified to vote in the county precinct which embraces and covers that part of the corporate limits of the city in which the elector resides, will be authorized to participate in the election.

The polls will be opened from 7 a.m. until 7 p.m. at the following locations (City Ordinance No. 1624):

Polling

District

<u>No.</u>	<u>Polling Location</u>
1	St. Luke's Episcopal Church (Precinct 46, Box 8), 3736 Montrose Road, 35213
2	City Hall (Precinct 46, Box 9), 56 Church Street, 35213
3	Brookwood Baptist Church (Precinct 48, Box 6), 3449 Overton Road, 35223
4	Mountain Brook Fire Station No. 2 (Precinct 48, Box 4), 3785 Locksley Dr, 35223
5	Mountain Brook Elementary (Precinct 46, Box 7), 3020 Cambridge Rd, 35223
6	Cherokee Bend Elementary (Precinct 45, Box 2), 4400 Fair Oaks Drive, 35223

If necessary, a run-off election will be held on Tuesday, October 4, 2016.

Any qualified elector who will have resided within the municipality for a period of at least 90 days on election day may qualify to run for office by filing the appropriate forms and paying any appropriate fees, as otherwise prescribed by law. The period of candidate(s) qualification commences at 8 a.m. on July 5, 2016 and ends at 5 p.m. on July 19, 2016.



Lawrence T. Oden, Mayor

**State of Alabama:
Minimum Qualifications for Public Office**

Office	Minimum Age	State Resident	US Citizen	Term of Office	Term Limit
Mayor ^{1 & 2}	18	90 days	1 day	4	None
City Council ^{1 & 3}	18	90 days	1 day	4	None

¹ Section 36-2-1

Persons not eligible to hold state office; holding of state and federal offices of profit or two state offices of profit.

(a) The following persons shall be ineligible to and disqualified from holding office under the authority of this state:

- (1) Those who are not qualified electors, except as otherwise expressly provided;
- (2) Those who have not been inhabitants of the state, county, district or circuit for the period required by the constitution and laws of the state;
- (3) Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery or any other crime punishable by imprisonment in the state or federal penitentiary and those who are idiots or insane;
- (4) Those against whom there is a judgment unpaid for any moneys received by them in any official capacity due to the United States, this state or any county or municipality thereof; and
- (5) Soldiers, seamen or marines in the regular Army or Navy of the United States.

(b) No person holding an office of profit under the United States shall, during his continuance in such office, hold any office of profit under this state, nor shall any person hold two offices of profit at one and the same time under this state, except constables, notaries public and commissioners of deeds.

(Code 1852, §105; Code 1867, §144; Code 1876, §149; Code 1886, §241; Code 1896, §3056; Code 1907, §1467; Code 1923, §2575; Code 1940, T. 41, §5.)

2016 MUNICIPAL ELECTIONS CALENDAR

Excerpted from the 2016 Elections Manual, prepared by the Alabama League of Municipalities

(Citations are to the Code of Alabama, 1975)

DISCLAIMER: This election calendar is provided as a service to candidates running in the general municipal election and those officials responsible for conducting the municipal election to be held on August 23, 2016, with a run-off on October 4, 2016, if necessary. *Use of this calendar is at the sole risk of the candidate. It is the responsibility of the candidate or official to verify the dates on which forms are due.* The Alabama League of Municipalities and the municipality and/or official that may distribute this form disclaim any responsibility or liability for failure to comply with any filing requirement or any other election law.

References are to dates in the year 2016 unless otherwise indicated and all citations are to the Code of Alabama 1975. In most cases, the dates printed in this publication represent the final deadline for performing the listed duties. The League urges officials and candidates to accomplish these duties well in advance of the deadline.

Electronic Voting Rule—An ordinance establishing the use of electronic vote counters must be adopted. No deadline is set, but the ordinance must be adopted far enough in advance to meet other election deadlines. §17-7-21.

August 23, 2015

First day candidates for municipal elections can begin to raise money. §17-5-7(b)(2). Under general law, there is no limitation on the amount an individual or corporation may contribute to the campaign of a person running for municipal office.

NOTE: Once a candidate establishes a principle campaign committee pursuant to the Fair Campaign Practices Act, the committee must file monthly campaign disclosure reports pursuant to §17-5-8. The reports are due on the second business day of the subsequent month during the time leading up to the election with the exception of the month preceding the election. For the four (4) weeks prior to the election, weekly reports covering each week must be filed on Monday of the following week. A candidate who is required to file a weekly report during this period is not also required to file a monthly report in the month in which the election is held. This eliminates duplicative filings. See §17-5-8(k), Code of Alabama 1975. Forms are available from the probate judge, the Secretary of State, or the municipal clerk.

FCPA Forms for municipal candidates must be filed with the probate judge in the county in which the office is sought. See §17-5-9(a).

In the case of candidates for a municipal office where the municipality is located in more than one county, the statements and reports shall be filed *in the county where the city hall of the municipality is located*. The probate judge of the county where the report is filed, if the municipality is located in more than one county, shall provide a copy of the report to the probate judge of the other county or counties where the municipality is located. See §17-5-9(c).

February 23

Last day for the council to change the salaries for officials who will be elected in August. §§11-43-2 and 11-43-80. Last day for the council to decide whether to elect councilmembers at large or from districts. §§11-43-2 and 11-43-63. Last day for the council in municipalities with a population of less than 10,000 according to the most recent decennial census to provide for a procedure for the appointment of additional election officials to receive, count, and return the absentee ballots cast at the election. §§ 11-46-27, 17-11-10 and 17-11-11.

March 31

Last day for councils elected at large to number the places for election purposes. §11-46-22

May 23

Last day for the council to change its district lines. §11-46-23. Last day for the council to change the location of designated voting places or add an additional voting place.

May 25

Last day a person can become a resident of the municipality and district and still be a candidate for election. Candidates must reside in the municipality and the district for a period of 90 days before the election. §11-425(g); §11-43-63.

June 24

Electronic Voting Rule – First day to conduct a training school for officials who will conduct an election using electronic voting machines. §17-8-9. No election official shall service in any election in which an electronic voting machines is used, unless he or she shall have received such instruction **within 60 days prior to the election** and is fully qualified to perform the duties in connection with the electronic voting machine, and has received a certificate from the authorized instructor to that effect. This does not prevent the appointment of an uninstructed person as an election official to fill a vacancy among the election officials.

June 30

Last day on which the council may adopt an ordinance establishing qualification fees. §11-46-2.

July 5

Mayor gives notice of the election on the first Tuesday in July. §11-46-22(a). Candidates may begin qualifying once notice is published. Qualifying forms are available from the municipal clerk. §11-46-22(a). **NOTE: The Fair Campaign Practices Act requires all candidates to file with the PROBATE JUDGE in the county where the city hall of the municipality is located a list of two to five persons who will serve as their campaign committee. §17-5-9(c). Candidates may serve as their own committee, but must still file a form to this effect with the PROBATE JUDGE. THIS FORM MUST BE FILED WITHIN FIVE (5) DAYS OF QUALIFYING TO RUN FOR OFFICE. THIS FORM MUST BE FILED REGARDLESS OF WHETHER THE CANDIDATE HAS REACHED THE \$1,000 THRESHOLD UNDER THE FAIR CAMPAIGN PRACTICES ACT. Forms are available from the probate judge, Secretary of State or the municipal clerk. §17-5-4.**

IN ADDITION, once a candidate establishes a principal campaign committee pursuant to the Fair Campaign Practices Act, the committee must file monthly campaign disclosure reports pursuant to §17-5-8. The reports are due on the second business day of the subsequent month with the exception of the month preceding the election at which point the reports are due weekly on Monday of the following week leading up to the election. §17-5-8.

FURTHER, the Ethics Law requires candidates to file a statement of economic interests with the STATE ETHICS COMMISSION. . . . In addition, the Ethics Commission must confirm to the municipal clerk within five (5) business days that the candidate that the candidate has filed the form required. § 36-25-15. **THE CLERK IS REQUIRED TO REMOVE FROM THE BALLOT THE NAME OF ANY CANDIDATE WHO FAILS TO FILE THE STATEMENT OF ECONOMIC INTERESTS BY THE DEADLINE.** Incumbents do not have to file the statement of economic interests as they are required to submit an annual report which is on file with the ETHICS COMMISSION. §36-25-15.

July 19

Last day to qualify to run for municipal office. The qualifying form must be filed by 5:00 p.m., Central Daylight Time, with the MUNICIPAL CLERK. Forms are available from the clerk. §11-46-25(g).

Mayor must cause the printing of the ballots. §11-46-25. Mayor must file a list of qualified voters with the clerk. If the mayor is a candidate in the election, the council must appoint a qualified person to perform this duty. §§11-46-36, 11-46-37, and 17-11-5.

July 22

Last day for sample of the ballot or vote card to be placed on display in municipalities using vote tabulators that require voters to fill out a card or paper ballot to be read by the tabulator. §11-46-31.

Last day to place a voting machine on display. §11-46-31.

July 25

For candidates qualifying on July 19, last possible day for candidates to file with the PROBATE JUDGE an Appointment of Principal Campaign Committee Form. §17-5-4

For candidates qualifying on July 19, last possible day for candidate to file Statement of Economic Interest with the Ethics Commission. §36-25-15.

July 26

Deadline for mayor to deliver absentee election supplies to the municipal clerk, not more than seven (7) days after the last day to qualify. §17-11-12.

August 1

Principal campaign committee must file a weekly campaign disclosure report with the PROBATE JUDGE in the county where the city hall of the municipality is located pursuant to §17-5-8. FCPA Weekly Reports are required weekly on the Monday of the succeeding week for each of the four weeks prior to the election that includes all reportable activities of the previous week. Forms are available from the probate judge, Secretary of State or the municipal clerk.

August 8

Principal campaign committee must file a weekly campaign disclosure report with the PROBATE JUDGE in the county where the city hall of the municipality is located pursuant to §17-5-8. FCPA Weekly Reports are required weekly on the Monday of the succeeding week for each of the four weeks prior to the election that includes all reportable activities of the previous week. Forms are available from the probate judge, Secretary of State or the municipal clerk.

August 8

Last day for the council to appoint election officials, not less than 15 days before the election. **NOTE:** The clerk must notify the persons chosen as election officials and must hold an election school for them. The clerk must notify the official at least 48 hours before the school is scheduled. §§11-46-27 and 11-46-30.

August 9

Electronic Voting Rule – First day to test electronic vote counters, not more than 14 days before the election. The test must be conducted as close as practicable to the date of the election. The test is open to the public. The League recommends forty-eight (48) hours notice of the test. Rule 307-X-1-.04.

August 10

Last day to register to vote for the municipal general election, 15th day before the election. §17-3-50(a).

August 12

Last day for the mayor to publish lists of the election officers and the voting places to which they are assigned, at least 10 days prior to the election. §11-46-27.

August 15

Principal campaign committee must file a weekly campaign disclosure report with the PROBATE JUDGE in the county where the city hall of the municipality is located pursuant to §17-5-8. FCPA Weekly Reports are required weekly on the Monday of the succeeding week for each of the four weeks prior to the election that includes all reportable activities of the previous week. Forms are available from the probate judge, Secretary of State or the municipal clerk.

August 18

Last day for a voter to apply for a regular absentee ballot, 5 days prior to the election. §17-11-3(a).

Last day to publish the list of qualified voters, at least 5 days prior to the election. §11-46-36.

Electronic Voting Rule – Last day to conduct a training school for officials who will conduct an election using electronic voting machines, not less than 5 days before an election. §17-8-9.

August 19

Last day for an absentee voter who is required to provide identification but failed to include it with the ballot to submit identification to the absentee election manager by 5:00 p.m. on the Friday before the election to prevent the ballot from becoming a provisional ballot. §17-10-2(c)(1)(a).

August 22

Principal campaign committee must file a weekly campaign disclosure report with the PROBATE JUDGE in the county where the city hall of the municipality is located pursuant to §17-5-8. FCPA Weekly Reports are required weekly on the Monday of the succeeding week for each of the four weeks prior to the election that includes all reportable activities of the previous week. Forms are available from the probate judge, Secretary of State or the municipal clerk.

Last day for a voter to apply for an emergency absentee ballot if he or she is required by his or her employer to be out of the country on election day. §17-11-3(d).

The clerk, along with two watchers, must inspect and seal voting machines which will be used in the election beginning no later than 9:00 a.m. §11-46-33.

If an absentee ballot is returned by mail, it must be postmarked by August 22 and received by noon the day of the election. The deadline for hand-delivery of absentee ballots is the close of business on August 22. §17-11-3(c), 17-11-18.

August 23

Election Day. Regular municipal elections are held on the fourth Tuesday in August. §11-46-2.

NOTE: Section 11-46-28 provides that the polls be open from 7:00 a.m. to 7:00 p.m. and that a municipality may set those times under Eastern Standard Time if necessary.

Election officials must meet at their respective polling places at least 30 minutes before polls open. §11-46-28.

The clerk must ensure that all ballots, boxes and supplies are provided at each polling place, or if machines are used, that proper supplies are provided at each polling place. §11-46-33.

Candidates may appoint a poll watcher to observe voting procedures in the polling place. The appointment must be made in writing, signed by the candidate, and filed with the election officials at the polling place. §11-46-35.

Electronic Voting Rule – Precinct counters must be tested according to the manufacturer's instructions to ensure that they are set at zero and prepared for voting. Rules 307-X-1-.11.

Deadline for returning absentee ballots by mail or an emergency absentee ballot for a registered voter who requires emergency treatment by a licensed physician within 5 days of the election is 12:00 noon on August 23. §7-11-18.

Beginning at 12:00 noon, the clerk shall deliver the sealed affidavit envelopes containing absentee ballots to the absentee election officials. §17-11-10.

August 24

Deadline for the absentee precinct inspector to notify voters whose absentee ballots have become provisional due to the inspector's personal knowledge that voter was not eligible to vote by mailing a copy of the challenge statement of the inspector by the day after the election. §17-10-2(c)(3)(b).

Municipal clerk must deliver the written affirmations of the provisional voters, inspector challenge statements, and all voter re-identification forms in a sealed envelope addressed to the board of registrars to the board of registrars no later than noon on the day following the election. §17-10-2(d).

August 26

Last day for an absentee voter who was required to provide identification but failed to provide it before the election to submit identification to the board of registrars in order to have the vote counted no later than 5:00 PM on the Friday following the election. §17-10-2(c)(1)(c).

August 30

Commencing at noon on the first Tuesday next after the election, the council must canvass the election results. §11-46-55. See also §11-46-46. If a candidate receives a majority of the votes cast for the office, the council issues a certificate of election. If no candidate receives a majority, the council shall order a run-off election to be held. ANYONE WITH STANDING TO CONTEST THE ELECTION MAY REQUEST A RECOUNT WITHIN FORTY-EIGHT HOURS OF THE OFFICIAL CANVASS OF THE ELECTION RESULTS. §11-46-55.1.

September 5

Last day a candidate may contest the results of the general election, within 5 days after the result of the election is declared. §11-46-69.

September 6

Last day for the mayor (or other person assigned to this duty) to deliver absentee ballots and supplies to the clerk for the run-off election, not more than 14 days after the first election. §17-11-12.

September 12

Principal campaign committee must file a weekly campaign disclosure report for the runoff election with the PROBATE JUDGE in the county where the city hall of the municipality is located pursuant to §17-5-8. FCPA Weekly Reports are required weekly on the Monday of the succeeding week for each of the four weeks prior to the election that includes all reportable activities of the previous week. Forms are available from the probate judge, Secretary of State or the municipal clerk.

September 19

Principal campaign committee must file a weekly campaign disclosure report for the runoff election with the PROBATE JUDGE in the county where the city hall of the municipality is located pursuant to §17-5-8. FCPA Weekly Reports are required weekly on the Monday of the succeeding week for each of the four weeks prior to the election that includes all reportable activities of the previous week. Forms are available from the probate judge, Secretary of State or the municipal clerk.

September 25

Electronic Voting Rule – First day to test electronic vote counters for the run-off election. The test must be conducted as close as practicable to the date of the election. The test is open to the public. The League recommends forty-eight (48) hours notice of the test. Rule 307-X-1-.04.

September 26

Principal campaign committee must file a weekly campaign disclosure report for the runoff election with the PROBATE JUDGE in the county where the city hall of the municipality is located pursuant to §17-5-8. FCPA Weekly Reports are required weekly on the Monday of the succeeding week for each of the four weeks prior to the election that includes all reportable activities of the previous week. Forms are available from the probate judge, Secretary of State or the municipal clerk.

September 29

Last day for a voter to apply for a regular absentee ballot 5 days before the election. §17-11-3(a).

September 30

Last day for an absentee voter who is required to provide identification but failed to include it with the ballot to submit this identification to the absentee election manager by 5:00 p.m. on the Friday before the election to prevent the ballot from becoming a provisional ballot. §17-10-2(c)(1)(a).

October 3

Principal campaign committee must file a weekly campaign disclosure report for the runoff election with the PROBATE JUDGE pursuant to §17-5-8 in the county where the city hall of the municipality is located. FCPA Weekly Reports are required weekly on the Monday of the succeeding week for each of the four weeks prior to the election that includes all reportable activities of the previous week. Forms are available from the probate judge, Secretary of State or the municipal clerk.

October 3

Last day for a voter to apply for an emergency absentee ballot if he or she is required by his or her employer to be out of the country on election day. §17-11-3(d).

The clerk, along with two watchers, must inspect and seal voting machines which will be used in the election. §11-46-33.

If an absentee ballot is returned by mail, it must be postmarked by October 3 and received by noon the day of the election. The deadline for hand-delivery of absentee ballots is the close of business on October 3. §17-11-3(c), 17-11-18.

October 4

Run-off Election Day. Candidates may appoint a poll watcher to observe voting procedures in the polling place. The appointment must be made in writing, signed by the candidate, and filed with the election officials at the polling place. §11-46-35.

Electronic Voting Rule – Precinct counters must be tested according to the manufacturer's instructions to ensure that they are set at zero and prepared for voting. Rules 307-X-1-.11.

Deadline for returning absentee ballots by mail or an emergency absentee ballot for a registered voter who requires emergency treatment by a licensed physician within 5 days of the election is 12:00 noon on October 4. §17-11-3(c), 17-11-18.

October 5

Deadline for the absentee precinct inspector to notify voters whose absentee ballots have become provisional due to the inspector's personal knowledge that voter was not eligible to vote by mailing a copy of the challenge statement of the inspector by the day after the election.. §17-10-2(c)(3)(b).

Municipal clerk must deliver the written affirmations of the provisional voters, inspector challenge statements, and all voter re-identification forms in a sealed envelope addressed to the board of registrars to the board of registrars no later than noon.

October 7

Last day for an absentee voter who was required to provide identification but failed to provide it before the election to submit identification to the board of registrars in order to have the vote counted no later than 5:00 P.M. on the Friday following the election. §17-10-2(c)(1)(c).

October 11

Commencing at noon on the first Tuesday next after the election the council must canvass the election results. §11-46-55. See also §11-46-46. ANYONE WITH STANDING TO CONTEST THE ELECTION MAY REQUEST A RECOUNT WITHIN FORTY-EIGHT HOURS OF THE OFFICIAL CANVASS OF THE ELECTION RESULTS. §11-46-55.1.

October 17

Last day a candidate may contest the results of the run-off election, within 5 days after the result of the election is declared. §11-46-69.

November 7

Newly elected municipal officials take office on the first Monday in November following the election. §11-46-21(c). Council meets for its organizational session. §11-43-44.

December 21

Last day for candidates who were ***not*** involved in the run-off election to raise money to pay off their campaign debts, 120 days after the election. §17-5-7.

February 1, 2017

Last day for candidates who were involved in the run-off election to raise money to pay off their campaign debts, 120 days after the election. §17-5-7.

March 23, 2017

The clerk shall destroy the contents of the ballot boxes for the municipal general election unless there is notification that the election has been contested, 6 months after the election. Section 11-46-46, Code of Alabama 1975.

The clerk no longer must preserve written notices for withdrawal of candidates in municipal general election, 6 months after the election. §11-46-25.

April 4, 2017

The clerk shall destroy the contents of the ballot boxes for the municipal run-off election unless there is notification that the election has been contested, 6 months after the election. Section 11-46-46, Code of Alabama 1975.

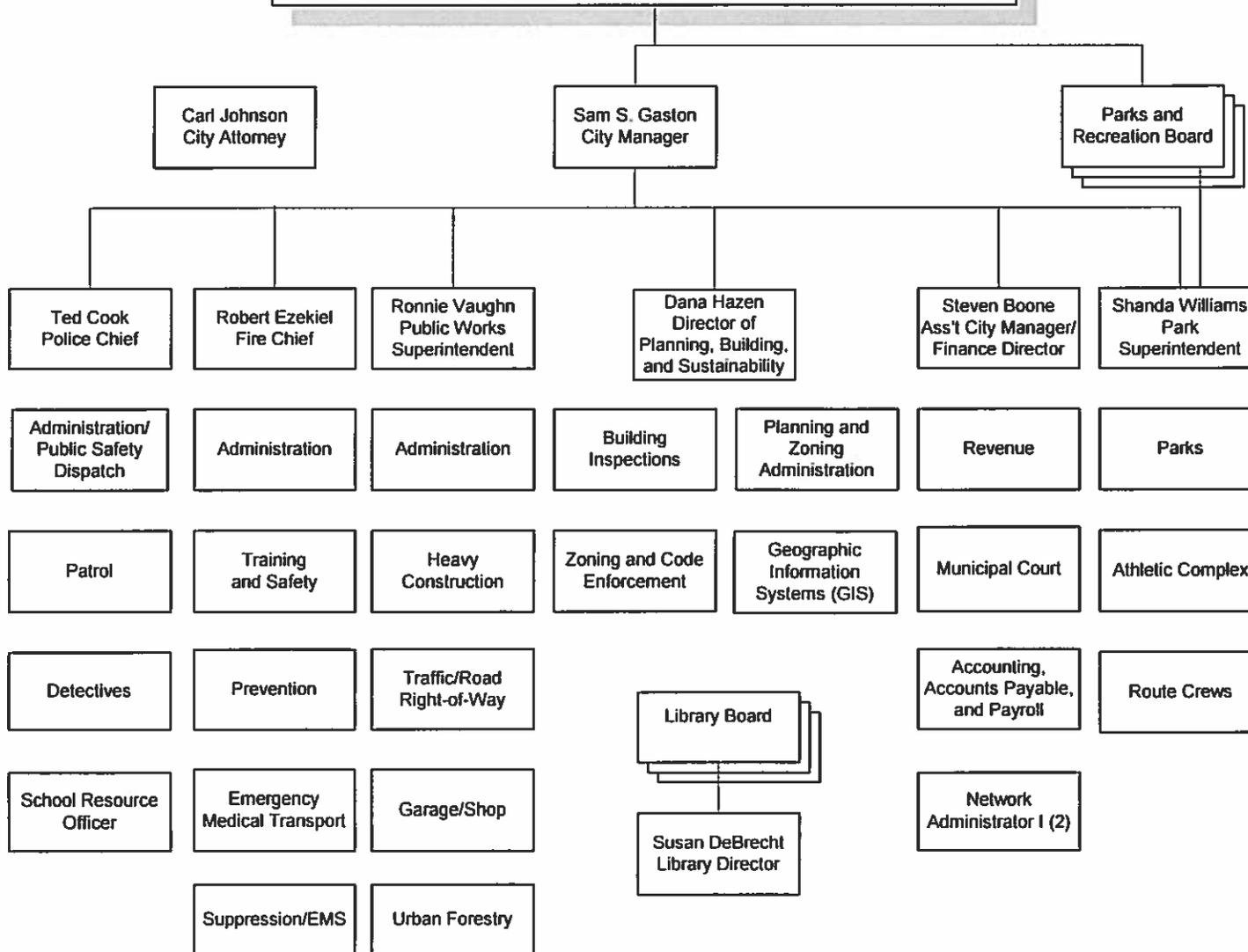
The clerk no longer must preserve written notices for withdrawal of candidates in municipal run-off election, 6 months after the election. §11-46-25.

NOTE: Candidates who are not elected should dissolve their campaign committees by filing a form with the PROBATE JUDGE in the county where the city hall of the municipality is located. The Fair Campaign Practices Act requires all candidates who fail to dissolve their campaign committees to file an annual report listing all contributions or expenditures with the probate judge. Forms are available from the probate judge, the Secretary of State, or the municipal clerk. There have been changes to the Fair Campaign Practices Act since the 2012 election and there are different filing deadlines. Please refer to the manual for more information.



**The City of Mountain Brook, Alabama
Mayor and City Council
(2014 - 2016)**

Lawrence T. Oden, Mayor (2016)
 Virginia C. Smith, President - Place 4 (2016)
 William S. (Billy) Pritchard, III, President Pro Tempore - Place 3 (2018)
 Jack D. Carl - Place 2 (2016)
 Lloyd C. Shelton - Place 5 (2018)
 Alice B. Womack - Place 1 (2018)



Welcome To Mountain Brook

This brochure contains vital information necessary for new and current residents of Mountain Brook. If we at City Hall can assist you in anyway, please call or visit us.

We would like to welcome you to Mountain Brook. Mountain Brook was incorporated in 1942 and has an area of approximately 13 square miles, and a population of 21,000. Nestled in the Appalachian foothills southeast of Birmingham, our community provides a high quality lifestyle.

You will find our community to be a group of individuals striving to create a nurturing, respectful residential atmosphere. Along with continuous community education for all ages, Mountain Brook residents care for their parks and natural surroundings. Most importantly, residents pride themselves of an outstanding school system, public safety services, and historical backgrounds.

You will appreciate the shopping opportunities found in our four unique villages. Although there is no central business district, the four commercial villages provide shopping amenities to residents, while lending a special atmosphere to the area. The nearby restaurants are each unique and offer a taste of international and local cuisine. Additionally, year-round family activities are held at the villages.

The City Council creates policy directives for the City. The daily operations of the City are managed by an appointed City Manager and Department Heads.

As the administrative head of the City, the City Manager is responsible for enforcing all laws, ordinances, and policies of the city. Additionally, the City Manager appoints and dismisses all employees, except the Fire Chief and Police Chief, which are appointed by the Governing Body. He also presents the annual budget to the Council, including long-range goals and Capital Improvement Projects.

Mountain Brook was the first Alabama city to adopt a mayor/council-manager form of government. The Mayor and Council Members are unpaid for their services. In addition to the voluntary nature of their work, City leaders value integrity safety, community, education, stewardship, and beauty.

Telephone Numbers to Know

Emergency Numbers

Police, Fire, and Medical Emergency.....911

Other Numbers

City Hall, 56 Church Street..... 802-2400
 City Manager 802-3800
 City Clerk..... 802-3825
 City Planner 802-3821
 Building Inspection Superintendent 802-3812
 Revenue Examiner 802-3808
 Business License and Permits 802-3807
 Fire Department (Administrative Office) 802-3838
 Park and Recreation Department..... 802-3877
 Police Department 802-2414
 Public Works Department 802-2390
 Emmet O'Neal Library- 50 Oak St. 445-1101
 Board of Education 871-4608
 Mountain Brook Athletics Association 414-3854
 Mountain Brook Soccer Club..... 977-9038
 Charter Communication (Cable) 888-438-2427
 Waste Management of Alabama 841-2740
 Chamber of Commerce-101 Hoyt Lane.....871-3779

Your City Officials are as Follows:

Mayor: Lawrence T. Oden

Council Members:

President: Virginia C. Smith

President Pro Tempore: William J. Pritchard, III

Jack Carl

Alice Womack

Lloyd Shelton

City Manager: Sam S. Gaston

The City Council encourages citizens to attend its regular public meetings held at City Hall, 56 Church Street, on the second and fourth Monday of each month at 7:00 pm.

Mountain Brook City Council

Welcome to Mountain Brook



Emmet O'Neal Library

The mission and goals of The Emmet O'Neal Library include provision of current reference material, promotion of reading and learning in young people, and consistently serving as a cultural and learning center for the community. For additional information, please call 445-1101. The Library hours are as follows:

WINTER (Labor Day to Memorial Day): Mon., Tues. & Thurs. 9-9; Wed. 9-6; Fri. & Sat. 9-5; Sun. 1-5

SUMMER (Memorial Day to Labor Day): Mon. & Wed. 9-6; Tues. 9-9; Thurs., Fri., & Sat. 9-5; Sun. Closed

Mountain Brook School System

The Mountain Brook School System is accredited by the Southern Association of Colleges and Schools and the Alabama State Department of Education. The school system is composed of four elementary schools, one junior high (7-9) and one high school (10-12).

The mission of the Mountain Brook Schools is to preserve an educational environment, enabling each individual to reach his or her full potential. These goals are met through highly qualified teachers/administrators, who maintain studious classroom atmospheres. Additionally, each school provides advanced programs, such as Gifted Education, Advanced Placement, and Exceptional Children Program. Ninety-eight percent of all Mountain Brook graduates continue their education at a four-year college.

Every year Mountain Brook schools celebrate accomplishing their mission and vision of being a world class school system.

Miscellaneous Information

ANIMAL CONTROL: The leash law for the City requires that all dogs be inside a fence or on a leash. Dogs picked up by the Animal Control Officer are taken to Liberty Animal Hospital for impoundment. The Magistrate of the Court accepts payments of fines and releases dogs for redemption. If you are having an animal control problem you may call the Mountain Brook Police Dispatch at 802-2414.

SCHOOL REGISTRATION: Prior to enrollment, proof of full-time residency in the City of Mountain Brook must be presented to the Board of Education Office by the parent or legal guardian. Please call the Board of Education at 871-4608 for more information 8:00 a.m. - 3:00 p.m.

FIRE DEPARTMENT: In addition to fire and emergency medical services, the Fire Department also provides the following services: child passenger seat installation, blood pressure screening program, and public fire/life safety education.

DRIVER'S LICENSE: The State of Alabama issues driver's licenses. Call 325-5188 for more information.

AUTOMOBILE REGISTRATION: Car tags and titles are handled by Jefferson County, so please call 325-5171. All residents must register their vehicles using their Mountain Brook address.

VOTING INFORMATION: Registration is done at the Emmet O'Neal Library. Contact the Library for more information, 445-1101.

Business Licenses

The Business License year runs Jan 1- Dec 31 with renewals being sent out in December. Each business has until Jan 31 to purchase a license without a penalty. Please keep in mind that you may be required to purchase other licenses, so first inquire about these possibilities. Call 802-3807 for further details.

Property Tax

The tax year for the City begins on October 1 and ends on September 30. The property value of the home is based on the state and county assessments of the property. Reappraisals occur annually. Further information may be obtained by calling City Hall at 802-3825.

Construction And Renovation

PERMITS: Licensed contractors are not required to purchase a permit for renovations costing less than \$500 and not requiring an inspection of any sort. Because several types of renovation/construction jobs require inspection, it is beneficial to contact the City to find out whether your project will need an inspection. Please call 802-3812 for further information.

TREE CUTTERS: All tree cutters must be licensed by the City. If you have any questions about whether or not a tree cutter is licensed, please call 802-3806. Also make sure that a tree cutter has general liability insurance to cover damages that may occur while the individual is working for you. The City requires all tree contractors to remove any debris that they have generated. This materials is not picked up as part

of the regular City trash collection.

ZONING- Prior to the purchase of property in the City of Mountain Brook, it is prudent to verify the zoning, not only of the property in question but of surrounding parcels. For zoning information, contact the City Planner at 802-3821.

BUILDING PLANS- It is important that an individual bring plot plans to the Building Inspections Superintendent before proceeding with architectural drawings.

Solid Waste Services

Currently the City does not charge for residential service. This charge was eliminated by the City Council in 2008. Garbage, trash, and recycling are picked up on the same day of each week. To initiate residential garbage service, call 802-2390, for commercial call 802-3808.

GARBAGE COLLECTION: Garbage is collected once each week at the back door. Garbage must be placed in a water-tight container of no more than 30-gallon capacity. (The use of plastic liner bags is strongly recommended). It must have a tight fitting lid or cover with handles on the outside. Garbage cans should be placed no more than 20 feet beyond the rear of the house. Please try to move your garbage cans outside of fences, garages, basements, and similar enclosures so that the garbage is in sight.

LEAF COLLECTION: Loose leaves raked to the curb are collected four times between November and March. At other times of the year, leaves must be bagged or otherwise contained as required for yard trimmings and debris throughout the year.

RECYCLING: Materials to be recycled are picked up at the curb on the same day as garbage and trash every week. Re-cycling materials include newspaper, mixed paper, aluminum, tin, steel, and bi-metal cans; and plastics Pet#1 and HPDE #2 containers. Residents are not required to remove labels from the containers placed in the recycling bin; however, please remove caps and rinse out the container.

Additionally, please place newspapers in bags before putting them in the recycling bin. Finally, do not place any sharp objects, such as glass and aluminum lids, in the recycling bins. If you have any problems, the City urges you to call Waste Management at 841-2740.

Benchmarking Summary Report

Mountain Brook, Alabama

Overview

ETC Institute's *DirectionFinder* program was originally developed in 1999 to help community leaders across the United States use statistically valid community survey data as a tool for making better decisions. Since November of 1999, the survey has been administered in more than 210 cities in 43 states. Most participating cities conduct the survey on an annual or biennial basis.

This report contains benchmarking data from three sources: (1) a national survey that was administered by ETC Institute during the summer of 2013 to a random sample of more than 4,000 residents across the United States and (2) individual communities with a population of less than 150,000 where ETC Institute had administered the *DirectionFinder Survey* between January 2010 and December 2013; the 53 communities included in this comparisons are listed below.

- Abilene, TX
- Auburn, AL
- Baytown, TX
- Bensenville, IL
- Blue Springs, MO
- Bryan, TX
- Chapel Hill, NC
- Clayton, MO
- Coffeyville, KS
- Columbia, MO
- Coral Springs, FL
- Davenport, IA
- Dothan, AL
- Edgerton, KS
- Garden City, KS
- Gardner, KS
- Grandview, MO
- Hallandale Beach, FL
- Harrisonville, MO
- High Point, NC
- Hyattsville, MD
- Independence, MO
- Indian Trail, NC
- Junction City, KS
- Lawrence, KS
- Lenexa, KS
- Merriam, KS
- Mission, KS
- Naperville, IL
- Narragansett, RI
- Newport Beach, CA
- North Kansas City, MO
- Olathe, KS
- Pflugerville, TX
- Platte City, MO
- Pueblo, CO
- Raymore, MO
- Rio Blanco, CO
- Riverside, MO
- Rolla, MO
- Round Rock, TX
- Saint Joseph, MO
- San Marcos, TX
- Shoreline, WA
- St. Joseph, MO
- Tamarac, FL
- Vestavia Hills, AL
- Village of Pinehurst, NC
- Wentzville, MO
- Westlake, TX
- Westlake, TX
- Wilmington, NC
- Winchester, VA

Interpreting the Charts

National Benchmarks. The first set of charts on the following pages show how the overall results for Mountain Brook compare to the national average based on the results of an annual survey that was administered by ETC Institute to a random sample of more than 4,000 U.S. residents.

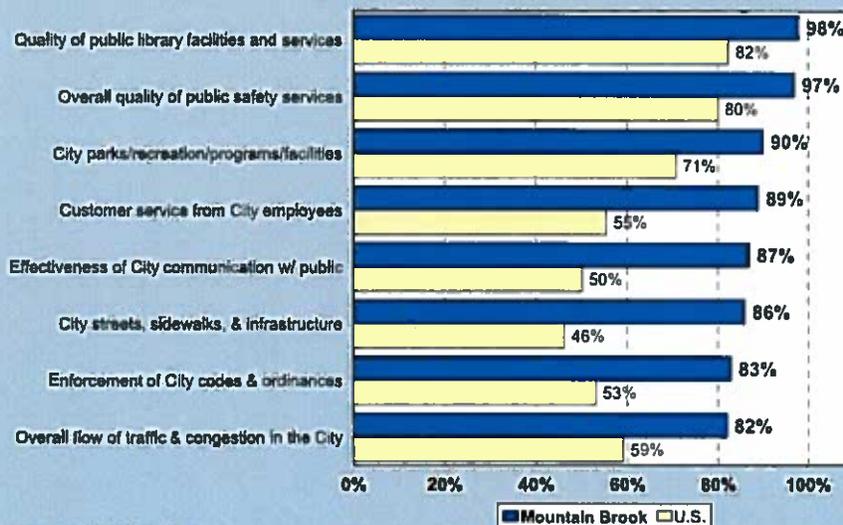
Performance Ranges. The second set of charts show the highest, lowest, and average (mean) levels of satisfaction in the 53 communities listed on the previous page. The mean rating is shown as a vertical line, which indicates the average level of satisfaction for the 53 communities. The actual ratings for Mountain Brook are listed to the right of each chart. The dot on each bar shows how the results for Mountain Brook compare to the other communities with a population of less than 150,000 where the DirectionFinder® survey has been administered since 2010.

National Benchmarks

Note: The benchmarking data contained in this report is protected intellectual property. Any reproduction of the benchmarking information in this report by persons or organizations not directly affiliated with the City of Mountain Brook, AL is not authorized without written consent from ETC Institute.

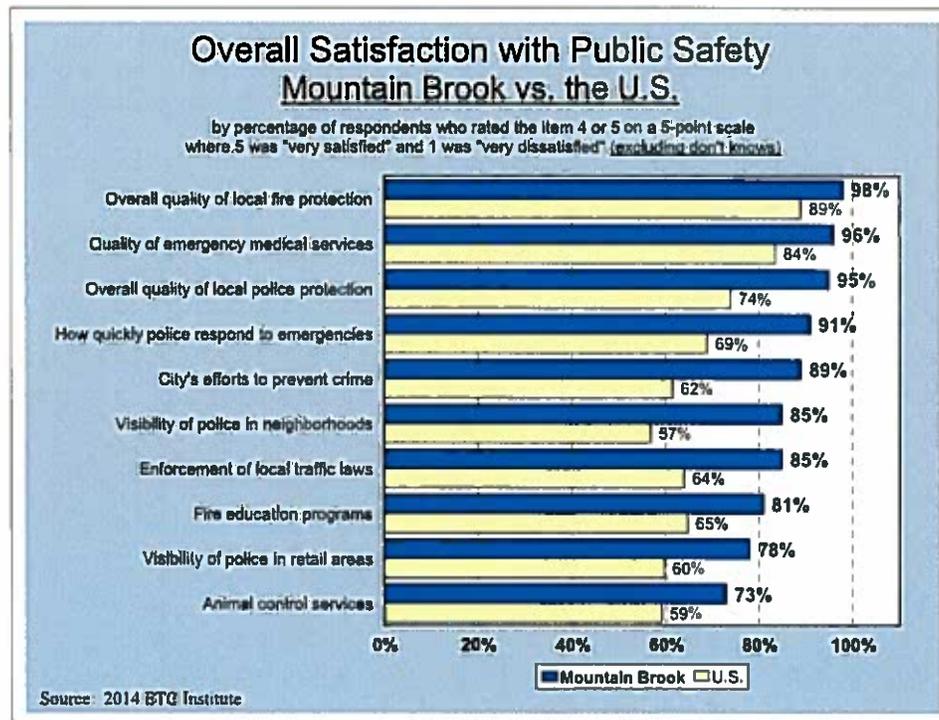
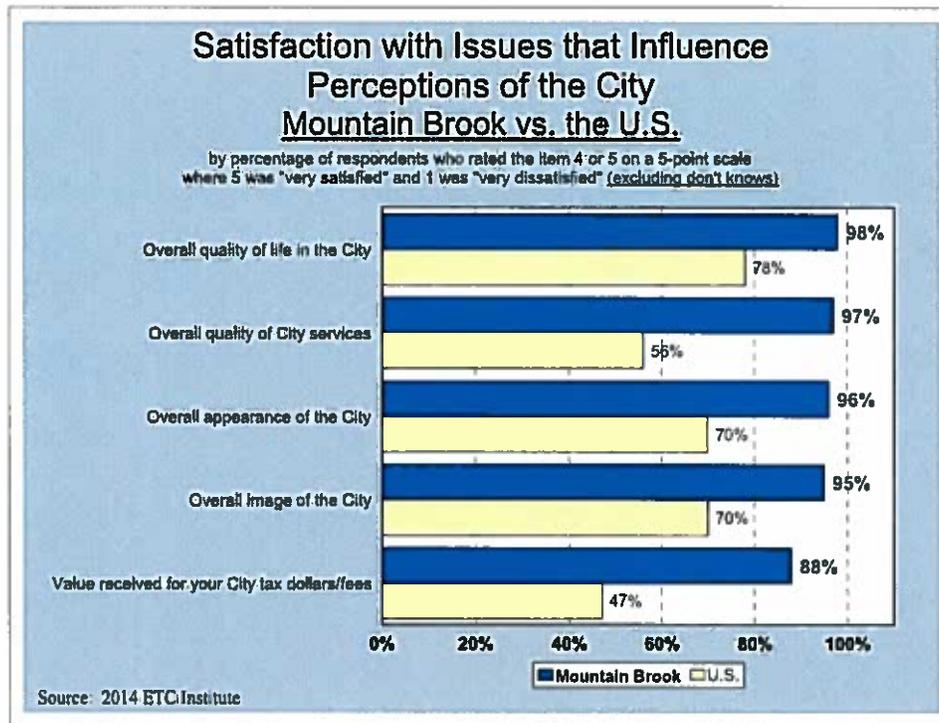
Overall Satisfaction with Major City Services Mountain Brook vs. the U.S.

by percentage of respondents who rated the item 4 or 5 on a 5-point scale where 5 was "very satisfied" and 1 was "very dissatisfied" (excluding don't knows)

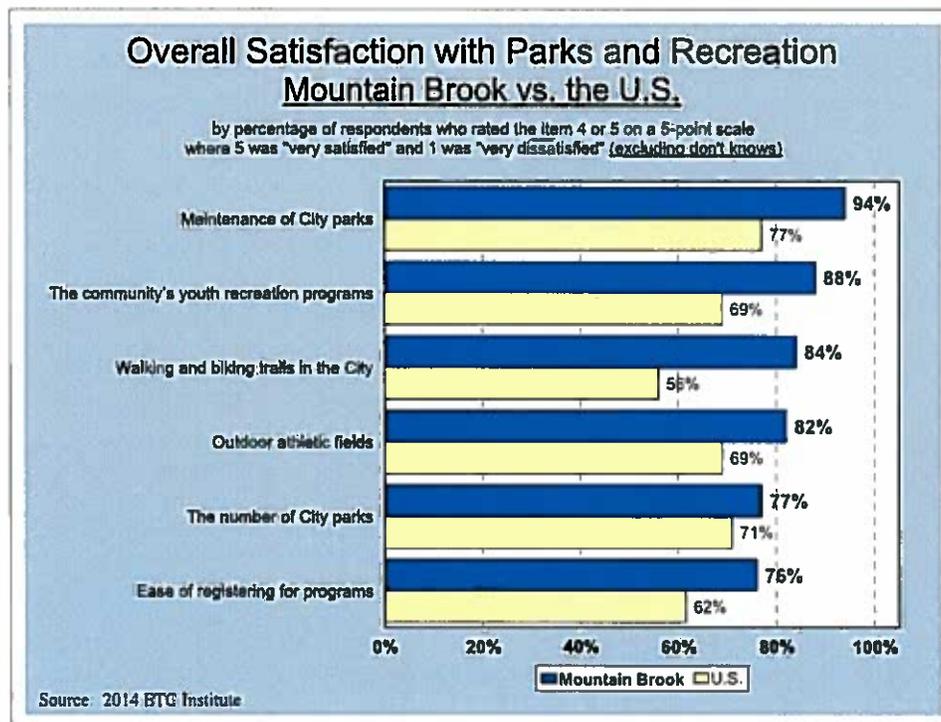


Source: 2014 ETC Institute

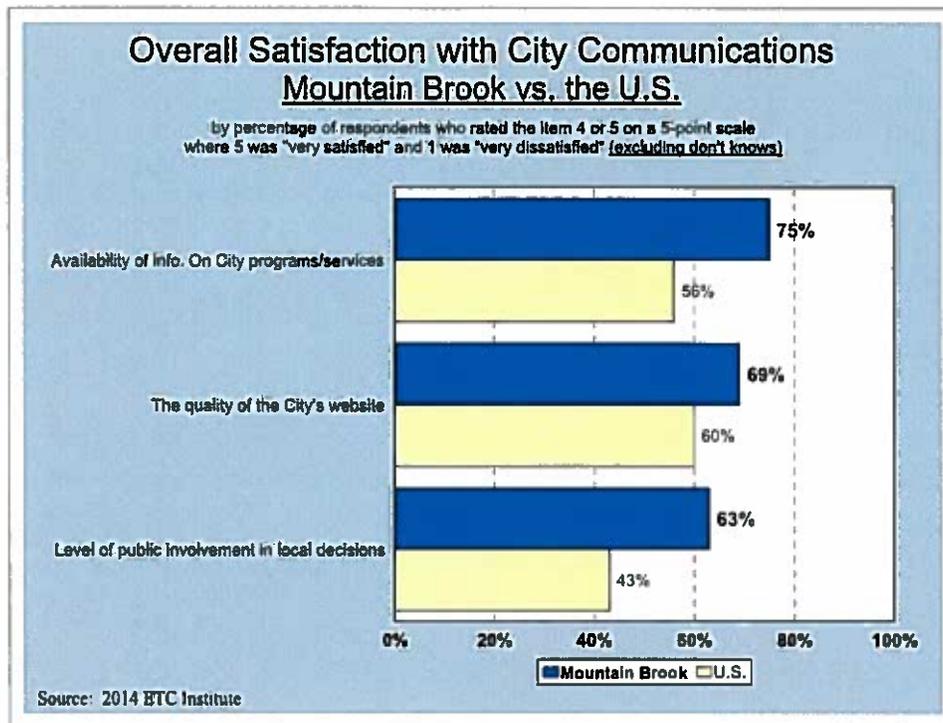
City of Mountain Brook 2014 Citizen Survey



City of Mountain Brook 2014 Citizen Survey

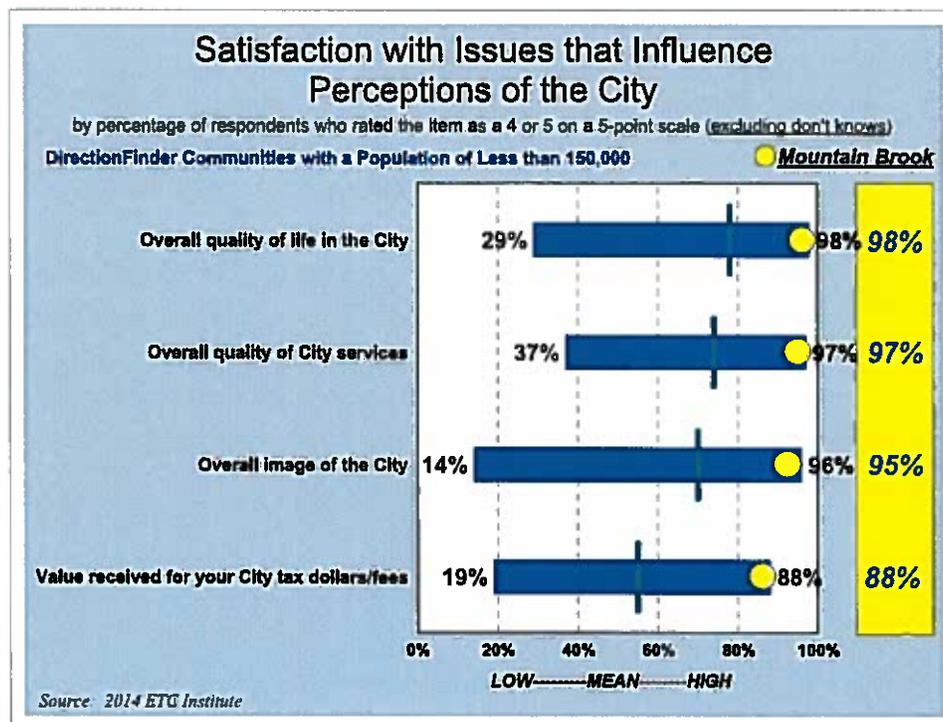
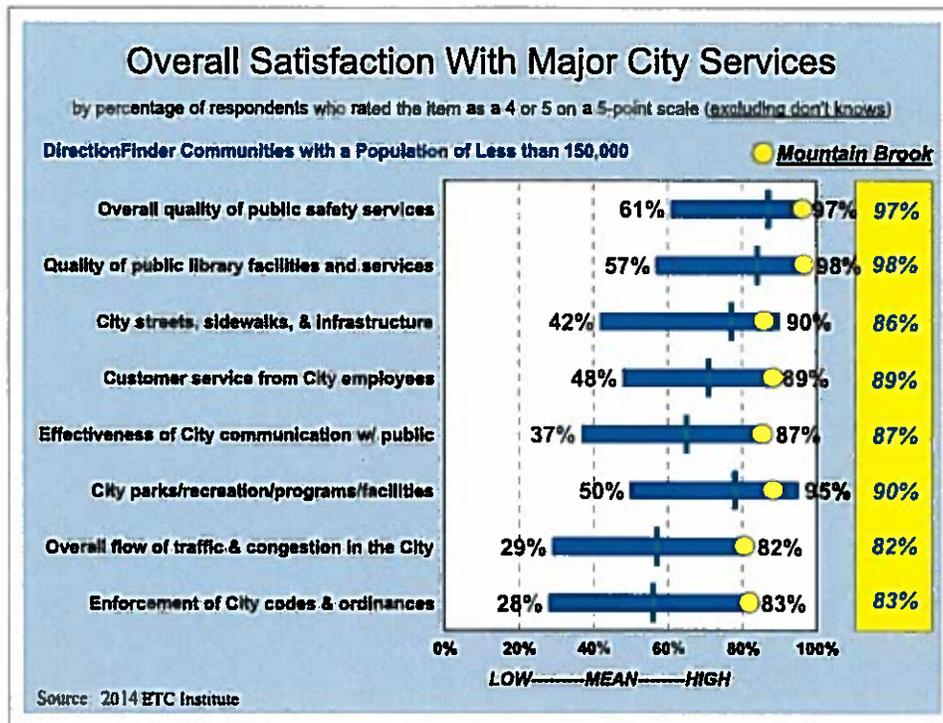


City of Mountain Brook 2014 Citizen Survey

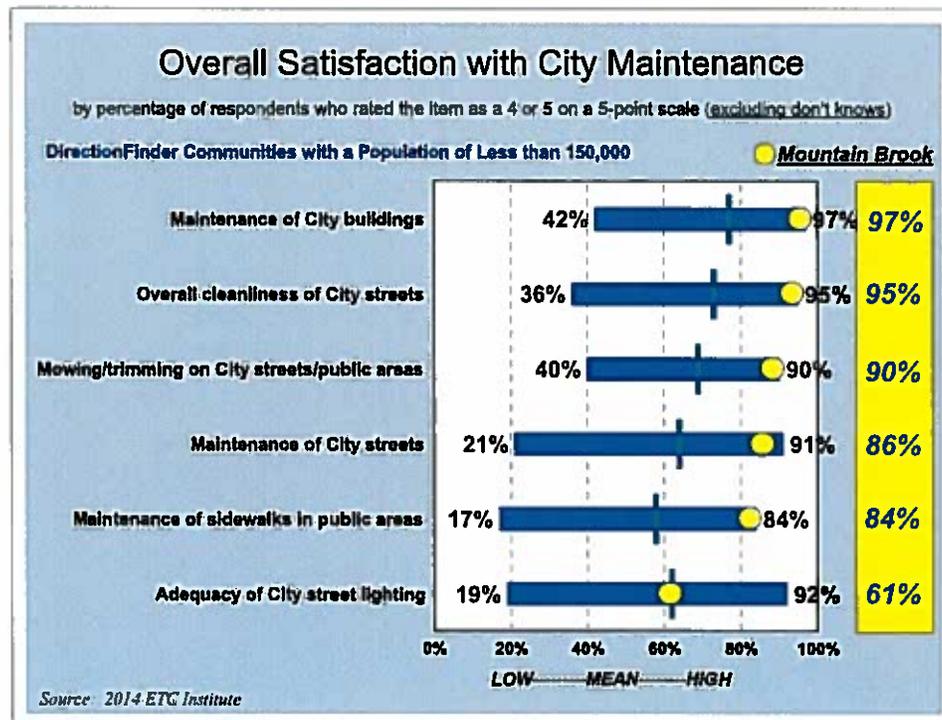
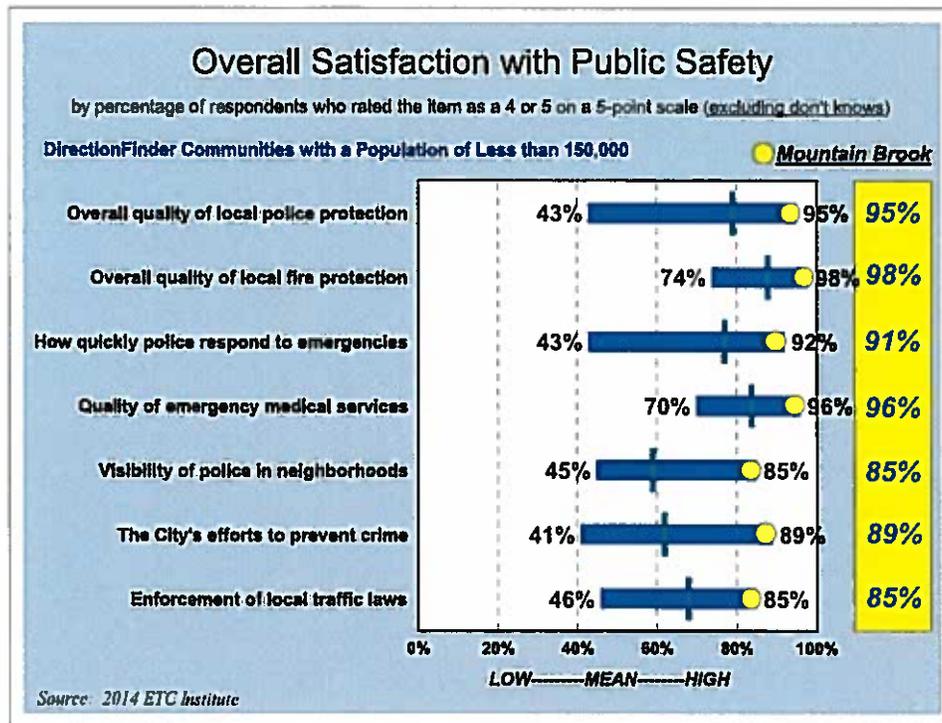


Performance Ranges

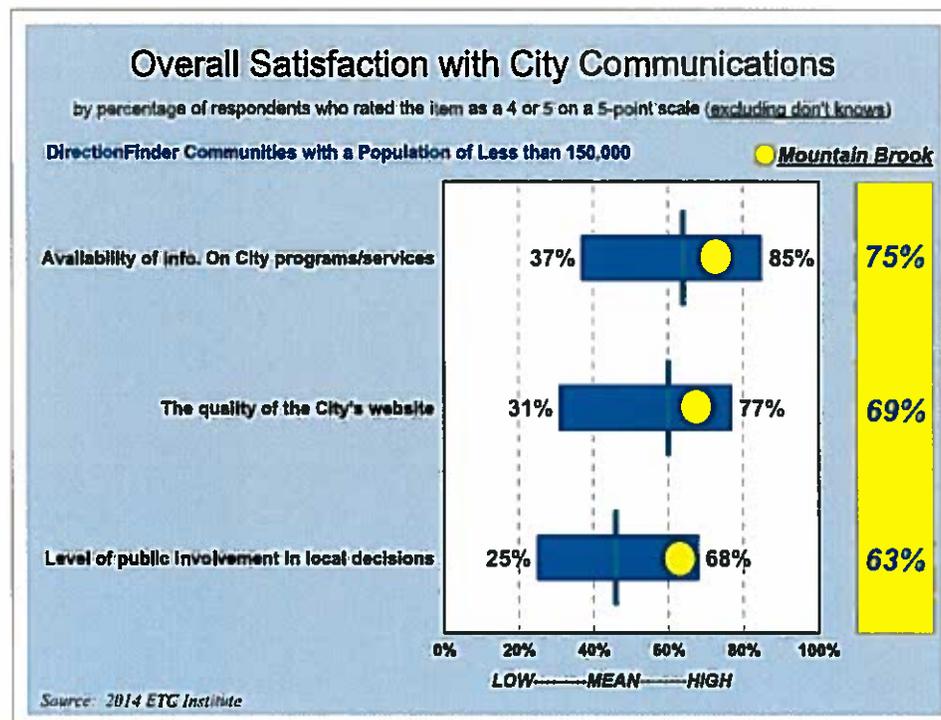
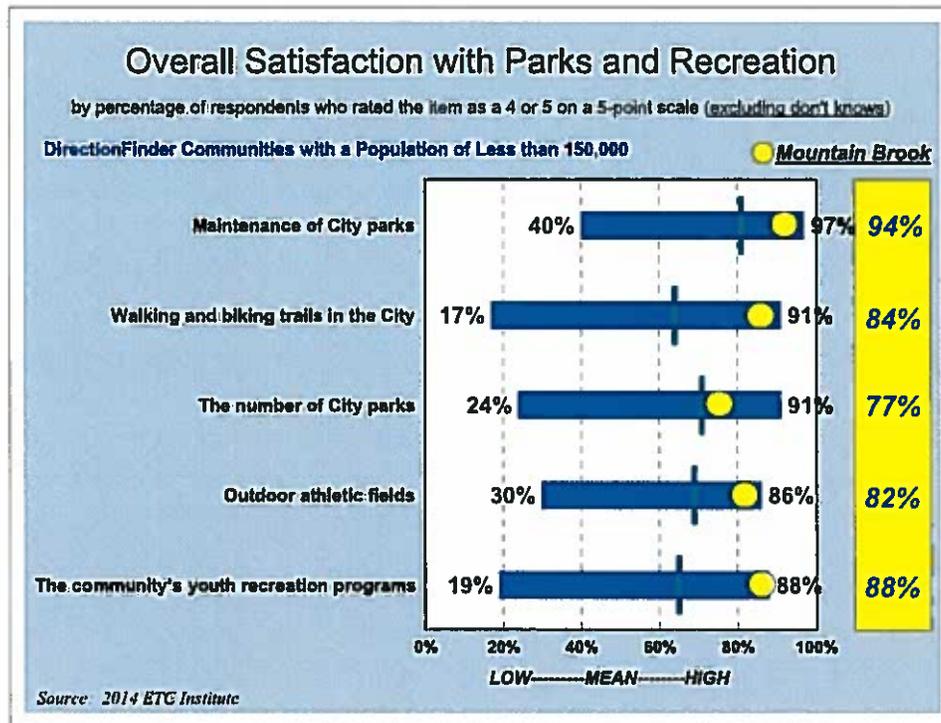
City of Mountain Brook 2014 Citizen Survey



City of Mountain Brook 2014 Citizen Survey



City of Mountain Brook 2014 Citizen Survey





City of Mountain Brook *2014 Citizen Survey* *Findings*

Presented by



April 2014



Agenda

- **Purpose and Methodology**
- **Bottom Line Upfront**
- **Major Findings**
- **Summary and Conclusions**
- **Questions**

A National Leader in Market Research for Local Governmental Organizations

**...helping city and county governments gather and use survey data to enhance
organizational performance for more than 30 years**



**More than 1,850,000 Persons Surveyed Since 2006 for
more than 700 cities in 49 States**

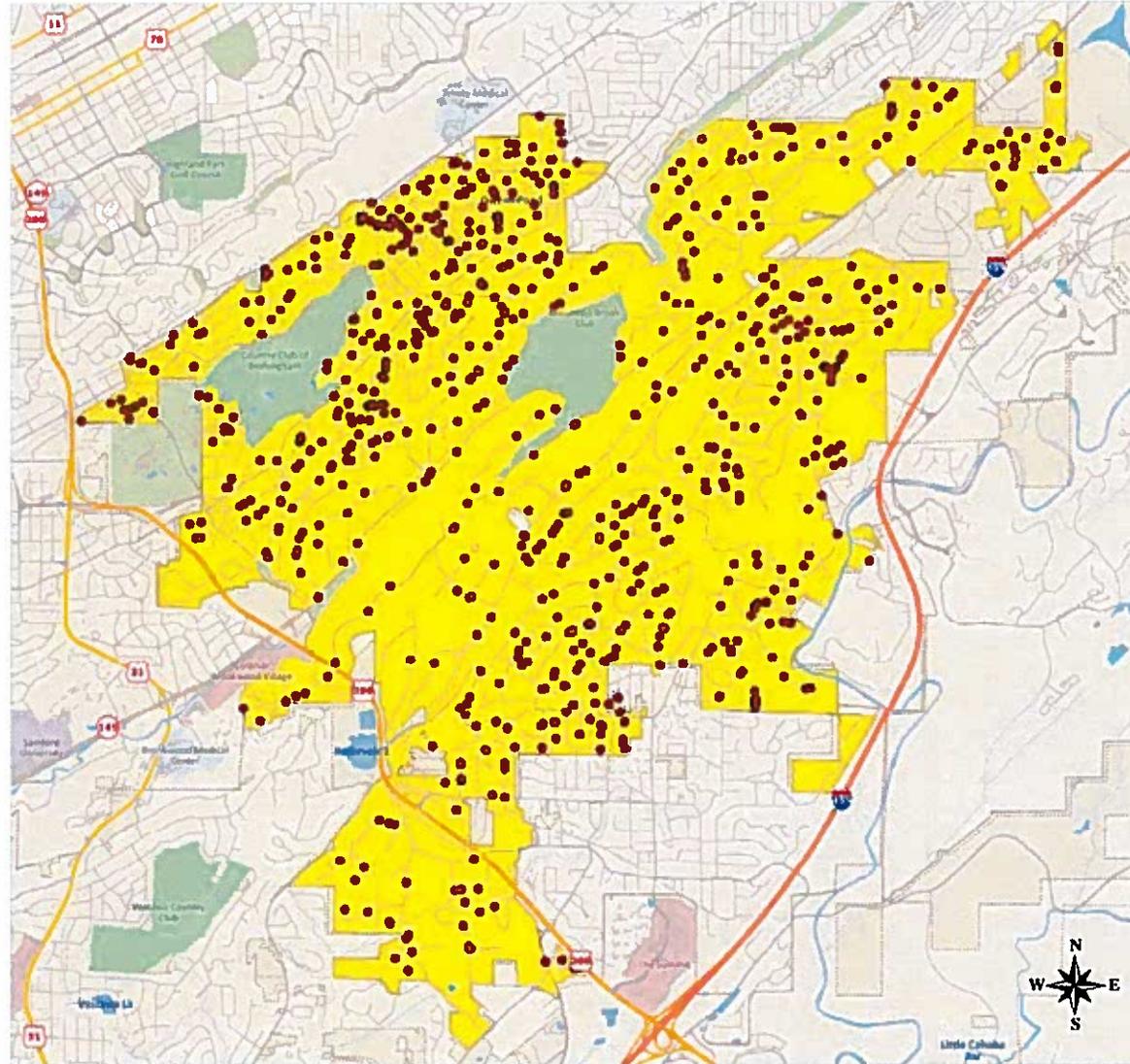
Purpose

- **To objectively assess citizen satisfaction with the delivery of City services**
- **To set a baseline for future surveys**
- **To help determine priorities for the community so that tax dollars are spent wisely**
- **To compare Mountain Brook's performance with other communities across the U.S.**

Methodology

- **Survey Description**
 - ❑ seven-page survey
- **Method of Administration**
 - ❑ by mail, phone and online to a randomly selected sample of households
 - ❑ each survey took approximately 15-20 minutes to complete
- **Sample size:**
 - ❑ goal number of surveys: 400
 - ❑ goal far exceeded: 787 completed surveys
- **Confidence level: 95%**
- **Margin of error: +/- 3.5% overall**

Location of Survey Respondents



City of Mountain Brook 2014 Citizen Survey

Bottom Line Up Front

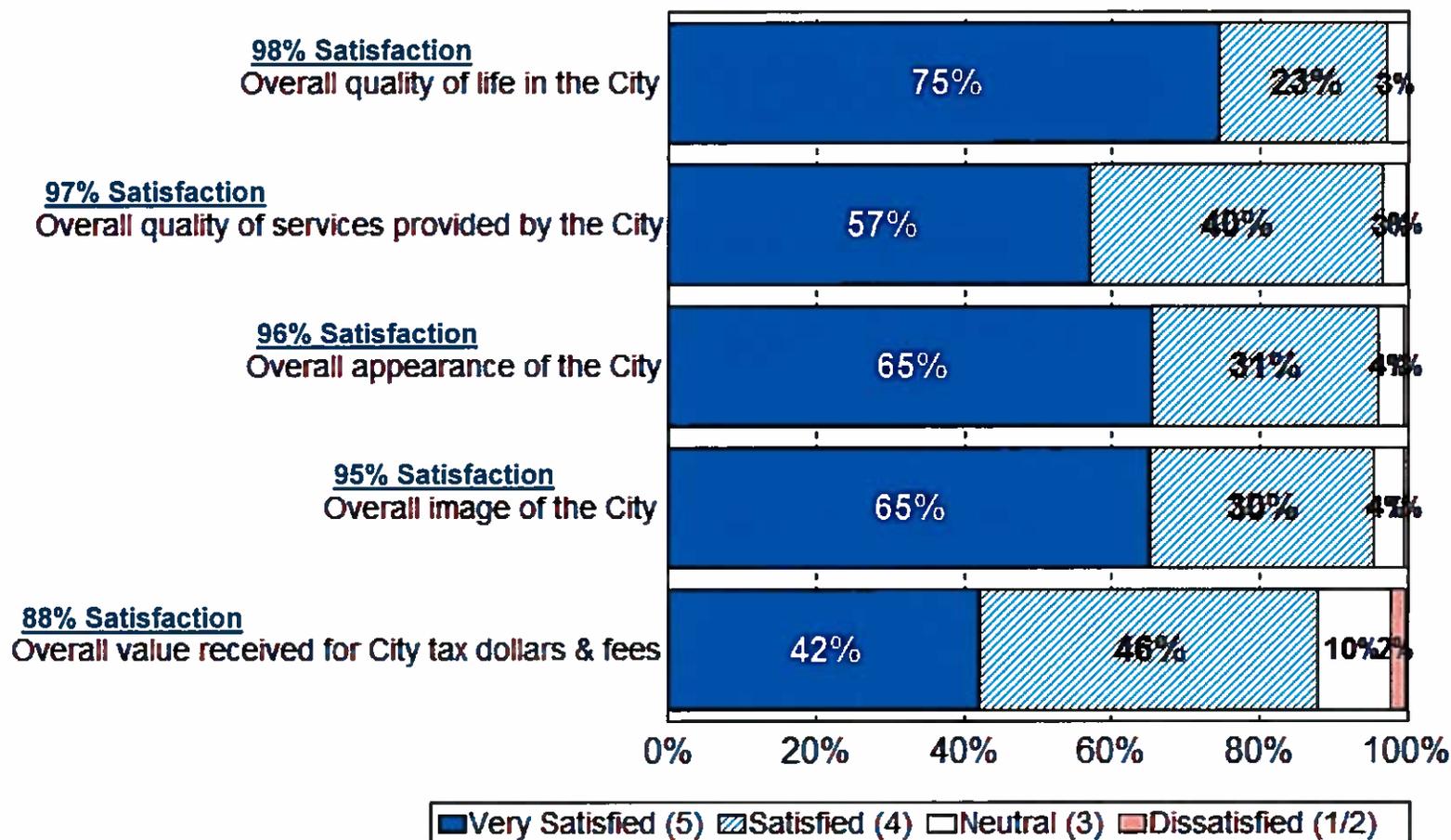
- **Residents have a very positive perception of the City**
- **Mountain Brook is setting the standard for service delivery among other U.S. cities**
 - Overall satisfaction with City services rated 41% above the national average
 - The City rated at or above the national average in 37 of the 38 areas that were compared
- **The City's priorities are closely aligned with the expectations of residents.**
- **The management of traffic flow and congestion and the maintenance of City streets and facilities should be high priorities over the next two years.**

Major Finding #1

Residents Have a Very Positive Perception of the City

Q3. Satisfaction With Items That Influence the Perception Residents Have of the City

by percentage of respondents who rated the item as a 1 to 5 on a 5-point scale (excluding don't knows)

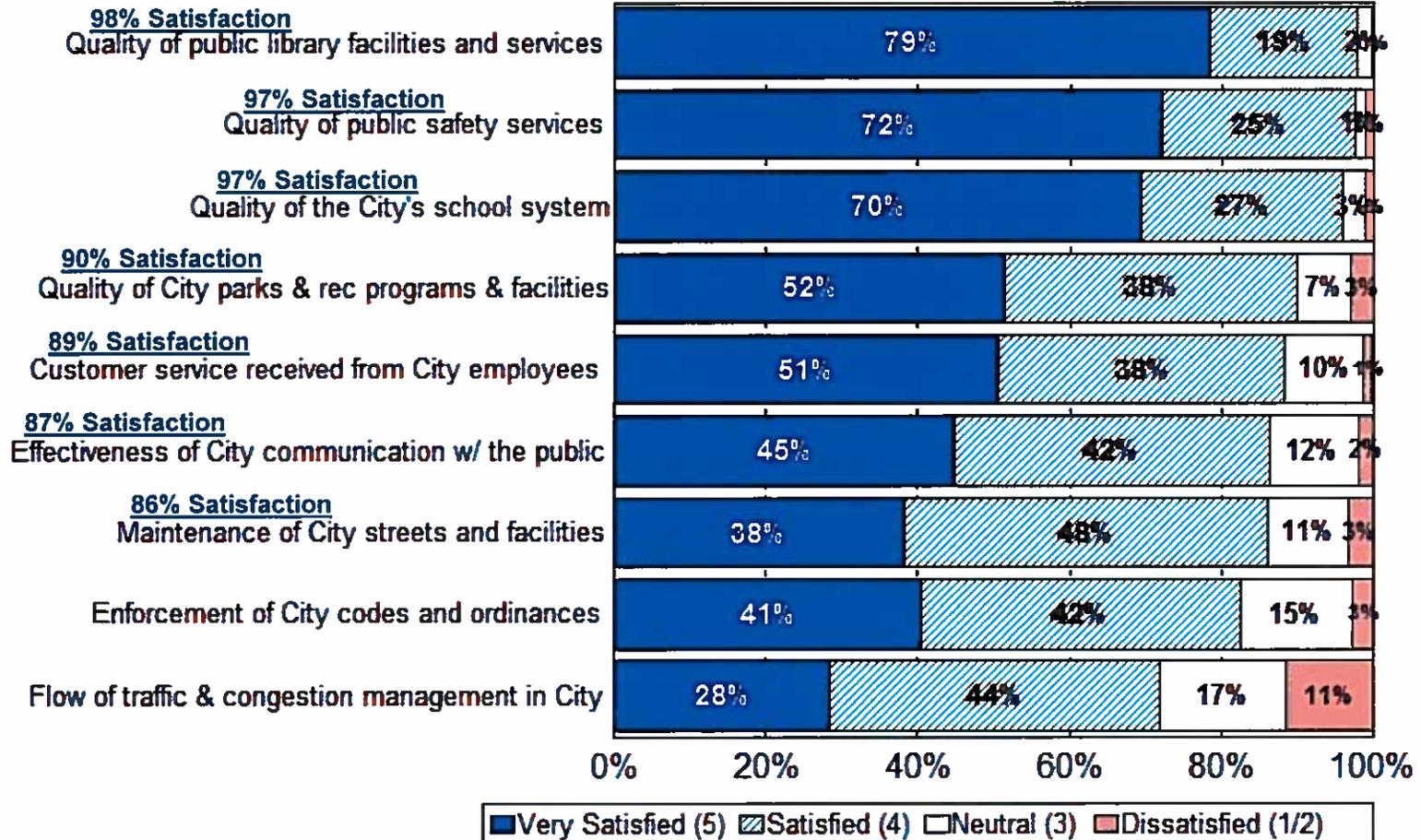


Source: 2014 ETC Institute

Most Residents Feel Good About the Quality of Life in Mountain Brook

Q1. Overall Satisfaction with City Services by Major Category

by percentage of respondents who rated the item as a 1 to 5 on a 5-point scale (excluding don't knows)



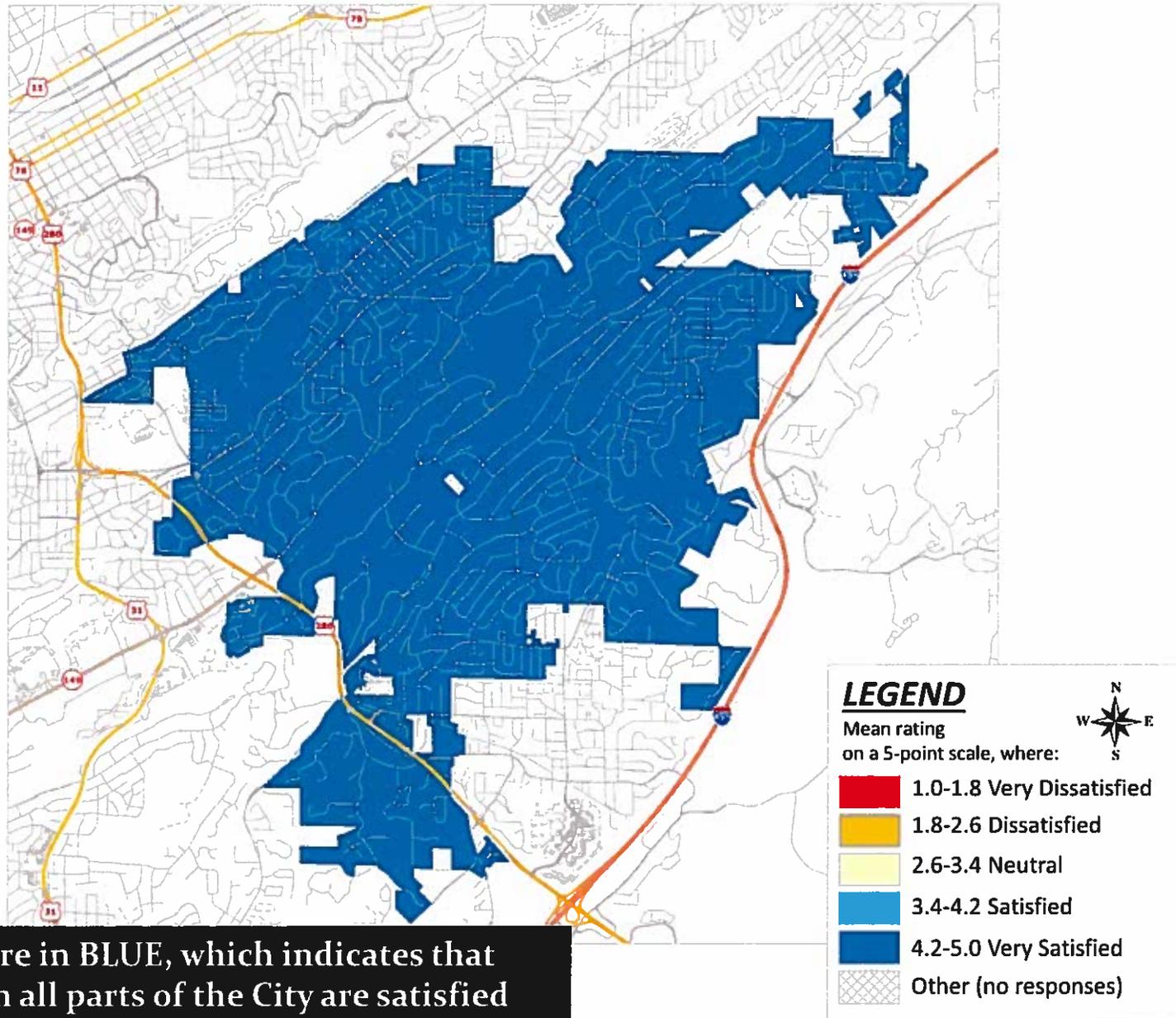
Source: 2014 ETC Institute

11% or Less of the Residents Surveyed Were Dissatisfied With Any of the Overall City Services Rated

Major Finding #2

**Overall Satisfaction is High
in ALL Areas of the City**

Q3a. Satisfaction with the Overall Quality of City Services Provided



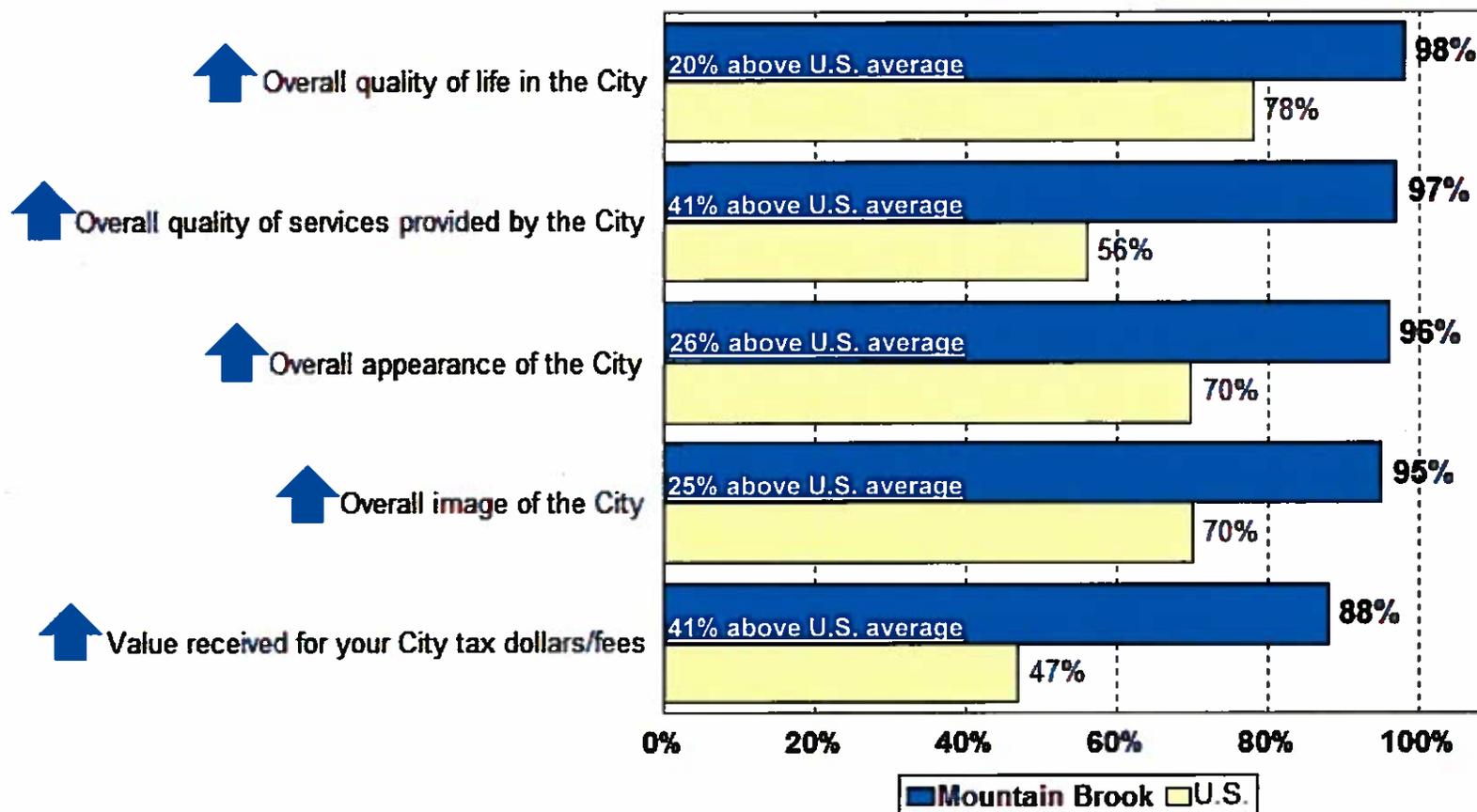
All areas are in BLUE, which indicates that residents in all parts of the City are satisfied

Major Finding #3

**Satisfaction Levels in the
City of Mountain Brook Are
Significantly Higher than Most
National Averages**

Satisfaction with Issues that Influence Perceptions of the City Mountain Brook vs. the U.S.

by percentage of respondents who rated the item 4 or 5 on a 5-point scale where 5 was "very satisfied" and 1 was "very dissatisfied" (excluding don't knows)



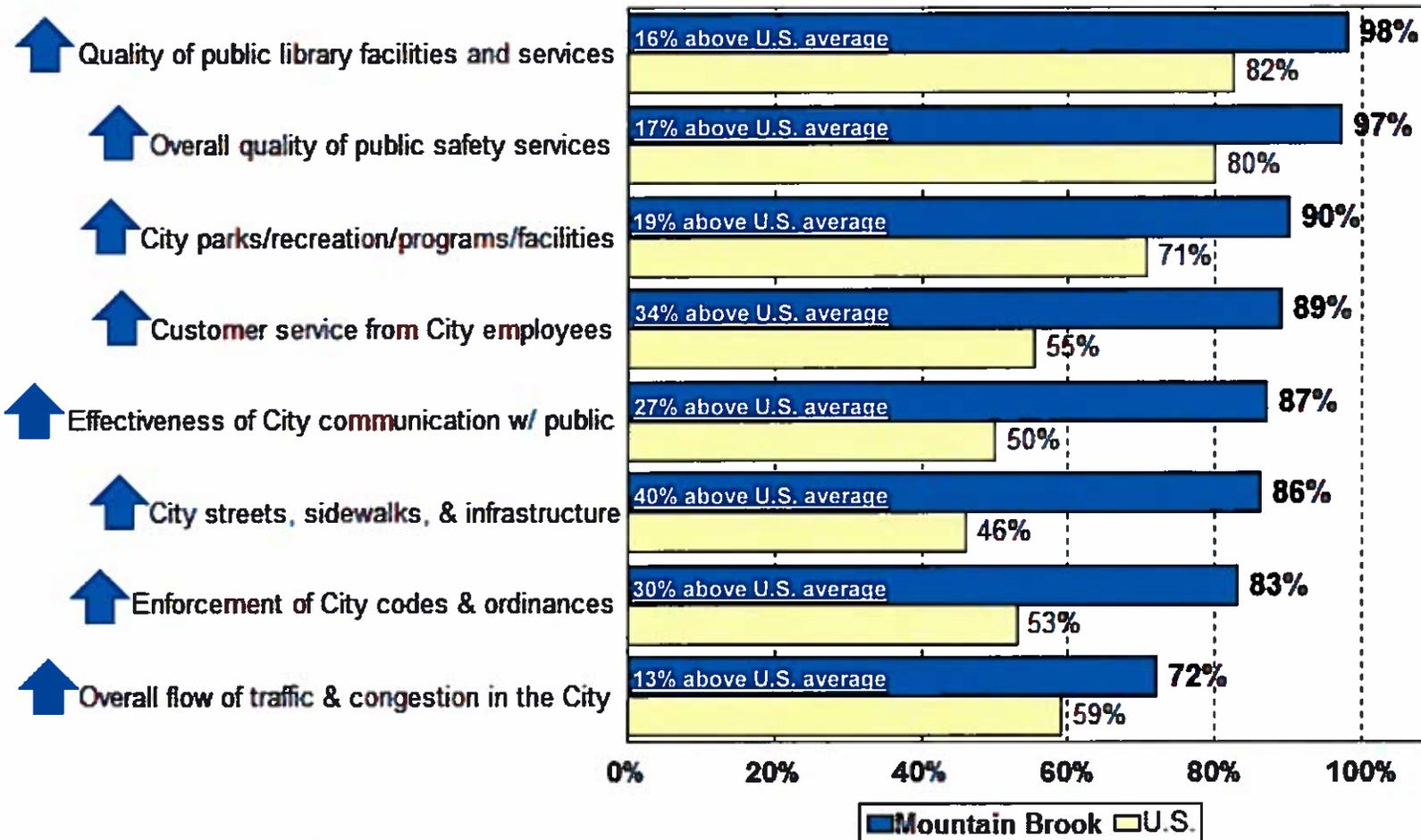
Source: 2014 ETC Institute

Significantly Higher: ↑

Significantly Lower: ↓

Overall Satisfaction with Major City Services Mountain Brook vs. the U.S.

by percentage of respondents who rated the item 4 or 5 on a 5-point scale where 5 was "very satisfied" and 1 was "very dissatisfied" (excluding don't knows)



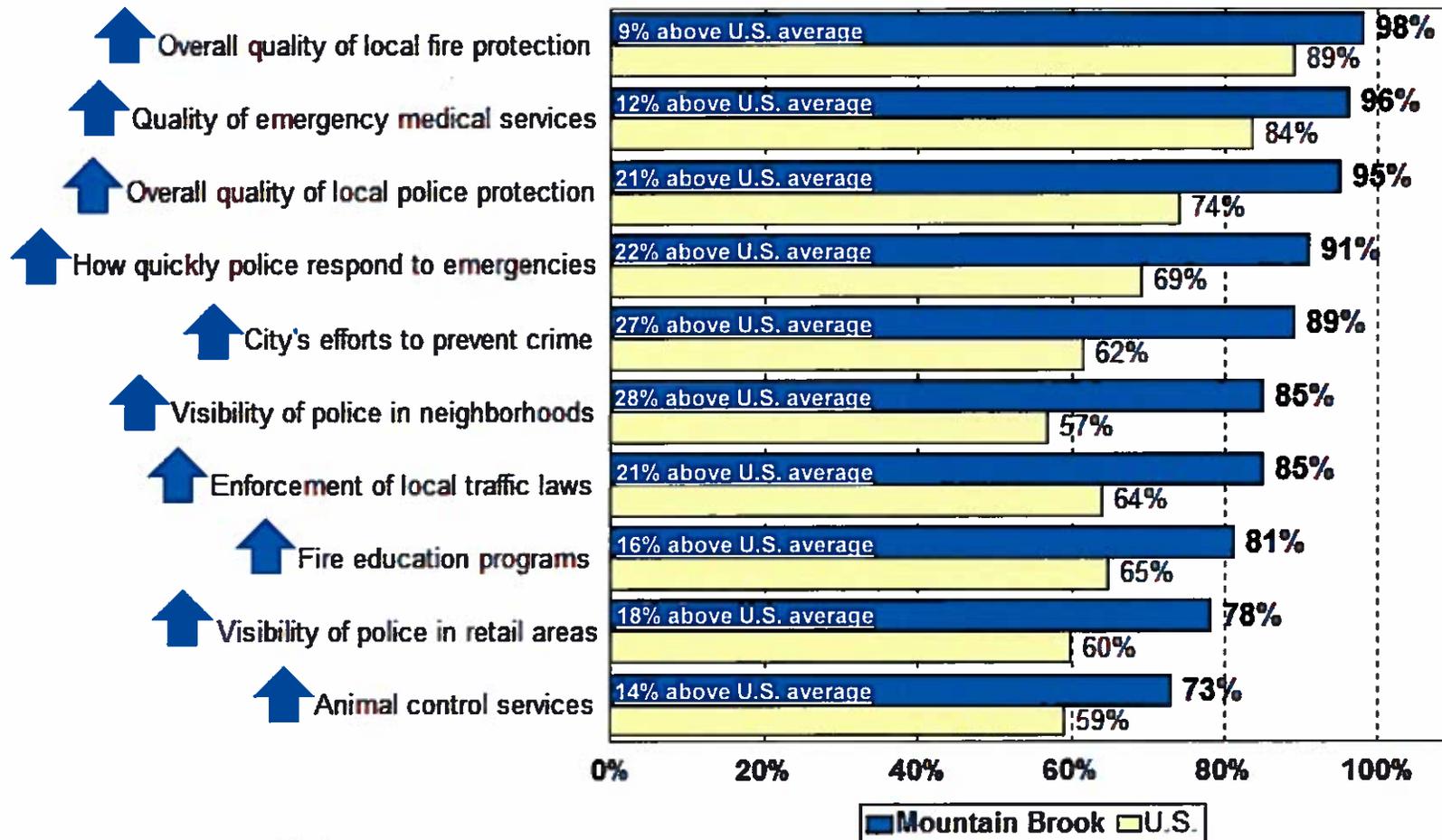
Source: 2014 ETC Institute

Significantly Higher:

Significantly Lower:

Overall Satisfaction with Public Safety Mountain Brook vs. the U.S.

by percentage of respondents who rated the item 4 or 5 on a 5-point scale where 5 was "very satisfied" and 1 was "very dissatisfied" (excluding don't knows)



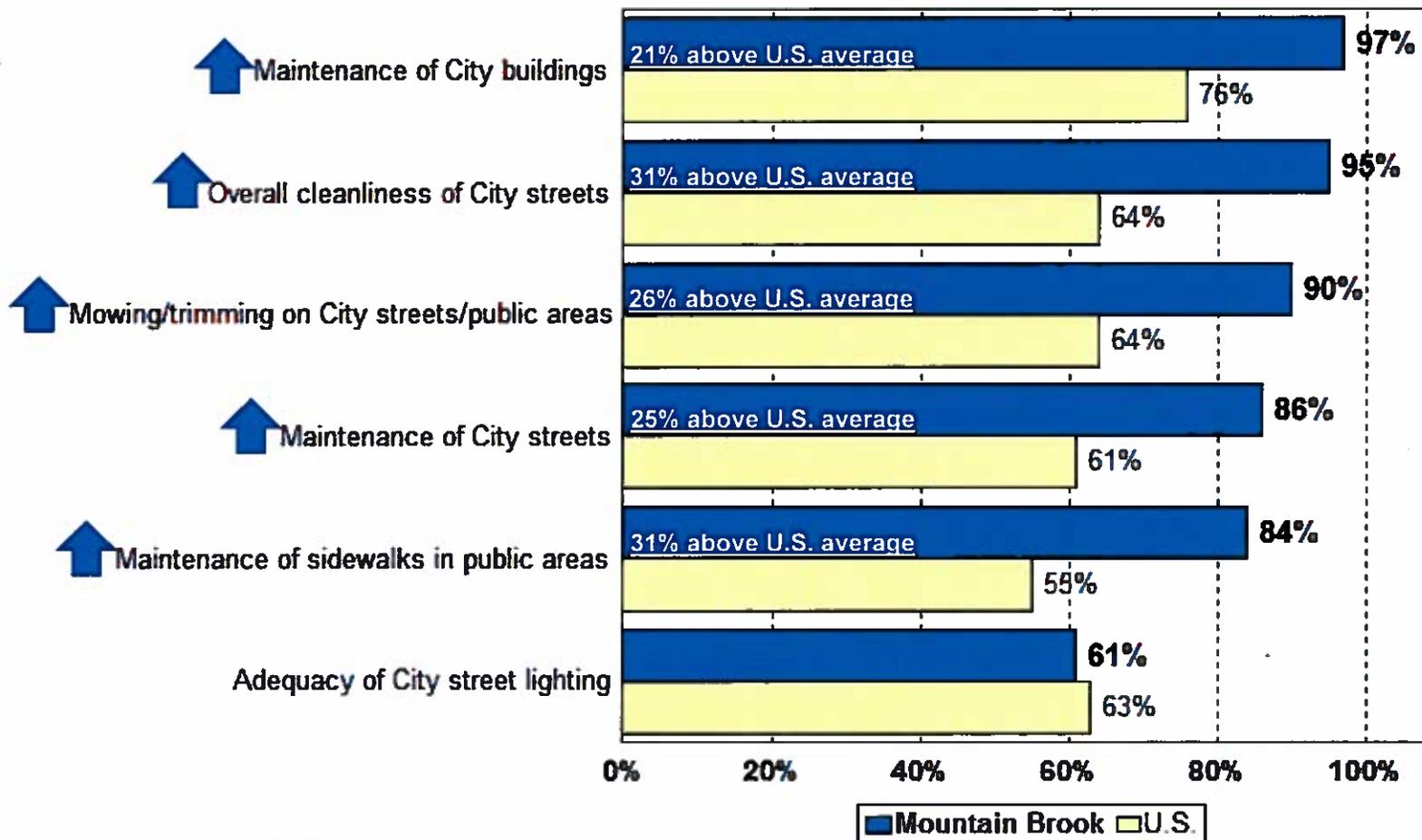
Source: 2014 ETC Institute

Significantly Higher: ↑

Significantly Lower: ↓

Overall Satisfaction with City Maintenance Mountain Brook vs. the U.S.

by percentage of respondents who rated the item 4 or 5 on a 5-point scale where 5 was "very satisfied" and 1 was "very dissatisfied" (excluding don't knows)



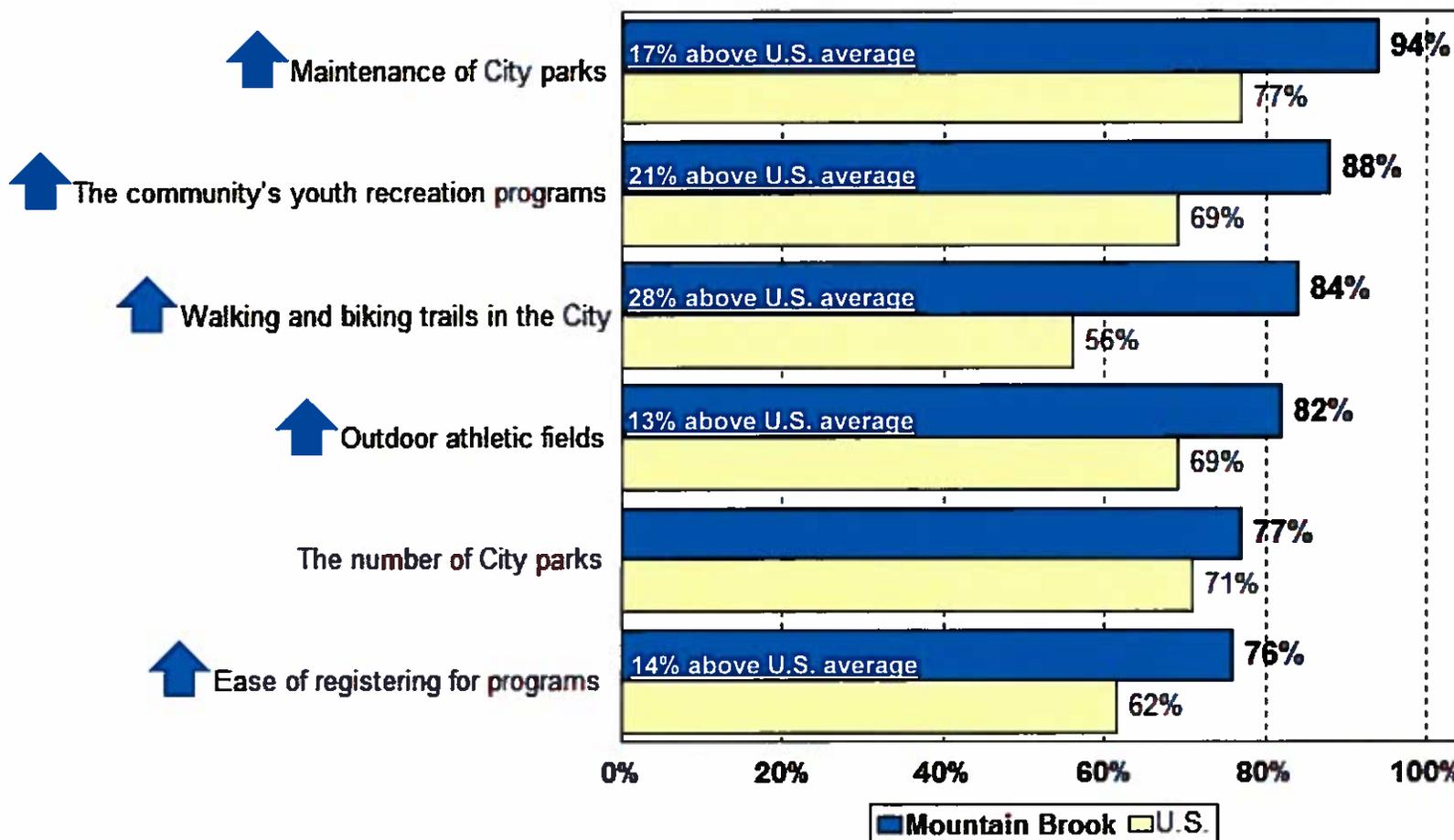
Source: 2014 ETC Institute

Significantly Higher: ↑

Significantly Lower: ↓

Overall Satisfaction with Parks and Recreation Mountain Brook vs. the U.S.

by percentage of respondents who rated the item 4 or 5 on a 5-point scale where 5 was "very satisfied" and 1 was "very dissatisfied" (excluding don't knows)



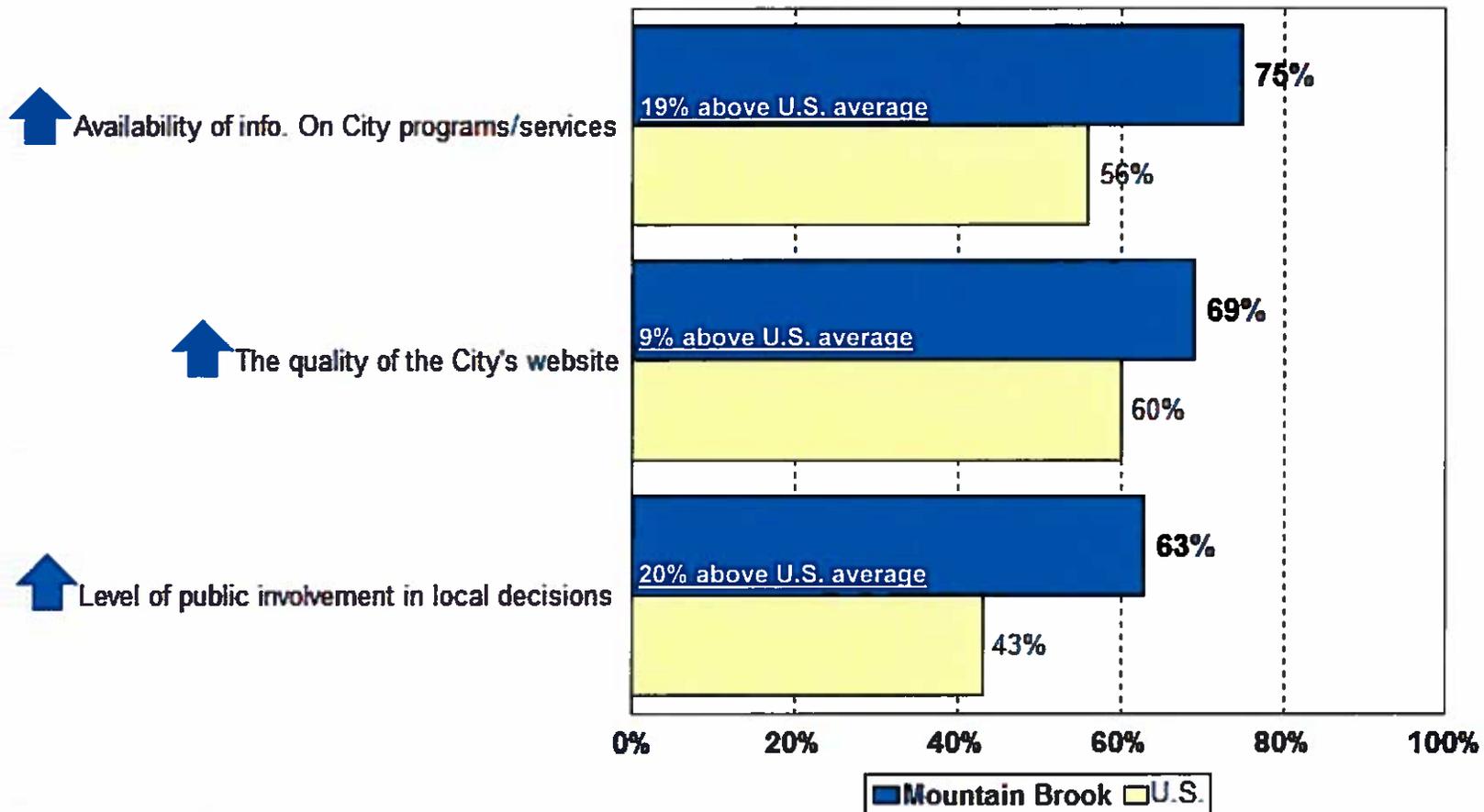
Source: 2014 ETC Institute

Significantly Higher:

Significantly Lower:

Overall Satisfaction with City Communications Mountain Brook vs. the U.S.

by percentage of respondents who rated the item 4 or 5 on a 5-point scale where 5 was "very satisfied" and 1 was "very dissatisfied" (excluding don't knows)



Source: 2014 ETC Institute

Significantly Higher: ↑

Significantly Lower: ↓

Major Finding #4

The management of traffic flow and congestion and the maintenance of City streets and facilities should be the high priorities over the next two years

Importance-Satisfaction Rating

City of Mountain Brook

MAJOR CITY SERVICES

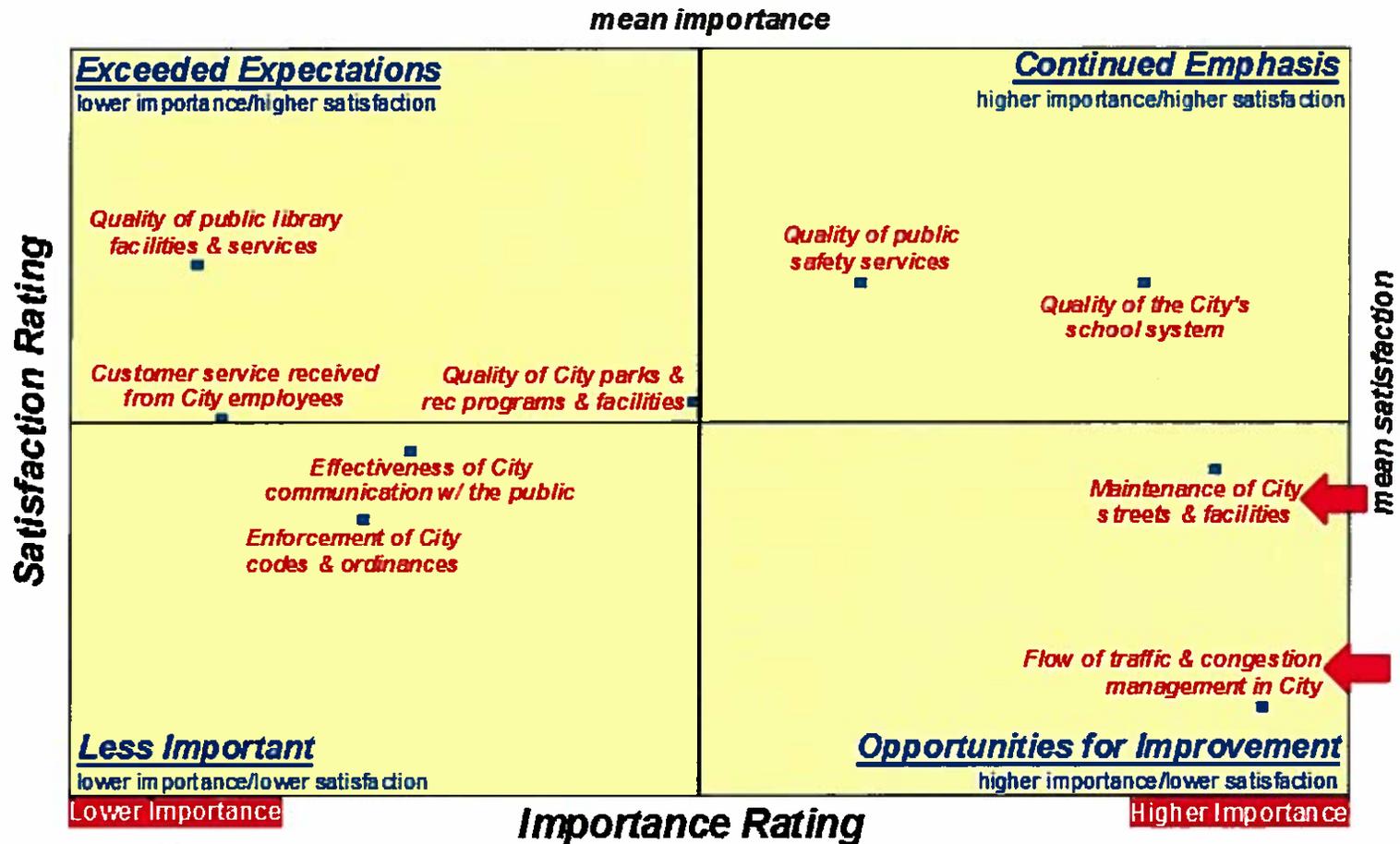
Category of Service	Most Important %	Most Important Rank	Satisfaction %	Satisfaction Rank	Importance-Satisfaction Rating	I-S Rating Rank
<i>High Priority (IS .10-.20)</i>						
Flow of traffic & congestion management in City	51%	1	72%	9	0.1428	1
<i>Medium Priority (IS <.10)</i>						
Maintenance of City streets and facilities	49%	2	86%	7	0.0686	2
Quality of City parks & rec programs & facilities	27%	5	90%	4	0.0270	3
Enforcement of City codes and ordinances	13%	7	83%	8	0.0221	4
Effectiveness of City communication w/ the public	15%	6	87%	6	0.0195	5
Quality of the City's school system	46%	3	97%	2	0.0138	6
Quality of public safety services	34%	4	97%	2	0.0102	7
Customer service received from City employees	7%	8	89%	5	0.0077	8
Quality of public library facilities and services	6%	9	98%	1	0.0012	9

Highest Priorities: 

Mountain Brook 2014 Citizen Survey Importance-Satisfaction Assessment Matrix

-Overall City Services-

(points on the graph show deviations from the mean importance and Satisfaction ratings given by respondents to the survey)



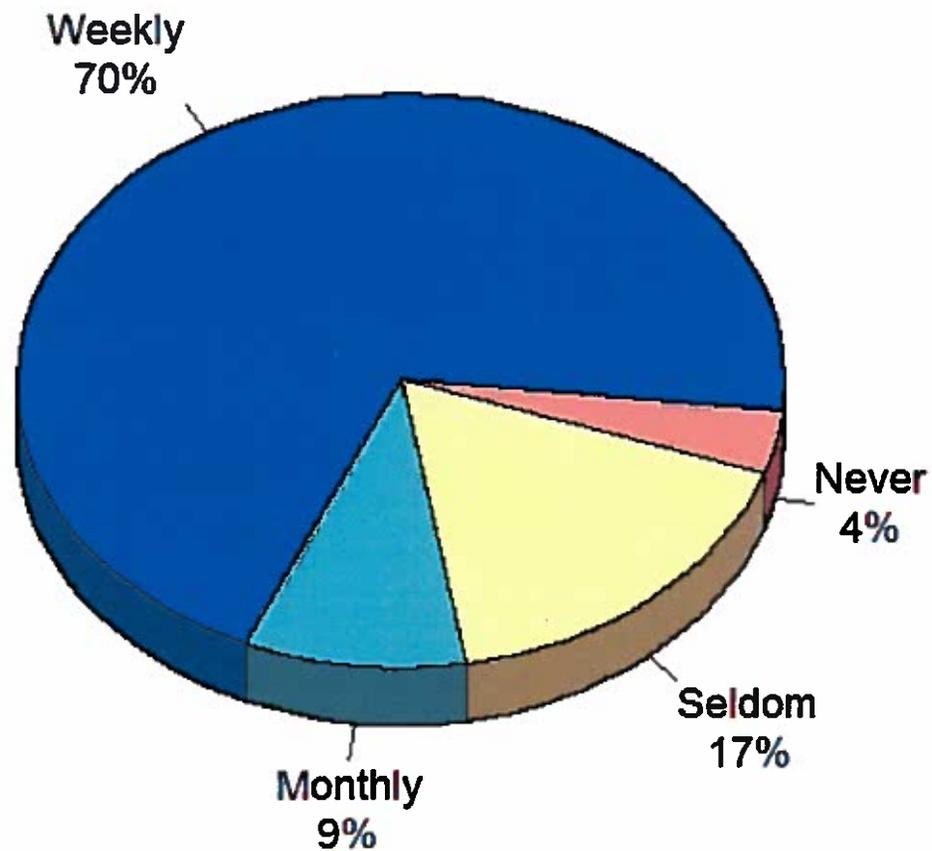
Source: ETC Institute (2014)

Highest Priorities: ←

Other Findings

Q17. How often do you use City sidewalks?

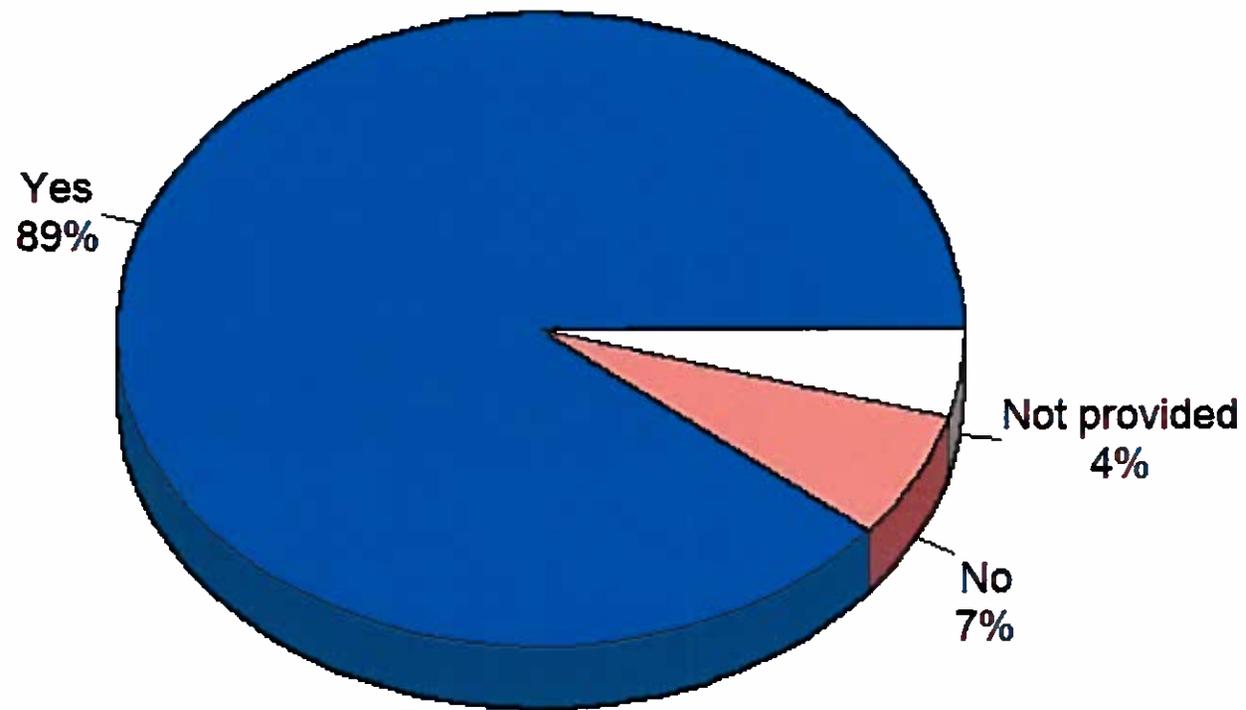
by percentage of respondents



Source: 2014 ETC Institute

Q19. Do you find the City's quarterly newsletter (The Reporter) informative and useful?

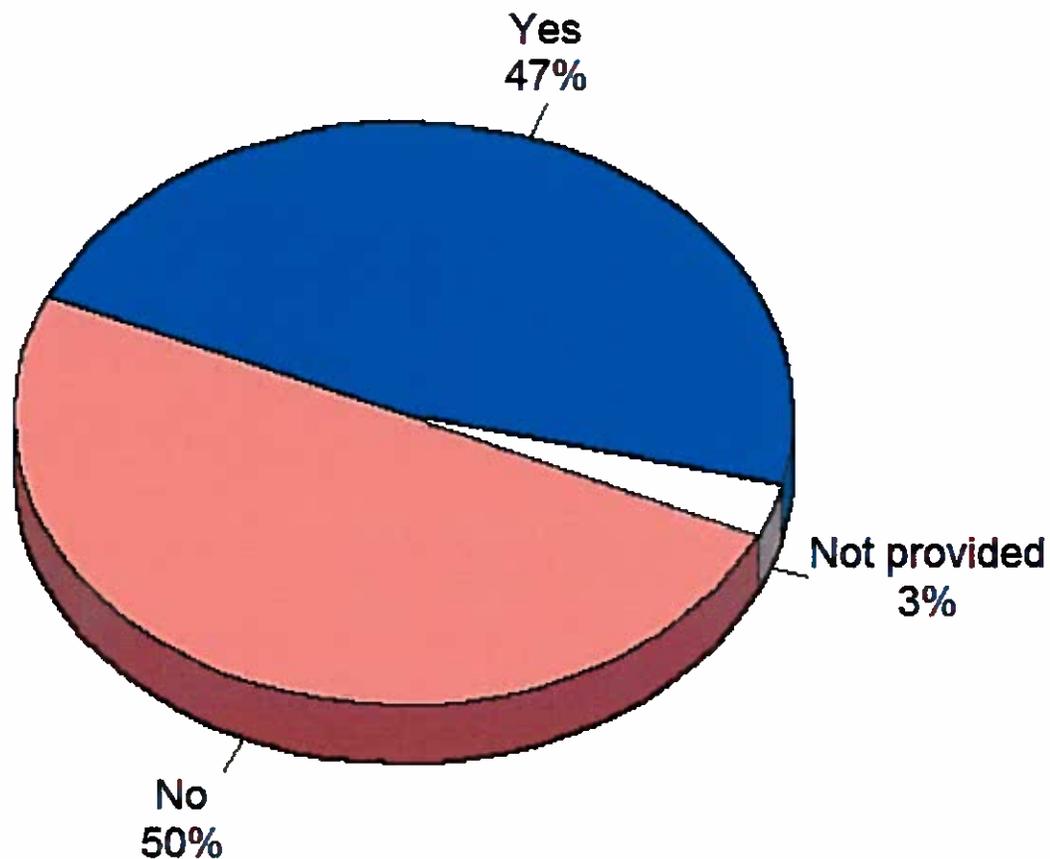
by percentage of respondents



Source: 2014 ETC Institute

Q20. Would you be interested in receiving the City's quarterly newsletter (The Reporter) electronically, either from an email or from the City's website?

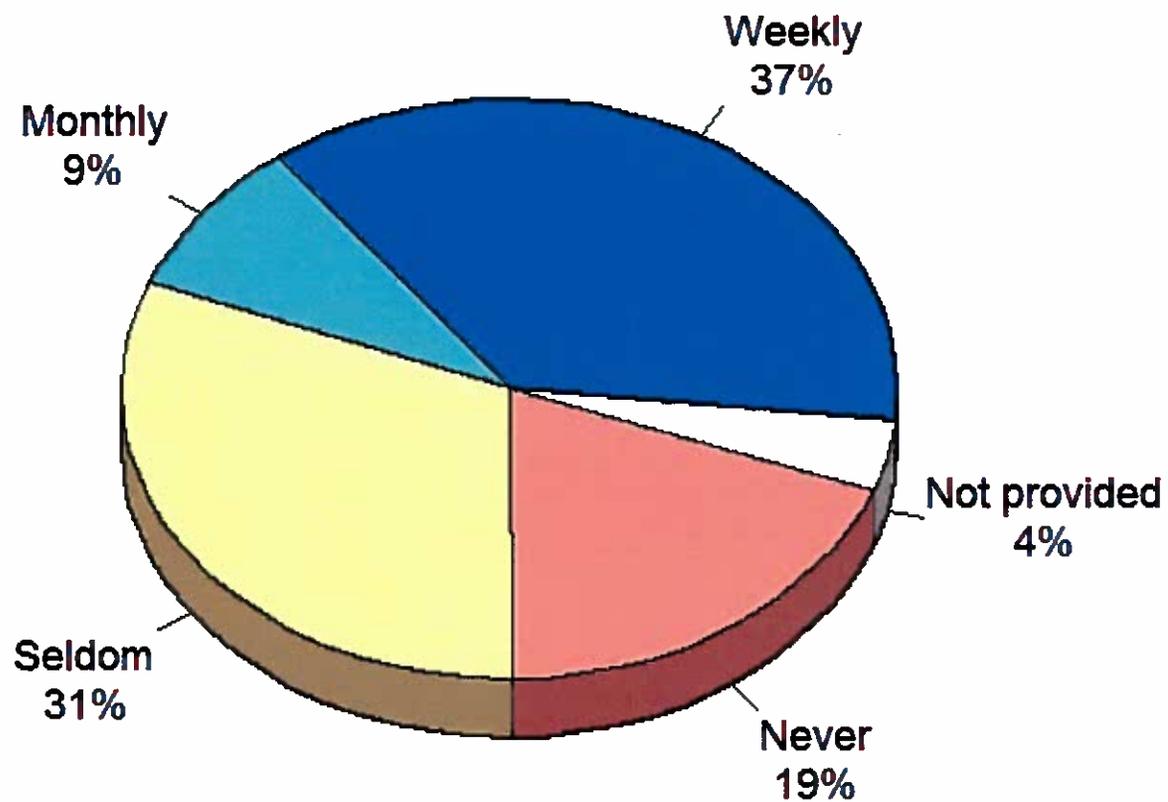
by percentage of respondents



Source: 2014 ETC Institute

Q25. How often do you use public WiFi networks?

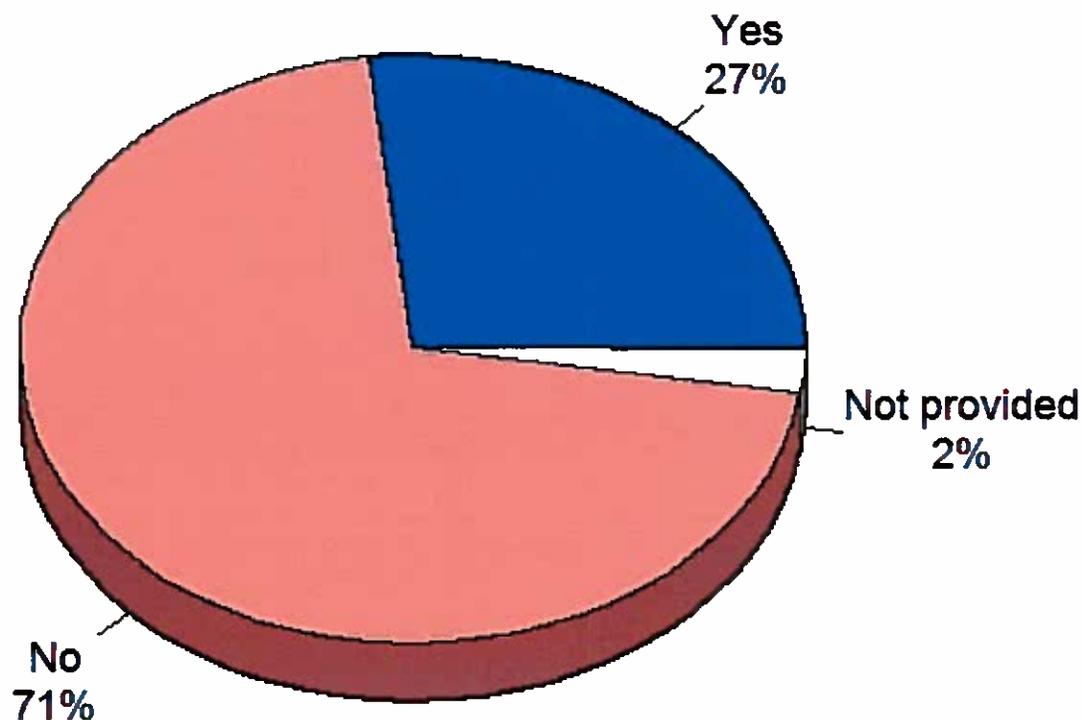
by percentage of respondents



Source: 2014 ETC Institute

Q26. Have you used one of the City's new public WiFi networks (Crestline, Overton Park, MBHS and adjacent Athletic Complex, Library)?

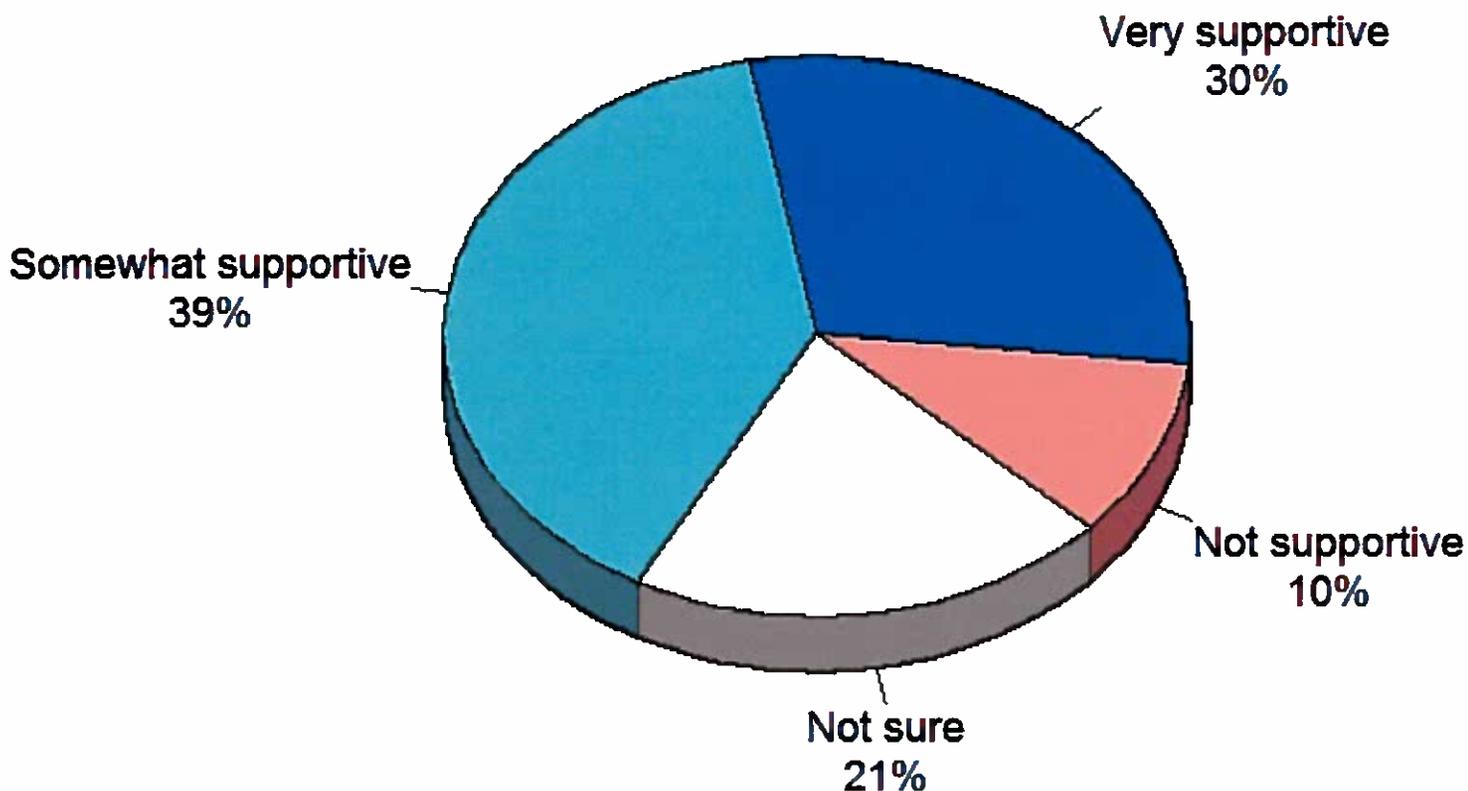
by percentage of respondents



Source: 2014 ETC Institute

Q31. In general, how supportive are you of having the City use incentives to attract businesses?

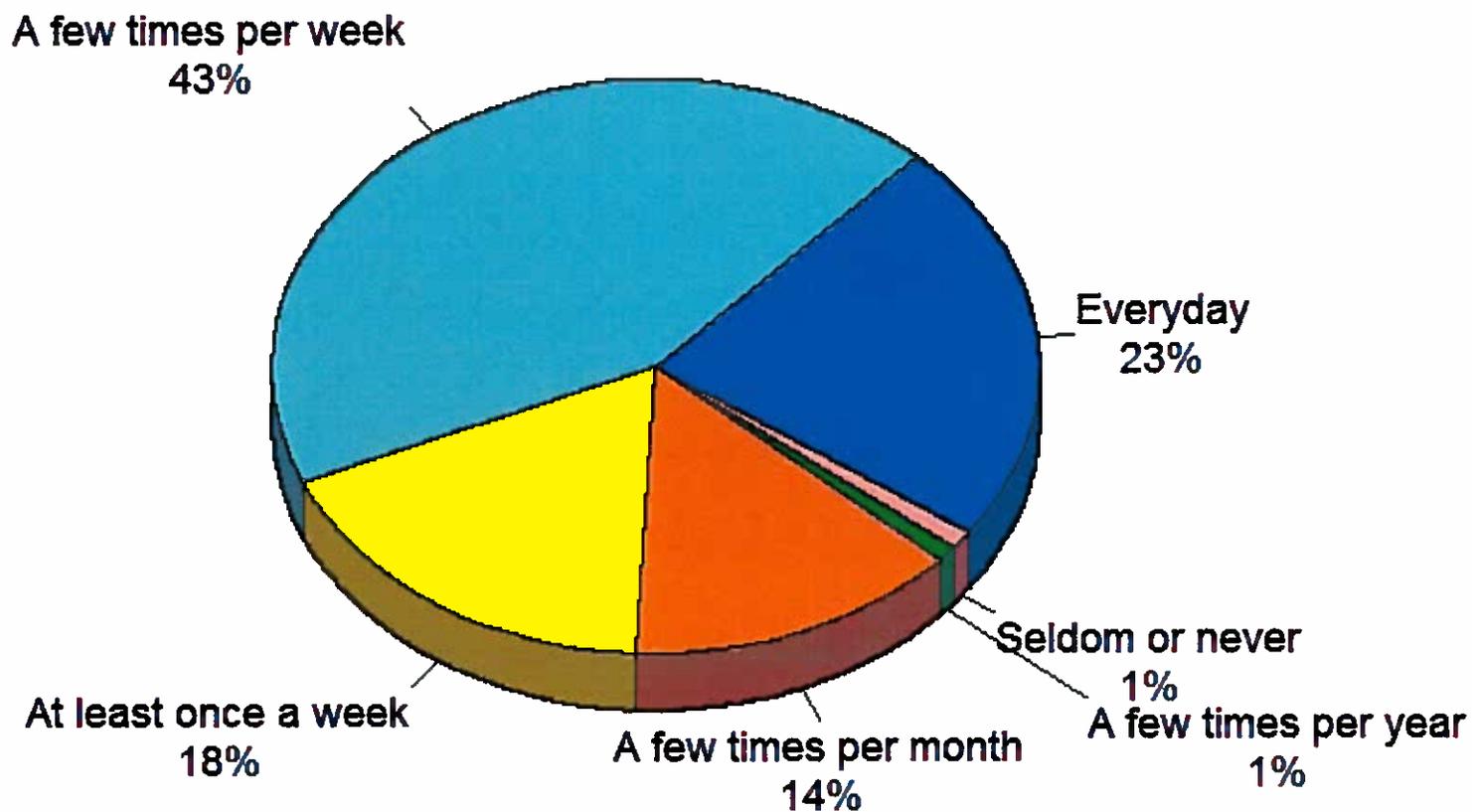
by percentage of respondents



Source: 2014 ETC Institute

Q32. How often do you typically go outside Mountain Brook city limits to shop?

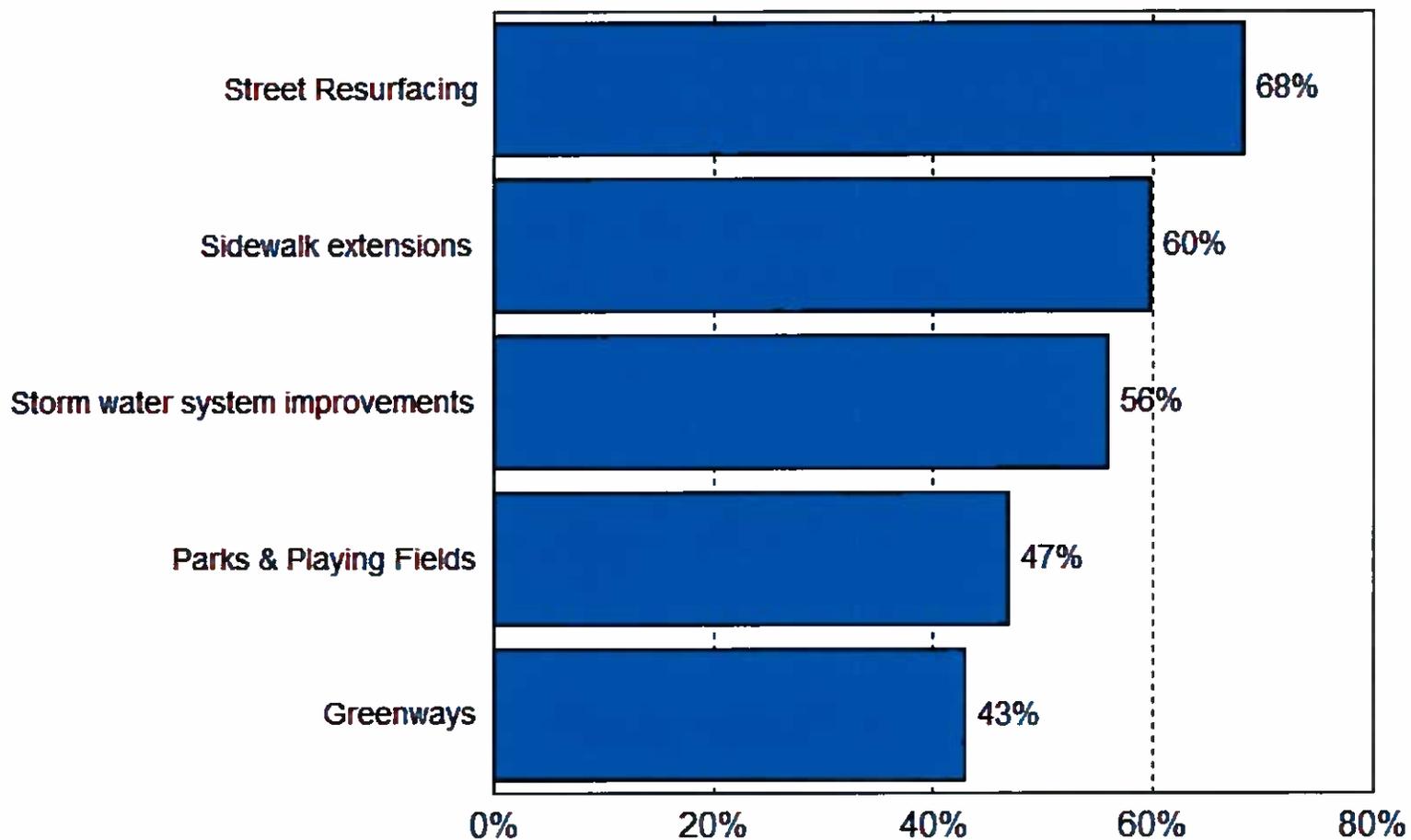
by percentage of respondents



Source: 2014 ETC Institute

Q34. Of these Capital Improvements, which three would you select as the most important?

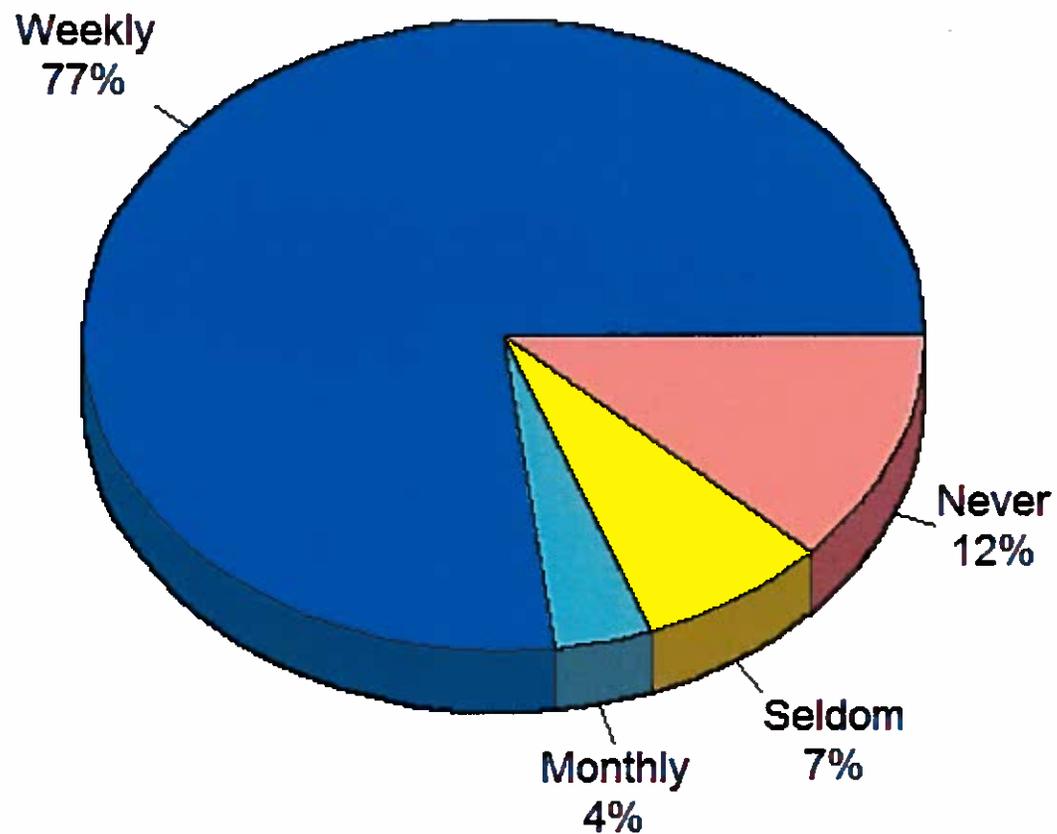
by percentage of respondents (sum of top 3 choices)



Source: 2014 ETC Institute

Q36. How often do you recycle?

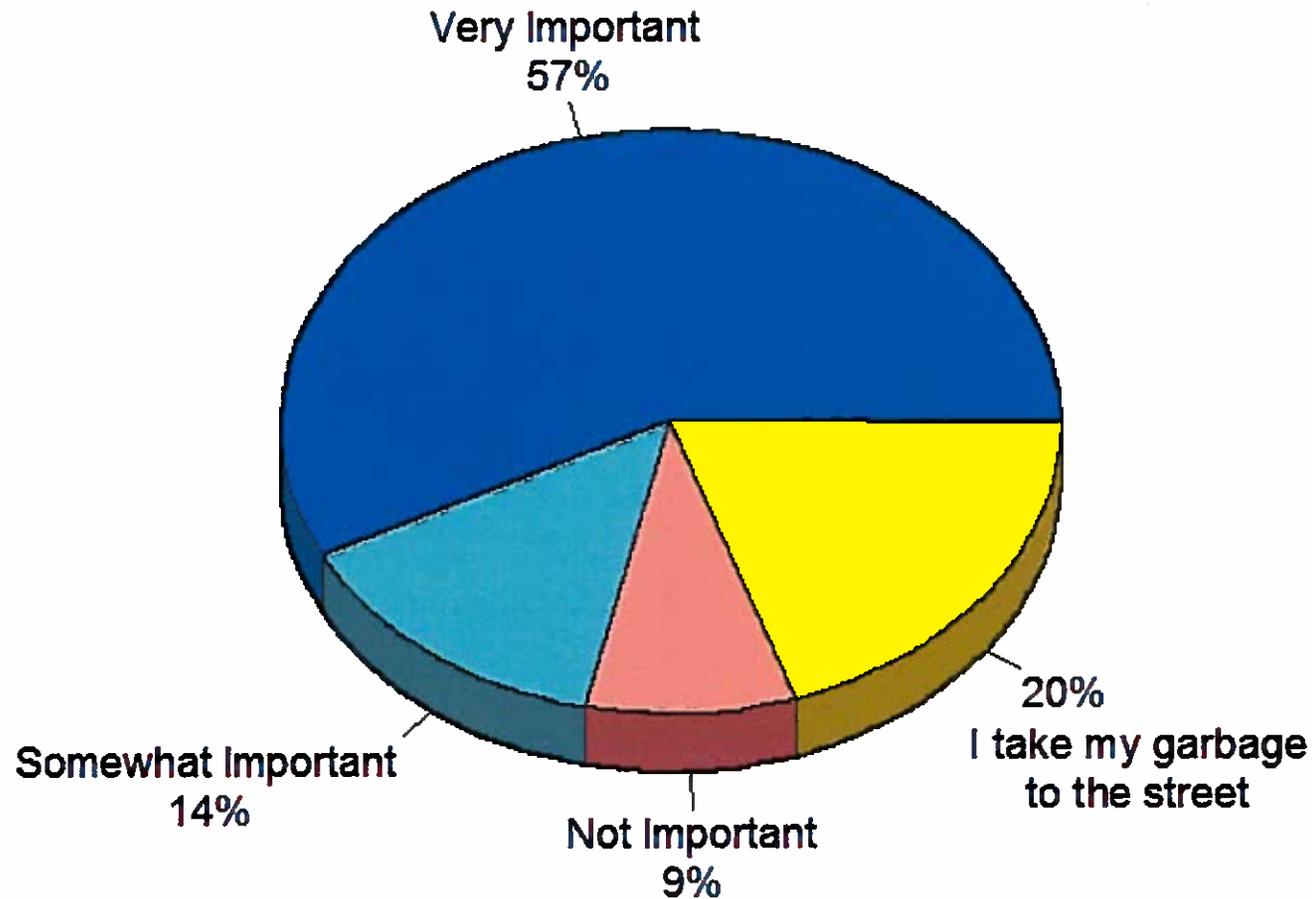
by percentage of respondents



Source: 2014 ETC Institute

Q37. How important do you feel it is for the City to provide back door garbage pick up?

by percentage of respondents



Source: 2014 ETC Institute

Summary and Conclusions

- **Residents have a very positive perception of the City**
- **Mountain Brook is setting the standard for service delivery among other U.S. cities**
 - ❑ Overall satisfaction with City services rated 41% above the national average
 - ❑ The City rated at or above the national average in 37 of the 38 areas that were compared
- **The City's priorities are closely aligned with the expectations of residents.**
- **The management of traffic flow and congestion and the maintenance of City streets and facilities should be high priorities over the next two years.**

Questions?

THANK YOU!!

DUTIES OF THE MAYOR AND COUNCIL

PREPARED BY THE ALABAMA LEAGUE OF MUNICIPALITIES REPRINTED FROM THE SELECTED READINGS FOR THE MUNICIPAL OFFICIAL (2008)

Click [HERE](#) for a printer friendly version of this article

One of the most misunderstood aspects of municipal government is the separation of powers between the mayor and the council. Like government on the state and federal levels, municipal government is divided into three separate but equal branches: executive, legislative and judicial. Each of these branches has distinct duties and powers and restrictions on how far it can intrude into the affairs of the other branches.

At the municipal level, the mayor serves as the head of the executive branch. As such, the mayor is responsible for overseeing the day-to-day operations of the municipality. He or she oversees municipal employees, makes sure that bills are paid on time, executes municipal contracts and, in general, performs many of the same functions as a CEO of a private corporation. Section 11-43-81, Code of Alabama 1975.

In municipalities of less than 12,000 inhabitants, the mayor also presides over council meetings and serves as a member of the council. In these cities and towns, the mayor may vote on any issue before the council, introduce measures and participate in debates to the same extent as members of the council. Section 11-43-42, Code of Alabama 1975.

In cities with populations of more than 12,000, the mayor is not a member of the council. However, he or she has a veto over any permanent action taken by the council. The council can override the veto by a two-thirds vote. Section 11-43-42, Code of Alabama 1975.

The council is the legislative branch. The council has authority over the finances and property of the municipality. The council establishes policies, passes ordinances, sets tax levels, determines what sorts of services the municipality will offer and has authority over all other legislative aspects of municipal government. Section 11-43-56, Code of Alabama 1975.

Citizens and councilmembers must understand that individual councilmembers, acting alone, have no greater power or authority than any other citizen of the municipality. The council can only act as a body at a legally convened meeting. No official action may be taken by any individual council member. All official action must be taken by the council acting as the governing body. The mayor is the chief executive officer of the city and is charged with the duty of supervision of the affairs of the city under policies fixed by the council. AGO to Hon. A.J. Cooper, August 15, 1973.

For instance, the Attorney General has ruled that individual councilmembers cannot direct the activities of a municipal fire department, even pursuant to a properly enacted ordinance. AGO 1988-262. Other similar rulings include:

Individual city councilmembers may not supervise and control municipal departments. The city council must approve expenditures of municipal funds. AGO 1991-147.

A town council may not delegate its authority to appoint recreational board members to individual councilmembers. AGO 1991-402.

It is clear, then, that the primary factor in the success of a municipal government lies in the working relationship between the mayor and the city council. Elected city officials must recognize that they have

dedicated themselves for the next four years to accomplishing a common goal – providing the city or town with the best municipal government possible. To achieve this goal, the mayor and the council must maintain a harmonious working relationship.

At times the mayor and the council will disagree over the best solution to a problem. Disagreement is not only inevitable, it can be healthy. Negotiating opposing viewpoints can often lead to unexpected solutions. City officials must learn that when an opposing view is taken by someone else in government, it is merely a different opinion on the best way to represent the citizens of the municipality.

The success of municipal government also depends upon the willingness of each individual councilmember to cooperate with other councilmembers in granting time, knowledge and experience toward representing the citizens of the municipality. Under the mayor-council form of government, the council is granted legislative powers to determine the policies that will be followed in the administration of the municipal government. In exercising these powers, the council determines the extent of the governmental and corporate functions of the municipal government.

Equally vital is the willingness of the mayor to properly administer the ordinances passed by the council. The mayor is charged with the general supervision and control of municipal departments, programs, and facilities. The advice, recommendations and viewpoints of the mayor generally reflect the thoughts of the voters who elected him or her and are worthy of careful consideration by the council.

The laws of Alabama necessitate a close working relationship between the council and the mayor. Without that spirit of cooperation, a municipal government will not function properly. Open communications between the mayor and the council should be maintained at all times. Before acting on any proposal, the council should carefully consider the advice, views and recommendations of the mayor. Similarly, the mayor should also listen to council discussions in order to understand the reasoning behind council actions and the intent of the council as it passes ordinances and resolutions.

Powers of Appointment

Section 11-43-81, Code of Alabama 1975, states that the mayor has the power to appoint all officers whose appointment is not otherwise provided for by law. The Attorney General of Alabama has ruled that if the council has exercised its powers to appoint officers of the city or town by passing an ordinance, then the appointment would be "otherwise provided for by law," thus removing the mayor's power to make appointments. AGO to Hon. John W. Maples, April 17, 1957. See also, AGO 1995-315 and 1997-166.

Further, a council may adopt an ordinance giving the council exclusive authority to appoint a chief of police, all police officers and a superintendent of utilities. However, as CEO of the municipality, the mayor's power to oversee the daily activities of city officials cannot be removed by the council. AGO to Hon. A. J. Cooper, Jr., May 6, 1977. This same opinion provides that the council cannot by motion, resolution or ordinance require the mayor to give written work orders whenever he or she instructs a city employee to perform a task nor may the council require employees and department heads to answer directly to the council for their actions and to receive their instructions at least in part directly from the council.

Where the Code of Alabama specifies that the council has exclusive appointing power, such as over the

municipal clerk, the council cannot delegate its appointing power. If an appointment is left to the discretion of the council, then the council may delegate its authority by a properly-drafted ordinance. If the Code is silent as to who makes an appointment, then the mayor has the authority unless the council has provided differently in a properly-drafted ordinance. In cities of less than 12,000 in population, the mayor is a member of the council and may vote on appointments made by the council. In all municipalities, the council may provide for a tax assessor, tax collector, chief of police and a chief of the fire department. The council also has the duty to specifically designate the duties of each office. Section 11-43-5, Code of Alabama 1975. In municipalities of less than 6,000 in population, the council must elect a clerk and may determine by ordinance the other officers of the city or town. Section 11-43-4, Code of Alabama 1975.

The council has the duty to establish the salary of all officers and employees whose compensation is not fixed by law. Sections 11-43-7 and 11-43-8, Code of Alabama 1975. The council must fix by ordinance the terms of service of the officers of the municipality whose terms are not otherwise prescribed by law. Section 11-43-6, Code of Alabama 1975. And the council must prescribe, by ordinance, the powers to be exercised and the duties to be performed by officers appointed or elected, unless otherwise provided by law. Section 11-43-47, Code of Alabama 1975. The council is authorized to establish a police force under the general supervision of a police chief. Section 11-43-55, Code of Alabama 1975. The council is authorized to appoint the city attorney. AGO 1990-173. Additionally, members of municipal boards must be appointed by the mayor or council, pursuant to the statutory authority under which the board was created. See, AGO 1998-077.

Powers of Dismissal

Section 11-43-160, Code of Alabama 1975, states that any person appointed to an office in any city or town may, for cause, after a hearing, be removed by the officer making the appointment. Section 11-43-81 states that the mayor may remove, for good cause, any non-elected officer appointed by him or her and permanently fill the vacancy. However, in *State v. Thompson*, 100 So. 756 (1924), the Alabama Supreme Court ruled that where the mayor has been given the power to make appointments solely on his or her own discretion and without the approval of the council, the mayor must grant a hearing to the appointee before the dismissal. Of course, the appointee may waive this right to a hearing.

The mayor may remove any officer for good cause, except those elected by the people, and permanently fill the vacancy if the officer was elected by the council or appointed with its consent. In either of these cases, the mayor must report the dismissal to the council and state the reasons for the action to the council at its next regular meeting. If the council sustains the mayor's act by a majority vote of those elected to the council, the vacancy must be filled as provided in Title 11 of the Code of Alabama. Again, Section 11-43-81 of the Code states that the appointee must be granted a hearing, which can be waived by the employee, before the dismissal becomes permanent.

In the League's opinion, the mayor can cast a vote on the issue of upholding his or her act of removal for the purpose of documenting the mayor's position on the issue. However, the mayor's vote cannot be counted in determining whether a sufficient number of those elected to the council approved the officer's removal. See, *Hammonds v. Town of Priceville*, 886 So.2d 67 (Ala. 2003). The mayor may not

permanently remove the police chief or any other officials who were not appointed by him or her but the mayor may temporarily remove such officials pending a hearing on the question by the council. The mayor may fill the vacancy temporarily by the appointment of an acting successor who is entitled to pay for services rendered. AGO to Hon. Robert S. Glasgow, July 19, 1956.

The mayor of a city of 12,000 or more in population does not sit as a member of the council and, therefore, has no vote on questions of appointment or dismissal of officers or employees who come before the council. The mayor of a city of 12,000 or more in population does not have the power of veto over appointments made by the council.

The fact that the mayor, who voted and participated in a personnel hearing before the council concerning an officer's dismissal, may have had prior and independent knowledge of the dispute would not, standing alone, be sufficient to support a finding that the officer was deprived of an opportunity for an impartial hearing. However, the Alabama Supreme Court has held if before the hearing, a mayor and a councilmember had decided to uphold the discharge of the officer before evidence was presented, participation of the mayor and councilmember in the council hearing denied the officer due process. See, *Chandler v. Lanett*, 424 So.2d 1307 (Ala. 1982); see also, *Guinn v. Eufaula*, 437 So.2d 516 (Ala. 1983); *Stallworth v. Evergreen*, 680 So.2d 229 (Ala. 1996).

Municipal Finances

Section 11-43-84, Code of Alabama 1975, requires the mayor, as chief executive officer, to present a written statement to the council at least once every six months showing the financial condition of the municipality and the steps the mayor proposes to take for the protection of the city or town. This section also states that the mayor shall require any officer of the city or town to make a report at such times as the mayor or the council directs. This authority is intended to facilitate supervision of the various municipal departments and officials and to assist the mayor in making reports to the council.

Section 11-43-85, Code of Alabama 1975, requires the mayor to appoint an expert accountant to make a detailed examination of all books and accounts of the city and to make a full report in writing, under oath, to be submitted to the council at its first meeting after completion of the report. This report must be placed in the minutes of the council. Section 11-43-85 also authorizes the mayor to request the Examiners of Public Accounts to audit the municipality. AGO 1992-322.

The council does not have authority to appoint its own accountant in lieu of the mayor's appointment. Further, the mayor is authorized to fix the accountant's fee without the approval of the council and the council is legally obligated to pay a reasonable amount for these services. If the council is not satisfied with the audit provided by the mayor's accountant, the council may order an additional audit to be made by an auditor of its choice.

The council is required to appropriate the sums necessary for the expenditures of city departments, and for interest on indebtedness, not exceeding in the aggregate 10 percent of its estimated receipts. In addition, the council cannot appropriate in the aggregate an amount in excess of its annual legally-authorized revenue. Section 11-43-57, Code of Alabama 1975.

While a city is not required to adopt a budget, most municipalities do so to ensure that citizens obtain maximum service for each tax dollar. As chief executive officer, the mayor is in the best position to

determine the requirements of the various municipal departments. While the mayor does not draft the final budget, he or she compiles estimates of revenues and expenses and presents those figures to the council along with recommendations for appropriations and for revenue-raising procedures, if necessary. The municipal budget is not considered permanent and, therefore, is not subject to the mayor's veto. AGO 1991-180.

The mayor plays an important role in the disbursement of municipal funds. Warrants must be drawn by the clerk, approved by the mayor or such other person as the council designates and presented to the treasurer for payment. The Alabama Supreme Court held in *Edwards v. 1st National Bank of Brewton*, 377 So.2d 966 (1979), the council may, by ordinance, remove the mayor's authority to sign checks. See, AGO 1990-284; see also, AGO 2001-260.

All expenditures of municipal funds must be specifically approved by the mayor or by some other person designated by the council. Section 11-43-120, Code of Alabama 1975. However, the council may make a purchase over the objection of the mayor. AGO to Hon. Norman Plunkett, June 22, 1977.

Further, Section 11-43-120 provides that no warrant shall be drawn except by the authority of law or ordinance, and the treasurer shall allow no expenditure unless it is approved by ordinance or by the mayor. If the mayor questions the legality of an expenditure, the clerk and treasurer and, if necessary, the city attorney, should be consulted about the matter. The mayor may be held responsible for unauthorized expenditures made on the basis of his or her approval. See, *Altmayer v. Daphne*, 613 So.2d 366 (Ala. 1993). Additionally, the council should stress that only those with authority to authorize expenditures should do so, because in *Brannan and Guy, P.C. v. Montgomery*, 828 So.2d 914 (2002), the Alabama Supreme Court held where the authority to set the compensation rates of contract attorneys rests solely with the mayor, a discussion of rates between the city attorney and the contract attorney at the request of the mayor does not create a unilateral contract that binds the city.

While it is unnecessary for the council to validate each disbursement individually, Section 11-43-120 requires that all claims, requisitions and demands against a municipality for goods purchased or debts incurred be presented to the council for approval, unless already provided by ordinance or resolution.

Municipal Contracts

Unless otherwise directed by state law or ordinance, the mayor is authorized to enter into and execute all municipal contracts in the name of the city or town. However, the mayor cannot change the price fixed by the council without authority from the council to do so. *Albany v. Spragins*, 93 So. 803 (Ala. 1922). All obligations for the payment of money by the municipality, except for bonds and interest coupons, shall be attested by the clerk. Section 11-47-5, Code of Alabama 1975.

The mayor is required to see that all contracts with the municipality are faithfully performed or kept. The mayor is required to execute all deeds and contracts and bonds required in judicial proceedings for and on behalf of the city or town. No sureties shall be required on the bond. Section 11-43-83, Code of Alabama 1975.

Section 11-47-20 of the Code authorizes a municipality, by ordinance entered on the minutes of the council, to dispose of any real property not needed for public or municipal purposes. The council directs the mayor to make title thereto. The council may file a writ of mandamus against the mayor if the mayor

refuses to execute a deed as required. AGO 1995-113. A conveyance made by the mayor in accordance with this ordinance invests the grantee with the title of the municipality. Section 11-47-21 requires a municipality to follow the same procedure when it wishes to lease any of its real property. No similar requirement is made for personal property. See, Section 11-43-56, Code of Alabama 1975. For further discussion on this topic, please see the article entitled "Sale of Lease of Unneeded Municipal Property" located in the Selected Readings for the Municipal Official.

If a public official, public employee, member of the household of the public official or employee, or business with which that person is associated, enters into a contract to provide goods or services and payment, in whole or part, for the contract will come out of state, county or municipal funds, must be filed within the Ethics Commission within ten days after the contract has been entered into, regardless of the amount of the contract or whether or not the contract has obtained through competitive bid. AGO 2001-029.

Legislative and Judicial Powers of the Mayor

Section 11-45-1, Code of Alabama 1975, gives municipalities the power to adopt ordinances and resolutions to carry into effect the powers and duties conferred on it by statute and to provide for the safety, preserve the health, promote the prosperity, improve the morals, order, comfort and convenience of the citizens of the municipality. The council, as the legislative body of the municipality, is responsible for enacting these ordinances.

In municipalities of less than 12,000 in population, the mayor sits with, presides over and is considered a member of the municipal council. This provision entitles the mayor to vote for or against the adoption of ordinances that the council considers. It is unnecessary that an ordinance be approved by the mayor or authenticated by his or her signature. Section 11-43-42, Code of Alabama 1975.

In cities with populations of 12,000 or more, the mayor does not sit as a member of the council. Therefore, the clerk must transmit all ordinances and resolutions intended to be of a permanent nature to the mayor within 48 hours after passage by the council. If the mayor disapproves of an ordinance or resolution transmitted by the clerk, he or she must, within 10 days of its passage by the council, return it to the clerk with the written objections. The clerk is to report these objections to the council at its next regular meeting. If the mayor fails to return the ordinance within 10 days, the clerk shall publish the ordinance as though the mayor had signed his or her approval. See, Sections 11-45-4 and 11-45-5, Code of Alabama 1975. The mayor has no authority to veto an ordinance which merely disposes of an administrative matter. AGO to Hon. Carl H. Kilgore, July 8, 1975. Therefore, nonpermanent ordinances are not subject to the mayor's veto. AGO 1991-072.

The council has the power to pass an ordinance over the mayor's veto by two-thirds vote of the members elected to the council. The vote must be recorded on the minutes. Section 11-45-5, Code of Alabama 1975.

Under general law, in municipalities over 12,000 in population, Section 11-45-5 gives the mayor power to approve or veto in whole or in part all ordinances or resolutions fixing the salaries of officers and employees. At its next regular meeting, the council votes on whether it will override the mayor's veto. If it fails to override the veto, then it votes upon the approval of the ordinances as approved by the mayor.

Section 12-14-15, Code of Alabama 1975, states that the mayor, under authority as chief executive officer, has the power to remit fines and costs imposed by the municipal judge or the court to which an appeal was taken for violation of a municipal ordinance. In addition, the mayor has the power to pardon those convicted and sentenced by the municipal judge for violations of municipal ordinances. However in an opinion to the city council of East Brewton, August 8, 1974, the Attorney General ruled that a mayor has no authority to remit forfeitures levied against sureties on appearance bonds by the municipal judge. AGO to Hon. Richmond McClintock, July 17, 1957. Likewise, the mayor has no authority to approve or order the approval of any appearance bonds. AGO 1991-374. Similarly, councilmembers may not sign as surety on bail bonds for persons arrested by municipal police officers. AGO 1990-282. Section 12-14-15 also requires the mayor to make a written report to the council at its first regular meeting each month, listing the fines and costs remitted, sentences commuted and pardons and paroles granted by the mayor during the preceding months and stating the reasons therefor. The council may, by a properly-adopted ordinance, authorize the mayor to administer oaths on behalf of the municipality, pursuant to Section 11-43-5, Code of Alabama 1975. AGO 1988-397. The mayor may serve as superintendent of the municipal utility system. The council has no authority to reduce the mayor's salary by the amount he or she receives for serving as superintendent. AGO 1989-070. Similarly, the council may not require the mayor to devote full time to his or her duties as mayor. AGO to Hon. William Willis, January 20, 1960. However, the Legislature may, by local act, require the mayor to serve in a full-time capacity. AGO 88-298. See also, AGO 2005-076.

Legislative Powers of the Council

The council as a body establishes municipal policy, and the mayor is charged with the duty of implementing that policy. For instance, in AGO 1989-243, the issue was whether the mayor or the council had authority to establish the working conditions of a police dispatcher. The Attorney General concluded that the mayor could require the dispatcher to work at city hall unless the council provided otherwise. The question of where the dispatcher performed her duties was a matter of policy, a decision for the council to resolve. Until the council acted, it was the mayor's decision. However, once the council acted, the mayor was required to implement that policy.

Another example of the legislative power of the council is found in AGO 1992-289. It concluded that the council is responsible for establishing policies which will be followed by municipal departments. Department heads may not set policies unless the council has delegated the authority to them. A council may delegate authority to set policy to the mayor, who may authorize department heads to determine policies which their departments will follow. Where the council has not acted, department heads may set informal procedures to be followed until the council acts.

Other examples of the legislative power of the council to draft city policy include AGO 1995-091, which concludes that the use of city-owned vehicles is under the control of the council, which should promulgate a policy regarding their use. This Opinion also makes clear that the council has the power to decide how much to reimburse an individual for the use of a personal vehicle on municipal business.

Subpoena Power

A municipal council or a committee authorized by the council may, by resolution, issue subpoenas pursuant to Section 11-43-163 of the Code. This does not require a permanent resolution. The council or committee may impose punishment pursuant to Section 11-43-163 for failure to comply with the subpoena. AGO 1999-076.

Council Committees

While no law requires a council to establish committees, most councils set up committees to study the needs of the various departments of municipal government and to make recommendations regarding the operating policy of each department. Council committees should confer with the mayor for his or her views on the policies and programs under consideration since, as the chief executive, the mayor will be responsible for carrying them out.

When questions about council committees arise, they usually involve the desire of councilmembers to directly control the functions of city employees. It must be remembered that council committees are not administrative bodies and have no authority to exercise any executive power over the administrative branch of the municipal government. This means that the council cannot direct and supervise the work of employees, even through the creation of a committee. AGO to Hon. Norman Plunkett, June 22, 1977; AGO 1988-262; and AGO 1991-147. Council committees are advisory only and cannot supervise or give directions to city employees. AGO 1985-156 (to Hon. H.T. Mathis, January 8, 1985).

The sole purpose of committees is to give detailed attention to the programs and policies concerning the departments entrusted to their study and to report their findings to the full council and the mayor so appropriate actions may be taken.

Generally, the presiding officer of the council makes appointments to the committees, which usually consist of three councilmembers each. However, in AGO 1981-409 (to Hon. Gwin Wells, June 4, 1981), the Attorney General stated that council committees may be appointed by the mayor, or by the mayor and the council, depending on the internal rules of procedure established by the council. The mayor of a municipality of under 12,000 in population is a member of the municipal council and therefore may vote on and serve on these committees.

Index Terms:

Powers,

Of appointment

Of dismissal

Legislative

Judicial

Contracts

Finances

Mayor, Full Time

ORDINANCE NO. 1950

**AN ORDINANCE RE-AFFIRMING VOTING DISTRICTS
PREVIOUSLY ESTABLISHED UPON THE ADOPTION OF ORDINANCE NO. 1624,
ASSIGNING POLLING LOCATIONS, AND PERMANENTLY RELOCATING ONE POLLING
LOCATION WITHIN THE CORPORATE LIMITS OF THE CITY OF MOUNTAIN BROOK
FOR CONVENIENCE AND SAFETY CONSIDERATIONS WITH RESPECT TO
ALL MUNICIPAL (GENERAL, RUN-OFF, AND SPECIAL) ELECTIONS
EFFECTIVE AUGUST 23, 2016**

BE IT ORDAINED by the City Council of the City of Mountain Brook, as follows:

Section 1. Establishment of Polling Districts and Assignment of Polling Locations. The City shall be divided into six (6) polling districts as illustrated in the attached Exhibit A and the polling locations of each for the polling districts shall be as follows:

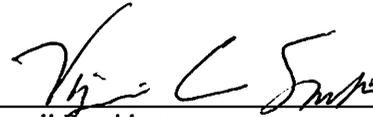
Polling District	<u>No.</u>	<u>Polling Location</u>	
	1	St. Luke's Episcopal Church (Precinct 46, Box 8) 3736 Montrose Road Mountain Brook, AL 35213	(No Change)
	2	Mountain Brook City Hall (Precinct 46, Box 9) 56 Church Street Mountain Brook, AL 35213	(No Change)
	3	Brookwood Baptist Church (Precinct 48, Box 6) 3449 Overton Road Mountain Brook, AL 35223	(No Change)
	4	Mountain Brook Community Church (Precinct 48, Box 4) (Formerly Mountain 3001 U. S. Highway 280 Mountain Brook, AL 35243 [smart phone mapping location] 4428 Cahaba River Road Birmingham, AL 35243	Brook Fire Station No. 2 located at 3785 Locksley Drive, 35223)
	5	Mountain Brook Elementary School (Precinct 46, Box 7)(No Change) 3020 Cambridge Road Mountain Brook, AL 35223	
	6	Cherokee Bend Elementary School (Precinct 45, Box 2) (No Change) 4400 Fair Oaks Drive Mountain Brook, AL 35223	

Section 2. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama, that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

Section 3. Severability. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

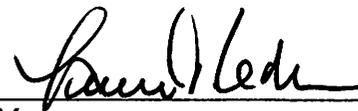
Section 4. Effective Date. This ordinance shall become effective upon adoption and publication as provided by law and shall commence with the August 23, 2016 general municipal election and all future municipal elections thereafter.

ADOPTED: This 28th day of March, 2016.



Council President

APPROVED: This 28th day of March, 2016.



Mayor

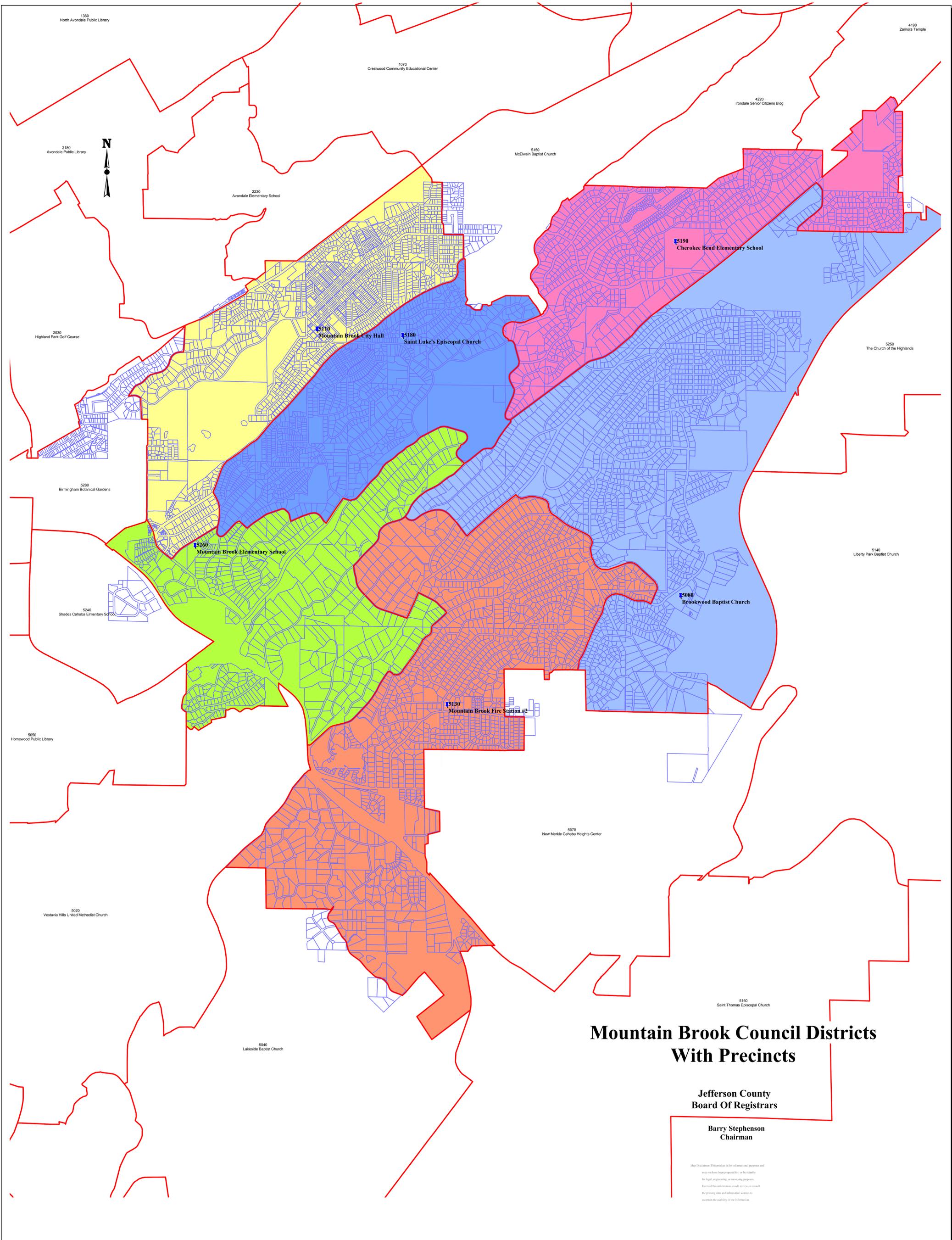
CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on March 28, 2016, as same appears in the minutes of record of said meeting, and published by posting copies thereof on March 29, 2016, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road
Overton Park, 3020 Overton Road



City Clerk



1380
North Avondale Public Library

4190
Zamorá Temple

1070
Crestwood Community Educational Center

4220
Irontdale Senior Citizens Bldg

2180
Avondale Public Library



5150
McElwain Baptist Church

2230
Avondale Elementary School

5190
Cherokee Bend Elementary School

2020
Highland Park Golf Course

5110
Mountain Brook City Hall

5180
Saint Luke's Episcopal Church

5250
The Church of the Highlands

5280
Birmingham Botanical Gardens

5260
Mountain Brook Elementary School

5080
Brookwood Baptist Church

5240
Shades Cahaba Elementary School

5130
Mountain Brook Fire Station #2

5050
Homewood Public Library

5070
New Menke Cahaba Heights Center

5020
Vestavia Hills United Methodist Church

5160
Saint Thomas Episcopal Church

Mountain Brook Council Districts With Precincts

Jefferson County
Board Of Registrars

Barry Stephenson
Chairman

Map Disclaimer: This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the quality of the information.

Guidelines for Public Officials and Employees

The purpose of these guidelines is to inform Public Officials and Employees of key provisions and prohibitions in the Revised Ethics Law.

These guidelines merely provide an overview of the law and, in no way, are intended to be a comprehensive review of the Ethics Law. The Ethics Law may be seen in its entirety on our website: www.ethics.alabama.gov. For a more comprehensive review, you can view our training video which can be found on our website as well. For further information or for any questions you may have, see our contact information on the last page of these guidelines.

Questions on matters concerning election finance laws to regulate and report the raising of campaign funds and expenditures, as well as questions relating to PAC-to-PAC transfers and double-dipping prohibitions, should be directed to the Office of the Attorney General (334.242.7300) and the Office of the Secretary of State (334.242.7200), as these matters are now dealt with under *The Fair Campaign Practices Act* and other recent acts.

Who Are Public Officials and Public Employees?

A Public Official is:

"Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-13-40."

A Public Employee is:

"Any person employed at the state, county, or municipal level of government or their instrumentalities... For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income."

PERTINENT LAW

PERSONAL USE OF OFFICE – Section 36-25-5(a) states:

"No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-5(b) states:

"Unless prohibited by the Constitution of Alabama of 1901, nothing herein shall be construed to prohibit a public official from introducing bills, ordinances, resolutions, or other legislative matters, serving on committees, or making statements or taking action in the exercise of his or her duties as a public official. A member of a legislative body may not vote for any legislation in which he or she knows or should have known that he or she has a conflict of interest."

Section 36-25-5(c) states:

"No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-5-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy."

Section 36-25-5(e) states:

"No public official or public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom he or she directly inspects, regulates, or supervises in his or her official capacity."

CONTRIBUTIONS – Section 36-25-6 states:

"Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use."

SOLICITATION BY OFFICIAL OR EMPLOYEE – Section 36-25-7(a) states:

"No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive anything for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value."

Section 36-25-7(b) states:

"No public official or public employee shall solicit or receive anything for himself or herself or for a family member of the public employee or family member of the public official for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value."

CONFIDENTIAL INFORMATION – Section 36-25-8 states:

"No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business."

CONFLICT OF INTEREST – Section 36-25-9(c) states:

"No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the member or family member of the member has any financial gain or interest."

COMPENSATED REPRESENTATION – Section 36-25-10 states:

"If a public official or public employee, or family member of the public employee or family member of the public official, or a business with which the person is associated, represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, notice of the representation shall be given within 10 days after the first day of the appearance. Notice shall be filed with the commission in the manner prescribed by it. No member of the Legislature shall for a fee, reward, or other compensation represent any person, firm, or corporation before the Public Service Commission or the State Board of Adjustment."

PUBLIC CONTRACTS – Section 36-25-11 states:

"Unless exempt pursuant to Alabama competitive bid laws or otherwise permitted by law, no public official or public employee, or a member of the household of the public employee or the public official, and no business with which the person is associated shall enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds unless the contract has been awarded through a process of competitive bidding and a copy of the contract is filed with the commission. All such contract awards shall be made as a result of original bid takings, and no awards from negotiations after bidding shall be allowed. A copy of each contract, regardless of the amount, entered into by a public official, public employee, a member of the household of the public employee or the public official, and any business with which the person is associated shall be filed with the commission within 10 days after the contract has been entered into."

REVOLVING DOOR – Section 36-25-13 states:

"(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity."

"(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency."

"(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual."

"(e) No former public official or public employee of the state may, within two years after termination of office or employment, act as attorney for any person other than himself or herself or the state, or aid, counsel, advise, consult or assist in representing any other person, in connection with any judicial proceeding or other matter in which the state is a party or has a direct and substantial interest and in

Section 36-25-13, cont.

which the former public official or public employee participated personally and substantially as a public official or employee or which was within or under the public official or public employee's official responsibility as an official or employee. This prohibition shall extend to all judicial proceedings or other matters in which the state is a party or has a direct and substantial interest, whether arising during or subsequent to the public official or public employee's term of office or employment."

LOBBYIST GIFTS – Section 36-25-5.1 states:

"(a) No lobbyist, subordinate of a lobbyist, or principal shall offer or provide a thing of value to a public employee or public official or to a family member of the public employee or family member of the public official; and no public employee or public official or family member of the public employee or family member of the public official shall solicit or receive a thing of value from a lobbyist, subordinate of a lobbyist, or principal. Notwithstanding the foregoing, a lobbyist, or principal may offer or provide and a public official, public employee, or candidate may solicit or receive items of de minimis value."

ETHICS TRAINING – Section 36-25-4.2 states:

"At the beginning of each legislative quadrennium, the State Ethics Commission shall provide for and administer training programs on the State Ethics Law for members of the Legislature, state constitutional officers, cabinet officers, executive staff, municipal mayors, council members and commissioners, county commissioners, and lobbyists...

Except as provided herein, attendance at any session of the training program shall be mandatory, except in the event the person is suffering a catastrophic illness...

All public employees required to file the Statement of Economic Interests required by Section 36-25-14, no later than May 1, 2011, shall participate in an online educational review of the Alabama Ethics Law provided on the official website of the commission. Employees hired after January 1, 2011, shall have 90 days to comply with this subsection."

ELECTRONIC DATABASE SEARCH – Section 36-25-4.3 states:

"The commission, by April 1, 2012, shall implement and maintain each of the following:

Section 36-25-4.3, cont.

- (1) A system for electronic filing of all statements, reports, registrations, and notices required by this chapter.
- (2) An electronic database accessible to the public through an Internet website which provides at least the following capabilities:
 - a. Search and retrieval of all statements, reports, and other filings required by this chapter, excluding complaints made confidential by Section 36-25-4(b), by the name of the public official or public employee to which they pertain.”

EMPLOYMENT/CONTRACT DISCLOSURE – Section 36-25-5.2 states:

“(b) Each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government, or who works for a company that receives 50% or more of its revenue from the state, shall notify the commission of such employment or contract within 30 days of beginning employment or within 30 days of the beginning of the contract. Additionally, each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government on August 14, 2011, shall notify the commission of such employment or contract by September 13, 2011.”

Definition of Economic Development Function is:

“Any function reasonably and directly related to the advancement of a specific, good-faith economic development or trade promotion project or objective.”

Definition of Educational Function is:

“A meeting, event, or activity held within the State of Alabama, or if the function is predominantly attended by participants from other states, held within the continental United States, which is organized around a formal program or agenda of educational or informational speeches, debates, panel discussions, or other presentations concerning matters within the scope of the participants’ official duties or other matters of public policy, including social services and community development policies, economic development or trade, ethics, government services or programs, or government operations, and which, taking into account the totality of the program or agenda, could not reasonably be perceived as a subterfuge for a purely social, recreational, or entertainment function.”

Definition of Widely Attended Event is:

“A gathering, dinner, reception, or other event of mutual interest to a number of parties at which it is reasonably expected that more than 12 individuals will attend and that individuals with a diversity of views or interest will be present.”

Definition of De Minimis is:

“A value of twenty-five dollars (\$25) or less per occasion and an aggregate of fifty dollars (\$50) or less in a calendar year from a single provider...” (This definition shall become effective on August 1, 2012, Act 2012-433.)

****DO’S and DON’T’S UNDER THE NEW ETHICS LAW******I. DON’T’S**

1. Don’t ... use your official position to obtain personal gain for yourself or family member or any business with which you are associated. Section 36-25-5(a)
2. Don’t ... as a member of a legislative body, vote for any legislation in which you know or should have known that you have a conflict of interest.
Section 36-25-5(b)
3. Don’t ... use or cause the use of equipment, facilities, time, materials, human labor, or other public property under your discretion or control for the private benefit or business benefit of you, any other person, or principal campaign committee (defined in section 17-5-2), which would materially affect your financial interest. Section 36-25-5(c)
4. Don’t ... solicit a "thing of value" from a subordinate or person or business with whom you directly inspect, regulate, or supervise in your official capacity other than in the ordinary course of business. Section 36-25-5(e)
5. Don’t ... convert to personal use contributions to your inaugural or transitional fund. Section 36-25-6
6. Don’t ... solicit or receive anything for yourself or a family member for the purpose of corruptly influencing official action. Section 36-25-7(b)
7. Don’t ... solicit or receive any money in addition to that received in an official capacity for advice or assistance on matters concerning the Legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which you are a member.
Section 36-25-7(d)

8. Don't ... use or disclose confidential information gained in the course of or by reason of your position in any way that could result in financial gain, other than your regular salary, for yourself, a member of your family, or any other person or business. Section 36-25-8
9. Don't ... serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which you are associated. Section 36-25-9(a)
10. Don't ... you, a member of your household, or a business with which you are associated, enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds, unless the contract complies with Alabama competitive bidding laws and a copy of the contract is filed with the Ethics Commission within 10 days after the contract has been entered into. Section 36-25-11
11. Don't ... offer, give, solicit, or accept a "thing of value" to or from a member or employee of a governmental agency, board, or commission that regulates a business with which you are associated, other than in the ordinary course of business. Section 36-25-12
12. Don't ... serve for a fee as a lobbyist or otherwise represent clients, including your employer, before the board, agency, commission, department, or legislative body, of which you are a former member for a period of two years after you leave such membership, unless you are a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity. Section 36-25-13(a)
13. Don't ... enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which you were a member or employee for a period of two years after you leave the membership or employment of such governmental agency. Section 36-25-13(c)
14. Don't ... solicit or accept employment with a private business, corporation, partnership or individual which you formerly directly regulated, audited or investigated, within two years of your departure from such employment. Section 36-25-13(d)
15. Don't ... act as an attorney for any person other than yourself or the state, or aid, counsel, advise, consult or assist in representing any other person in a matter in which the state is a party, or has a direct and substantial interest, and in which you participated personally and substantially as a public official or was within your official responsibility, for a period of two years after termination of your state office. Section 36-25-13(e)

16. Don't ... solicit any lobbyist to give anything whether or not the thing solicited is a thing of value to any person or entity for any purpose other than a campaign contribution. Section 36-25-23(b)
17. Don't ... assume that you have no responsibilities under the Ethics Law even if you do not fit within the above categories, because, as shown below, any "person" can violate the Ethics Law for soliciting certain unlawful acts under the law.
18. Don't ... solicit a public official or public employee to use or cause to be used equipment, facilities, time, materials, human labor, or other public property for your private benefit or business benefit which would materially affect your financial interest. Section 36-25-5(d)
19. Don't ... offer or give to a public official or public employee or family member of such person anything for the purpose of corruptly influencing official action. Section 36-25-7(a)
20. Don't ... serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which you are associated, except certain persons in the real estate field and other state-licensed professionals serving on certain boards and commissions. Section 36-25-9(a) and (b)
21. Don't ... knowingly or willfully make any false statement or misrepresentation of the facts to a member of the Legislative or Executive Branch for the purpose of influencing legislation. Section 36-25-26(a)
22. Don't ... knowingly cause a document containing a false statement to be received by a member of the Legislative or Executive Branch without notifying the member in writing of the truth for the purpose of influencing legislation. Section 36-25-26(b)
23. Don't ... accept a gift valued at more than \$25, or \$50 cumulatively, in a calendar year from any single provider. (Amount effective August 1, 2012, Act 2012-433)

II. DO'S

1. Do ... introduce bills, ordinances, resolutions, or other legislative matters, serve on committees, or make statements or take action in the exercise of your duties as a public official, unless prohibited under the Constitution of Alabama. Section 36-25-5(b)

2. Do ... know that as a member of a legislative body you may not vote for any legislation in which you know or should have known that you have a conflict of interest. Section 36-25-5(b)
3. Do ... file notice with the Ethics Commission if you, a member of your family, or a business with which you are associated represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, within 10 days of the first day of the appearance. Section 36-25-10
4. Do ... file with the Ethics Commission a copy of any contract that you, a member of your household, or a business with which you are associated enter into, which is to be paid in whole or in part out of state, county or municipal funds, within 10 days after the contract has been entered into. Section 36-25-11
5. Do ... file a statement of economic interests with the Ethics Commission no later than April 30 of each year (if appointed or a public employee, then file only if your base pay is greater than \$75,000 per year). Section 36-25-14 (Threshold of \$75,000 will become effective on August 1, 2012, Act 2012-509)
6. Do ... if you are an election official... notify the Ethics Commission within five days of your receipt of a declaration of candidacy or your nomination of a candidate notify the Commission of the name of the candidate and the date on which the person became a candidate or was nominated as a public official. Section 36-25-15
7. Do ... make it a point to know the new laws. As always, ignorance of the law is not a defense. If you are a private citizen who happens to be an attorney, your responsibilities are even greater. You have a responsibility to your clients who may be construed as public officials or public employees or lobbyists to know the law and advise them accordingly.
8. Do ... when you, or a business with which you are associated, represent for a fee any person before a regulatory body of the Executive Branch, report to the Ethics Commission the name of any adult child, parent, spouse, brother or sister who is a public official or public employee of that regulatory body of the Executive Branch. Section 36-25-16(a).
9. Do ... when you, or any business with which you are associated, enter into a contract for the sale of goods or services to the State of Alabama, any county or municipality and any of their respective agencies in amounts greater than \$7,500, report to the Ethics Commission the names of any adult child, parent, spouse, brother, or sister who is a public official or public employee of the agency or department with whom the contract is made. Section 36-25-16(b).

(Not applicable to any contract for the sale of goods or services awarded through a process of public notice and competitive bidding -- Section 36-25-16(c))

10. Do ... if you are not a "lobbyist" under the Ethics Law and negotiate or attempt to negotiate a contract, sell or attempt to sell goods or services, engage or attempt to engage in a financial transaction with a public official or public employee in their official capacity and expend in excess of \$250 in a calendar day on such person, file a detailed quarterly report of the expenditure with the Ethics Commission. Section 36-25-19(b)
11. Do ... understand that all "lobbyist" reports filed pursuant to Sections 36-25-18 to 36-25-20, inclusive, are public records and shall be made available for public inspection via the Commission's website. Section 36-25-21 and 36-25-4.3

Specifically Governmental Agency Heads

1. Do ... file reports with the Ethics Commission within ten days on any matters that come to your attention in your official capacity which constitute a violation of the Ethics Act. Section 36-25-17(a)
2. Do ... cooperate in every possible manner in connection with any investigation or hearing, public or private, which may be conducted by the Ethics Commission. Section 36-25-17(b)

QUESTIONS AND ANSWERS

QUESTION: Who must file a Statement of Economic Interests Form?

ANSWER: Section 36-25-14 states:

- "(a) A statement of economic interests shall be completed and filed in accordance with this chapter with the commission...by each of the following:
- (1) All elected public officials at the state, county, or municipal level of government or their instrumentalities.
 - (2) Any person appointed as a public official and any person employed as a public employee at the state, county, or municipal level of government or their instrumentalities who occupies a position whose base pay is seventy-five thousand dollars (\$75,000) or more annually.
(Effective August 1, 2012)

Section 36-25-14, cont.

- (3) All candidates, simultaneously with the date he or she becomes a candidate as defined in Section 17-5-2, or the date the candidate files his or her qualifying papers, whichever comes first.
- (4) Members of the Alabama Ethics Commission; appointed members of boards and commissions having statewide jurisdiction (but excluding members of solely advisory boards).
- (5) All full-time nonmerit employees, other than those employed in maintenance, clerical, secretarial, or other similar positions.
- (6) Chief clerks and chief managers.
- (7) Chief county clerks and chief county managers.
- (8) Chief administrators.
- (9) Chief county administrators.
- (10) Any public official or public employee whose primary duty is to invest public funds.
- (11) Chief administrative officers of any political subdivision.
- (12) Chief and assistant county building inspectors.
- (13) Any county or municipal administrator with power to grant or deny land development permits.
- (14) Chief municipal clerks.
- (15) Chiefs of police.
- (16) Fire chiefs.
- (17) City and county school superintendents and school board members.
- (18) City and county school principals or administrators.
- (19) Purchasing or procurement agents having the authority to make any purchase.

Section 36-25-14, cont.

- (20) Directors and assistant directors of state agencies.
- (21) Chief financial and accounting directors.
- (22) Chief grant coordinators.
- (23) Each employee of the Legislature or of agencies, including temporary committees and commissions established by the Legislature, other than those employed in maintenance, clerical, secretarial, or similar positions.
- (24) Each employee of the Judicial Branch of government, including active supernumerary district attorneys and judges, other than those employed in maintenance, clerical, secretarial or other similar positions.
- (25) Every full-time public employee serving as a supervisor.”
(Effective August 1, 2012, Act Number 2012-509)

QUESTION: When must a Statement of Economic Interests be filed?

ANSWER: A statement of economic interest must be filed with the commission no later than April 30 of each year covering the preceding calendar year.

QUESTION: What information is required to be included in the Statement of Economic Interests?

ANSWER: The statement of economic interest must include the name, residential address, business; name, address, and business of the living spouse, and dependents of the public official or public employee required to file, as well as the name of living adult children, the name of parents and siblings, name of living parents of the spouse.

The statement must also contain a list of occupations to which one-third or more of working time was given during the previous reporting year by the public official, public employee, or his or her spouse.

The statement must contain a total combined household income of the public official or public employee from sources such as salaries, fees, dividends, profits, commissions, and other compensation. The income is to be listed and broken down into categories depending on the amount.

If the public official or employee or his or her spouse has, during the last reporting year, engaged in a business which provides legal, accounting, medical or health related, real estate, banking, insurance, educational, farming, engineering, architectural management, or other professional services, then the filing party is required to report the number of clients of the business in each of several categories. These categories are set out in Section 36-25-14(b)(4) of the Ethics Law.

QUESTION: What is a Conflict of Interest?

ANSWER: Section 36-25-1 states:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

QUESTION: What is NOT a Conflict of Interest?

ANSWER: Section 36-25-1 states:

"(8)...A conflict of interest shall not include any of the following:

- a. A loan or financial transaction made or conducted in the ordinary course of business.
- b. An occasional nonpecuniary award publicly presented by an organization for performance of public service.
- c. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for the personal attendance of a public official or public employee at a convention or other meeting at which he or she is

Section 36-25-1(8), cont.

scheduled to meaningfully participate in connection with his or her official duties and for which attendance no reimbursement is made by the state.

d. Any campaign contribution, including the purchase of tickets to, or advertisements in journals, for political or testimonial dinners, if the contribution is actually used for political purposes and is not given under circumstances from which it could reasonably be inferred that the purpose of the contribution is to substantially influence a public official in the performance of his or her official duties."

QUESTION: What is a Thing of Value?

ANSWER: Section 36-25-1 states:

"(33) THING OF VALUE. a. Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event, unsecured loan, other than those loans and forbearances made in the ordinary course of business, reward, promise of future employment, or honoraria or other item of monetary value."

QUESTION: What is NOT a Thing of Value?

ANSWER: Section 36-25-1(33) states:

- "b. The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:
1. A contribution under Chapter 5 of Title 17 or a contribution to an inaugural or transition committee.
 2. Anything given by a family member of the recipient under circumstances which make it clear that it is motivated by a family relationship.
 3. Anything given by a friend of the recipient under circumstances which make it clear that it is motivated by a friendship and not given because of the recipient's official position. Relevant factors include whether the friendship preexisted the recipient's status as a public employee, public

Section 36-25-1(33), cont.

- official, or candidate and whether gifts have been previously exchanged between them.
4. Greeting cards, items, services with little intrinsic value which 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.
 5. Loans from banks and other financial institutions on terms generally available to the public.
 6. Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all government employees.
 7. Rewards and prizes given to competitors in contests or events including random drawings, which are open to the public.
 8. Anything that is paid for by a governmental entity or an entity created by a governmental entity to support the governmental entity or secured by a governmental entity under contract, except for tickets to a sporting event offered by an educational institution to anyone other than faculty, staff, or administration of the institution.
 9. Anything for which the recipient pays full value.
 10. Compensation and other benefits earned from a non-government employer, vendor, client, prospective employer, or other business relationship in the ordinary course of employment or non-governmental business activities under circumstances which make it clear that the thing is provided for reasons unrelated to the recipient's public service as a public official or public employee.
 11. Any assistance provided or rendered in connection with a safety or a health emergency.
 12. Payment of or reimbursement for actual and necessary transportation and lodging expenses, as well as waiver of registration fees and similar costs, to facilitate the attendance of a public official or public employee, and the spouse of the public official or public employee, at an educational function or widely attended event of which the person is a primary sponsor. This exclusion applies only if the public official or public employee meaningfully participates in the event as a speaker

Section 36-25-1(33), cont.

or a panel participant, by presenting information related to his or her agency or matters pending before his or her agency, or by performing a ceremonial function appropriate to his or her official position; or if the public official's or public employee's attendance at the event is appropriate to the performance of his or her official duties or representative function.

13. Payment of or reimbursement for actual and necessary transportation and lodging expenses to facilitate a public official's or public employee's participation in an economic development function.
14. Hospitality, meals, and other food and beverages provided to a public official or public employee, and the spouse of the public official or public employee, as an integral part of an educational function, economic development function, work session, or widely attended event, such as a luncheon, banquet, or reception hosted by a civic club, chamber of commerce, charitable or educational organization, or trade or professional association.
15. Any function or activity pre-certified by the Director of the Ethics Commission as a function that meets any of the above criteria.
16. Meals and other food and beverages provided to a public official or public employee in a setting other than any of the above functions not to exceed for a lobbyist twenty-five dollars (\$25) per meal with a limit of one hundred fifty dollars (\$150) per year; and not to exceed for a principal fifty dollars (\$50) per meal with a limit of two hundred fifty dollars (\$250) per year. Notwithstanding the lobbyist's limits herein shall not count against the principal's limits and likewise, the principal's limits shall not count against the lobbyist's limits.
17. Anything either (i) provided by an association or organization to which the state or, in the case of a local government official or employee, the local government pays annual dues as a membership requirement or (ii) provided by an association or organization to a public official who is a member of the association or organization and, as a result of his or her service to the association or organization, is deemed to be a public official. Further included in this exception is payment of reasonable compensation by a professional or local government association or corporation to a public official who is also an elected officer or director of the professional or local government association or corporation for services actually provided to the association or corporation in his or her capacity as an officer or director.

Section 36-25-1(33), cont.

18. Any benefit received as a discount on accommodations, when the discount is given to the public official because the public official is a member of an organization or association whose entire membership receives the discount."

QUESTION: Who may initiate a complaint with the Ethics Commission?

ANSWER: Section 36-25-4 states:

"(c) ...The complaint may only be filed by a person who has or persons who have credible and verifiable information supporting the allegations contained in the complaint. A complainant may not file a complaint for another person or persons in order to circumvent this subsection... A complaint may be initiated by a vote of four members of the commission.."

QUESTION: What is Personal Gain?

ANSWER: Section 36-25-5 states:

"...Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

QUESTION: What is an advisory opinion, and who may rely on an advisory opinion?

ANSWER: An advisory opinion is the commission's interpretation of a specific or hypothetical set of facts based on the law.

Section 36-25-4 states:

"(9) ... Such advisory opinions shall be adopted by a majority vote of the members of the commission present and shall be effective and deemed valid until expressly overruled or altered by the commission or a court of competent jurisdiction. The written advisory opinions of the commission shall protect the person at whose request the opinion was issued and any other person reasonably relying, in good faith, on the advisory opinion in a materially like circumstance from liability to the state, a county, or a municipal subdivision of the state because of any action performed or action refrained from in reliance of the advisory opinion. Nothing in this section shall be deemed to protect any person relying on the advisory

opinion if the reliance is not in good faith, is not reasonable, is not in a materially like circumstance. The commission may impose reasonable charges for publication of the advisory opinions and monies shall be collected, deposited, dispensed, or retained as provided herein.”

QUESTION: What are the penalties for violation of the Ethics Law?

ANSWER: Section 36-25-14 states:

"(e) A person who intentionally violates any financial disclosure filing requirement of this chapter shall be subject to administrative fines imposed by the commission, or shall, upon conviction, be guilty of a Class A misdemeanor, or both.

Any person who unintentionally neglects to include any information relating to the financial disclosure filing requirements of this chapter shall have 90 days to file an amended statement of economic interests without penalty."

Section 36-25-26 states:

"No person, for the purpose of influencing legislation, may do either of the following:

- (1) Knowingly or willfully make any false statement or misrepresentation of the facts to a member of the Legislative or Executive Branch.
- (2) Knowing a document to contain a false statement, cause a copy of the document to be received by a member of the Legislative or Executive Branch without notifying the member in writing of the truth."

Section 36-25-27 states:

"(a)(1) Except as otherwise provided, any person subject to this chapter who intentionally violates any provision of this chapter other than those for which a separate penalty is provided for in this section shall, upon conviction, be guilty of a Class B felony."

"(4) Any person who knowingly makes or transmits a false report or complaint pursuant to this chapter shall, upon conviction, be guilty of a Class A misdemeanor and shall be liable for the actual legal expenses incurred by the respondent against whom the false report or complaint was filed.

(5) Any person who makes false statements to an employee of the commission or to the commission itself pursuant to this chapter without reason to believe the accuracy of the statements shall, upon conviction, be guilty of a Class A misdemeanor.

(6) Any person subject to this chapter who intentionally violates this chapter relating to secrecy shall, upon conviction, be guilty of a Class C felony.

(7) Any person subject to this chapter who intentionally fails to disclose information required by this chapter shall, upon conviction, be guilty of a Class A misdemeanor."

QUESTION: If a public employee files a complaint with the Ethics Commission against a public official or employer in the public sector, are there any measures to safeguard the employee making the complaint?

ANSWER: Yes.

Section 36-25-24 states:

"(a) A supervisor shall not discharge, demote, transfer, or otherwise discriminate against a public employee regarding such employee's compensation, terms, conditions, or privileges of employment based on the employee's reporting a violation, or what he or she believes in good faith to be a violation, of this chapter or giving truthful statements or truthful testimony concerning an alleged ethics violation."

QUESTION: If a public employee makes a false complaint against an employer or a complaint that the employee knows lacks merit, is there any recourse on the part of the employer?

ANSWER: Yes.

Section 36-25-24 states:

"(b) Nothing in this chapter shall be construed in any manner to prevent or prohibit or otherwise limit a supervisor from disciplining, discharging, transferring, or otherwise affecting the terms and conditions of a public employee's employment so long as the disciplinary action does not result

Section 36-25-24, cont.

from or is in no other manner connected with the public employee's filing a complaint with the commission, giving truthful statements, and truthfully testifying."

QUESTION: Are there any administrative remedies available under the Ethics Law?

ANSWER: Yes.

Section 36-25-27 states:

"(b) The commission if petitioned or agreed to by a respondent and the Attorney General or district attorney having jurisdiction, by unanimous vote of the members present may administratively resolve a complaint filed pursuant to this chapter for minor violations. The commission may levy an administrative penalty not to exceed one thousand dollars (\$1,000) for any minor violation of this chapter including, but not limited to, the failure to timely file a complete and correct Statement of Economic Interests. The commission shall, in addition to any administrative penalty, order restitution in the amount of any economic loss to the state, county, and municipal governments and their instrumentalities and such restitution shall when collected be paid by the commission, to the entity having the economic loss."

QUESTION: Who is charged with enforcing the Ethics Law?

ANSWER: Section 36-25-27 states:

"(c) The enforcement of this chapter shall be vested in the commission; provided however, nothing in this chapter shall be deemed to limit or otherwise prohibit the Attorney General or the District Attorney for the appropriate jurisdiction from enforcing any provision of this chapter as they deem appropriate."

QUESTION: What is the statute of limitations under the Ethics law?

ANSWER: Section 36-25-27 states:

"(g) Any felony prosecution brought pursuant to this chapter shall be commenced within four years after the commission of the offense.

(h) Any misdemeanor prosecution brought pursuant to this chapter shall be commenced within two years after the commission of the offense."

QUESTION: Am I required to receive training on the Ethics Law

ANSWER: Section 36-25-4.2 states:

"At the beginning of each legislative quadrennium, the State Ethics Commission shall provide for and administer training programs on the State Ethics Law for members of the Legislature, state constitutional officers, cabinet officers, executive staff, municipal mayors, council members and commissioners, county commissioners, and lobbyists...

Except as provided herein, attendance at any session of the training program shall be mandatory, except in the event the person is suffering a catastrophic illness...

All public employees required to file the Statement of Economic Interests required by Section 36-25-14, no later than May 1, 2011, shall participate in an online educational review of the Alabama Ethics Law provided on the official website of the commission. Employees hired after January 1, 2011, shall have 90 days to comply with this subsection."

QUESTION: Is information filed with the Ethics Commission made available via the Internet?

ANSWER: Yes.

Section 36-25-4.3 states:

"The commission, by April 1, 2012, shall implement and maintain each of the following:

- (1) A system for electronic filing of all statements, reports, registrations, and notices required by this chapter.

Section 36-25-4.3 states:

- (2) An electronic database accessible to the public through an Internet website which provides at least the following capabilities:
- a. Search and retrieval of all statements, reports, and other filings required by this chapter, excluding complaints made confidential by Section 36-25-4(b), by the name of the public official or public employee to which they pertain.”

QUESTION: Must I file public disclosure information with the Ethics Commission regarding state or federal employment or contracts involving me or my spouse?

ANSWER: Yes.

Section 36-25-5.2 states:

“(b) Each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government, or who works for a company that receives 50% or more of its revenue from the state, shall notify the commission of such employment or contract within 30 days of beginning employment or within 30 days of the beginning of the contract. Additionally, each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government on August 14, 2011 shall notify the commission of such employment or contract by September 13, 2011.”

As previously stated, these guidelines are intended to serve merely as an overview and not as a comprehensive review of the Ethics Law. If you have questions that were not answered or concerns that were not addressed by the guidelines, please review our website at: www.ethics.alabama.gov. On our website you will find the entire Ethics Law, all forms required to be filed under the statute and every advisory opinion rendered since 1995. If you have questions beyond those resources, please contact the Ethics Commission using the contact information below:

Alabama Ethics Commission
RSA Union Building
100 North Union Street, Suite 104
Post Office Box 4840 (36103-4840)
Montgomery, Alabama 36104
Telephone: 334.242.2997
Facsimile: 334.242.0248
Email: info@ethics.alabama.gov
Website: www.ethics.alabama.gov



Guidelines for Public Officials and Employees was updated and edited to incorporate the 2010, 2011 and 2012 Amendments to the Ethics Law by James L. Sumner, Jr., Director, July 2012.



SOS Home Home FAQ Voters Candidates PACS Public & Media Contact Us

VOTERS
Everything about voting

- Absentee Voting
- Voter Registration
- Election Information
- Military/Overseas Voting
- Voter ID requirements
- Find your polling location
- Provisional Ballot Status
- County Election Officials
- Election Results

Register to Vote

Thank you for your interest in registering to vote. We are glad to be of assistance.

You may download the **State of Alabama Mail-In Voter Registration Form** from this page. Then, just print it, fill it out, and mail it in to your local board of registrars! Any individual registering to vote must send the completed application with his/her original signature to the county's [Board of Registrars](#) in which he/she resides.



[Click here](#) to submit an application electronically.



[Click here](#) to download the Alabama Mail-In Voter Registration Form. Please fill in all information completely and accurately.



[Click here](#) if you would like us to mail you an Alabama Mail-In Voter Registration Form.

Important Note This application is for use by residents of the State of Alabama only! If you reside in a state other than Alabama, please contact your state or local election officials for information on registering to vote. You may also wish to visit the web site of the [Election Assistance Commission](#) to review the federal postcard voter registration form.



Note: The Adobe Acrobat reader is required for viewing the following files. If you do not have the Acrobat reader already, you may download it by clicking the Acrobat icon. Adobe's site will open in a new window.

We can also mail you a voter registration form if you prefer. To request an application, you may [complete an on-line request](#), call us on our Voter Hotline at 1-800-274-8683, or write to us at the address listed above. Please be sure to include a complete mailing address and the number of forms that you need.

Please note that your County Board of Registrars will mail you a voter identification card upon determining that you are eligible to vote in your county. The voter identification card will provide you the name and address of your voting place as well as a listing of the various districts in which you live (state House of Representatives, state Senate, etc.).

Any individual registering to vote must send the completed application with his/her original signature to the county's [Board of Registrars](#) in which he/she resides. Applications may also be sent to the Secretary of State's Office at:

**Office of the Secretary of State
Elections Division
PO Box 5616
Montgomery, AL 36103**

Home Statements & Policies Alabama.gov Online Services Alerts Feedback Translation Top

<http://bcp.crwdcntrl.net/5/c=931/b=27546429>

Please mail or hand-deliver your completed voter registration application to your county Board of Registrars office.

The mailing address and phone number for each county Board of Registrars office is provided on page 3 of this document.

State of Alabama Mail-In Voter Registration Form

NVRA-2
2015.02.09

FOR USE BY U.S. CITIZENS ONLY ♦ FILL IN ALL BOXES ON THIS FORM ♦ PLEASE USE INK ♦ PRINT LEGIBLY

You can use this form to:

- ▶ Register to vote in Alabama.
- ▶ Update your voter registration record, if you have changed your name or address.

To register to vote in the State of Alabama, you must:

- ▶ Be a citizen of the United States.
- ▶ Reside in Alabama.
- ▶ Be at least 18 years of age on or before election day.
- ▶ Not have been convicted of a disqualifying felony, or if you have been convicted, you must have had your civil rights restored.
- ▶ Not have been declared "mentally incompetent" by a court.

Deadline for submitting application:

Voter registration and updating of voter records is closed during the 14 days prior to each election in Alabama.

ID requested: You may send with this application a copy of valid photo identification. You will be required to present valid photo identification when you vote at your polling place or by absentee ballot, unless exempted by law. For more information, go to www.AlabamaVoterID.com or call the Elections Division: 800-274-8683.

① Are you a citizen of the United States of America? <input type="checkbox"/> Yes <input type="checkbox"/> No		⬅ ATTENTION! If you answer "No" to either of these questions, do not complete this application.
② Will you be 18 years of age on or before election day? <input type="checkbox"/> Yes <input type="checkbox"/> No		

③ Print Your Name: First _____ Middle _____ Last _____ Suffix _____	Alabama Driver's License or Non-Driver ID Number: <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 60px; height: 20px;" type="text"/> STATE NUMBER
④ Print Maiden Name / Former Name (if reporting a change of name) First _____ Middle _____ Last _____ Suffix _____	IF YOU HAVE NO ALABAMA DRIVER'S LICENSE OR ALABAMA NON-DRIVER ID NUMBER Last four digits of Social Security number: <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/> <input type="checkbox"/> I do not have an Alabama driver's license or Alabama non-driver ID or a Social Security number.
⑤ Date of Birth (mm/dd/yyyy) ⑥ Primary Telephone ⑦ Email Address _____	

Addresses	Current	⑧ Address where you live: (Do not use post office box) Home Address (include apartment or other unit number if applicable) City _____ State _____ ZIP _____
	Address where you receive your mail: Mailing Address, if different from Home Address City _____ State _____ ZIP _____	
	Old	Address where you were last registered to vote: (Do not use post office box) Former Address City _____ County _____ State _____ ZIP _____

⑨ Sex (check one) <input type="checkbox"/> Female <input type="checkbox"/> Male	⑩ Place of Birth City _____ County _____ State _____ Country _____
---	---

⑩ Race (check one) <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> American Indian <input type="checkbox"/> Hispanic <input type="checkbox"/> Other	⑪ Map / Diagram If your home has no street number or name, please draw a map of where your house is located. Please include roads and landmarks.	⑫ Did you receive assistance? If you are unable to sign your name, who helped you fill out this application? Give name, address, and phone number (phone number is optional).
---	--	---

REGISTRARS USE ONLY

DATE APPROVED DENIED

_____ (mm/dd/yyyy)

County Pct _____

City Pct _____

Board member _____

Board member _____

Board member _____

Voter Declaration - Read and Sign Under Penalty of Perjury

<ul style="list-style-type: none"> ▶ I am a U.S. citizen ▶ I live in the State of Alabama ▶ I will be at least 18 years of age on or before election day ▶ I am not barred from voting by reason of a disqualifying felony conviction ▶ I have not been judged "mentally incompetent" in a court of law 	<p>I solemnly swear or affirm to support and defend the constitution of the United States and the State of Alabama and further disavow any belief or affiliation with any group which advocates the overthrow of the governments of the United States or the State of Alabama by unlawful means and that the information contained herein is true, so help me God.</p>
--	--

YOUR SIGNATURE _____ DATE (mm/dd/yyyy) _____

If you falsely sign this statement, you can be convicted and imprisoned for up to five years.

The decision to register to vote is yours. If you decide to register to vote, the office at which you are submitting this application will remain confidential and will be used only for voter registration purposes. If you decline to register to vote, your decision will remain confidential and will be used only for voter registration purposes.

To mail, put the address of your county Board of Registrars on the lines below.

AUTAUGA COUNTY
PO Box 680036
Prattville 36068-0036
(334) 358-6740
BALDWIN COUNTY
PO Box 1507
Bay Minette 36507-1507
(251) 937-0305
BARBOUR COUNTY
PO Box 402
Clayton 36016-0402
(334) 775-8579
303 E Broad St Rm 108
Eufaula 36027
(334) 687-1585
BIBB COUNTY
8 Court Square W
Centreville 35042
(205) 926-3102
BLOUNT COUNTY
220 Second Ave E Rm B-5
Oneonta 35121
(205) 625-4182
BULLOCK COUNTY
217 Prairie St N Rm 101
Union Springs 36089-1659
(334) 738-5372
BUTLER COUNTY
700 Court Sq Rm B
Greenville 36037-2308
(334) 382-5685
(334) 382-6829
CALHOUN COUNTY
1702 Noble St Ste 113
Anniston 36201-3889
(256) 241-2930
CHAMBERS COUNTY
18 Alabama Ave E Rm 101
LaFayette 36862
(334) 864-4313
610 S Gilmer Ave
Lanett 36863
(334) 644-7781

CHEROKEE COUNTY
260 Cedar Bluff Rd Ste 106
Centre 35960-1403
(256) 927-5336
CHILTON COUNTY
PO Box 640
Clanton 35046-0640
(205) 755-3820
CHOCTAW COUNTY
117 S Mulberry Ave Ste 1
Butler 36904-0132
(205) 459-2531
CLARKE COUNTY
PO Box 10
Grove Hill 36451-0010
(251) 275-3062
CLAY COUNTY
PO Box 446
Ashland 36251-0446
(256) 354-7815
CLEBURNE COUNTY
120 Vickery St Rm 103
Heflin 36264-1166
(256) 463-5299
COFFEE COUNTY
6 County Complex
New Brockton 36351-9791
(334) 894-5347
COLBERT COUNTY
201 N Main St
Tuscumbia 35674-2095
(256) 386-8535
CONECUH COUNTY
111 Court St Rm 102
Evergreen 36401
(251) 578-7024
COOSA COUNTY
PO Box 218
Rockford 35136-0218
(256) 377-2418
COVINGTON COUNTY
228 Hillcrest Dr
Andalusia 36420-2570
(334) 428-2685

CRENSHAW COUNTY
PO Box 328
Luverne 36049-0328
(334) 335-6568 x252
(334) 335-6568 x253
CULLMAN COUNTY
500 2nd Ave SW Ste 112
Cullman 35055-4135
(256) 775-4697
(256) 775-4750
DALE COUNTY
PO Box 1101
Ozark 36361-1101
(334) 774-9038
DALLAS COUNTY
PO Box 987
Selma 36702-0987
(334) 874-2534
DEKALB COUNTY
111 Grand Ave SW Ste 105
Fort Payne 35967
(256) 845-8598
ELMORE COUNTY
100 E Commerce St Rm 205
Wetumpka 36092-2746
(334) 567-1150
(334) 567-1197
ESCAMBIA COUNTY
PO Box 557
Brewton 36427-0557
(251) 867-0243
(251) 867-0312
ETOWAH COUNTY
800 Forrest Ave Ste 206
Gadsden 35901-3651
(256) 549-5384
FAYETTE COUNTY
103 First Ave NW Ste 4
Fayette 35555-2627
(205) 932-5432
FRANKLIN COUNTY
PO Box 70
Russellville 35653-0070
(256) 332-8849

GENEVA COUNTY
PO Box 430
Geneva 36340-0430
(334) 684-5655
GREENE COUNTY
PO Box 224
Eutaw 35462-0224
(205) 372-9669
HALE COUNTY
905D Centerville St
Greensboro 36744-1536
(334) 624-4672
HENRY COUNTY
101 Court Square Ste K
Abbeville 36310-2135
(334) 585-6080
HOUSTON COUNTY
PO Box 6406
Dothan 36302-6406
(334) 677-4776
JACKSON COUNTY
PO Box 548
Scottsboro 35768-0548
(256) 574-9339
(256) 574-9335
JEFFERSON COUNTY
716 R Arrington Jr Blvd N
Ste A-410
Birmingham 35203-0115
(205) 325-5550
LAMAR COUNTY
PO Box 338
Vernon 35592-0338
(205) 695-6348
(205) 695-9197
LAUDERDALE COUNTY
PO Box 1059
Florence 35630-1059
(256) 760-5840
(256) 760-5841
LAWRENCE COUNTY
14451 Market Street Ste 340
Moulton 35650
(256) 974-2460
(256) 974-2461

LEE COUNTY
PO Box 1530
Opelika 36803-1530
(334) 737-3635
LIMESTONE COUNTY
100 Clinton St S Ste E
Athens 35611-2665
(256) 233-6405
LOWNDES COUNTY
PO Box 311
Hayneville 36040-0311
(334) 548-2389
(334) 548-2080
MACON COUNTY
101 Rosa Parks Ave Ste 100
Tuskegee 36083-1735
(334) 724-2617
MADISON COUNTY
819 Cook Avenue NW
Suite 150
Huntsville 35801-5983
(256) 532-3510
(256) 532-3519
MARENGO COUNTY
PO Box 480715
Linden 36748-0715
(334) 295-2249
(334) 295-2086
MARION COUNTY
PO Box 964
Hamilton 35570-0964
(205) 921-3625
MARSHALL COUNTY
424 Blount Ave Ste 106A
Gunterville 35976-1122
(256) 571-7740
MOBILE COUNTY
151 Government St Ste 165
Mobile 36602
(251) 574-8586
(251) 574-8587
MONROE COUNTY
PO Box 972
Monroeville 36461-0972
(251) 743-4107 x141

MONTGOMERY COUNTY
PO Box 1667
Montgomery 36102-1667
(334) 832-1215
MORGAN COUNTY
PO Box 668
Decatur 35602-0668
(256) 351-4660
(256) 351-4663
PERRY COUNTY
PO Box 555
Marion 36756-0555
(334) 683-2218 x5
PICKENS COUNTY
PO Box 173
Carrollton 35447-0173
(205) 367-2074
PIKE COUNTY
120 W Church St Rm B2
Troy 36081-1913
(334) 566-1757
(334) 566-6449
RANDOLPH COUNTY
PO Box 215
Wedowee 36278-0215
(256) 357-2138
RUSSELL COUNTY
PO Box 700
Phenix City 36868-0700
(334) 298-1443
(334) 448-1508
SHELBY COUNTY
PO Box 1642
Columbiana 35051-1642
(205) 669-3913
ST. CLAIR COUNTY
1815 Cogswell Ave Ste B 25
Pell City 35125
(205) 338-3954
SUMTER COUNTY
PO Box 783
Livingston 35470-0783
(205) 652-7902

TALLADEGA COUNTY
400 N Norton Ave
Sylacauga 35150-2010
(256) 249-1007
(256) 249-1014
PO Box 6170
Talladega 35161-6170
(256) 761-2131
(256) 761-2132
TALLAPOOSA COUNTY
125 N Broadnax St Rm 20
Dadeville 36853-1371
(256) 825-1081
TUSCALOOSA COUNTY
2501 7th St Ste 200
Tuscaloosa 35401-1801
(205) 349-3870 x415
WALKER COUNTY
PO Box 1472
Jasper 35502-1472
(205) 384-7279
WASHINGTON COUNTY
PO Box 1224
Chatom 36518-1224
(251) 847-3255
WILCOX COUNTY
PO Box 661
Camden 36726-0661
(334) 682-9753
WINSTON COUNTY
PO Box 459
Double Springs 35553-0459
(205) 489-3966
SECRETARY OF STATE
ELECTIONS DIVISION
PO Box 5616
Montgomery 36103
(334) 242-7210
(800) 274-8683

YOUR ADDRESS:



MAIL TO:
BOARD OF REGISTRARS
Jefferson County Commission
716 Richard Arrington, Jr., Boulevard
Suite A-410
Birmingham, AL 35203-0115
(205) 325-5550

Alabama Photo Voter ID Guide



Elections Division
Office of the Secretary of State
Jim Bennett, Secretary of State
State of Alabama

STATE OF ALABAMA



OFFICE OF THE SECRETARY OF STATE

JIM BENNETT
SECRETARY OF STATE

POST OFFICE BOX 5616
MONTGOMERY, ALABAMA 36103

Dear Voter:

Beginning with the 2014 primary election, the State Legislature has mandated that a voter present photo ID prior to voting. Alabama is among 34 states that require voter identification at the polls.

If a voter does not have a valid photo ID, such as a driver's license, nondriver ID card, or any other valid photo ID card as listed on page 7 of this guide, the voter may receive one free of charge from her or his county Board of Registrars or at the Secretary of State's office.

During the months just preceding the June 3, 2014 primary election, mobile vans will visit each county to provide eligible voters convenient locations to apply for and obtain a free Alabama photo voter ID card.

A voter who is required to present valid photo identification but who does not do so will be allowed to vote a provisional ballot as provided for by law.

In addition, a voter who does not have a valid photo ID in his or her possession at the polls will be permitted to vote a regular ballot if the individual is positively identified by two election officials as an eligible voter in their precinct.

This booklet is an educational tool to inform voters about the recent changes in voter identification requirements and seeks to prevent any confusion that may be experienced on election day. Please review the new standards and, if you have questions, you may call our Elections Division at 1-800-274-8683 or 334-242-7210 or visit www.alabamavoterid.com.

Exercise your right to vote. Your participation is vital in selecting the future leadership of our state at all levels of government.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Bennett".

Jim Bennett
Secretary of State

[THIS PAGE INTENTIONALLY LEFT BLANK.]

ALABAMA PHOTO VOTER ID GUIDE

Prepared by the
Office of the Secretary of State
State of Alabama

March 2014

EDITORS

Jim Bennett, Secretary of State
Emily Thompson, Deputy Secretary of State
Ed Packard, Director of Elections
Jean Brown, Chief Legal Advisor
Will Sutton, Elections Attorney
Brandon Walters, Elections Analyst
Clay Helms, Elections Analyst
Janice McDonald

HAVE QUESTIONS?

Contact the Elections Division in the office of the Secretary of State:

Physical Address:

600 Dexter Avenue, Room E-208
Montgomery, Alabama 36130

Mailing Address:

P.O. Box 5616
Montgomery, Alabama 36103-5616

Telephone:

334-242-7210 or 1-800-274-8683

World Wide Web:

www.alabamavoterid.com
www.alabamavotes.gov

E-mail:

alavoter@vote.alabama.gov

LEGAL DISCLAIMER

This document is not a substitute for the *Code of Alabama, 1975*. It is provided as a guide and is not intended to be an authoritative statement of law. For further legal information, please consult the Code of Alabama, or other appropriate legal resources or your attorney.

CONTENTS

CHANGE IN LAW 6

IMPLEMENTATION PROCESS 6

WHAT ID WILL BE VALID AT THE POLLS BEGINNING JUNE 3, 2014..... 7

What if I do not have any of these forms of ID? 8

FREE NONDRIVER ID..... 8

WHERE CAN I GET MY FREE ALABAMA PHOTO VOTER ID CARD? 8

WHAT IS NEEDED TO OBTAIN MY FREE ALABAMA PHOTO VOTER ID CARD? 9

What if I am not registered to vote?..... 9

Examples of photo ID documents that can be used to obtain a free Alabama Photo Voter ID Card but CANNOT be used at the polls..... 10

Examples of non-photo ID documents that can be used to obtain a free Alabama Photo Voter ID card 10

WHAT HAPPENS AFTER I APPLY?11

IS MY FREE ALABAMA PHOTO VOTER ID CARD SECURE?11

WHAT ABOUT VOTERS WHOSE POLLING PLACE IS INACCESSIBLE DUE TO AGE OR DISABILITY?.....11

Definition of “accessible” as it relates to voters who are elderly or who have a disability 12

WHAT ABOUT VOTERS WHO ARE MEMBERS OF THE MILITARY OR WHO RESIDE OVERSEAS?12

LISTING OF BOARDS OF REGISTRARS (ISSUING OFFICES FOR FREE ALABAMA PHOTO VOTER ID CARDS)13



CHANGE IN LAW

During the 2011 Regular Legislative Session the Legislature approved House Bill 19. Governor Robert Bentley signed the bill, and it was subsequently assigned Act Number 2011-673.

Beginning with the June 3, 2014 primary election, Act 2011-673 requires an Alabama voter to have a specific type of photo identification at the polls in order to vote. If a voter does not have one of the approved forms of photo ID as stated in the law, then he or she may receive a free Alabama photo voter ID card from various locations.

This guide will explain that process and let voters know how to be prepared for the June 3, 2014 primary election. For more information, you may contact the Elections Division of the Office of the Secretary of State at 800-274-8683 or 334-242-7210.

IMPLEMENTATION PROCESS

The Secretary of State's office was tasked with writing administrative rules to direct the process of receiving free photo ID's. Those administrative rules can be viewed on the Secretary of State's website at www.sos.alabama.gov or www.alabamavotes.gov. The Secretary of State was also tasked with selecting a vendor for processing the cards. Police and Sheriff's Press, Inc. was chosen as the vendor. The Secretary of State's office set up training and provided equipment for the process to begin in all 67 counties in the State of Alabama.

WHAT ID WILL BE VALID AT THE POLLS BEGINNING JUNE 3, 2014?

A voter can use any of the following forms of photo ID at the polls starting June 3, 2014:

- ▶ Valid Alabama Driver's License
- ▶ Valid Alabama Nondriver ID
- ▶ Valid Alabama Photo Voter ID Card
- ▶ Valid State Issued ID (Alabama or any other state)
- ▶ Valid Federal issued ID
- ▶ Valid US passport
- ▶ Valid Employee ID from Federal Government, State of Alabama, County, Municipality, Board or other entity of this state
- ▶ Valid student or employee ID from a public or private college or university in the State of Alabama (including postgraduate technical or professional schools)
- ▶ Valid student or employee ID issued by a state institution of higher learning in any other state
- ▶ Valid Military ID
- ▶ Valid Tribal ID



If a voter possesses any of these forms of ID, he/she is not eligible to receive a free Alabama photo voter ID card. The voter must bring one of these photo IDs to the polls on Election Day or place a copy of the ID in absentee ballot materials.

A voter who is required to present valid photo identification but who does not do so will be allowed to vote a provisional ballot as provided by law. The voter casting a provisional ballot will have until 5:00PM on the Friday after the election to submit valid photo identification, otherwise the ballot will not be counted.

In addition, a voter who does not have a valid photo ID in his or her possession at the polls shall be permitted to vote a regular ballot if the individual is positively identified by two election officials as a voter on the poll list who is eligible to vote and the election officials

sign a sworn affidavit so stating.

What if I do not have any of these forms of ID?

If a voter does not have one of the valid forms of photo ID, then that voter may obtain a free Alabama photo voter ID card or a free nondriver ID for purposes of voting.

FREE NONDRIVER ID

As another option, a voter who does not have any of the acceptable forms of photo ID may obtain a free nondriver ID for purposes of voting.



Voters will have to fill out a form with the Department of Public Safety and sign a form attesting that they do not have one of the valid forms of photo ID.

A voter must comply with all rules set forth by the Department of Public Safety and adhere to those requirements in order to receive the free nondriver ID.

WHERE CAN I GET MY FREE ALABAMA PHOTO VOTER ID CARD?

A voter may obtain a free Alabama photo voter ID card at the following locations:

- ▶ **Secretary of State's office**
600 Dexter Avenue
Montgomery, Alabama 36130
- ▶ **Boards of Registrars offices**
Located in each county. Please see the appendix in this guide for addresses and phone numbers of the various county locations.
- ▶ **At a mobile location to be determined by the Secretary of State's office**
The mobile locations will be announced by various forms of advertising.



Please note that applicants are instructed not to complete the application for a free Alabama photo voter ID card if they already

possess one of the valid forms of photo identification. Any falsification or fraud in completing the application shall constitute a Class C felony (see page 13[Ⓜ]).

WHAT IS NEEDED TO OBTAIN MY FREE ALABAMA PHOTO VOTER ID CARD?

To receive a free Alabama photo voter ID card a voter must show:

- ▶ A photo ID document or a non-photo identity document can be used if it contains your full legal name and date of birth;
- ▶ Documentation showing the voter's date of birth (can be verified by information in the statewide voter file);
- ▶ Documentation showing the person is a registered voter (can be verified by voter registration information);*
- ▶ Documentation showing the voter's name and address as reflected in the voter registration record (can be verified by voter registration information).*

***THE PROCESSING AGENTS WILL VERIFY THIS ITEM NEEDED TO RECEIVE THE FREE ALABAMA PHOTO VOTER ID CARD BY CHECKING THE VOTER'S RECORD IN THE STATEWIDE VOTER REGISTRATION SYSTEM.**



What if I'm not registered to vote?

You must be a registered voter in order to obtain a free Alabama photo voter ID card or free nondriver ID.

- ▶ The Registrar or the mobile unit worker will check the voter registration status when the voter submits the application.
- ▶ If you are in the Board of Registrars office, you may simultaneously register to vote and apply for a free Alabama photo voter ID card if there is no issue with your registration.
- ▶ If a voter is applying for a free nondriver ID card, the voter will sign the application stating he or she is an Alabama elector.

Examples of photo ID documents that can be used to obtain a free ALABAMA PHOTO VOTER ID CARD but CANNOT be used at the polls

- ▶ A student ID issued by a public or private high school.
- ▶ A student or employee ID card issued by a private university or postgraduate technical or professional school located **OUTSIDE** the state of Alabama.
- ▶ An employee ID card **NOT** issued by a branch, department, agency, or entity of the US government, the State of Alabama, or any county, municipality, board, authority, or entity of the State of Alabama.
- ▶ Hospital/nursing home ID card.
- ▶ Wholesale club or other membership card.

Examples of Non-Photo ID Documents that can be used to obtain a free ALABAMA PHOTO VOTER ID CARD

ALL MUST CONTAIN FULL LEGAL NAME AND DATE OF BIRTH

- ▶ Birth Certificate[†]
- ▶ Hospital or nursing home record
- ▶ Marriage Record[†]
- ▶ State or Federal Census Record
- ▶ Military Record
- ▶ Medicare or Medicaid document
- ▶ Social Security Administration document
- ▶ Certificate of Citizenship
- ▶ Official school record or transcript

[†]The Secretary of State's office has entered an agreement with the Alabama Department of Public Health whereby a free birth or marriage certificate will be provided to the processing or issuing agent when a voter needs one of these documents in order to obtain a free Alabama photo voter ID card. This certificate is for voting purposes only, is provided electronically, and cannot be

used for any other purpose. For more information, please call the Secretary of State's office at 1-800-274-8683.

AFTER COMPLETING THE APPLICATION AND SHOWING DOCUMENTATION, WHAT HAPPENS NEXT?

- ▶ The voter's information will be entered into the Alabama photo voter ID card issuance system and his or her photo taken.
- ▶ The person processing the application for the free Alabama photo voter ID card will give the voter a receipt, much like a temporary driver's license, which can be used to vote for 45 days after receipt.
- ▶ Voters should receive their free Alabama photo voter ID card within 14 days of processing.

IS MY FREE ALABAMA PHOTO VOTER ID CARD SECURE?

The vendor selected to produce the IDs has set many security measures within both the ID card itself and the receipt. It will be extremely difficult for someone to fake an Alabama photo voter ID card.

County-level poll workers will be trained in these security measures and will know what to look for on Election Day.



WHAT ABOUT VOTERS WHOSE POLLING PLACE IS INACCESSIBLE DUE TO AGE OR DISABILITY?

The Secretary of State's office has addressed voters who are elderly or who have a disability with an exception to the absentee ballot ID requirement when the voter's polling place is not accessible. ✦



A voter who is entitled to vote by absentee ballot pursuant to the Voting Accessibility for the Elderly and Handicapped Act or any other federal law shall not be required to produce identification when

voting by absentee ballot.

Voters who fall within this category will be able to check a box on their absentee ballot application which states that their polling place is not accessible and that they fall under the definition of elderly (age 65 or older) or handicapped. The Absentee Election Manager will not require an ID in order for these ballots to be counted.

✦ Definition of “accessible” as it relates to voters who are elderly or who have a disability

Pursuant to Section 8 of the Voting Accessibility for the Elderly and Handicapped Act (subchapter 1-F of Chapter 20 of Title 42 U.S.C) the Secretary of State has determined that the term “accessible” as applied to handicapped and elderly voters shall mean that the location of the polling place is physically accessible to handicapped and elderly voters.

If a handicapped or elderly voter is unable to access his or her assigned polling place due to a neurological, musculoskeletal, respiratory, cardiovascular, or other life-altering disorder that affects the ability to perform manual tasks, stand for any length of time, walk unassisted, see, hear, or speak, that voter’s polling place is not “accessible” to him or her.



WHAT ABOUT VOTERS WHO ARE MEMBERS OF THE MILITARY OR WHO RESIDE OVERSEAS?

An individual eligible to vote by absentee ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) is not required to provide ID prior to voting.

The term “UOCAVA voter” includes anyone who is a member of the Uniformed Services (including his or her spouse and dependents), Merchant Marines, commissioned corps of the Public Health Service, and the National Oceanic and Atmospheric Administration. It also includes anyone who is a U.S. citizen residing overseas whose last place of residency prior to moving overseas was in Alabama.

**ALABAMA BOARDS OF REGISTRARS
FREE ALABAMA PHOTO VOTER ID CARD ISSUING OFFICES**

Autauga County 218 N. Court St. Prattville 36067 (334) 358-6740	Bullock County 217 Prairie St N Rm 101 Union Springs 36089-1659 (334) 738-5372	Clarke County 114 Court St Grove Hill 36451 (251) 275-3062
Baldwin County 119 West 2nd St Bay Minette 36507 (251) 937-0305	Butler County 700 Court Sq Rm 8 Greenville 36037-2308 (334) 382-5685 (334) 382-6829	Clay County 1 Courthouse Square, 1st Floor Ashland 36251 (256) 354-7815
1100 Fairhope Ave Fairhope 36532 (251) 928-3002 ext 2617	Calhoun County 1702 Noble St Ste 113 Anniston 36201-3889 (256) 241-2930	Cleburne County 120 Vickery St Rm 103 Heflin 36264-1166 (256) 463-5299
201 E Section Ave Foley 36535 (251) 943-5061 ext 2859	Chambers County 18 Alabama Ave E Rm 101 LaFayette 36862 (334) 864-4313	Coffee County 6 County Complex New Brockton 36351-9791 (334) 894-5347
Barbour County 113 Court Street Clayton 36016 (334) 775-8579	610 S Gilmer Ave Lanett 36863 (334) 644-7781	Colbert County 201 N Main St Tuscumbia 35674-2095 (256) 386-8535
303 E Broad St Rm 108 Eufaula 36027 (334) 687-1585	Cherokee County 260 Cedar Bluff Rd Ste 106 Centre 35960-1403 (256) 927-5336	Conecuh County 111 Court St Rm 102 Evergreen 36401 (251) 578-7024
Bibb County 8 Court Square W Centreville 35042 (205) 926-3102	Chilton County 500 2nd Ave N Rm 119 Clanton 35045 (205) 755-3820	Coosa County 9709 US Hwy 231 Rockford 35136 (256) 377-2418
Blount County 220 Second Ave E Rm B-5 Oneonta 35121 (205) 625-4182	Choctaw County 117 S Mulberry Ave Ste 1 Butler 36904-0132 (205) 459-2531	

⚠ (from page 9) At the time of publication of this document, the Alabama Legislature was considering SB164 which would reduce the criminal penalty for falsifying or fraudulently making an application for an Alabama photo voter ID card. Please check the Secretary of State's voter ID web site for any changes to the criminal penalty:

www.alabamavoterid.com

**ALABAMA BOARDS OF REGISTRARS
FREE ALABAMA PHOTO VOTER ID CARD ISSUING OFFICES**

Covington County 228 Hillcrest Dr Andalusia 36420-2570 (334) 428-2685	Etowah County 800 Forrest Ave Ste 206 Gadsden 35901-3651 (256) 549-5384	Jefferson County 716 R Arrington Jr Blvd N Ste A-410 Birmingham 35203-0115 (205) 325-5550
Crenshaw County 29 S Glenwood Ave Luverne 36049 (334) 335-6568 x252 (334) 335-6568 x253	Fayette County 103 First Ave NW Ste 4 Fayette 35555-2627 (205) 932-5432	Lamar County 44690 Hwy 17 Vernon 35592 (205) 695-6348 (205) 695-9197
Cullman County 500 2nd Ave SW Ste 112 Cullman 35055-4135 (256) 775-4697 (256) 775-4750	Franklin County 410 Jackson Ave Russellville 35653 (256) 332-8849	Lauderdale County 200 South Court Street Florence 35630 (256) 760-5840 (256) 760-5841
Dale County 100 Court Square Ozark 36360 (334) 774-9038	Geneva County 200 N Commerce St Geneva 36340 (334) 684-5655	Lawrence County 14451 Market Street Ste 340 Moulton 35650 (256) 974-2460 (256) 974-2461
Dallas County 105 Lauderdale St Rm 122 Selma 36701 (334) 874-2534	Greene County 110 Main Street Eutaw 35443 (205) 372-9669	Lee County 215 S 9th St Opelika 36801 (334) 737-3635
DeKalb County 111 Grand Ave SW Ste 105 Fort Payne 35967 (256) 845-8598	Hale County 905D Centerville St Greensboro 36744-1536 (334) 624-4672	Limestone County 100 Clinton St S Ste E Athens 35611-2665 (256) 233-6405
Elmore County 100 E Commerce St Rm 205 Wetumpka 36092-2746 (334) 567-1150 (334) 567-1197	Henry County 101 Court Square Ste K Abbeville 36310-2135 (334) 585-6080	Lowndes County 205 Tuskeena St E Rm 101 Hayneville 36040 (334) 548-2389 (334) 548-2080
Escambia County 301 Belleville Ave Rm 204 Brewton 36426 (251) 867-0243 (251) 867-0312	Houston County 462 N Oates Dothan 36303 (334) 677-4776	Macon County 101 Rosa Parks Ave Ste 100 Tuskegee 36083-1735 (334) 724-2617
	Jackson County 102 E Laurel St Scottsboro 35768 (256) 574-9339 (256) 574-9335	

**ALABAMA BOARDS OF REGISTRARS
FREE ALABAMA PHOTO VOTER ID CARD ISSUING OFFICES**

<p>Madison County 819 Cook Ave NW, Ste 150 Huntsville 35801-5983 (256) 532-3510 (256) 532-3519</p>	<p>Perry County 300 Washington St Ste 102 Marion 36756 (334) 683-2218</p>	<p>Talladega County 400 N Norton Ave Sylacauga 35150-2010 (256) 249-1007 (256) 249-1014</p>
<p>Marengo County 101 E Coats Ave Linden 36748 (334) 295-2249 (334) 295-2086</p>	<p>Pickens County 155 Reform Street, Suite 303 Carrollton 35447 (205) 367-2074</p>	<p>1 Courthouse Square Talladega 35160 (256) 761-2131 (256) 761-2132</p>
<p>Marion County 132 Military Street South Hamilton 35570 (205) 921-3625</p>	<p>Pike County 120 W Church St Rm B2 Troy 36081-1913 (334) 566-1757 (334) 566-6449</p>	<p>Tallapoosa County 125 N Broadnax St Rm 20 Dadeville 36853-1371 (256) 825-1081</p>
<p>Marshall County 424 Blount Ave Ste 106A Guntersville 35976-1122 (256) 571-7740</p>	<p>Randolph County 2 First Street NE Wedowee 36278 (256) 357-2138</p>	<p>Tuscaloosa County 2501 7th St Ste 200 Tuscaloosa 35401-1801 (205) 349-3870 x415</p>
<p>Mobile County 151 Government St Ste 165 Mobile 36602 (251) 574-8586 (251) 574-8587</p>	<p>Russell County 1000 Broad St Phenix City 36867 (334) 298-1443 (334) 448-1508</p>	<p>Walker County 1803 3rd Ave Ste 109A Jasper 35501 (205) 384-7279</p>
<p>Monroe County 65 N. Alabama Ave. Monroeville 36460 (251) 743-4107 x141</p>	<p>Shelby County 108 W College Street Ste 100 Columbiana 35051 (205) 669-3913</p>	<p>Washington County 45 Court St Chatom 36558 (251) 847-3255</p>
<p>Montgomery County 100 S Lawrence St Montgomery 36104 (334) 832-1215</p>	<p>St. Clair County 1815 Cogswell Ave Ste B-25 Pell City 35125 (205) 338-3954</p>	<p>Wilcox County 104 Court Street Camden 36726 (334) 682-9753</p>
<p>Morgan County 302 Lee St NE Decatur 35601 (256) 351-4660 (256) 351-4663</p>	<p>Sumter County 311 S Washington St Livingston 35470 (205) 652-7902</p>	<p>Winston County 11 Blake Dr Rm 3 Double Springs 35553 (205) 489-3966</p>

[THIS PAGE INTENTIONALLY LEFT BLANK.]

CODE OF ALABAMA 1975

**Code of Ethics for Public Officials,
Employees, etc.**

**Chapter 25 of Title 36
(Public Officers and Employees)**

(Sections 36-25-1 through 36-25-30)

**Alabama Ethics Commission
Suite 104, RSA Union Building
100 North Union Street
Montgomery, Alabama 36104**

Telephone 334-242-2997

Fax 334-242-0248

Web Site www.ethics.alalinc.net

James L. Sumner, Jr., Director

CODE OF ALABAMA

TITLE 36.

PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 25

CODE OF ETHICS FOR PUBLIC OFFICIALS, EMPLOYEES, ETC.

Section		Section	
36-25-1	Definitions.	36-25-15	Candidates Filing Statement of Economic Interests
36-25-2	Purpose of chapter.		
36-25-3	State Ethics Commission Details	36-25-16	Contracts and relationships
36-25-4	State Ethics Commission	36-25-17	Violations
	Complaints Received	36-25-18	Registration of lobbyists
36-25-5	Personal Gain	36-25-19	Lobbyists' quarterly reports
36-25-6	Contributions	36-25-20	Lobbyist terminations
36-25-7	Receiving things of value	36-25-21	Public records availability
36-25-8	Disclosing confidential information	36-25-22	Exclusion of certain professions
	Service on boards	36-25-23	Former Legislators privileges
36-25-9	Representation of client	36-25-24	Supervisor discrimination
36-25-10	Entering into contracts	36-25-25	False accusations
36-25-11	Offering a thing of value	36-25-26	False reporting
36-25-12	Revolving door	36-25-27	Violation penalties
36-25-13	Filing Statement of Economic Interests	36-25-28	Citizens' constitutional rights
36-25-14		36-25-29	Legislative appropriations
		36-25-30	Chapter's relation to other laws

Section 36-25-1

Definitions.

Whenever used in this chapter, the following words and terms shall have the following meanings:

- (1) **BUSINESS.** Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, or any other legal entity.
- (2) **BUSINESS WITH WHICH THE PERSON IS ASSOCIATED.** Any business of which the person or a member of his or her family is an officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of the business.
- (3) **CANDIDATE.** This term as used in this chapter shall have the same meaning ascribed to it in Section 17-22A-2.
- (4) **COMMISSION.** The State Ethics Commission.
- (5) **COMPLAINT.** Written allegation or allegations that a violation of this chapter has occurred.
- (6) **COMPLAINANT.** A person who alleges a violation or violations of this chapter by filing a complaint against a respondent.
- (7) **CONFIDENTIAL INFORMATION.** A complaint filed pursuant to this chapter, together with any statement, conversations, knowledge of evidence, or information received from the complainant, witness, or other person related to such complaint.
- (8) **CONFLICT OF INTEREST.** A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs. A conflict of interest shall not include any of the following:
 - a. A loan or financial transaction made or conducted in the ordinary course of business.
 - b. An occasional nonpecuniary award publicly presented by an organization for performance of public service.
 - c. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for the personal attendance of a public official or public employee at a convention or other meeting at which he or she is scheduled to meaningfully participate in connection with his or her official duties and for which attendance no reimbursement is made by the state.
 - d. Any campaign contribution, including the purchase of tickets to, or advertisements in journals, for political or testimonial dinners, if the contribution is actually used for political purposes and is not given under circumstances from which it could reasonably be inferred that the purpose of the contribution is to substantially influence a public official in the performance of his or her official

duties.

(9) DAY. Calendar day.

(10) DEPENDENT. Any person, regardless of his or her legal residence or domicile, who receives 50 percent or more of his or her support from the public official or public employee or his or her spouse or who resided with the public official or public employee for more than 180 days during the reporting period.

(11) FAMILY MEMBER OF THE PUBLIC EMPLOYEE. The spouse or a dependent of the public employee.

(12) FAMILY MEMBER OF THE PUBLIC OFFICIAL. The spouse, a dependent, an adult child and his or her spouse, a parent, a spouse's parents, a sibling and his or her spouse, of the public official.

(13) GOVERNMENTAL CORPORATIONS AND AUTHORITIES. Public or private corporations and authorities, including but not limited to, hospitals or other health care corporations, established pursuant to state law by state, county or municipal governments for the purpose of carrying out a specific governmental function. Notwithstanding the foregoing, all employees, including contract employees, of hospitals or other health care corporations and authorities are exempt from the provisions of this chapter.

(14) HOUSEHOLD. The public official, public employee, and his or her spouse and dependents.

(15) LAW ENFORCEMENT OFFICER. A full-time employee of a governmental unit responsible for the prevention or investigation of crime who is authorized by law to carry firearms, execute search warrants, and make arrests.

(16) LEGISLATIVE BODY. The Senate of Alabama, the House of Representatives of Alabama, a county commission, city council, city commission, town council, or municipal council or commission, and any committee or subcommittee thereof.

(17) LOBBYING. The practice of promoting, opposing, or in any manner influencing or attempting to influence the introduction, defeat, or enactment of legislation before any legislative body; opposing or in any manner influencing the executive approval, veto, or amendment of legislation; or the practice of promoting, opposing, or in any manner influencing or attempting to influence the enactment, promulgation, modification, or deletion of regulations before any regulatory body; provided, however, that providing public testimony before a legislative body or regulatory body or any committee thereof shall not be deemed lobbying.

(18) LOBBYIST.

a. The term lobbyist includes any of the following:

1. A person who receives compensation or reimbursement from another person, group, or entity to lobby.
2. A person who lobbies as a regular and usual part of employment, whether or not any

compensation in addition to regular salary and benefits is received.

3. A person who expends in excess of one hundred dollars (\$100) for a thing of value, not including funds expended for travel, subsistence expenses, and literature, buttons, stickers, publications, or other acts of free speech, during a calendar year to lobby.

4. A consultant to the state, county, or municipal levels of government or their instrumentalities, in any manner employed to influence legislation or regulation, regardless whether the consultant is paid in whole or part from state, county, municipal, or private funds.

5. An employee, a paid consultant, or a member of the staff of a lobbyist, whether or not he or she is paid, who regularly communicates with members of a legislative body regarding pending legislation and other matters while the legislative body is in session.

b. The term lobbyist does not include any of the following:

1. A member of a legislative body on a matter which involves that person's official duties.

2. A person or attorney rendering professional services in drafting bills or in advising clients and in rendering opinions as to the construction and effect of proposed or pending legislation, executive action, or rules or regulations, where those professional services are not otherwise connected with legislative, executive, or regulatory action.

3. Reporters and editors while pursuing normal reportorial and editorial duties.

4. Any citizen not expending funds as set out above in paragraph a.3. or not lobbying for compensation who contacts a member of a legislative body, or gives public testimony on a particular issue or on particular legislation, or for the purpose of influencing legislation and who is merely exercising his or her constitutional right to communicate with members of a legislative body.

5. A person who appears before a legislative body, a regulatory body, or an executive agency to either sell or purchase goods or services.

6. A person whose primary duties or responsibilities do not include lobbying, but who may, from time to time, organize social events for members of a legislative body to meet and confer with members of professional organizations and who may have only irregular contacts with members of a legislative body when the body is not in session or when the body is in recess.

(19) MINOR VIOLATION. Any violation of this chapter in which the public official or public employee receives an economic gain in an amount less than two hundred fifty dollars (\$250) or the governmental entity has an economic loss of less than two hundred fifty dollars (\$250).

(20) PERSON. A business, individual, corporation, partnership, union, association, firm, committee, club, or other organization or group of persons.

(21) PRINCIPAL. A person or business which employs, hires, or otherwise retains a lobbyist. Nothing in this chapter shall be deemed to prohibit a principal from simultaneously serving as his or her own lobbyist.

(22) **PROBABLE CAUSE.** A finding that the allegations are more likely than not to have occurred.

(23) **PUBLIC EMPLOYEE.** Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income.

(24) **PUBLIC OFFICIAL.** Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2.

(25) **REGULATORY BODY.** A state agency which issues regulations in accordance with the Alabama Administrative Procedure Act or a state, county, or municipal department, agency, board, or commission which controls, according to rule or regulation, the activities, business licensure, or functions of any group, person, or persons.

(26) **REPORTING PERIOD.** The reporting official's or employee's fiscal tax year as it applies to his or her United States personal income tax return.

(27) **REPORTING YEAR.** The reporting official's or employee's fiscal tax year as it applies to his or her United States personal income tax return.

(28) **RESPONDENT.** A person alleged to have violated a provision of this chapter and against whom a complaint has been filed with the commission.

(29) **STATEMENT OF ECONOMIC INTERESTS.** A financial disclosure form made available by the commission which shall be completed and filed with the commission prior to April 30 of each year covering the preceding calendar year by certain public officials and public employees.

(30) **SUPERVISOR.** Any person having authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, or discipline other public employees, or any person responsible to direct them, or to adjust their grievances, or to recommend personnel action, if, in connection with the foregoing, the exercise of the authority is not of a merely routine or clerical nature but requires the use of independent judgment.

(31) **THING OF VALUE.**

a. Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event offered only to public officials, unsecured loan, other than those loans made in the ordinary

course of business, reward, promise of future employment, or honoraria.

b. The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:

1. Campaign contribution.

2. Seasonal gifts of an insignificant economic value of less than one hundred dollars (\$100) if the aggregate value of such gifts from any single donor is less than two hundred fifty dollars (\$250) during any one calendar year.

3. Hospitality extended to a public official, public employee, and his or her respective household as a social occasion in the form of food and beverages where the provider is present, lodging in the continental United States and Alaska incidental to the social occasion, and tickets to social or sporting events if the hospitality does not extend beyond three consecutive days and is not continuous in nature and the aggregate value of such hospitality in excess of two hundred fifty dollars (\$250) within a calendar day is reported to the commission by the provider provided that the reporting requirement contained in this section shall not apply where the expenditures are made to or on behalf of an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any charitable, education or eleemosynary cause of Section 501 of Title 26 of the U.S. Code, and where the public official or public employee does not receive any direct financial benefit. The reporting shall include the name or names of the recipient or recipients, the value of the entire expenditure, the date or dates of the expenditure, and the type of expenditure.

4. Reasonable transportation, food and beverages where the provider is present, and lodging expenses in the continental United States and Alaska which are provided in conjunction with an educational or informational purpose, together with any hospitality associated therewith; provided, that such hospitality is less than 50 percent of the time spent at such event, and provided further that if the aggregate value of such transportation, lodging, food, beverages, and any hospitality provided to such public employee, public official, and his or her respective household is in excess of two hundred fifty dollars (\$250) within a calendar day the total amount expended shall be reported to the commission by the provider. The reporting shall include the name or names of the recipient or recipients, the value of the entire expenditure, the date or dates of the expenditure, and the type of expenditure.

5. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence of a public official or public employee in connection with an economic development research or trade mission, or for attendance at a mission or meeting in which he or she is scheduled to meaningfully participate, or regarding matters related to his or her official duties, and for which attendance no reimbursement is made by the state; provided, that any hospitality in the form of entertainment, recreation, or sporting events shall constitute less than 25% of the time spent in connection with the event. If the aggregate value of any such hospitality extended to the public employee, public official, and his or her respective household is in excess of two hundred fifty dollars (\$250) within a calendar day, the total amount expended for that day shall be reported to the commission by the provider. The reporting shall include the name or names of the recipient or

recipients, the value of such expenditures, the date or dates of the expenditure, and the type of expenditure.

6. Promotional items commonly distributed to the general public and food or beverages of a nominal value.

c. Nothing in this chapter shall be deemed to limit, prohibit, or otherwise require the disclosure of a personal gift made to a public official or public employee from a spouse, intended spouse, dependent, adult child, sibling, parent, grandparent, uncle, aunt, nephews, nieces or cousins of the public official or public employee, except as otherwise provided by law.

d. Nothing in this chapter shall be deemed to limit, prohibit, or otherwise require the disclosure of gifts through inheritance received by a public employee or public official.

(32) VALUE. The fair market price of a like item if purchased by a private citizen.

(Acts 1973, No. 1056, p. 1699, §2; Acts 1975, No. 130, p. 603, §1; Acts 1979, No. 79-698, p. 1241; Acts 1982, No. 82-429, p. 677; Acts 1986, No. 86-321, p. 475, §1; Acts 1995, No. 95-194, p. 269, §1; Acts 1997, No. 97-651, p. 1217, §1.)

Section 36-25-2

Legislative findings and declarations; purpose of chapter.

(a) The Legislature hereby finds and declares:

(1) It is essential to the proper operation of democratic government that public officials be independent and impartial.

(2) Governmental decisions and policy should be made in the proper channels of the governmental structure.

(3) No public office should be used for private gain other than the remuneration provided by law.

(4) It is important that there be public confidence in the integrity of government.

(5) The attainment of one or more of the ends set forth in this subsection is impaired whenever there exists a conflict of interest between the private interests of a public official or a public employee and the duties of the public official or public employee.

(6) The public interest requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to the conduct of public officials and public employees in situations where conflicts exist.

(b) It is also essential to the proper operation of government that those best qualified be encouraged to serve in government. Accordingly, legal safeguards against conflicts of interest shall be so designed as not to unnecessarily or unreasonably impede the service of those men and women who are elected or appointed to do so. An essential principle underlying the staffing of our governmental structure is that its public officials and public employees should not be denied the

opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where conflicts with the responsibility of public officials and public employees to the public cannot be avoided.

(c) The Legislature declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to the legislative bodies and to officials of the executive branch, their opinions on legislation, on pending governmental actions, and on current issues. To preserve and maintain the integrity of the legislative and administrative processes, it is necessary that the identity, expenditures, and activities of certain persons who engage in efforts to persuade members of the legislative bodies or members of the executive branch to take specific actions, either by direct communication to these officials, or by solicitation of others to engage in such efforts, be publicly and regularly disclosed. This chapter shall be liberally construed to promote complete disclosure of all relevant information and to insure that the public interest is fully protected.

(d) It is the policy and purpose of this chapter to implement these objectives of protecting the integrity of all governmental units of this state and of facilitating the service of qualified personnel by prescribing essential restrictions against conflicts of interest in public service without creating unnecessary barriers thereto.

(Acts 1973, No. 1056, p. 1699, §§1; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-3

State Ethics Commission - Creation, composition, qualifications, appointment, terms of office, vacancies, officers; annual reports; compensation; applicability of chapter to members, officers, etc.; director and staff.

(a) There is hereby created a State Ethics Commission composed of five members, each of whom shall be a fair, equitable citizen of this state and of high moral character and ability. The following persons shall not be eligible to be appointed as members: (1) a public official; (2) a candidate; (3) a registered lobbyist and his or her principal; or (4) a former employee of the commission. For purposes of this section, a public official shall not be deemed to include a part-time municipal judge and a registered lobbyist shall not be deemed to include a person whose lobbying activities are limited to providing public testimony to a legislative body or regulatory body or committee thereof. No member of the commission shall be eligible for reappointment to succeed himself or herself. The members of the commission shall be appointed by the following officers: the Governor, the Lieutenant Governor, or in the absence of a Lieutenant Governor, the Presiding Officer of the Senate, and the Speaker of the House of Representatives and shall assume their duties upon confirmation by the Senate. The members of the first commission shall be appointed for terms of office expiring one, two, three, four and five years, respectively, from September 1, 1975. Successors to the members of the first commission shall serve for a term of five years beginning service on September 1 of the year appointed and serving until their successors are appointed and confirmed. If at any time there should be a vacancy on the commission, a successor member to serve for the unexpired term applicable to such vacancy shall be appointed by the Governor. The commission shall elect one member to serve as chair of the commission and one member to serve as vice chair. The vice chair shall act as chair in the absence or disability of the chair or in the event of a vacancy in that office.

Beginning with the first vacancy on the Ethics Commission after October 1, 1995, if there is not a Black member serving on the commission, that vacancy shall be filled by a Black appointee. Any vacancy thereafter occurring on the commission, shall also be filled by a Black appointee if there is no Black member serving on the commission at that time.

(b) A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission, and three members thereof shall constitute a quorum.

(c) The commission shall at the close of each fiscal year, or as soon thereafter as practicable, report to the Legislature and the Governor concerning the actions it has taken, the name, salary, and duties of the director, the names and duties of all individuals in its employ, the money it has disbursed, other relevant matters within its jurisdiction, and such recommendations for legislation as the commission deems appropriate.

(d) Members of the commission shall, while serving on the business of the commission, be entitled to receive compensation at the rate of fifty dollars (\$50) per day, and each member shall be paid his or her travel expenses incurred in the performance of his or her duties as a member of the commission as other state employees and officials are paid when approved by the chair. If for any reason a member of the commission wishes not to claim and accept the compensation or travel expenses, the member shall inform the director, in writing, of the refusal. The member may at any time during his or her term begin accepting compensation or travel expenses; however, the

member's refusal for any covered period shall act as an irrevocable waiver for that period.

(e) All members, officers, agents, attorneys, and employees of the commission shall be subject to this chapter. The director, members of the commission, and all employees of the commission shall not engage in direct partisan political activity, including the making of campaign contributions, on the state, county, and local levels. The prohibition shall in no way act to limit or restrict such persons' ability to vote in any election.

(f) The commission shall appoint a full-time director. The director shall serve at the pleasure of the commission and shall appoint such other employees as needed. All such employees, except the director, shall be employed subject to the provisions of the State Merit System Law, and their compensation shall be prescribed pursuant to such law. The employment of attorneys shall be subject to subsection (h). The compensation of the director shall be fixed by the commission, payable as the salaries of other state employees. The director shall be responsible for the administrative operations of the commission and shall administer this chapter in accordance with the commission's policies. No regulation shall be implemented by the director until adopted by the commission in accordance with Sections 41-22-1 to 41-22-27, inclusive, the Alabama Administrative Procedure Act.

(g) The director may appoint part-time stenographic reporters or certified court reporters, as needed, to take and transcribe the testimony in any formal or informal hearing or investigation before the commission or before any person authorized by the commission. The reporters shall not be full-time employees of the commission and shall not be subject to the Merit System law and may not participate in the State Retirement System.

(h) The director may, with the approval of the Attorney General, appoint a competent attorney as legal counsel for the commission. The legal counsel shall be of good moral and ethical character, licensed to practice law in this state, and a member in good standing of the Alabama Bar Association. The legal counsel shall be commissioned as an Assistant or Deputy Attorney General and shall, in addition to the powers and duties herein conferred, have the authority and duties of an Assistant or Deputy Attorney General, except, that his or her entire time shall be devoted to the commission. The attorney shall act as an attorney for the commission in actions or proceedings brought by or against the commission pursuant to any provisions of law under the commission's jurisdiction, or in which the commission joins or intervenes as to a matter within the commission's jurisdiction, or as a friend of the court or otherwise; provided however, nothing in this chapter shall be deemed as a direct grant of subpoena power to the commission.

(i) The director shall designate in writing the chief investigator, should there be one, and a maximum of six full-time investigators who shall be and are hereby constituted law enforcement officers of the State of Alabama with full and unlimited police power and jurisdiction to enforce the laws of this state pertaining to the operation and administration of the commission and this chapter. Investigators shall meet the requirements of the Alabama Peace Officers' Standards and Training Act, Sections 36-21-40 to 36-21-51, inclusive, and shall in all ways and for all purposes be considered law enforcement officers; provided however such investigators shall only exercise their power of arrest as granted under this chapter pursuant to an order issued by a court of competent jurisdiction.

(Acts 1973, No. 1056, p. 1699; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-4

State Ethics Commission - Duties; complaint; investigation; rights of respondent concerning hearing; collection of fees; result once violation found.

(a) The commission shall do all of the following:

(1) Prescribe forms for statements required to be filed by this chapter and make the forms available to persons required to file such statements.

(2) Prepare guidelines setting forth recommended uniform methods of reporting for use by persons required to file statements required by this chapter.

(3) Accept and file any written information voluntarily supplied that exceeds the requirements of this chapter.

(4) Develop, where practicable, a filing, coding, and cross-indexing system consistent with the purposes of this chapter.

(5) Make reports and statements filed with the commission available during regular business hours to public inquiry subject to such regulations as the commission may prescribe including, but not limited to, regulations requiring identification by name, occupation, address, and telephone number of each person examining information on file with the commission.

(6) Preserve reports and statements for a period consistent with the statute of limitations as contained in this chapter. The reports and statements, when no longer required to be retained, shall be disposed of by shredding the reports and statements and disposing of or recycling them, or otherwise disposing of the reports and statements in any other manner prescribed by law. Nothing in this section shall in any manner limit the Department of Archives and History from receiving and retaining any documents pursuant to existing law.

(7) Make investigations with respect to statements filed pursuant to this chapter, and with respect to alleged failures to file, or omissions contained therein, any statement required pursuant to this chapter and, upon complaint by any individual, with respect to alleged violation of any part of this chapter to the extent authorized by law when in its opinion a thorough audit of any person or any business should be made in order to determine whether this chapter has been violated, the commission shall direct the Examiner of Public Accounts to have an audit made and a report thereof filed with the commission. The Examiner of Public Accounts shall, upon receipt of the directive, comply therewith.

(8) Report suspected violations of law to the appropriate law-enforcement authorities.

(9) Issue and publish advisory opinions on the requirements of this chapter, based on a real or hypothetical set of circumstances. Such advisory opinions shall be adopted by a majority vote of the members of the commission present and shall be effective and deemed valid until expressly overruled or altered by the commission or a court of competent jurisdiction. The written advisory

opinions of the commission shall protect the person at whose request the opinion was issued and any other person reasonably relying, in good faith, on the advisory opinion in a materially like circumstance from liability to the state, a county, or a municipal subdivision of the state because of any action performed or action refrained from in reliance of the advisory opinion. Nothing in this section shall be deemed to protect any person relying on the advisory opinion if the reliance is not in good faith, is not reasonable, is not in a materially like circumstance. The commission may impose reasonable charges for publication of the advisory opinions and monies shall be collected, deposited, dispensed, or retained as provided herein. On October 1, 1995, all prior advisory opinions of the commission in conflict with this chapter, shall be ineffective and thereby deemed invalid and otherwise overruled unless there has been any action performed or action refrained from in reliance of a prior advisory opinion.

(10) Initiate and continue, where practicable, programs for the purpose of educating candidates, officials, employees, and citizens of Alabama on matters of ethics in government service.

(11) In accordance with Sections 41-22-1 to 41-22-27, inclusive, the Alabama Administrative Procedure Act, prescribe, publish, and enforce rules and regulations to carry out this chapter.

(b) A complaint filed pursuant to this chapter, together with any statement, evidence, or information received from the complainant, witnesses, or other persons shall be protected by and subject to the same restrictions relating to secrecy and nondisclosure of information, conversation, knowledge, or evidence of Sections 12-16-214 to 12-16-216, inclusive. Such restrictions shall apply to all investigatory activities taken by the director, the commission or a member thereof, staff, employees, or any person engaged by the commission in response to a complaint filed with the commission and to all proceedings relating thereto before the commission.

(c) The commission shall not take any investigatory action on a telephonic or written complaint against a respondent so long as the complainant remains anonymous. Investigatory action on a complaint from an identifiable source shall not be initiated until the true identity of the source has been ascertained and written verification of such ascertainment is in the commission's files. The complaint may only be filed by a person who has or persons who have actual knowledge of the allegations contained in the complaint. A complainant may not file a complaint for another person or persons in order to circumvent this subsection. Prior to commencing any investigation, the commission shall: (1) receive a written and signed complaint which sets forth in detail the specific charges against a respondent, and the factual allegations which support such charges and (2) the director shall conduct a preliminary inquiry in order to make an initial determination that reasonable cause exists to conduct an investigation. If the director determines reasonable cause does not exist, the charges shall be dismissed, but such action must be reported to the commission. The commission shall be entitled to authorize an investigation upon a unanimous written consent of all five (5) commission members, upon an express finding that probable cause exists that a violation or violations of this chapter have occurred. A complaint may be initiated by the unanimous vote of the commission, provided, however, that the commission shall not conduct the hearing, but rather the hearing shall be conducted by three (3) active or retired judges, who shall be appointed by the Chief Justice of the Alabama Supreme Court, at least one of whom shall be Black. The three (3) judge panel shall conduct the hearing in accordance with the procedures contained in this chapter and in accordance with the rules and regulations of the commission. If the

three (3) judge panel unanimously finds that a person covered by this chapter has violated it, the three (3) judge panel shall forward the case to the district attorney for the jurisdiction in which the alleged acts occurred or to the Attorney General. In all matters that come before the commission concerning a complaint on an individual, the laws of due process shall apply.

(d) Not less than 45 days prior to any hearing before the commission, the respondent shall be given notice that a complaint has been filed against him or her and shall be given a summary of the charges contained therein. Upon the timely request of the respondent, a continuance of the hearing for not less than 30 days shall be granted for good cause shown. The respondent charged in the complaint shall have the right to be represented by retained legal counsel. The commission may not require the respondent to be a witness against himself or herself.

(e) The commission shall provide discovery to the respondent pursuant to the Alabama Rules of Criminal Procedure as promulgated by the Alabama Supreme Court.

(f)(1) All fees, penalties, and fines collected by the commission pursuant to this chapter shall be deposited into the State General Fund.

(2) All monies collected as reasonable payment of costs for copying, reproductions, publications, and lists shall be deemed a refund against disbursement and shall be deposited into the appropriate fund account for the use of the commission.

(g) If the commission finds cause that a person covered by this chapter has violated it, the case and the commission's findings shall be forwarded to the district attorney for the jurisdiction in which the alleged acts occurred or to the Attorney General. The case, along with the commission's findings, shall be referred for appropriate legal action. Nothing in this section shall be deemed to limit the commission's ability to take appropriate legal action when so requested by the district attorney for the appropriate jurisdiction or by the Attorney General.

(Acts 1973, No. 1056, p. 1699, §§18; Acts 1975, No. 130, p. 603, §§1; Acts 1979, No. 79-460, p. 814; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-5

Use of official position or office for personal gain.

(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.

(b) Unless prohibited by the Constitution of Alabama of 1901, nothing herein shall be construed to prohibit a public official from introducing bills, ordinances, resolutions, or other legislative matters, serving on committees, or making statements or taking action in the exercise of his or her duties as a public official. A member of a legislative body may not vote for any legislation in which he or she knows or should have known that he or she has a conflict of interest.

(c) No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy. Provided, however, nothing in this subsection shall be deemed to limit or otherwise prohibit communication between public officials or public employees and eleemosynary or membership organizations or such organizations communicating with public officials or public employees.

(d) No person shall solicit a public official or public employee to use or cause to be used equipment, facilities, time, materials, human labor, or other public property for such person's private benefit or business benefit, which would materially affect his or her financial interest, except as otherwise provided by law.

(e) No public official or public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom he or she directly inspects, regulates, or supervises in his or her official capacity.

(f) A conflict of interest shall exist when a member of a legislative body, public official, or public employee has a substantial financial interest by reason of ownership of, control of, or the exercise of power over any interest greater than five percent of the value of any corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation; or who is an officer or director for any such corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation.

(Acts 1973, No. 1056, p. 1699, &&§3; Acts 1975, No. 130, &&§1; Acts 1995, No. 95-194, p. 269, &&§1; Act 2000-797, &§ 1.)

Section 36-25-6

Use of contributions.

Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use.

(Acts 1973, No. 1056, p. 1699, §§4; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1; Acts 1997, No. 97-651, p. 1217, §§1.)

Section 36-25-7

Offering, soliciting, or receiving things of value for purpose of influencing official action; money solicited or received in addition to that received in official capacity.

(a) No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive a thing of value for the purpose of influencing official action.

(b) No public official or public employee shall solicit or receive a thing of value for himself or herself or for a family member of the public employee or family member of the public official for the purpose of influencing official action.

(c) No person shall offer or give a family member of the public official or family member of the public employee a thing of value for the purpose of influencing official action.

(d) No public official or public employee, shall solicit or receive any money in addition to that received by the public official or public employee in an official capacity for advice or assistance on matters concerning the Legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which he or she is a member.

Notwithstanding the foregoing, nothing in this section shall be construed to prohibit a public official or public employee from the performance of his or her official duties or responsibilities.

(Acts 1973, No. 1056, p. 1699, §§5; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-8

Use or disclosure of confidential information for private financial gain.

No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business.

(Acts 1973, No. 1056, p. 1699, §§6; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-9

Service on regulatory boards and commissions regulating business with which person associated; members who have financial interest in matter prohibited from voting.

(a) Unless expressly provided otherwise by law, no person shall serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which he is associated. Nothing herein shall prohibit real estate brokers, agents, developers, appraisers, mortgage bankers, or other persons in the real estate field, or other state-licensed professionals, from serving on any planning boards or commissions, housing authorities, zoning board, board of adjustment, code enforcement board, industrial board, utilities board, state board, or commission.

(b) All county or municipal regulatory boards, authorities, or commissions currently comprised of any real estate brokers, agents, developers, appraisers, mortgage bankers, or other persons in the real estate industry may allow these individuals to continue to serve out their current term if appointed before December 31, 1991, except that at the conclusion of such term subsequent appointments shall reflect that membership of real estate brokers and agents shall not exceed more than one less of a majority of any county or municipal regulatory board or commission effective January 1, 1994.

(c) No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the member or family member of the member has any financial gain or interest.

(d) All acts, actions, and votes taken by such local boards and commissions between January 1, 1991 and December 31, 1993 are affirmed and ratified.

(Acts 1973, No. 1056, p. 1699, §§7; Acts 1975, No. 130, §§1; Acts 1992, No. 92-342, p. 719, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-10

Representation of client or constituent before board, regulatory body, department, etc.

If a public official or public employee, or family member of the public employee or family member of the public official, or a business with which the person is associated, represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, notice of the representation shall be given within 10 days after the first day of the appearance. Notice shall be filed with the commission in the manner prescribed by it. No member of the Legislature shall for a fee, reward, or other compensation represent any person, firm, or corporation before the Public Service Commission or the State Board of Adjustment.

(Acts 1973, No. 1056, p. 1699, §§8; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-11

Public officials or employees entering into contracts which are to be paid out of government funds.

Unless exempt pursuant to Alabama competitive bid laws or otherwise permitted by law, no public official or public employee, or a member of the household of the public employee or the public official, and no business with which the person is associated shall enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds unless the contract has been awarded through a process of competitive bidding and a copy of the contract is filed with the commission. All such contract awards shall be made as a result of original bid takings, and no awards from negotiations after bidding shall be allowed. A copy of each contract, regardless of the amount, entered into by a public official, public employee, a member of the household of the public employee or the public official, and any business with which the person is associated shall be filed with the commission within 10 days after the contract has been entered into.

(Acts 1973, No. 1056, p. 1699, §§9; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-12

Offering, soliciting, etc., thing of value to or by member of regulatory body.

No person shall offer or give to a member or employee of a governmental agency, board, or commission that regulates a business with which the person is associated, and no member or employee of a regulatory body, shall solicit or accept a thing of value while the member or employee is associated with the regulatory body other than in the ordinary course of business. In addition to the foregoing, the commissioner of the Department of Agriculture and Industries and any candidate for the office of commissioner may not accept a campaign contribution from a person associated with a business regulated by the department.

(Acts 1973, No. 1056, p. 1699, §§ 10; Acts 1975, No. 130, p. 603, §§1; Acts 1995, No. 95-194, p. 269, §§ 1; Act 2001-474, p. 635, §§ 1.)

Section 36-25-13

Actions of former public officials or public employees prohibited for two years after departure.

(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.

(b) No public employee shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, or department, of which he or she is a former employee for a period of two years after he or she leaves such employment. For the purposes of this subsection, such prohibition shall not include a former employee of the Alabama

judiciary who as an attorney represents a client in a legal, non-lobbying capacity.

(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency.

(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual.

(e) No former public official or public employee of the state may, within two years after termination of office or employment, act as attorney for any person other than himself or herself or the state, or aid, counsel, advise, consult or assist in representing any other person, in connection with any judicial proceeding or other matter in which the state is a party or has a direct and substantial interest and in which the former public official or public employee participated personally and substantially as a public official or employee or which was within or under the public official or public employee's official responsibility as an official or employee. This prohibition shall extend to all judicial proceedings or other matters in which the state is a party or has a direct and substantial interest, whether arising during or subsequent to the public official or public employee's term of office or employment.

(f) Nothing in this chapter shall be deemed to limit the right of a public official or public employee to publicly or privately express his or her support for or to encourage others to support and contribute to any candidate, political committee as defined in Section 17-22A-2, referendum, ballot question, issue, or constitutional amendment.

(Acts 1973, No. 1056, p. 1699, §§11; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-14

Filing of statement of economic interests.

(a) A statement of economic interests shall be completed and filed in accordance with this chapter with the commission no later than April 30 of each year covering the period of the preceding calendar year by each of the following:

- (1) All elected public officials at the state, county, or municipal level of government or their instrumentalities.
- (2) Any person appointed as a public official and any person employed as a public employee at the state, county, or municipal level of government or their instrumentalities who occupies a position whose base pay is fifty thousand dollars (\$50,000) or more annually.
- (3) All candidates, simultaneously with the date he or she becomes a candidate as defined in

Section 17-22A-2, or the date the candidate files his or her qualifying papers, whichever comes first.

(4) Members of the Alabama Ethics Commission; appointed members of boards and commissions having statewide jurisdiction (but excluding members of solely advisory boards).

(5) All full-time nonmerit employees, other than those employed in maintenance, clerical, secretarial, or other similar positions.

(6) Chief clerks and chief managers.

(7) Chief county clerks and chief county managers.

(8) Chief administrators.

(9) Chief county administrators.

(10) Any public official or public employee whose primary duty is to invest public funds.

(11) Chief administrative officers of any political subdivision.

(12) Chief and assistant county building inspectors.

(13) Any county or municipal administrator with power to grant or deny land development permits.

(14) Chief municipal clerks.

(15) Chiefs of police.

(16) Fire chiefs.

(17) City and county school superintendents and school board members.

(18) City and county school principals or administrators.

(19) Purchasing or procurement agents having the authority to make any purchase.

(20) Directors and assistant directors of state agencies.

(21) Chief financial and accounting directors.

(22) Chief grant coordinators.

(23) Each employee of the Legislature or of agencies, including temporary committees and commissions established by the Legislature, other than those employed in maintenance, clerical, secretarial, or similar positions.

(24) Each employee of the judicial branch of government, including active supernumerary district attorneys and judges, other than those employed in maintenance, clerical, secretarial, or other similar positions.

(b) Unless otherwise required by law, no public employee occupying a position earning less than fifty thousand dollars (\$50,000) per year shall be required to file a statement of economic interests. Notwithstanding the provisions of subsection (a) or any other provision of this chapter, no coach of an athletic team of any four-year institution of higher education which receives state funds shall be required to include any income, donations, gifts, or benefits, other than salary, on the statement of economic interests, if the income, donations, gifts, or benefits are a condition of the employment contract. Such statement shall be made on a form made available by the commission. The duty to file the statement of economic interests shall rest with the person covered by this chapter. Nothing in this chapter shall be construed to exclude any public employee or public official from this chapter regardless of whether they are required to file a statement of economic interests. The statement shall contain the following information on the person making the filing:

(1) Name, residential address, business; name, address, and business of living spouse and dependents; name of living adult children; name of parents and siblings; name of living parents of spouse. Undercover law enforcement officers may have their residential addresses and the names of family members removed from public scrutiny by filing an affidavit stating that publicizing this information would potentially endanger their families.

(2) A list of occupations to which one third or more of working time was given during previous reporting year by the public official, public employee, or his or her spouse.

(3) A listing of total combined household income of the public official or public employee during the most recent reporting year as to income from salaries, fees, dividends, profits, commissions, and other compensation and listing the names of each business and the income derived from such business in the following categorical amounts: less than one thousand dollars (\$1,000); at least one thousand dollars (\$1,000) and less than ten thousand dollars (\$10,000); at least ten thousand dollars (\$10,000) and less than fifty thousand dollars (\$50,000); at least fifty thousand dollars (\$50,000) and less than one hundred fifty thousand dollars (\$150,000); at least one hundred fifty thousand dollars (\$150,000) and less than two hundred fifty thousand dollars (\$250,000); or at least two hundred fifty thousand dollars (\$250,000) or more. The person reporting shall also name any business or subsidiary thereof in which he or she or his or her spouse or dependents, jointly or severally, own five percent or more of the stock or in which he or she or his or her spouse or dependents serves as an officer, director, trustee, or consultant where the service provides income of at least one thousand dollars (\$1,000) and less than five thousand dollars (\$5,000); or at least five thousand dollars (\$5,000) or more for the reporting period.

(4) If the filing public official or public employee, or his or her spouse, has engaged in a business during the last reporting year which provides legal, accounting, medical or health related, real estate, banking, insurance, educational, farming, engineering, architectural management, or other professional services or consultations, then the filing party shall report the number of clients of such business in each of the following categories and the income in categorical amounts received during the reporting period from the combined number of clients in each category: electric utilities, gas utilities, telephone utilities, water utilities, cable television companies, intrastate transportation companies, pipeline companies, oil or gas exploration companies, or both, oil and gas retail

companies, banks, savings and loan associations, loan or finance companies, or both, manufacturing firms, mining companies, life insurance companies, casualty insurance companies, other insurance companies, retail companies, beer, wine or liquor companies or distributors, or combination thereof, trade associations, professional associations, governmental associations, associations of public employees or public officials, counties, and any other businesses or associations that the commission may deem appropriate. Amounts received from combined clients in each category shall be reported in the following categorical amounts: less than one thousand dollars (\$1,000); more than one thousand dollars (\$1,000) and less than ten thousand dollars (\$10,000); at least ten thousand dollars (\$10,000) and less than twenty-five thousand dollars (\$25,000); at least twenty-five thousand dollars (\$25,000) and less than fifty thousand dollars (\$50,000); at least fifty thousand dollars (\$50,000) and less than one hundred thousand dollars (\$100,000); at least one hundred thousand dollars (\$100,000) and less than one hundred fifty thousand dollars (\$150,000); at least one hundred fifty thousand dollars (\$150,000) and less than two hundred fifty thousand dollars (\$250,000); or at least two hundred fifty thousand dollars (\$250,000) or more.

(5) If retainers are in existence or contracted for in any of the above categories of clients, a listing of the categories along with the anticipated income to be expected annually from each category of clients shall be shown in the following categorical amounts: less than one thousand dollars (\$1,000); at least one thousand dollars (\$1,000) and less than five thousand dollars (\$5,000); or at least five thousand dollars (\$5,000) or more.

(6) If real estate is held for investment or revenue production by a public official, his or her spouse or dependents, then a listing thereof in the following fair market value categorical amounts: under fifty thousand dollars (\$50,000); at least fifty thousand dollars (\$50,000) and less than one hundred thousand dollars (\$100,000); at least one hundred thousand dollars (\$100,000) and less than one hundred fifty thousand dollars (\$150,000); at least one hundred fifty thousand dollars (\$150,000) and less than two hundred fifty thousand dollars (\$250,000); at least two hundred fifty thousand dollars (\$250,000) or more. A listing of annual gross rent and lease income on real estate shall be made in the following categorical amounts: less than ten thousand dollars (\$10,000); at least ten thousand dollars (\$10,000) and less than fifty thousand dollars (\$50,000); fifty thousand dollars (\$50,000) or more. If a public official or a business in which the person is associated received rent or lease income from any governmental agency in Alabama, specific details of the lease or rent agreement shall be filed with the commission.

(7) A listing of indebtedness to businesses operating in Alabama showing types and number of each as follows: Banks, savings and loan associations, insurance companies, mortgage firms, stockbrokers and brokerages or bond firms; and the indebtedness to combined organizations in the following categorical amounts: Less than twenty-five thousand dollars (\$25,000); twenty-five thousand dollars (\$25,000) and less than fifty thousand dollars (\$50,000); fifty thousand dollars (\$50,000) and less than one hundred thousand dollars (\$100,000); one hundred thousand dollars (\$100,000) and less than one hundred fifty thousand dollars (\$150,000); one hundred fifty thousand dollars (\$150,000) and less than two hundred fifty thousand dollars (\$250,000); two hundred fifty thousand dollars (\$250,000) or more. The commission may add additional business to this listing. Indebtedness associated with the homestead of the person filing is exempted from

this disclosure requirement.

(c) Filing required by this section shall reflect information and facts in existence at the end of the reporting year.

(d) If the information required herein is not filed as required, the commission shall notify the public official or public employee concerned as to his or her failure to so file and the public official or public employee shall have 10 days to file the report after receipt of the notification. The commission may, in its discretion, assess a fine of ten dollars (\$10) a day, not to exceed one thousand dollars (\$1,000), for failure to file timely.

(e) A person who intentionally violates any financial disclosure filing requirement of this chapter shall be subject to administrative fines imposed by the commission, or shall, upon conviction, be guilty of a Class A misdemeanor, or both.

Any person who unintentionally neglects to include any information relating to the financial disclosure filing requirements of this chapter shall have 90 days to file an amended statement of economic interests without penalty.

(Acts 1973, No. 1056, p. 1699, §§12; Acts 1975, No. 130, §§1; Acts 1986, No. 86-321, p. 475, §§1; Acts 1995, No. 95-194, p. 269, §§1; Acts 1997, No. 97-651, p. 1217, §§1.)

Section 36-25-15

Candidates required to file statements of economic interests; official to notify commission of name of candidate; failure to submit statement.

(a) Candidates at every level of government shall file a completed statement of economic interests for the previous calendar year with the appropriate election official simultaneously with the date he or she becomes a candidate as defined in Section 17-22A-2 or the date such candidate files his or her qualifying papers with the appropriate election official, whichever date occurs first. Such election official shall within five days forward the statement of economic interests of the candidate to the commission. Nothing in this section shall be deemed to require a second filing of the person's statement of economic interests if a current statement of economic interests is on file with the commission.

(b) Each election official who receives a declaration of candidacy or petition to appear on the ballot for election from a candidate and each official who nominates a person to serve as a public official shall, within five days of the receipt or nomination, notify the commission of the name of the candidate, as defined in this chapter, and the date on which the person became a candidate or was nominated as a public official.

(c) Other provisions of the law notwithstanding, if a candidate does not submit a statement of economic interests in accordance with the requirements of this chapter, the name of the person shall not appear on the ballot and the candidate shall be deemed not qualified as a candidate in that election. Notwithstanding the foregoing, the commission may, for good cause shown, allow the candidate an additional five days to file such statement of economic interests. If a candidate is deemed not qualified, the appropriate election official shall remove the name of the candidate from

the ballot.

(Acts 1973, No. 1056, p. 1699, §§13; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1; Acts 1997, No. 97-651, p. 1217, §§1.)

Section 36-25-16

Reports by persons who are related to public officials or public employees and who represent persons before regulatory body or contract with state.

(a) When any citizen of the state or business with which he or she is associated represents for a fee any person before a regulatory body of the executive branch, he or she shall report to the commission the name of any adult child, parent, spouse, brother, or sister who is a public official or a public employee of that regulatory body of the executive branch.

(b) When any citizen of the state or business with which the person is associated enters into a contract for the sale of goods or services to the State of Alabama or any of its agencies or any county or municipality and any of their respective agencies in amounts exceeding seven thousand five hundred dollars (\$7,500), he or she shall report to the commission the names of any adult child, parent, spouse, brother, or sister who is a public official or public employee of the agency or department with whom the contract is made.

(c) This section shall not apply to any contract for the sale of goods or services awarded through a process of public notice and competitive bidding.

(d) Each regulatory body of the executive branch, or any agency of the State of Alabama shall be responsible for notifying citizens affected by this chapter of the requirements of this section.

(Acts 1973, No. 1056, p. 1699, §§15; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-17

Reports of violations; cooperation of agency heads.

(a) Every governmental agency head shall within 10 days file reports with the commission on any matters that come to his or her attention in his or her official capacity which constitute a violation of this chapter.

(b) Governmental agency heads shall cooperate in every possible manner in connection with any investigation or hearing, public or private, which may be conducted by the commission.

(Acts 1973, No. 1056, p. 1699, §§16; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-18

Registration of lobbyists required; filing of supplemental registration.

(a) Every lobbyist shall register by filing a form prescribed by the commission no later than January 31 of each year or within 10 days after the first undertaking requiring such registration. Each lobbyist, except public employees who are lobbyists, shall pay an annual fee of one hundred dollars (\$100) on or before January 31 of each year or within 10 days of the first undertaking requiring such registration.

(b) The registration shall be in writing and shall contain the following information:

(1) The registrant's full name and business address.

(2) The registrant's normal business and address.

(3) The full name and address of the registrant's principal or principals.

(4) The listing of the categories of subject matters on which the registrant is to communicate directly with a member of the legislative body to influence legislation or legislative action.

(5) If a registrant's activity is done on behalf of the members of a group other than a corporation, a categorical disclosure of the number of persons of the group as follows: 1-5; 6-10; 11-25; over 25.

(6) A statement signed by each principal that he or she has read the registration, knows its contents and has authorized the registrant to be a lobbyist in his or her behalf as specified therein, and that no compensation will be paid to the registrant contingent upon passage or defeat of any legislative measure.

(c) A registrant shall file a supplemental registration indicating any substantial change or changes in the information contained in the prior registration within 10 days after the date of the change.

(Acts 1973, No. 1056, p. 1699, §§19; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-19

Registered lobbyists and other persons required to file quarterly reports.

(a) Every person registered as a lobbyist pursuant to Section 36-25-18 and every principal employing any lobbyist shall file with the commission a report provided by the commission pertaining to the activities set out in that section. The report shall be filed with the commission no later than January 31, April 30, July 31, and October 31 for each preceding calendar quarter, and contain, but not be limited to, the following information:

(1) The cost of those items excluded from the definition of a thing of value which are described in Section 36-25-1(32)b. and which are expended within a 24-hour period on a public official, public employee, and members of his or her respective household in excess of two hundred fifty dollars (\$250) with the name or names of the recipient or recipients and the date of the expenditure.

(2) The nature and date of any financial transaction between the public official, candidate, or member of the household of such public official or candidate and the lobbyist or principal of a

value in excess of five hundred dollars (\$500) in the prior quarter, excluding those financial transactions which are required to be reported by candidates under the Fair Campaign Practices Act as provided in Chapter 22A (commencing with Section 17-22A-1) of Title 17.

(3) A detailed statement showing the exact amount of any loan given or promised to a public official, candidate, public official or candidate.

(4) A detailed statement showing any direct business association or partnership with any public official, candidate, or members of the household of such public official or candidate; provided, however, that campaign expenditures shall not be deemed a business association or partnership.

(b) Any person not otherwise deemed a lobbyist pursuant to this chapter who negotiates or attempts to negotiate a contract, sells or attempts to sell goods or services, engages or attempts to engage in a financial transaction with a public official or public employee in their official capacity and who within a calendar day expends in excess of two hundred fifty dollars (\$250) on such public employee, public official, and his or her respective household shall file a detailed quarterly report of the expenditure with the commission.

(c) Any other provision of this chapter to the contrary notwithstanding, no organization whose officer or employee serves as a public official under this chapter shall be required to report expenditures or reimbursement paid to such officer or employee in the performance of the duties with the organization.

(Acts 1973, No. 1056, p. 1699, §§20; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-20

Filing of notice of termination of lobbying activities; effect of notice as to requirement for filing of reports.

(a) A person who ceases to engage in activities requiring registration pursuant to Section 36-25-18 shall file a written, verified statement with the commission acknowledging the termination of activities. The notice shall be effective immediately.

(b) A person who files a notice of termination pursuant to this section shall file the reports required pursuant to Sections 36-25-18 and 36-25-19 for any reporting period during which he or she was registered pursuant to this chapter.

(Acts 1973, No. 1056, p. 1699, §§21; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-21

Reports constitute public records; reports available for public inspection.

All reports filed pursuant to Sections 36-25-18 to 36-25-20, inclusive, are public records and shall be made available for public inspection during regular business hours.

(Acts 1973, No. 1056, p. 1699, §§22; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-22

Sections 36-25-18 to 36-25-21 not to be construed as affecting certain professional services.

Sections 36-25-18 to 36-25-21, inclusive, shall not be construed as affecting professional services in drafting bills or in advising clients and in rendering opinions as to the construction and effect of proposed or pending legislation, executive action, rules, or regulations, where those professional services are not otherwise connected with legislative, executive, or regulatory action.

(Acts 1973, No. 1056, p. 1699, §§24; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-23

Floor privileges of former members of Legislature for lobbying purposes; solicitation of lobbyists by public officials or employees; contracts to provide lobbying services contingent upon legislative action.

(a) No former member of the House of Representatives or the Senate of the State of Alabama shall be extended floor privileges of either body in a lobbying capacity.

(b) No public official, public employee, or group of public officials or public employees shall solicit any lobbyist to give any thing whether or not the thing solicited is a thing of value to any person or entity for any purpose other than a campaign contribution.

(c) No principal or lobbyist shall accept compensation for, or enter into a contract to provide lobbying services which is contingent upon the passage or defeat of any legislative action.

(Acts 1973, No. 1056, p. 1699, §§28; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-24

Supervisor prohibited from discharging or discriminating against employee where employee reports violation.

(a) A supervisor shall not discharge, demote, transfer, or otherwise discriminate against a public employee regarding such employee's compensation, terms, conditions, or privileges of employment based on the employee's reporting a violation, or what he or she believes in good faith to be a violation, of this chapter or giving truthful statements or truthful testimony concerning an alleged ethics violation.

(b) Nothing in this chapter shall be construed in any manner to prevent or prohibit or otherwise limit a supervisor from disciplining, discharging, transferring, or otherwise affecting the terms and conditions of a public employee's employment so long as the disciplinary action does not result from or is in no other manner connected with the public employee's filing a complaint with the commission, giving truthful statements, and truthfully testifying.

(c) No public employee shall file a complaint or otherwise initiate action against a public official

or other public employee without a good faith basis for believing the complaint to be true and accurate.

(d) A supervisor who is alleged to have violated this section shall be subject to civil action in the circuit courts of this state pursuant to the Alabama Rules of Civil Procedure as promulgated by the Alabama Supreme Court.

(e) A public employee who without a good faith belief in the truthfulness and accuracy of a complaint filed against a supervisor, shall be subject to a civil action in the circuit courts in the State of Alabama pursuant to the Alabama Rules of Civil Procedure as promulgated by the Supreme Court. Additionally, a public employee who without a good faith belief in the truthfulness and accuracy of a complaint as filed against a supervisor shall be subject to appropriate and applicable personnel action.

(f) Nothing in this section shall be construed to allow a public employee to file a complaint to prevent, mitigate, lessen, or otherwise to extinguish existing or anticipated personnel action by a supervisor. A public employee who willfully files such a complaint against a supervisor shall, upon conviction, be guilty of the crime of false reporting.

(Acts 1973, No. 1056, p. 1699, §§30; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-26

False reporting for purpose of influencing legislation.

No person, for the purpose of influencing legislation, may do either of the following:

(1) Knowingly or willfully make any false statement or misrepresentation of the facts to a member of the legislative or executive branch.

(2) Knowing a document to contain a false statement, cause a copy of the document to be received by a member of the legislative or executive branch without notifying the member in writing of the truth.

(Acts 1973, No. 1056, p. 1699, §§23; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-27

Penalties for violations of provisions of chapter; administrative penalties; enforcement by Attorney General or district attorney; jurisdiction, venue, judicial review; limitations period.

(a)(1) Except as otherwise provided, any person subject to this chapter who intentionally violates any provision of this chapter other than those for which a separate penalty is provided for in this section shall, upon conviction, be guilty of a Class B felony.

(2) Any person subject to this chapter who violates any provision of this chapter other than those for which a separate penalty is provided for in this section shall, upon conviction, be guilty of a Class A misdemeanor.

(3) Any person subject to this chapter who knowingly violates any disclosure requirement of this chapter shall, upon conviction, be guilty of a Class A misdemeanor.

(4) Any person who knowingly makes or transmits a false report or complaint pursuant to this chapter shall, upon conviction, be guilty of a Class A misdemeanor and shall be liable for the actual legal expenses incurred by the respondent against whom the false report or complaint was filed.

(5) Any person who makes false statements to an employee of the commission or to the commission itself pursuant to this chapter without reason to believe the accuracy of the statements shall, upon conviction, be guilty of a Class A misdemeanor.

(6) Any person subject to this chapter who intentionally violates this chapter relating to secrecy shall, upon conviction, be guilty of a Class A misdemeanor.

(7) Any person subject to this chapter who intentionally fails to disclose information required by this chapter shall, upon conviction, be guilty of a Class A misdemeanor.

(b) The commission if petitioned or agreed to by a respondent and the Attorney General or district attorney having jurisdiction, by unanimous vote of the members present may administratively resolve a complaint filed pursuant to this chapter for minor violations. The commission may levy an administrative penalty not to exceed one thousand dollars (\$1,000) for any minor violation of this chapter including, but not limited to, the failure to timely file a complete and correct statement of economic interests. The commission shall, in addition to any administrative penalty, order restitution in the amount of any economic loss to the state, county, and municipal governments and their instrumentalities and such restitution shall when collected be paid by the commission, to the entity having the economic loss. In any case in which an administrative penalty is imposed, the administrative penalty shall not be less than three times the amount of any economic loss to the state, county, and municipal governments or their instrumentalities or any economic gain or benefit to the public official or public employee, or whichever sum is greater. The commission, through its attorney, shall institute proceedings to recover any penalties or restitution or other such funds so ordered pursuant to this section which are not paid by, or on behalf of the public official or public employee or other person who has violated this chapter. Nothing in this section shall be deemed in any manner to prohibit the commission and the respondent from entering into a consent decree settling a complaint which has previously been designated by the commission for administrative resolution, so long as the consent decree is approved by the commission. If the commission, the respondent, and the Attorney General or district attorney having jurisdiction, all concur that a complaint is deemed to be handled administratively, the action shall preclude any criminal prosecution pursuant to this chapter at the state, county, or municipal level.

(c) The enforcement of this chapter shall be vested in the commission; provided however, nothing in this chapter shall be deemed to limit or otherwise prohibit the Attorney General or the district attorney for the appropriate jurisdiction from enforcing any provision of this chapter as they deem appropriate. In the event the commission, by majority vote, finds that any provision of this chapter has been violated, the alleged violation and any investigation conducted by the commission shall be referred to the district attorney of the appropriate jurisdiction or the Attorney General. The

commission shall provide any and all appropriate assistance to such district attorney or Attorney General. Upon the request of such district attorney or the Attorney General, the commission may institute, prosecute, or take such other appropriate legal action regarding such violations, proceeding therein with all rights, privileges, and powers conferred by law upon assistant attorneys general.

(d) Nothing in this chapter limits the power of the state to punish any person for any conduct which otherwise constitutes a crime by statute or at common law.

(e) The penalties prescribed in this chapter do not in any manner limit the power of a legislative body to discipline its own members or to impeach public officials and do not limit the powers of agencies, departments, boards, or commissions to discipline their respective officials, members, or employees.

(f) Each circuit court of this state shall have jurisdiction of all cases and actions relative to judicial review, violations, or the enforcement of this chapter, and the venue of any action pursuant to this chapter shall be in the county in which the alleged violation occurred, or in those cases where the violation or violations occurred outside the State of Alabama, in Montgomery County. In the case of judicial review of any administrative decision of the commission, the commission's order, rule, or decision shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the commission as to the weight of the evidence on questions of fact except where otherwise authorized by law.

(g) Any felony prosecution brought pursuant to this chapter shall be commenced within four years after the commission of the offense.

(h) Any misdemeanor prosecution brought pursuant to this chapter shall be commenced within two years after the commission of the offense.

(i) Nothing in this chapter is intended to nor is to be construed as repealing in any way the provisions of any of the criminal laws of this state.

(Acts 1973, No. 1056, p. 1699, §26; Acts 1975, No. 130, §1; Acts 1986, No. 86-321, p. 475, §1; Acts 1995, No. 95-194, p. 269, §1; Acts 1996, No. 96-261, p. 307, §1.)

Section 36-25-28

Chapter not to deprive citizens of constitutional right to communicate with members of Legislature.

Nothing in this chapter shall be construed as to deprive any citizen, not lobbying, of the citizen's constitutional right to communicate with members of the Legislature.

(Acts 1973, No. 1056, p. 1699, §§25; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-29

Appropriations.

The Legislature shall appropriate such sums as it deems necessary to implement the provisions of and administer this chapter.

(Acts 1973, No. 1056, p. 1699, §§29; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

Section 36-25-30

Construction of chapter.

This chapter shall be construed in pari materia with other laws dealing with the subject of ethics.

(Acts 1973, No. 1056, p. 1699, §§32; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)

ADMINISTRATION

§ 2-24

ARTICLE I. IN GENERAL**Sec. 2-1. Costs of zoning, annexation or vacation hearings.**

Before any public hearing before the city council shall be docketed or heard respecting the request, application or petition by any owners, or their agents, for any proposed amendment, supplement, modification or other change of the zoned district boundaries or the regulations thereof respecting their property or for the annexation of their property to the city or for any proposed vacation of a public street, or any part thereof, there shall first be paid, to the city by such owners, or their agents, the sum set forth in chapter 14 and an additional amount equal to the cost of postage for any notices required to be mailed in connection with such hearing plus the cost of any advertising required to be done in connection with such hearing, all to cover the approximate costs of such procedure. Once publication of such hearing has commenced or notice is mailed or advertisement is made, such sum shall not be refunded in whole or in part. (Code 1996, § 2-20; Ord. No. 471, § 3; Ord. No. 727, § 1; Ord. No. 878, 6-25-1984)

Secs. 2-2—2-20. Reserved.

ARTICLE II. CITY COUNCIL**DIVISION 1. GENERALLY****Sec. 2-21. Composition; election at large.**

The city governing body shall consist of a mayor and five councilmembers who shall be elected by a vote of the voters at large in the city. (Code 1996, § 2-5; Ord. No. 547, § 1; Ord. No. 969, § 1, 3-28-1988)

State law reference—Similar provisions, Code of Ala. 1976, §§ 11-43-2, 11-43-40.

Sec. 2-22. Positions of councilmembers to be numbered; candidates to run for specific positions.

The five municipal council positions in the city shall henceforth be designated by consecutively

numbered places. Candidates for said positions shall qualify and run for one (but only one) council position so designated.

(Code 1996, § 2-6; Ord. No. 547, § 2; Ord. No. 969, §§ 2, 3, 3-28-1988; Ord. No. 1627, § 1, 4-19-2004)

Sec. 2-23. Qualification fees for candidates for mayor and city council.

(a) A qualification fee in the amount s set forth in chapter 14 is hereby fixed and imposed upon all candidates seeking election as mayor of the city, except as hereinafter provided for.

(b) A qualification fee in the amount as set forth in chapter 14 is hereby fixed and imposed upon all candidates seeking election as councilmember of the city, except as hereinafter provided for.

(c) Such qualification fee shall be paid to the city clerk and deposited to the general fund of the city at or prior to the time of taking out qualification papers by any such candidates.

(d) Any person desiring to qualify who is not financially able to pay the required fee may qualify, provided such prospective candidate furnishes the city clerk with an affidavit stating that he is financially unable to pay the required fee fixed by this section.

(Code 1996, § 2-6.1; Ord. No. 976, §§ 1—5, 6-13-1988)

Sec. 2-24. Staggered terms of office for council members.

In accordance with Code of Ala. 1976, § 11-43-40(5), the city council adopts and approves staggered terms of office for its elected officials, which shall be implemented as follows:

- (1) The initial term of office for persons holding the odd-numbered council seats shall be established at two years.
- (2) The initial terms of office for persons holding the even-numbered council seats and that of the mayor of the city shall remain at four years.
- (3) Upon expiration of the initial two-year terms of office to be served by council members holding the odd-numbered seats,

§ 2-24

MOUNTAIN BROOK CODE

each council member thereafter elected to said seats shall hold office for a term of four years so that the mayor and all council members are elected for four-year terms of office with the terms to be staggered as provided herein.

(Code 1996, § 2-20.2; Ord. No. 1627, § 2, 4-19-2004)

Sec. 2-25. Compensation of mayor.

The mayor shall draw no salary or other compensation for his services to the city.

(Code 1996, § 2-1; Ord. No. 2)

State law reference—Compensation of mayor, Code of Ala. 1975, § 11-43-80.

Sec. 2-26. Compensation of councilmembers.

Councilmembers shall receive no salary for performing the duties of their offices.

(Code 1996, § 2-7; Ord. No. 547, § 3)

Secs. 2-27—2-55. Reserved.**DIVISION 2. RULES OF ORDER AND PROCEDURE****Sec. 2-56. Meetings.**

(a) *Rules of procedure.* Meetings of the city council shall be conducted in accordance with the applicable statutes of the state, as implemented by the rules of procedure contained in this article.

(b) *Time and place of regular meetings; special meetings.* Meetings of the council shall be held at the city hall or such other places within the city limits as the council may determine.

(1) Regular meetings shall be at such times as determined by the council.

(2) Written or oral notice of the time of any special meeting of the council as authorized by Code of Ala. 1975, § 11-43-5 shall, unless such meeting is announced at a regular meeting of council, be given to the city manager and to each councilmember at least 12 hours in advance of the meet-

ing. The failure of any of them to receive such notice shall not invalidate an action taken at such meetings if:

a. Such person is present at the meeting or, either before or after the meeting, waives notice thereof; or

b. Such action is ratified at a subsequent meeting of the council.

The business that may be transacted at a special meeting shall not be limited to the item indicated in the notice. To the extent practicable, notice of a special meeting shall also be given to the mayor and the clerk, but the failure of either or both of them to receive such notice shall not impair the validity and efficacy of the business transacted at the meeting.

(c) *Attendance and participation of mayor, city manager and other city officials; addressing council.*

(1) The mayor and the city manager shall have the privilege of participating in the council's discussions and deliberations, but the right to make motions and to vote is limited to councilmembers.

(2) Persons other than the councilmembers, mayor and city manager shall be allowed to address the council while in session only with the permission of and under the conditions and limitations prescribed by the council president. Any such person shall, when first recognized, state his name, address and, if applicable, the person or group represented; he shall identify himself again by name each subsequent time he is recognized.

(3) Meetings shall be attended by the city clerk, the city attorney and such other officers, agents or employees of the city as the council may from time to time determine.

(d) *Order of business.* The order of business shall be as directed by the council president, however, any councilmember may make additions to the agenda.

(Code 1996, §§ 2-8—2-11; Ord. No. 570, §§ 1—4; Ord. No. 890, § 1, 11-13-1984; Ord. No. 1564, 2-24-2003)

State law references—Provisions relative to meetings, Code of Ala. 1975, §§ 11-43-49, 11-43-50; city council authorized to enact rules of procedure, Code of Ala. 1975, § 11-43-52; attendance of the city clerk, Code of Ala. 1975, § 11-43-100.

ADMINISTRATION

§ 2-65

Sec. 2-57. Informal discussions.

Unless objection is raised by a councilmember, it shall be in order to permit informal discussion on subject matters brought before the council in advance of the formal presentation of any motion with respect thereto.

(Code 1996, § 2-12; Ord. No. 570, § 5)

Sec. 2-58. Ordinances to be in writing; when motions to be in writing.

All ordinances shall be in writing. Other motions shall be reduced to writing if requested by any councilmember.

(Code 1996, § 2-13; Ord. No. 570, § 6)

Sec. 2-59. Recording of vote.

"Yeas" and "nays" shall be taken and recorded in the minutes whenever required by statute or requested by any councilmember.

(Code 1996, § 2-14; Ord. No. 570, § 7)

State law reference—Recording of vote, Code of Ala. 1975, § 11-45-2.

Sec. 2-60. Motions to table.

It shall be in order to lay on the table a proposed amendment to a pending measure and such motion to table, if adopted, shall not carry with it or prejudice the original measure unless explicitly so stated in the motion.

(Code 1996, § 2-15; Ord. No. 570, § 8)

Sec. 2-61. Actions not requiring second.

Motions to reconsider do not require a second nor do appeals to the council from rulings by the chair on questions of order.

(Code 1996, § 2-16; Ord. No. 570, § 9)

Sec. 2-62. Participation of chair.

The chair may address the council, make a motion and discuss any other matter at issue without any requirement that he first relinquish the chair.

(Code 1996, § 2-17; Ord. No. 570, § 10)

Sec. 2-63. Absence of president of council, president pro tempore or clerk.

During the absence of the council president or during his inability to serve, the duties, responsibilities and powers of the council president, including those relating to his being the presiding officer of the council, shall devolve upon and be discharged by the president pro tempore of the council. During the absence or inability of the president pro tempore, the functions of such office shall be exercised by a councilmember appointed by the council, which appointment shall be entered upon the council minutes. During the absence or inability of the clerk to serve, the council shall appoint some other person to perform the duties of the clerk, which appointment shall be entered upon the council minutes.

(Code 1996, § 2-18; Ord. No. 570, § 11)

State law reference—Absence of council president, president pro tempore and clerk, Code of Ala. 1975, §§ 11-43-42, 11-43-100.

Sec. 2-64. Rules of order adopted.

The rules contained in "Robert's Rules of Order, Newly Revised" shall govern the council in all cases to which they are applicable and in which they are not inconsistent with the statutes of the state or with the provisions of this article.

(Code 1996, § 2-19; Ord. No. 570, § 12)

Sec. 2-65. Consent agenda.

(a) At the meeting of the members of the city council held prior to each regular meeting of the city council ("preliminary meeting"), any member of the city council may request that a resolution or other item, other than an ordinance, which is on the agenda for such regular meeting ("meeting") be placed on the consent agenda for the meeting. No resolution or other item shall be placed on the consent agenda unless it is discussed by the members of the city council attending the preliminary meeting.

(b) Any resolution or other item which a member of the city council requests be placed on the consent agenda for a meeting (singular, "matter"; plural, "matters") shall be placed on the consent agenda unless one or more members of the city

§ 2-65

MOUNTAIN BROOK CODE

council object, which objection may be made either during the preliminary meeting or during the meeting.

(c) As the first item on the agenda for each meeting, after the minutes of the prior meeting of the city council have been considered (unless the minutes have been placed on the consent agenda), the president of the city council, or other presiding member of the city council ("presiding officer"), shall announce the agenda item number of any matters on the agenda which have been assigned to the consent agenda or the presiding officer shall direct the city clerk to read from the agenda a brief description of each matter which has been assigned to the consent agenda.

(d) After the agenda number of each matter on the consent agenda has been read by the presiding officer or the city clerk has read a brief description of each matter on the consent agenda, the presiding officer shall ask if any member of the city council would like to have any of such matters discussed. If a member of the city council would like to have a matter on the consent agenda discussed, such matter shall be withdrawn from the consent agenda and it shall be discussed when it is reached on the agenda. If a member of the audience asks for an explanation of, or information about, a matter on the consent agenda, the presiding officer may give a brief explanation of such matter or may direct a member of the city's staff or another member of the city council to give a brief explanation of such matter, but it shall not be withdrawn from the consent agenda.

(e) The presiding officer shall then ask for a motion with respect to the matters on the consent agenda. All matters on the consent agenda shall be considered in the same motion. If a motion to adopt the matters on the consent agenda is made, seconded and approved by a majority of the members of the city council who are present at the meeting, all such matters shall be considered adopted and in full force and effect, just as they would have been had each such matter been considered and voted on separately and approved by a majority of the members of the city council who were present at the meeting.

(Code 1996, § 2-20.1; Ord. No. 1311, §§ 1—5, 5-26-1998; Ord. No. 1468, 4-9-2001)

Secs. 2-66—2-88. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-89. Surety bonds.

(a) *City clerk.* The bond required of the city clerk for the faithful performance of his duties and the safe custody of the funds of the city shall be an amount approved by the city council. Such bond shall be signed by good and sufficient sureties to be approved by the mayor. The premium for such bond shall be paid by the city from its general fund.

(b) *City treasurer.* The bond required of the city treasurer for the faithful performance of his duties and the safe custody of the funds of the city shall be an amount approved by the city council. Such bond shall be signed by good and sufficient sureties to be approved by the mayor. The premium for such bond shall be paid by the city from its general fund.

(Code 1996, § 2-3; Ord. No. 7; Ord. No. 8)

State law reference—Similar provisions, Code of Ala. 1976, §§ 11-43-104, 11-43-120.

Sec. 2-90. Assistant treasurer, office created; appointment; term of office; bond; compensation; duties.

(a) There is hereby created the office of assistant treasurer for the city. There shall be no more than two assistant treasurers.

(b) The assistant treasurers shall be appointed by the city council. The city council shall appoint one or two assistant treasurers, as the city council, from time to time, shall consider to be in the best interest of the city. The term of office of the assistant treasurer or assistant treasurers shall be coextensive with the term of office of the city council; provided, that either or both of the assistant treasurers may be removed at any time by vote of a majority of the members of the city council. During the absence or disability of the assistant treasurer, or both assistant treasurers if there are two assistant treasurers, the city coun-

ADMINISTRATION

§ 2-113

cil may designate some properly qualified person to perform the duties of the office of assistant treasurer.

(c) The assistant treasurer, or each of the assistant treasurers if there are two assistant treasurers, shall furnish a surety company bond in an amount approved by the city council for the faithful performance of his or their duties in the safe custody of the funds of the city. Such bond shall be signed by good and sufficient sureties to be approved by the mayor. The premium for such bond shall be paid by the city from its general fund.

(d) The assistant treasurer or assistant treasurers shall receive no salary or other compensation for performing the duties of the office of assistant treasurer.

(e) Except to the extent that it may be prohibited by the laws of the state, in the absence or disability of the treasurer or the vacancy of the office of treasurer, the assistant treasurer, if there is but one assistant treasurer, shall have the same duties and powers as those of the treasurer. If there are two assistant treasurers, the city council shall, by resolution, designate one of the assistant treasurers to have the same duties and powers as those of the treasurer.

(Code 1996, § 2-3.1; Ord. No. 904, §§ 1—5, 6-10-1985; Ord. No. 944, 10-11-1988)

Sec. 2-91. Indemnification of city officials, board members and employees.

The city hereby indemnifies and agrees to hold harmless officials, board members and employees, and their successors, from and against all actions, causes of action, claims, demands, damages, losses and expenses of any kind, including court costs and attorneys fees, which may be asserted against, or suffered by, such officials, board members and employees arising out of, or in connection with the performance of, or failure to perform, their official duties for the city when acting within the general scope of their authority as such officials, board members and employees and within the general scope of authority as such officials, board members and employees and within the general scope of authority of the city, to the

extent that such actions, causes of action, claims, demands, damages, losses and expenses are not covered by insurance.

(Code 1996, § 2-3.2; Ord. No. 910, 10-15-1985)

Secs. 2-92—2-110. Reserved.

DIVISION 2. CITY MANAGER

Sec. 2-111. Office created.

There is hereby created the office of the city manager.

(Code 1996, § 2-21; Ord. No. 20, § 1)

State law reference—Creation of the office of city manager, Code of Ala. 1975, § 11-43-20.

Sec. 2-112. Appointment and removal; acting city manager.

(a) The city manager shall be appointed by the governing body. The term "governing body" shall be interpreted to include the mayor and the city council. The city manager may be removed by vote of two-thirds of the members of the governing body, following written notice of 60 days.

(b) During the absence or disability of the city manager, the governing body may designate some properly qualified person to perform the duties of the office of city manager.

(Code 1996, § 2-22; Ord. No. 20, § 2)

State law reference—Appointment, removal, absence or disability of city manager, Code of Ala. 1975, §§ 11-43-20, 11-43-21.

Sec. 2-113. Powers and duties.

(a) The city manager shall be the administrative head of the municipal government. As such, it shall be the duty of the city manager to see that all ordinances are enforced. It shall be his duty also to assume complete responsibility for directing the executive departments of the city, within the limits set by the law.

(b) Subject to the limitations imposed by law, the city manager shall have the power to appoint and remove all city employees and appointees.

(c) The city manager shall have the right and the duty to attend all meetings of the governing body, and he shall have the right to take part in

§ 2-113

MOUNTAIN BROOK CODE

the discussions of such body, but without vote. The city manager shall be entitled to notice of all meetings, regular and special, of the governing body. He shall recommend to the governing body for adoption such measures as he may deem necessary or expedient.

(d) It shall be the duty of the city manager to make and execute all lawful contracts on behalf of the city as to matters within his jurisdiction, and to take care that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed. Pursuant to these ends, he shall call to the attention of the governing body all violations of contracts or franchises.

(e) The city manager shall act as the business manager for the city, under the direction of the governing body. He shall have supervision over all city property, and shall have charge of or supervision over the accounting work of the city.

(f) The city manager shall be the purchasing agent for the city, and shall approve all vouchers in payment of city purchases; provided, that all purchases involving the expenditure of more than \$100.00 in one transaction or for one purpose shall be first authorized or approved by the governing body. All purchases shall be subject to the limitations imposed by the city's budget.

(g) The city manager shall present to the governing body monthly reports covering the work of each department for which he is responsible, together with such other special reports as may be required. At the end of the fiscal year the city manager shall prepare and present to the governing body a written annual report summarizing the work of each department and including a statement of the financial condition of the city, with recommendations for the ensuing year and for subsequent years.

(h) Each month the city manager shall prepare and present to the governing body a statement showing the exact financial condition of the city as of the end of the preceding month, including a statement of current assets and liabilities and a summarized statement of income and expenditures, detailed as to funds and departments.

(i) The city manager shall prepare and present to the governing body at the end of each fiscal year a budget estimate of income and expenditures for the ensuing year, for the consideration of the governing body.

(j) The city manager shall prepare and issue orders requiring any person, firm or corporation who holds a franchise for the operation of a cable television system within the city to comply with the terms of his or its franchise agreement and Federal Communication Commission's Regulations, 47 CFR 76, whenever such person, firm or corporation has not complied with the terms of such franchise agreement or regulations.

(k) The city manager shall recommend to the council for adoption such measures as he may deem necessary or expedient.

(l) The city manager shall see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed and, upon the knowledge of any violation thereof, to call the same to the attention of the city attorney, whose duty it shall be forthwith to take such steps as are necessary to protect and enforce the same.

(m) The city manager shall fix all salaries and compensations of municipal employees lawfully employed by him, subject, however, to supervision, approval or disapproval of the city council.

(n) The city manager shall perform the duties of the city clerk without additional compensation, when so directed by resolution of the city council, and when so acting he shall be charged with all of the duties, powers, responsibilities and penalties of the city clerk. When so acting his official acts may be in his name as city manager.
(Code 1996, § 2-25; Ord. No. 20, § 5; Ord. No. 209; Ord. No. 1175, 10-24-1994)

State law reference—Powers and duties of city manager generally, Code of Ala. 1975, § 11-43-21.

Sec. 2-114. Other powers and duties.

The city manager shall exercise such other powers and shall perform such other duties as may be prescribed by law or by ordinance or resolution of the governing body.
(Code 1996, § 2-26; Ord. No. 20, § 6)

§ 2-238

MOUNTAIN BROOK CODE

"City Board of Education of Mountain Brook, Alabama," to consist of five members to be appointed by the city council, and to have all of the duties, powers and authority provided by state law for city boards of education.
(Code 1996, § 2-32; Ord. No. 298)

Secs. 2-239—2-269. Reserved.

DIVISION 3. LIBRARY BOARD

Sec. 2-270. Created.

There is hereby created and established a library board of the city, to be known and designated as the Mountain Brook Library Board.
(Code 1996, § 2-33; Ord. No. 378, § 1)

State law reference—Power of city to create library board, Code of Ala. 1975, § 11-90-2.

Sec. 2-271. Powers and duties.

The library board shall have all of the powers and duties as prescribed by Code of Ala. 1975, § 11-90-3.

(Code 1996, § 2-34; Ord. No. 378, § 2)

Sec. 2-272. Membership; terms of office and compensation of members.

The library board shall consist of five members. Such members shall have terms of four years. Such members shall serve without compensation.
(Code 1996, § 2-35; Ord. No. 378, § 3)

State law reference—Membership and terms of office, Code of Ala. 1975, § 11-90-2.

Secs. 2-273—2-292. Reserved.

DIVISION 4. TREE COMMISSION

Sec. 2-293. Established; membership; terms.

There is hereby established a tree commission, which shall be known as Tree Commission of the City of Mountain Brook ("commission"). The commission shall have nine members, who shall be appointed by the city council. The terms of the members of the commission shall be for a period of three years. Each member shall serve until the

expiration of his term and thereafter until his successor has been appointed by the city council.
(Code 1996, § 2-51; Ord. No. 1177, § 1, 11-28-1994; Ord. No. 1351, § 1, 3-8-1999)

Sec. 2-294. Meetings.

(a) The commission shall:

- (1) Elect from among themselves a chairman and a vice-chairman to serve in the absence of the chairman and such other officers, if any, which the members shall consider necessary or appropriate;
- (2) Select a time for regularly scheduled public meetings;
- (3) Adopt such rules and regulations for the conduct of its meetings and the operation of the commission as the members consider necessary and appropriate; and
- (4) Conduct such other business with respect to the organization and operation of the commission which its members consider appropriate.

(b) In addition to its regularly scheduled meetings, the commission's rules and regulations shall provide that special meetings of the commission may be called by the chairman of the commission or by the president of the city council upon not less than three days' prior notice to the members of the commission of the time, place and purpose of such special meeting.
(Code 1996, § 2-52; Ord. No. 1177, § 2, 11-28-1994)

Sec. 2-295. Duties.

The commission shall:

- (1) Make recommendations to the city council concerning the needs of the city with respect to the planting of trees in public parks and on public rights-of-way and public grounds;
- (2) Recommend the types of trees to be planted on such public property;
- (3) Assist the city council by providing information for the protection, maintenance, removal and planting of trees on such public property;

ADMINISTRATION

§ 2-327

- (4) Assist the city council in the preparation of a master tree plan by making recommendations with respect to the location and species of trees to be planted or maintained on such public property;
 - (5) Identify trees that are considered unwanted weed trees, and recommend the removal of dead, dying, diseased or insect-infected trees on public property; and
 - (6) Make studies and recommendations to the city council on other matters concerning trees in the city.
- (Code 1996, § 2-53; Ord. No. 1177, § 3, 11-28-1994)

Secs. 2-296—2-323. Reserved.

**ARTICLE VI. HANDICAP
DISCRIMINATION GRIEVANCE
PROCEDURE**

Sec. 2-324. Procedure adopted; intent.

In the implementation of 31 CFR 51.55(d) of the Federal Rehabilitation Act, the city does hereby adopt the grievance procedure outlined in this article to ensure that prompt and equitable review is accomplished concerning complaints alleging handicapped discrimination. It is the intent of this article to incorporate appropriate due process standards, and to provide procedures for the local resolution of handicapped discrimination complaints filed by any member of the community, whether an employee or not.

(Code 1996, § 2-41; Ord. No. 891, § 1, 11-13-1984)

Sec. 2-325. Compliance with Federal Rehabilitation Act.

It shall be the policy of the city to comply with the provisions of 31 CFR 51.55 of the Federal Rehabilitation Act, which relates to discrimination on the basis of handicap.

(Code 1996, § 2-42; Ord. No. 891, § 4, 11-13-1984)

Sec. 2-326. Policy regarding discrimination in city programs, employment, etc.

The city shall not discriminate on the basis of handicapped status in admissions to or access to, or treatment or employment in, its programs and activities.

(Code 1996, § 2-43; Ord. No. 891, § 5, 11-13-1984)

Sec. 2-327. Procedure for filing and determining complaints.

Any person having a complaint concerning handicapped discrimination shall follow the following procedure:

- (1) The complaint shall be reduced to writing by the person making the complaint on the form provided by the city clerk, and shall be filed in the office of the city clerk no later than five days after occurrence of incident. The city clerk shall have 45 days from receipt of the complaint within which to file, after investigation, an answer with the person initially filing the complaint.
- (2) If the complainant is dissatisfied with the answer of the city clerk, said person may appeal the decision of the city clerk to the city manager. This appeal must be filed with the city clerk within 30 days from receipt of the decision of the city clerk.
- (3) The city manager shall have 30 days within which to investigate and make a decision in writing to the complainant. This 30-day period shall be from the date the appeal was filed. A written decision shall be made by the city manager to the complainant within the 30-day period.
- (4) If the complainant is dissatisfied with the decision of the city manager, the complainant shall, within 15 days, file an appeal with the city manager, which said appeal shall be to the city council. The person filing the complaint shall be given the opportunity to explain his position to the council prior to the council's decision.

§ 2-327

MOUNTAIN BROOK CODE

- (5) The city council shall have 30 days from receipt of the appeal within which to render its decision, which decision shall be final and binding.
(Code 1996, § 2-44; Ord. No. 891, § 2, 11-13-1984)

Sec. 2-328. Responsibilities of city clerk.

(a) The city does hereby designate the city clerk to be responsible to coordinate efforts to comply with the provisions of 31 CFR 51.55 of the Federal Rehabilitation Act.

(b) The city clerk shall keep a record of all grievances concerning handicapped discrimination, and said records shall be open to the public and all interested parties for inspection.
(Code 1996, § 2-46; Ord. No. 891, §§ 3, 6, 11-13-1984)

Secs. 2-329—2-359. Reserved.**ARTICLE VII. LOST OR ABANDONED PROPERTY*****Sec. 2-360. City manager designated custodian.**

The city manager is hereby designated as custodian of all captured, stolen, lost or abandoned property or vehicles.
(Code 1996, § 11-1; Ord. No. 62, § 1)

Sec. 2-361. Removal to depository by police officer.

Whenever any police officer of the city shall find or seize any property, which there is probable cause to believe is lost, stolen or abandoned, it shall be the duty of such officer to remove or cause to be removed such property to the depository designated by the city manager.
(Code 1996, § 11-2; Ord. No. 62, § 2; Ord. No. 800)

*State law reference—Authorizing city to take up, store and dispose of abandoned and stolen property, Code of Ala. 1975, § 11-47-116.

Sec. 2-362. Delivery of captured property to city manager.

The police officers of the city shall deliver to the city manager any property captured by them.
(Code 1996, § 11-3; Ord. No. 62, § 3)

Sec. 2-363. Return to rightful owner.

The city manager shall deliver any property or vehicle captured, stolen, lost or abandoned to the rightful owner upon demand, upon payment of any expense for removal, storage or advertisement, at any time before sale of such property or vehicle as provided by this article, unless such property or vehicle is subject to condemnation or sale under the laws of the state.
(Code 1996, § 11-4; Ord. No. 62, § 4)

Sec. 2-364. Sale of unclaimed property.

(a) *Notice prior to sale.* If any property or vehicle captured, stolen, lost or abandoned is not subject to condemnation or sale under the laws of the state and is not claimed by the rightful owner, after three months such property or vehicle shall be sold by the city manager at public outcry to the highest bidder for cash, after notice of the time, place and terms of sale, together with a brief but accurate description of such property or vehicle, shall have been advertised for 20 days by posting in three public places in the city. Such sale shall be conducted in accordance with the provisions of Code of Ala. 1975, § 11-47-116.

(b) *Claim by rightful owner against proceeds.* The money received at any public sale pursuant to this section shall be immediately paid into the treasury of the city. Upon demand made by the erstwhile owner of such property or vehicle at any time within six months from the date of receipt of such money in the city treasury, the excess of such money above the reasonable costs of removal, storage, maintenance and advertisement shall be paid to such owner.
(Code 1996, §§ 11-5, 11-6; Ord. No. 62, §§ 5, 6; Ord. No. 813)

Chapter 121

SIGNS*

Article I. In General

- Sec. 121-1. Intent and purpose.
- ✓ Sec. 121-2. Compliance with chapter provisions.
- ✓ ~~Sec. 121-3. Definitions.~~
- Sec. 121-4. Conflict.
- Sec. 121-5. Penalties.
- Sec. 121-6. Requirements applicable to all signs.
- ✓ Sec. 121-7. Prohibited and illegal signs.
- ✓ ~~Sec. 121-8. Regulations for temporary signs.~~
- ~~Sec. 121-9. Regulations for incidental signs.~~
- Sec. 121-10. Regulations for general business signs.
- Secs. 121-11—121-38. Reserved.

Article II. Administration

Division 1. Generally

- Sec. 121-39. Enforcement.
- Sec. 121-40. Variance.
- Sec. 121-41. Appeals.
- Sec. 121-42. Inspection.
- Sec. 121-43. Removal of unsafe signs.
- Sec. 121-44. Removal of prohibited signs.
- Secs. 121-45—121-61. Reserved.

Division 2. Sign Permit

- Sec. 121-62. Responsibility.
- Sec. 121-63. Signs exempt from sign permit.
- Sec. 121-64. Application procedure.
- Sec. 121-65. Initial staff review.
- Sec. 121-66. Design review—Generally.
- Sec. 121-67. Same—Time limitation.
- Sec. 121-68. Fees.
- Sec. 121-69. Time limitation, sign permit.
- Sec. 121-70. Revocation.
- Secs. 121-71—121-98. Reserved.

Division 3. Master Sign Plan

- Sec. 121-99. Required.
- Sec. 121-100. Application.
- Sec. 121-101. Review and approval.
- Sec. 121-102. Content.
- Sec. 121-103. Amendment.
- Secs. 121-104—121-134. Reserved.

Division 4. Nonconforming Signs

- Sec. 121-135. Conditions.
- Sec. 121-136. Alteration.

*State law reference—Authorizing city to regulate signs, awnings, etc., that overhang streets, Code of Ala. 1975, § 11-49-2.

SIGNS

§ 121-3

ARTICLE I. IN GENERAL

Sec. 121-1. Intent and purpose.

It is the purpose of this chapter to promote the public health, safety and welfare of the residents of the city so that signs do not become a hazard or a nuisance, and, therefore, to establish regulations for the control of all signs designed or intended to be seen by, or attract the attention of, the public, which may be erected, displayed, maintained, or altered in the city. Further, it is the intent of this chapter:

- (1) To allow expression of commercial and noncommercial speech in a reasonable manner consistent with the rights of others;
- (2) To provide a pleasing overall environmental setting and good community appearance deemed vital to the continued economic attractiveness of the city;
- (3) To enhance a productive, enterprising, responsible community atmosphere through the use of effective visual communication; and
- (4) To protect and enhance the value of properties, and therefore, to have signs appropriate to the planned character and development of each area of the city.

(Code 1996, § 17-1; Ord. No. 1322, § I, 8-10-1998)

Sec. 121-2. Compliance with chapter provisions.

No sign shall be erected, displayed, maintained, or altered in the city unless it is in compliance with this chapter.

- (1) *Signs as accessory uses only.* Signs shall be permitted only as accessory uses to buildings or structures, with the exception of construction signs for property under development and real estate signs.
- (2) *Permit required.* It shall be unlawful for any person to erect, display, materially alter, or relocate any sign unless such sign is in compliance with this chapter, and a permit for such sign has been issued by the building inspections superintendent,

and the permit fee required by this chapter has been paid, except for any sign for which a permit is not required under this chapter.

- (3) *Design review required.* It shall be unlawful for the building inspections superintendent to issue a sign permit until satisfactory completion of the design review process as required under this chapter.
- (4) *Maintenance.* The owner of any sign shall maintain same, together with all sign supports, braces, anchors, and messages, in good repair, in a safe manner, and in a permitted location, all in accordance with this chapter.
- (5) *Required signs.* The street address of each of the premises in the city shall be displayed in a legible manner in a location visible from the public right-of-way.

(Code 1996, § 17-2; Ord. No. 1322, § II, 8-10-1998)

Sec. 121-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized agent means an individual duly authorized by the owner of a development site to apply for a sign permit, approval of a master sign plan or other form of official action by the city with regard to any sign on the property. An authorized agent, if not an attorney, shall have written authorization from all owners of the development site. Only an individual may be an authorized agent.

Awning sign means a sign that is painted on, applied to, or otherwise is a part of a fabric or other nonstructural awning.

Banner means a sign, not otherwise classified as a temporary sign, made of cloth, canvas, plastic sheeting or any other flexible material, not rigidly attached to a building or the ground through a permanent support structure.

Building means a structure having a roof supported by columns or walls.

Bulletin board means a sign, placed on the premises of any school, public agency, church or other religious organization, charitable organization, or institutional organization, consisting of changeable copy boards or panels for the posting of notices.

Commercial message means any wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Community event sign means a sign, as authorized by the city council, indicating an event or activity conducted by a person or an educational, civic, or charitable organization, and having a public or community service-related purpose.

Construction sign means a sign pertaining only to the construction, alteration, rehabilitation or remodeling of buildings, identifying only those parties involved in construction on the premises and future activity for which the construction is intended.

Development site means one or more parcels of land unified under a single development plan, which constitutes the entire development shown on a site plan or subdivision plat, including all land needed for landscaping, drainage facilities, parking, internal access roads, driveways, or other physical design features needed to serve the proposed development.

Directional sign means a sign, other than an official sign, not displaying any commercial message, designed and erected solely for the purpose of traffic or pedestrian direction and placed on the property to which the public may be directed.

Directory sign means a sign listing only the names and addresses of tenants or occupants of, and the name of, a permitted multiple occupancy commercial building or group of buildings.

Display area, aggregate, means the total display area of all signs permitted on a lot, premises, or development site.

Display area, awning, means the display area of the sign projected horizontally to a vertical plane.

Display area, generally, means the area that can be enclosed or measured by the smallest rectangle that will encompass the entire sign face; excluding the frame, posts, uprights, braces or other structural members that support it.

Display area, multiple-face sign, means a sign that has multiple faces and only one face may be viewed from a single location on a public right-of-way, the largest of these faces shall be considered its display area. Where a sign has two or more faces that may be viewed from a single location, the display area of all such faces shall be the total area of all such faces.

Door sign means a sign attached to, painted on, or etched into a door. A sign in a window that is part of a door is a door sign rather than a window sign.

Facade means the side of a building below the eaves or top of the parapet wall.

Facade sign means a sign attached to, or painted directly upon, a facade.

Gasoline service station price sign means a sign placed at a gasoline service station indicating only grades and prices of gasoline offered for sale.

General business sign means a sign advertising or identifying only the premises whereon the sign is located, which may include the name, symbol, or logo of the owner, occupant, manager, business, institution, or building; the address; the type of business, profession, services, or activity conducted on the premises; and descriptive information about the products and services offered thereon.

Ground sign means a sign supported by uprights, posts, or bases affixed in or upon the ground and not attached to any part of a building.

Hazard sign means a sign warning of construction, excavation, or similar hazards, and of such size and placement that is in accord with the provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways, 1988 edition; published by the U.S. Department of Transportation, Federal Highway Administration.

Identification marker means a sign marking an entrance to, and including the name of, a residen-

SIGNS

§ 121-3

tial subdivision, shopping center, office park or institutional use, and containing no other content.

Incidental sign means a sign, other than an official sign, providing information or direction for the convenience and necessity of the public.

Internal sign means a sign not intended to be viewed from, and placed so as not to be visible from, a public right-of-way.

Nameplate means a nonilluminated sign identifying only the name, occupation, or profession of the occupant of the premises upon which the sign is located.

Noncommercial message means any wording or other display other than a commercial message.

Official flag means any official federal, state, or local government flag or emblem.

Official sign means any official federal, state, or local government traffic, directional, or informational sign placed by a duly authorized public official, or notice issued by any court, person, or officer in performance of a public duty; an official historical marker; any sign erected by a federal, state, or local government agency for identification purposes at any office, institutional, recreational, or other publicly owned or leased site.

✓ *Political sign* means a sign containing a non-commercial message regarding a public issue, promoting a political cause, or supporting the campaign of an individual for public office.

Premises means land and building or part of a building having a separate street address.

Product sign means a sign directly attached to a licensed or otherwise authorized vending machine, gasoline pump, or similar apparatus that directs attention only to products or services dispensed therefrom.

Projecting sign means a sign placed above the ground, permanently affixed at more or less a right angle to the exterior facade of the building to which it is attached.

Real estate sign means a sign indicating that the property on which the sign is located is for

sale, lease, or development, to announce an open house event in connection with the sale or lease of a building, or to identify a model home.

Residential identification sign means an identification sign for a residence, containing no commercial message, located on the property identified.

Roof sign means a sign mounted on a roof, above the eaves or above the top of a parapet wall of a building, but not extending above the highest point of its supporting roof or of another architectural element that serves to block a rear view of the sign.

Sandwich board means a sign, having two faces angled toward one another vertically and attached to one another at the top to form a structural "A" frame, placed upon the ground and not otherwise supported by uprights, posts, or bases.

Security sign means a sign indicating only the logo, name, and contact telephone number of the company providing security services to the property upon which it is located.

Shopping center means a group of commercial establishments on one or more contiguous parcels of land having shared access and/or off-street customer parking.

Sign means a lettered, numbered, symbolic, pictorial, or illuminated visual display that is designed to identify, announce, direct, or inform.

Sign face means the area of the smallest rectangle within which all letters, logos, symbols, or other elements displayed on the sign can be enclosed.

Sign height means the vertical distance measured from the lowest finished grade elevation directly beneath the center of the sign to the highest elevation of the sign.

Structure means anything built or constructed that requires a permanent location.

Suspended sign means a sign attached to, and supported by, the underside of a structure.

§ 121-3

MOUNTAIN BROOK CODE

Temporary sign means a sign, other than a sandwich board, not permanently and rigidly affixed to the ground or to a building.

Utility sign means a sign showing the location of a public telephone, or sign placed by a regulated public utility to indicate location of its facilities, and including no commercial message.

Village means any or all of the Villages of Mountain Brook as they are defined in section 19-24-6.1 of the zoning ordinance.

Villages design review committee means the design review committee established under section 19-24-7 of the zoning ordinance.

Window sign means a sign painted onto the inside or outside of a window, or sign attached to the outside of, or displayed in front of, a window. (Code 1996, § 17-3; Ord. No. 1322, § III, 8-10-1998; Ord. No. 1392, 12-13-1999)

Sec. 121-4. Conflict.

Whenever this chapter may require or impose more restrictive standards than are required in or under any statute or other ordinance, the provisions of this chapter shall govern. Whenever the provisions of any statute or other ordinance require more restrictive standards than are required by this chapter, provisions of such statute or ordinance shall govern. This chapter shall not lower the restrictions imposed by plats, deeds, or private contracts, if they are more restrictive than the provisions of this chapter.

(Code 1996, § 17-87; Ord. No. 1322, § XII, 8-10-1998)

Sec. 121-5. Penalties.

Each and every violation of the provisions of this chapter shall be punishable by a fine not exceeding \$500.00, at the discretion of the court trying the case. Each and every day the violation continues shall be construed as a separate offense.

(Code 1996, § 17-45; Ord. No. 1322, § X, 8-10-1998)

Sec. 121-6. Requirements applicable to all signs.

(a) *Building code.* All signs must comply with the building code, and all other applicable codes and ordinances of the city, as such codes and ordinances are in effect from time to time.

(b) *Electrical code.* Any sign that may require electrical wiring or connections shall comply with the electrical code, and all other applicable codes and ordinances of the city, as such codes and ordinances are in effect from time to time, and shall be submitted to the electrical inspector for an appropriate permit. The electrical inspector shall examine the plans and specifications respecting all wiring and connections to determine if such wiring, etc. complies with the electrical code, and shall issue such permit only if the plans and specifications for such sign comply with such codes and ordinances or shall disapprove the application if they do not comply with such codes and ordinances. Such action of the electrical inspector shall be taken prior to submission of the application to the building inspections superintendent for a sign permit. All electrical devices used in signs must be inspected by Underwriters Laboratories (i.e., UL Listed).

(c) *Height.* No sign shall exceed the height limit established in chapter 129 for the district in which it is located.

(d) *Obstruction to passage.* No sign shall be erected, displayed, or maintained so as to obstruct or interfere with any fire escape, any required exit way, window, door opening or any other means of egress, or of any opening required for ventilation required by the building code and all other provisions of this Code.

(e) *Signs in public rights-of-way.* No sign, other than an official sign, shall be placed in a public right-of-way, or shall project into a public right-of-way, or shall be attached to private property placed in a public right-of-way, except as expressly provided in this chapter. Any sign so placed or located except in conformance with this chapter shall be forfeited to the public and subject to confiscation and destruction. In addition to other remedies, the city shall have the right to

SIGNS

§ 121-8

recover from the owner of such sign or the person placing such sign the full costs of removal and disposal of such sign.

(f) *Illumination, lighting, and glare.* Signs may be illuminated, unless expressly prohibited in the district in which the sign is located, through the use of direct or indirect illumination, backlighting, internal illumination, or tube illumination. Any device that illuminates a sign shall be placed and shielded so that the direct light therefrom, or from the sign itself, shall not cause direct glare into the windows of any adjacent property or be cast into the eyes of any passing motorist. (Code 1996, § 17-4; Ord. No. 1322, § IV, 8-10-1998)

Sec. 121-7. Prohibited and illegal signs.

In addition to any sign not specifically permitted by these regulations, the following are specifically prohibited in the city:

- (1) Any sign visible from a public right-of-way that simulates or imitates in color, lettering, content, or design any traffic sign or signal, or that makes use of words, symbols, or characters in a manner that is likely to interfere with, mislead, or confuse pedestrians or motorists, or otherwise presents or implies the need or requirement of stopping, caution, the existence of danger, or that for any reason could be confused with any sign displayed or authorized by public authority;
- (2) Any sign or device designed to attract the attention of the public, through motion of any kind, including those which may be set in motion by wind;
- (3) Any sign containing or consisting of any moving, rotating, flashing, pulsating, or otherwise animated light or component, except for barber poles;
- (4) Any sign at any street intersection that would obstruct free and clear vision of motorists, or that would obstruct or interfere with a motorist's view of any authorized traffic signal or sign;
- (5) Any sign painted on, or attached to, a utility pole or similar structure, or painted on or attached to a tree, rock or other natural feature;
- (6) Any sign erected, painted, enlarged, or structurally altered in violation of any provision of this chapter;
- (7) Any sign determined by the building inspections superintendent to be dangerous because it is not securely affixed to the ground, or otherwise affixed in a safe, secure, and permanent manner to a building or other approved supporting structure;
- (8) Any sign that has deteriorated or been damaged to such extent that the cost of reconstruction or restoration is deemed by the building inspections superintendent to be in excess of 50 percent of its depreciated value, exclusive of foundations; and
- (9) Any sign identifying a business or other use no longer occupying the premises upon which it is displayed.

(Code 1996, § 17-6; Ord. No. 1322, § VI, 8-10-1998)

State law reference—Signs imitating traffic signals, Code of Ala. 1975, § 32-5A-36.

Sec. 121-8. Regulations for temporary signs.

It shall be unlawful to erect, display or permit the display of, or maintain any temporary sign unless such sign is expressly permitted by this chapter, subject to all of the limitations and provisions stated herein. Should a temporary sign exceed the permitted display area, it shall be considered a general business sign and shall be subject to every requirement of this chapter governing such signs. Permitted temporary signs are limited to the following types and conditions:

- (1) *Banner.* Each new business may have one temporary banner, placed as a facade sign or a window sign in accord with all other applicable requirements of this chapter, for a period of not more than 45 days, or until a permanent sign is installed, whichever time period is shorter. Otherwise, only as authorized by the city council.

§ 121-8

MOUNTAIN BROOK CODE

- (2) *Community event sign.* Only as authorized by the city council.
- (3) *Construction sign.* Only on development sites for which a building permit has been issued. For all sites except individual residential lots, not to exceed two signs, aggregate display area not to exceed 24 square feet and height not to exceed six feet. For individual residential lots, not to exceed one sign, display area not to exceed six square feet and height not to exceed three feet. Removal of all construction signs shall be required prior to issuance of a certificate of occupancy. All building permits shall include these conditions.
- (4) *Hazard sign.* Shall be removed immediately when the hazard no longer exists.
- ✓ (5) *Political sign.* Not to exceed six square feet per sign in residential districts and 24 square feet per sign in nonresidential districts; but in no event may political signs be displayed on a public right-of-way or publicly owned or leased site.
- (6) *Real estate sign.* May only be posted on the property that is for sale, rent, or lease, subject to the following conditions:
- a. For sale/for lease signs shall not exceed one sign per street fronting the property, not including alleys, with the display area not to exceed six square feet each in residential districts and the villages, or 24 square feet each in all other districts.
 - b. Model home signs shall be permitted only within a new subdivision; with the aggregate display area within the subdivision not to exceed 12 square feet.
 - c. Open house signs shall be permitted only as part of a for sale/for lease sign, with no additional display area.
- (7) *Security sign.* Not to exceed one for each lot line that abuts a public right-of-way, display area not to exceed one square foot each.

- (8) *Temporary window sign.* Only as applied to the inside of the window for sales or other special events.
(Code 1996, § 17-7; Ord. No. 1322, § VII, 8-10-1998)

Sec. 121-9. Regulations for incidental signs.

It shall be unlawful to erect, display or permit the display of, or maintain any incidental sign unless such sign is expressly permitted by this chapter, subject to all of the limitations and provisions stated herein. Should an incidental sign exceed the permitted display area, it shall be considered a general business sign and shall be subject to every requirement of this chapter governing such signs. Permitted incidental signs are limited to the following types and conditions:

- (1) *Directional signs,* the display area of which is not to exceed two square feet each, with the aggregate display area per development site not to exceed 40 square feet, except in the villages, where the aggregate display area shall not exceed 20 square feet;
- (2) *Gasoline service station price signs,* not to exceed one per service station, not to exceed five feet in height or three feet in width, and not to be placed in a location that will obstruct the view of a motorist or a pedestrian leaving or passing the service station;
- (3) *Internal signs;*
- (4) *Nameplates,* the display area of which is not to exceed two square feet per business;
- (5) *Official flags or official signs;*
- (6) *Product signs;*
- (7) *Residential identification signs,* not to exceed one per residence, with a display area not to exceed one square foot;
- (8) *Identification markers.* A single ground sign, the display area of which is not to exceed 48 square feet and subject to all other applicable requirements of this chapter regarding ground signs, may be permitted at each entrance from a public



SOS Home Home FAQ Voters Candidates PACS Public & Media Contact Us



- Election Information
- Filing Calendar
- Filing Your FCPA
- Statements and Reports
- Online Filing Info
- Campaign Advertising
- Forms
- Fair Campaign Practices Act

Fair Campaign Practices Act

- [Candidate Guidelines](#)
- [Political Action Committees](#)
- [Campaign Advertising](#)
- [View Campaign Finance Reports](#)

Home Statements & Policies Alabama.gov Online Services Alerts Feeds Translation Top

http://bcp.crwdcntrl.net/5/c=931/b=27546429



- [SOS Home](#)
- [Home](#)
- [FAQ](#)
- [Voters](#)
- [Candidates](#)
- [PACS](#)
- [Public & Media](#)
- [Contact Us](#)

Elections Division Form Downloads

File Name	Format	Start Download
▶ Ballot Access Petition - Independent Candidate (sample)		
▶ Ballot Access Petition - Minor Party (sample)		
▶ FCPA - Annual Report Forms - Candidates / Elected Officials - Version A <small>This set of Annual Report forms for candidates and elected officials is designed for filing out by hand or by typewriter.</small>		
▶ FCPA - Annual Report Forms - Candidates / Elected Officials - Version B <small>This set of Annual Report forms for candidates and elected officials is designed for filing out on your computer.</small>		
▶ FCPA - Annual Report Forms - Political Committees (PACs) - Version A <small>This set of annual report forms for PACs is designed for filing out by hand or by typewriter.</small>		
▶ FCPA - Annual Report Forms - Political Committees (PACs) - Version B <small>This set of annual report forms for PACs is designed for filing out on your computer.</small>		
▶ FCPA - Candidate - Appointment of Principal Campaign Committee		
▶ FCPA - Candidates / Elected Officials - Annual Report Summary Form 1A <small>This form is the Summary Form 1A that contains summary data for the candidate's or elected official's report. This download DOES NOT contain Forms 2-5 for use in itemizing contributions, expenditures, etc.</small>		
▶ FCPA - Candidates / Elected Officials - DAILY Campaign Finance Report Forms		
▶ FCPA - Candidates / Elected Officials - DAILY Summary Form 1		
▶ FCPA - Candidates / Elected Officials - MONTHLY/WEEKLY Campaign Finance Report Forms		
▶ FCPA - Candidates / Elected Officials - MONTHLY/WEEKLY Summary Form 1		
▶ FCPA - Candidates / Elected Officials - Report Form 2 (Contributions) <small>This form is used by candidates or elected officials to itemize contributions when filing a pre-election report or an annual report. This document DOES NOT include Forms 1, 1A, 2 or 4-5.</small>		
▶ FCPA - Candidates / Elected Officials - Report Form 3 (In-Kind Contributions) <small>This form is used by candidates or elected officials to itemize in-kind contributions when filing a pre-election report or an annual report. This document DOES NOT include Forms 1, 1A, 2 or 4-5.</small>		
▶ FCPA - Candidates / Elected Officials - Report Form 4 (Receipts from Other Sources) <small>This form is used by candidates or elected officials to itemize receipts from other sources when filing a pre-election report or an annual report. This document DOES NOT include Forms 1, 1A, 2-3 or 5.</small>		
▶ FCPA - Candidates / Elected Officials - Report Form 5 (Expenditures) <small>This form is used by candidates or elected officials to itemize receipts from other sources when filing a pre-election report or an annual report. This document DOES NOT include Forms 1, 1A, or 2-4.</small>		
▶ FCPA - PAC - Annual Report Summary Form 1A <small>This form is the Summary Form 1A that contains summary data for the PAC's annual report. This download DOES NOT contain Forms 2-5 for use in itemizing contributions, expenditures, etc.</small>		
▶ FCPA - PAC - DAILY - Campaign Finance Report Forms		
▶ FCPA - PAC - DAILY - Summary Form 1		
▶ FCPA - PAC - MONTHLY/WEEKLY - Campaign Finance Report Forms		
▶ FCPA - PAC - MONTHLY/WEEKLY - Summary Form 1		
▶ FCPA - PAC - Report Form 2 (Contributions) <small>This form is used by PACs to itemize contributions when filing a pre-election report or an annual report. This document DOES NOT include Forms 1, 1A, or 3-5.</small>		
▶ FCPA - PAC - Report Form 3 (In-Kind Contributions) <small>This form is used by PACs to itemize in-kind contributions when filing a pre-election report or an annual report. This document DOES NOT include Forms 1, 1A, 2 or 4-5.</small>		
▶ FCPA - PAC - Report Form 4 (Receipts from Other Sources) <small>This form is used by PACs to itemize receipts from other sources when filing a pre-election report or an annual report. This document DOES NOT include Forms 1, 1A, 2-3 or 5.</small>		
▶ FCPA - PAC - Report Form 5 (Expenditures) <small>This form is used by PACs to itemize receipts from other sources when filing a pre-election report or an annual report. This document DOES NOT include Forms 1, 1A, or 2-4.</small>		
▶ FCPA - PAC - Statement of Organization		
▶ FCPA - PAC - Update Form for Statement of Organization		
▶ FCPA - PAC/Candidate - Statement of Dissolution		
▶ FCPA - Waiver of Report Form (Candidates)		
▶ Voter Registration - Alabama Postcard Voter Registration Form <small>This form can be used when registering to vote or when updating your record with your county's Board of Registrars.</small>		

Section 17-5-1

Short title.

This chapter shall be known and may be cited as the "Fair Campaign Practices Act."

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §1; §17-22A-1; amended and renumbered by Act 2006-570, p. 1331, §23.)

Section 17-5-2

Definitions.

(a) For purposes of this chapter, the following terms shall have the following meanings:

(1) **CANDIDATE.** An individual who has done any of the following:

a. Taken the action necessary under the laws of the state to qualify himself or herself for nomination or for election to any state office or local office or in the case of an independent seeking ballot access, on the date when he or she files a petition with the judge of probate in the case of county offices, with the appropriate qualifying municipal official in the case of municipal offices, or the Secretary of State in all other cases.

b. Received contributions or made expenditures, or given his or her consent for any other person or persons to receive contributions or make expenditures, with a view to bringing about his or her nomination or election to any state office or local office. Notwithstanding the foregoing, no person shall be considered a candidate within the meaning of this subdivision until the time that he or she has either received contributions or made expenditures as provided herein in the following amounts:

1. Twenty-five thousand dollars (\$25,000) or more, with a view toward bringing about nomination or election to any state office other than one filled by election of the registered voters of any circuit or district within the state.

2. Five thousand dollars (\$5,000) or more, with a view toward bringing about nomination or election to any state office, excluding legislative office, filled by election of the registered voters of any circuit or district.

3. Ten thousand dollars (\$10,000) or more, with a view toward bringing about nomination or election to the Alabama Senate and five thousand dollars (\$5,000) or more, with a view toward bringing about nomination or election to the Alabama House of Representatives.

4. One thousand dollars (\$1,000) or more, with a view toward bringing about nomination or election to any local office.

(2) **CONTRIBUTION.**

a. Any of the following shall be considered a contribution:

1. A gift, subscription, loan, advance, deposit of money or anything of value, a payment, a forgiveness of a loan, or payment of a third party, made for the purpose of influencing the result of an election.

2. A contract or agreement to make a gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of influencing the result of an election.

3. Any transfer of anything of value received by a political committee from another political committee, political party, or other source.

4. The payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate, political committee, or political party without payment of full and adequate compensation by the candidate, political committee, or political party. Provided, however, that the payment of compensation by a corporation for the purpose of establishing, administering, or soliciting voluntary contributions to a separate, segregated fund as permitted by Section 10-1-2, shall not constitute a contribution.

b. The term "contribution" does not include:

1. The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.

2. The use of real or personal property and the cost of invitations, food, or beverages, voluntarily provided by an individual to a candidate or political committee in rendering voluntary personal services on the individual's residential or business premises for election-related activities.

3. The sale of any food or beverage by a vendor for use in an election campaign at a charge to a candidate or political committee less than the normal comparable charge, if the charge to the political committee for use in an election campaign is at least equal to the cost of the food or beverage to the vendor.

4. Any unreimbursed payment for travel expenses made by an individual who, on his or her own behalf, volunteers personal services to a candidate or political committee.

5. The payment by a state or local committee of a political party of the cost of preparation, display, or mailing or other distribution incurred by the committee with respect to a printed slate card or sample ballot, or other printed listing of two or more candidates for any public office for which an election is held in the state, except that this subparagraph shall not apply in the case of costs incurred by the committee with respect to a display of the listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public political advertising.

6. The value or cost of polling data and voter preference data and information if provided to a candidate or political committee, unless the information was compiled with the advance knowledge of and approval of the candidate or the political committee.

(3) **ELECTION.** Unless otherwise specified, any general, special, primary, or runoff election, or any convention or caucus of a political party held to nominate a candidate, or any election at which a constitutional amendment or other proposition is submitted to the popular vote.

(4) **EXPENDITURE.**

a. The following shall be considered expenditures:

1. A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing the result of an election.

2. A contract or agreement to make any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, for the purpose of influencing the result of an election.

3. The transfer, gift, or contribution of funds of a political committee to another political committee.

b. The term "expenditure" does not include:

1. Any news story, commentary, or editorial prepared by and distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by any political party or political committee.
2. Nonpartisan activity designed to encourage individuals to register to vote, or to vote.
3. Any communication by any membership organization to its members or by a corporation to its stockholders and employees if the membership organization or corporation is not organized primarily for the purpose of influencing the result of an election.
4. The use of real or personal property and the cost of invitations, food, or beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential or business premises for election-related activities.
5. Any unreimbursed payment for travel expenses made by an individual who, on his or her own behalf, volunteers personal services to a candidate or political committee.
6. Any communication by any person which is not made for the purposes of influencing the result of an election.
7. The payment by a state or local committee of a political party of the cost of preparation, display, or mailing or other distribution incurred by the committee with respect to a printed slate card or sample ballot, or other printed listing of two or more candidates for any public office for which an election is held in the state, except that this subparagraph shall not apply in the case of costs incurred by the committee with respect to a display of the listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public political advertising.

(5) IDENTIFICATION. The full name and complete address.

(6) LOAN. A transfer of money, property, or anything of value in consideration of a promise or obligation, conditional or not, to repay in whole or part.

(7) LOCAL OFFICE. Any office under the constitution and laws of the state, except circuit, district, or legislative offices, filled by election of the registered voters of a single county or municipality, or by the voters of a division contained within a county or municipality.

(8) PERSON. An individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

(9) PERSONAL AND LEGISLATIVE LIVING EXPENSES. Household supplies, personal clothing, tuition payments, mortgage, rent, or utility payments for a personal residence; admission to an entertainment event or fees for a country club or social club, unless tied to a specific campaign event or functions involving constituents; and any other expense, excluding food and beverages, that would exist irrespective of the candidate's campaign or duties as a legislator. Personal and legislative living expenses shall not include expenses for food, beverages, travel, or communications incurred by the legislator in the performance of the office held.

(10) POLITICAL ACTION COMMITTEE. Any political action committee, club, association, political party, or other group of one or more persons which receives or anticipates receiving contributions or makes or anticipates making expenditures to or on behalf of any elected official, proposition, candidate, principal campaign committee or other political action committee. For the purposes of this chapter, an individual who makes a personal political contribution shall not be considered a political action committee.

(11) **PRINCIPAL CAMPAIGN COMMITTEE.** The principal campaign committee designated by a candidate under Section 17-5-4. A political action committee established primarily to benefit an individual candidate or an individual elected official shall be considered a principal campaign committee for purposes of this chapter.

(12) **PROPOSITION.** Any proposal for submission to the general public for its approval or rejection, including proposed as well as qualified ballot questions.

(13) **PUBLIC OFFICIAL.** Any person elected to public office, whether or not that person has taken office, by the vote of the people at the state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice chairs or the equivalent offices of each state political party as defined in Section 17-13-40.

(14) **STATE.** The State of Alabama.

(15) **STATE OFFICE.** All offices under the constitution and laws of the state filled by election of the registered voters of the state or of any circuit or district and shall include legislative offices.

(b) The words and terms used in this chapter shall have the same meanings respectively ascribed to them in Section 36-25-1.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §2; Acts 1997, No. 97-651, p. 1217, §1; §17-22A-2; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-3

Political action committees; officers; accounting and reporting.

(a) Every political action committee shall have a chair and a treasurer.

(b) All funds of a political action committee shall be segregated from, and shall not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) It shall be the duty of the treasurer of a political action committee to keep a detailed, exact account of:

(1) All contributions made to or for such committee.

(2) All expenditures made by or on behalf of such committee.

(3) The identification of every person to whom an expenditure is made, the date and amount thereof, and the name of each candidate on whose behalf such expenditure was made or a designation of the election proposition the result of which the political action committee will attempt to influence by making expenditures or receiving contributions.

(d) It shall be the duty of the treasurer to obtain and keep a receipted bill or cancelled check, stating the particulars for every expenditure made by or on behalf of a political action committee greater than one hundred dollars (\$100), and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year is greater than one hundred dollars (\$100). Provided, however, the treasurer of a political action committee shall not be required under this chapter to report any expenditure not related to political contributions or expenditures or made as an administrative expense. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for a period of two years from the date of any such expenditure.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §3; §17-22A-3; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-4

Filing statement to show principal campaign committee; duties and procedures.

Within five days after any person becomes a candidate for office, such person shall file with the Secretary of State or judge of probate, as provided in Section 17-5-9, a statement showing the name of not less than two nor more than five persons elected to serve as the principal campaign committee for such candidate, together with a written acceptance or consent by such committee, but any candidate may declare himself or herself as the person chosen to serve as the principal campaign committee, in which case such candidate shall perform the duties of chair and treasurer of such committee prescribed by this chapter. If any vacancies be created by death or resignation or any other cause, such candidate may fill such vacancy, or the remaining members shall discharge and complete the duties required of such committee as if such vacancy had not been created. The principal campaign committee, or its treasurer, shall have exclusive custody of all moneys contributed, donated, subscribed or in any manner furnished to or for the candidate represented by such committee, and shall account for and disburse the same. No candidate shall expend any money in aid of his or her nomination or election except by contributing to the principal campaign committee designated by the candidate.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §4; §17-22A-4; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-5

Statement of organization; notice of termination or dissolution.

(a) Each political action committee which anticipates either receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding one thousand dollars (\$1,000) shall file with the Secretary of State or the judge of probate as herein provided in Section 17-5-9, a statement of organization, within 10 days after its organization or, if later within 10 days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in an aggregate amount in excess of one thousand dollars (\$1,000).

(b) The statement of organization shall include:

- (1) The name and complete address of the committee.
- (2) The identification of affiliated or connected organizations, if any.
- (3) The purposes of the committee.
- (4) The identification of the chair and treasurer.
- (5) The identification of principal officers, including members of any finance committee.
- (6) A description of the constitutional amendments or other propositions, if any, that the committee is supporting or opposing, and the identity, if known, of any candidate or elected official that the committee is supporting or opposing.
- (7) A statement whether the committee is a continuing one, and if not, the expected termination or dissolution date.

(8) The disposition of residual funds which will be made in the event of dissolution.

(c) Any material change in information previously submitted in a statement of organization, except for the information described in subdivision (6) above, shall be reported to the Secretary of State or judge of probate as provided in Section 17-5-9, within 10 days following the change.

(d) Any political action committee or any principal campaign committee after having filed its initial statement of organization shall continue in existence until terminated or dissolved as provided herein. When any political action committee determines it will no longer receive contributions or make expenditures during any calendar year in an aggregate amount exceeding one thousand dollars (\$1,000), or when any candidate through his or her principal campaign committee determines that he or she will not receive contributions or make expenditures in the amounts specified in Section 17-5-2, the chair or treasurer of such political committee may so notify the Secretary of State or judge of probate, as designated in Section 17-5-9, of the termination or dissolution of such political committee. Such notice shall contain a statement by the treasurer of such committee of the intended disposition of any residual funds then held by the committee on behalf of a candidate.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §5; §17-22A-5; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-6

Checking account; expenditures.

A political action committee and a principal campaign committee shall maintain a checking account and shall deposit any contributions received by such committee into such account. No expenditure of funds may be made by any such committee except by check drawn on such account, or out of a petty cash fund from which it may make expenditures not in excess of one hundred dollars (\$100) to any person in connection with a single purchase or transaction.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §6; §17-22A-6; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-7

Use of excess moneys received; solicitation, etc., of contributions.

(a) Except as provided in subsection (d) and in Section 17-5-7.1, a candidate, public official, or treasurer of a principal campaign committee as defined in this chapter, may only use campaign contributions, and any proceeds from investing the contributions that are in excess of any amount necessary to defray expenditures of the candidate, public official, or principal campaign committee, for the following purposes:

(1) Necessary and ordinary expenditures of the campaign.

(2) Expenditures that are reasonably related to performing the duties of the office held. For purposes of this section, expenditures that are reasonably related to performing the duties of the office held do not include personal and legislative living expenses, as defined in this chapter.

(3) Donations to the State General Fund, the Education Trust Fund, or equivalent county or municipal funds.

(4) Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U. S. Code.

(5) Inaugural or transitional expenses.

(6) Donations to a legislative caucus organization registered under this chapter which does not operate as a political action committee.

(b) Notwithstanding any other provision of law, including, but not limited to, Section 13A-10-61, a candidate, public official, or principal campaign committee may only accept, solicit, or receive contributions:

(1) To influence the outcome of an election.

(2) For a period of 12 months before an election in which the person intends to be a candidate. Provided, however, candidates for legislative and statewide office and their principal campaign committees may not accept, solicit, or receive contributions during the period when the Legislature is convened in session. For purposes of this section, the Legislature is convened in session at any time from the opening day of the special or regular session and continued through the day of adjournment sine die for that session. However, this subdivision shall not apply within 120 days of any primary, runoff, or general election, and shall not apply to the candidates or their principal campaign committees participating in any special election as called by the Governor. This subdivision shall not apply to a loan from a candidate to his or her own principal campaign committee.

(3) For a period of 120 days after the election in which the person was a candidate, but only to the extent of any campaign debt of the candidate or principal campaign committee of the candidate as indicated on the campaign financial disclosure form or to the extent of reaching the threshold that is required for qualification as a candidate for the office which he or she currently holds, or both.

(4) For the purpose of paying all expenses associated with an election challenge including, but not limited to, quo warranto challenges.

(c) Notwithstanding any other provision of law, including, but not limited to, Section 13A-10-61, a candidate, public official, or principal campaign committee shall not accept, solicit, or receive contributions for any of the following reasons:

(1) As a bribe, as defined by Sections 13A-10-60 to 13A-10-63, inclusive.

(2) For the intention of corruptly influencing the official actions of the public official or candidate for public office.

(d) Notwithstanding any other provision of law, a principal campaign committee, during a two-year period commencing on the day after each regularly scheduled general election and ending on the day of the next regularly scheduled general election, may pay qualifying fees to a political party and in addition thereto, during that period, may expend up to a cumulative total of five thousand dollars (\$5,000) of campaign contributions, and any proceeds from investing the contributions, for the following purposes:

(1) Tickets for political party dinners or functions.

(2) State or local political party dues or similar expenses incurred by independent or write-in candidates.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §7; Acts 1993, No. 93-762, p. 1528, §1; Acts 1997, No. 97-651, p. 1217, §1; Act 99-695, 2nd Sp. Sess., p. 202, §1; §17-22A-7; amended and renumbered by Act 2006-570, p. 1331, §24; Act 2010-765, 1st Sp. Sess., p. 38, §2; Act 2013-311, §1.)

Section 17-5-8

Reports of contributions and expenditures by candidates, committees, and officials; filing; procedure.

(a) The treasurer, designated filing agent, or candidate, shall file with the Secretary of State or judge of probate, as designated in Section 17-5-9, periodic reports of contributions and expenditures at the following times once a principal campaign committee files its statement under Section 17-5-4 or a political action committee files its statement of organization under Section 17-5-5:

(1) Beginning after the 2012 election cycle, regardless of whether a candidate has opposition in any election, monthly reports not later than the second business day of the subsequent month, beginning 12 months before the date of any primary, special, runoff, or general election for which a political action committee or principal campaign committee receives contributions or makes expenditures with a view toward influencing such election's result. A monthly report shall include all reportable transactions for the previous full month period. Reports shall be required as provided in subdivisions (2) and (3).

(2) With regard to a primary, special, runoff, or general election, a report shall be required weekly on the Monday of the succeeding week for each of the four weeks before the election that includes all reportable activities for the previous week.

(3)a. In addition to the reporting dates specified in subdivisions (1) and (2), reports required to be filed with the Secretary of State shall be filed with the Secretary of State on the eighth, seventh, sixth, fifth, fourth, third, and second day preceding a legislative, state school board, or other statewide primary, special, runoff, or general election, and by 12:01 p.m. on the day preceding a legislative, state school board, or statewide, primary, special, runoff, or general election if any principal campaign committee or political action committee receives or spends in the aggregate five thousand dollars (\$5,000) or more on any day with a view toward influencing an election's results. If a daily report is required pursuant to this subdivision, the report shall include all reportable activity occurring on the day of the report as well as all reportable activity that has occurred on each day since the most recent prior report. Principal campaign committees and political action committees that are exempt from electronic filing and principal campaign committees and political action committees required to make daily reports pursuant to this subdivision for the 2012 election cycle may file reports by facsimile (FAX) transmission provided they keep proper documentation in their office.

b. Electronic filing on the Secretary of State's website may be implemented sooner than the 2014 election cycle as an alternative method of reporting; however, electronic filing shall be required beginning with the 2014 election cycle. Electronic filings shall be available to the public on a searchable database maintained on the Secretary of State's website.

(b) Except as provided in subsection (k), each principal campaign committee, political action committee, and elected state and local official covered under the provisions of this chapter, shall annually file with the Secretary of State or judge of probate, as designated in Section 17-5-9, reports of contributions and expenditures made during that year. The annual reports required under this subsection shall be made on or before January 31 of the succeeding year.

(c) Each report under this section shall disclose:

(1) The amount of cash or other assets on hand at the beginning of the reporting period and forward until the end of that reporting period and disbursements made from same.

(2) The identification of each person who has made contributions to such committee or candidate within the calendar year in an aggregate amount greater than one hundred dollars (\$100), together with the amount and date of all such contributions; provided, however, in the case of a political action committee identification shall mean the name and city of residence of each person who has made contributions within the calendar year in an aggregate amount greater than one hundred dollars (\$100).

(3) The total amount of other contributions received during the calendar year but not reported under subdivision (c)(2) of this section.

(4) Each loan to or from any person within the calendar year in an aggregate amount greater than one hundred dollars (\$100), together with the identification of the lender, the identification of the endorsers, or guarantors, if any, and the date and amount of such loans.

(5) The total amount of receipts from any other source during such calendar year.

(6) The grand total of all receipts by or for such committee during the calendar year.

(7) The identification of each person to whom expenditures have been made by or on behalf of such committee or elected official within the calendar year in an aggregate amount greater than one hundred dollars (\$100), the amount, date, and purpose of each such expenditure, and, if applicable, the designation of each constitutional amendment or other proposition with respect to which an expenditure was made.

(8) The identification of each person to whom an expenditure for personal services, salaries, and reimbursed expenses greater than one hundred dollars (\$100) has been made, and which is not otherwise reported or exempted from the provisions of this chapter, including the amount, date, and purpose of such expenditure.

(9) The grand total of all expenditures made by such committee or elected official during the calendar year.

(10) The amount and nature of debts and obligations owed by or to the committee or elected official, together with a statement as to the circumstances and conditions under which any such debt or obligation was extinguished and the consideration therefor.

(d) Each report required by this section shall be signed and filed by the elected official or on behalf of the political action committee by its chair or treasurer and, if filed on behalf of a principal campaign committee, by the candidate represented by such committee. There shall be attached to each such report an affidavit subscribed and sworn to by the official or chair or treasurer and, if filed by a principal campaign committee, the candidate represented by such committee, setting forth in substance that such report is to the best of his or her knowledge and belief in all respects true and complete, and, if made by a candidate, that he or she has not received any contributions or made any expenditures which are not set forth and covered by such report.

(e) Commencing with the 2014 election cycle, electronic filing of contributions and expenditures for any legislative, state school board, and statewide primary, special, runoff, or general election shall be mandatory, except as provided in subsection (g). The Secretary of State may provide electronic reporting sooner than the 2014 election cycle. Electronic filing shall satisfy any filing requirements of this chapter and no paper filing is required for any report filed electronically.

(f) In the 2012 election cycle the provisions for the time of filing contained in subsection (a) shall apply to the paper or facsimile (FAX) filings for any legislative, state school board, or statewide primary, special, runoff, or general election.

(g) Electronic filing of reports shall not apply to any campaign, principal campaign committee, or political action committee receiving ten thousand dollars (\$10,000) or less per election cycle.

(h) In connection with any electioneering communication paid for by a person, nonprofit corporation, entity, principal campaign committee, or other political committee or entity, the payor shall disclose its contributions and expenditures in accordance with this section. The disclosure shall be made in the same form and at the same time as is required of political action committees in this section; provided, however, no duplicate reporting shall be required by a political committee.

(i) Notwithstanding any disclosure requirements of subsection (h), churches are exempt from the requirements of this section unless the church's expenditures are used to influence the outcome of an election. Nothing herein shall require a church to disclose the identities, donations, or contributions of members of the church. As used in this

section, the term church is defined in accordance with and recognized by Internal Revenue Service guidelines and regulations.

(j) Notwithstanding the disclosure requirements of this section, the provisions of this section shall not be interpreted to nor shall they require any disclosure for expenses incurred for any electioneering communication used by any membership or trade organization to communicate with or inform its members, its members' families, or its members' employees or for any electioneering communication by a business entity of any type to its employees or stockholders or their families.

(k) Each report required by this section shall include all reportable transactions occurring since the most recent prior report; however, duplicate reporting is not required by this section. A political action committee or principal campaign committee that is required to file a daily report is not required to also file a weekly report for the week preceding an election specified in subdivision (3) of subsection (a); a committee required to file a weekly report is not required to also file a monthly report in the month in which the election is held; and a committee required to file a monthly report is not required to also file an annual report in the year in which the election is held. The monetary balance in a report of each committee shall begin at the monetary amount appearing in the most recent prior report.

(l) The Secretary of State may promulgate administrative rules pursuant to the Alabama Administrative Procedure Act as are necessary to implement and administer the changes made to this section by Act 2012-477.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §8; §17-22A-8; amended and renumbered by Act 2006-570, p. 1331, §24; Act 2009-751, p. 2273, §1; Act 2011-687, p. 2071, §1; Act 2011-697, p. 2130, §2; Act 2012-477, p. 1320, §§1, 2; Act 2013-311, §1.)

Section 17-5-9

Filing procedure.

(a) All statements and reports, including amendments, required of principal campaign committees under the provisions of this chapter shall be filed with the Secretary of State in the case of candidates for state office or state elected officials, and in the case of candidates for local office or local elected officials, with the judge of probate of the county in which the office is sought.

(b) Political action committees, which seek to influence an election for local office or to influence a proposition regarding a single county, shall file all reports and statements, including amendments, with the judge of probate of the county affected. All other political action committees, except as provided in subsection (a) above, shall file reports and statements with the Secretary of State.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §9; §17-22A-9; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-10

Public inspection of reports; date of receipt.

(a) Each report or statement shall be preserved and a copy made available for public inspection by the Secretary of State or judge of probate, whichever is applicable.

(b) The date of filing of a report or statement filed pursuant to this chapter shall be deemed to be the date of receipt by the Secretary of State or judge of probate, as the case may be; provided, that any report or statement filed by certified or registered mail shall be deemed to be filed in a timely fashion if the date of the United States postmark stamped on such report or statement is at least two days prior to the required filing date, and if such report or statement is properly addressed with postage prepaid.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §10; §17-22A-10; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-11

Duties of Secretary of State and judge of probate.

The Secretary of State and the judge of probate shall have the following duties:

- (1) To accept and file all reports and statements, including amendments, required by the provisions of this chapter to be filed with them and to accept any information voluntarily supplied that exceeds the requirements of this chapter.
- (2) To make each statement and report filed by any principal campaign committee or political action committee or elected official available for public inspection and copying during regular office hours, any such copying to be at the expense of the person requesting copies; except that any information copied from such reports or statements may not be sold or used by any political party, principal campaign committee, or political action committee for the purposes of soliciting contributions or for commercial purposes, without the express written permission of the candidate or the committee reporting such information.
- (3) To furnish any forms to be used in complying with the provisions of this chapter. The expenses incurred by the Secretary of State in furnishing forms, accepting statements and reports, filing statements and reports, and making such statements and reports available to the public shall be paid from moneys designated to the distribution of public documents.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §11; §17-22A-11; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-12

Identification of paid advertisements.

- (a) Any paid political advertisement or electioneering communication appearing in any print media or broadcast on any electronic media shall clearly and distinctly identify the entity responsible for paying for the advertisement or electioneering communication. It shall be unlawful for any person, nonprofit corporation, entity, candidate, principal campaign committee, or other political action committee to broadcast, publish, or circulate any campaign literature, political advertisement, or electioneering communication without a notice appearing on the printed matter with a clear and unmistakable identification of the entity responsible for directly paying for the advertisement or electioneering communication, or on the broadcast at the beginning, during, or end of a radio or television spot, stating that the communication was a paid advertisement, clearly identifying the entity directly responsible for paying for the advertisement or electioneering communication, and giving the identification of the person, nonprofit corporation, entity, principal campaign committee, or other political action committee or entity that paid for such communication.
- (b) This section does not apply to any political advertisement or electioneering communication used by a candidate and the candidate's supporters or by a political committee if the message or advertisement is:
 - (1) Designed to be worn by a person.
 - (2) Placed as a paid link on an Internet website, provided the message or advertisement is no more than 200 characters in length and the link directs the user to another Internet website that complies with subsection (a).

(3) Placed as a graphic or picture link where compliance with the requirements of this section is not reasonably practical due to the size of the graphic or picture link and the link directs the user to another Internet website that complies with subsection (a).

(4) Placed at no cost on an Internet website for which there is no cost to post content for public users.

(5) Placed or distributed on an unpaid profile account which is available to the public without charge or on a social networking Internet website, as long as the source of the message or advertisement is patently clear from the content or format of the message or advertisement. A candidate or political committee may prominently display a statement indicating that the website or account is an official website or account of the candidate or political committee and is approved by the candidate or political committee. A website or account may not be marked as official without prior approval by the candidate or political committee.

(6) Distributed as a text message or other message via Short Message Service, provided the message is no more than 200 characters in length or requires the recipient to sign up or opt in to receive it.

(7) Connected with or included in any software application or accompanying function, provided that the user signs up, opts in, downloads, or otherwise accesses the application from or through a website that complies with subsection (a).

(8) Sent by a third-party user from or through a campaign or committee's website, provided the website complies with subsection (a).

(9) Contained in or distributed through any other technology related item, service, or device for which compliance with subsection (a) is not reasonably practical due to the size or nature of such item, service, or device as available, or the means of displaying the message or advertisement makes compliance with subsection (a) impracticable.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §12; §17-22A-12; amended and renumbered by Act 2006-570, p. 1331, §24; Act 2011-697, p. 2130, §2; Act 2013-311, §1.)

Section 17-5-13

Cards, pamphlets, circulars, etc., to bear name of candidate, committee, etc.

It shall be unlawful for any person, candidate, principal campaign committee, or political action committee to publish or distribute or display, or cause to be published or distributed or displayed, any card, pamphlet, circular, poster, or other printed material relating to or concerning any election, which does not contain the identification required by Section 17-5-2(a)(5) of the person, candidate, principal campaign committee, or political action committee responsible for the publication or distribution or display of the same.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §13; §17-22A-13; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-14

Establishment of political action committee by corporation.

A political action committee may be established by a corporation, subject to the provisions of this chapter.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §14; §17-22A-14; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-15**Contributions by one person in name of another; contributions between political action committees, etc.**

(a) It shall be unlawful for any person, acting for himself or herself or on behalf of any entity, to make a contribution in the name of another person or entity, or knowingly permit his or her name, or the entity's name, to be used to effect such a contribution made by one person or entity in the name of another person or entity, or for any candidate, principal campaign committee, or political action committee to knowingly accept a contribution made by one person or entity in the name of another person or entity; provided, however, that nothing in this chapter prohibits any person from soliciting and receiving contributions from other persons for the purpose of making expenditures to a candidate, political campaign committee, political action committee, or elected state or local official required to file reports pursuant to Section 17-5-8.

(b) It shall be unlawful for any political action committee or tax exempt political organization under 26 U.S.C. § 527, including a principal campaign committee, or any person authorized to make an expenditure on behalf of such political action committee or 527 organization, to make a contribution, expenditure, or any other transfer of funds to any other political action committee or 527 organization. It shall be unlawful for any principal campaign committee or any person authorized to make an expenditure on behalf of such principal campaign committee to make a contribution, expenditure, or other transfer of funds to any other principal campaign committee, except where the contribution, expenditure, or any other transfer of funds is made from a principal campaign committee to another principal campaign committee on behalf of the same person. Notwithstanding the foregoing, a political action committee that is not a principal campaign committee may make contributions, expenditures, or other transfers of funds to a principal campaign committee; and a separate segregated fund established by a corporation under federal law, if the fund does not receive any contributions from within this state other than contributions from its employees and directors, is not restricted by this subsection in the amount it may transfer to a political action committee established under the provisions of Section 17-5-14.1 by the same or an affiliated corporation.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §18; §17-22A-18; amended and renumbered by Act 2006-570, p. 1331, §24; Act 2010-765, 1st Sp. Sess., p. 38, §2; Act 2013-311, §1.)

Section 17-5-16**Fraudulent misrepresentation as acting for candidate, etc., prohibited.**

It shall be unlawful for any person fraudulently to misrepresent himself or herself, or any other person or organization with which he or she is affiliated, as speaking or writing or otherwise acting for or on behalf of any candidate, principal campaign committee, political action committee, or political party, or agent or employee thereof, in a manner which is damaging or is intended to be damaging to such other candidate, principal campaign committee, political action committee, or political party.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §19; §17-22A-19; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-17**Solicitation by force, job discrimination, threats, etc., prohibited.**

It shall be unlawful for any person, principal campaign committee, or political action committee established pursuant to this chapter or for any person acting on behalf of such person or committee, to solicit or secure any money or anything of value by physical force, job discrimination or financial reprisals, or by threats thereof or by the imposition of dues, fees, or other moneys required as a condition of employment.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §20; §17-22A-20; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-18

Failure to file required statement or report.

A certificate of election or nomination shall not be issued to any person elected or nominated to state or local office who shall fail to file any statement or report required by this chapter. A certificate of election or nomination already issued to any person elected or nominated to state or local office who fails to file any statement or report required by this chapter shall be revoked.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §21; §17-22A-21; amended and renumbered by Act 2006-570, p. 1331, §24.)

Section 17-5-19

Construction of chapter.

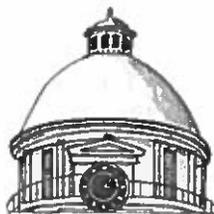
It is the intention of the Legislature by the passage of this chapter that its provisions be construed in pari materia with other laws regulating political contributions, corporations, or political contributions by corporations.

(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §23; §17-22A-23; amended and renumbered by Act 2006-570, p. 1331, §24.)

Note: The electronic version of the Fair Campaign Practices Act is provided courtesy of the Alabama Legislature through its web site.

Fair Campaign Practices Act

CANDIDATE
FILING
GUIDE



Fourteenth Edition

John H. Merrill
Secretary of State
Post Office Box 5616
Montgomery, Alabama 36103
334-242-7210
alabamavotes.gov
sos.alabama.gov
stopvoterfraudnow.com

CANDIDATE CHECK LIST

Filing requirements for the following statements or reports are mentioned in this publication. **Other requirements may exist** for specific offices or to satisfy political party rules. When qualifying, check for further information on any additional requirements.

<u>FAIR CAMPAIGN PRACTICES ACT</u>	DATE(S) FILED
<input type="checkbox"/> Appointment of Principal Campaign Committee See page 4.	_____
<input type="checkbox"/> FCPA Reports—see page 13	_____
<input type="checkbox"/> Annual Report for Previous Calendar Year	_____
<input type="checkbox"/> Monthly Reports	_____
<input type="checkbox"/> Primary Election Weekly Reports	_____
<input type="checkbox"/> Primary Election Daily Reports Legislative, state school board, and statewide candidates. See page 13.	_____
<input type="checkbox"/> Primary Runoff Election Weekly Reports	_____
<input type="checkbox"/> Primary Runoff Daily Reports Legislative, state school board and statewide candidates. See page 13.	_____
<input type="checkbox"/> General Election Weekly Reports	_____
<input type="checkbox"/> General Election Daily Reports Legislative, state school board and statewide candidates. See page 13.	_____
<input type="checkbox"/> Annual Report for Election Year	_____
<u>ETHICS</u>	
<input type="checkbox"/> Statement of Economic Interests—see page 5	_____
<u>BALLOT ACCESS</u>	
<input type="checkbox"/> Qualified for ballot access	_____
<u>JUDICIAL ELECTIONS</u>	
<input type="checkbox"/> Copy of “Statement of Economic Interests” filed with Clerk of the Alabama Supreme Court Remember, original is filed with appropriate elections official upon becoming a candidate.	_____
<input type="checkbox"/> “Disclosure Statement of Financial Interests” with Clerk of the Alabama Supreme Court	_____

ALABAMA STATE CAPITOL
600 DENTER AVENUE
SUITE S-105
MONTGOMERY, AL 36130



(334) 242-7200
FAX (334) 242-4993
WWW.SOS.ALABAMA.GOV
JOHN.MERRILL@SOS.ALABAMA.GOV

JOHN H. MERRILL
SECRETARY OF STATE

Dear Citizens of Alabama:

I am pleased to present the 14th edition of our Elections Division's publication, the *Candidate Filing Guide*. This new, up-to-date edition will continue to serve as an instructive guide on the topic of Elections, providing detailed and in-depth information on the Fair Campaign Practices Act. If you have any questions, please call our Elections Division at 334-242-7210.

We're honored to serve you and our wonderful state.

Sincerely,

A handwritten signature in black ink that reads "J. H. Merrill".

John H. Merrill
Secretary of State

Contents

Notes, Acknowledgements and Disclaimers 3

Getting Started 4

Campaign Funds 20

Campaign Advertising 25

Frequently Asked Questions 32

Elected Officials 41

Appendix A: Independent Candidacy 43

Appendix B: Changes in Law 46

Appendix C: Online Filing System Quick Overview 53

For General Questions and Obtaining Forms



Contact the Office of the Secretary of State

Mailing Address: Elections Division
Office of the Secretary of State
P.O. Box 5616
Montgomery, Alabama 36103-5616

Telephone: (334) 242-7210 or 1 (800) 274-8683

General FAX: (334) 242-2444

FAX for Reporting: (334) 353-2295

World Wide Web: alabamavotes.gov

E-mail: alavoter@vote.alabama.gov

For Online Filing Questions



World Wide Web: fcpa.alabamavotes.gov

Help Desk Telephone: (888) 864-8910

For Ethics Act Compliance Questions



Contact the Alabama Ethics Commission

Telephone: (334) 242-2997

World Wide Web: ethics.alabama.gov

SPECIAL NOTE FOR FEDERAL CANDIDATES

This filing guide applies to candidates for state, county and municipal offices. Federal candidates must follow reporting guidelines and deadlines administered by the Federal Elections Commission (FEC). For more information, please contact the FEC at:

Federal Elections Commission
999 E Street Northwest
Washington, D.C. 20463
1 (800) 424-9530
www.fec.gov



PUBLICATION NOTES

FCPA CANDIDATE FILING GUIDE—FOURTEENTH EDITION

Prepared by the Office of the Secretary of State

Editors

John H. Merrill, Secretary of State
Ed Packard, Director of Elections
Clay Helms, Asst. Director of Elections & Supervisor of Voter Registration
Deonna Thompson, Elections Specialist
Janice McDonald, Elections Staff
Jean Brown, Attorney
Will Sutton, Attorney

Acknowledgements

The Office of the Secretary of State appreciates the guidance provided by the Office of the Attorney General through its Opinions Division. Especially, the Secretary of State would like to thank Assistant Attorney General Brenda Smith for the time she has devoted to reviewing this publication. The Secretary of State appreciates Gregory P. Butrus, Partner, Balch & Bingham LLP, for his review of and contributions to this edition. Appreciation is also extended to the Administrative Office of Courts and the Alabama Ethics Commission.

Legal Disclaimer

This document is not a substitute for the *Code of Alabama 1975*. It is provided as a guide and is not intended to be an authoritative statement of law. For further legal information, please consult the Code of Alabama 1975, other appropriate legal resources, or your attorney.

CHAPTER ONE

GETTING STARTED



The Fair Campaign Practices Act (FCPA), the state's campaign finance law, is found in the Code Of Alabama 1975, at **§17-5-1 through §17-5-21**. It sets the rules for how and when candidates can raise and spend money. The law also specifies how campaign finance activities are reported.



MANDATORY CAMPAIGN FINANCE COMMITTEE

The law requires every candidate to organize a campaign finance committee and file an **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form, which lists who serves on the committee. [§17-5-4]

The committee form must be filed within *five (5) days* of becoming a candidate. For purposes of the FCPA, the law defines two ways to become a candidate [see §17-5-2(a)(1)]:

1. Reaching the disclosure threshold by either raising or spending \$1,000, regardless of office sought.
2. Qualifying as a candidate with a political party or by filing a petition as a third party or independent candidate.

If, by the deadline for qualifying with a political party, an individual has not reached the disclosure threshold and, thus, has not filed an **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form, the campaign finance committee section on the political party qualification form may be used to set up the committee. The important thing to remember about the committee form is that it must be filed with the Secretary of State (for state offices) or with the probate judge (for local offices) within *five (5) days* of becoming a candidate. The candidate should be sure party officials (or the municipal clerk, in the case of a city candidate) forward a copy of the qualifying form by that deadline to the appropriate FCPA filing office or else provide him or her with a copy to file on his or her own behalf.

Effective September 1, 2015, all legislative, state school board

and statewide candidates who receive \$5,000 or more in contributions during an election cycle *must* file their **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form *online* at fcpa.alabamavotes.gov. For the 2016 election cycle, candidates for county office *may choose* to file electronically with the Secretary of State instead of filing manually with the probate judge. [§17-5-8(g)] Each county candidate who so chooses is required to file the appropriate form with the probate judge stating that all of the candidate's required FCPA forms and reports will be filed online with the Secretary of State throughout the election cycle.

Commencing with the 2018 election cycle, all principal campaign committees and political action committees that file with the judge of probate, other than candidates for municipal office, shall file electronically with the Secretary of State. [§17-5-9(e)]

A candidate may either serve as the sole member of his or her principal campaign committee or may appoint from two to five persons. If a candidate serves as his or her own principal campaign committee, he or she shall designate a person responsible for dissolving that principal campaign committee in the event of death or incapacity. If the designated person is unable to serve in this capacity at the time of death or incapacity, the principal campaign committee shall be dissolved by the candidate's personal representative as appointed by the judge of probate. [§17-5-4(c)]

A candidate may also select a **DESIGNATED FILING AGENT** when appointing his campaign finance committee. That agent will be authorized to file all required reports for the candidate during the election cycle.

The Secretary of State shall have the authority to dissolve or terminate any political action committee that has maintained a zero balance for one calendar year after providing a 90-day notice of intent to do so by certified mail with return receipt. [§17-5-5(d)]



STATEMENT OF ECONOMIC INTERESTS

Candidates at every level of government must file a **STATEMENT OF ECONOMIC INTERESTS** form with the State Ethics Commission simultaneously on the date such candidate files his or her qualifying papers with the appropriate election official. [§36-25-15] This form covers the previous calendar year. A candidate who has a

current **STATEMENT OF ECONOMIC INTERESTS** on file with the Ethics Commission does not have to file a duplicate form. For questions about filing the **STATEMENT OF ECONOMIC INTERESTS** electronically, please contact the Ethics Commission.

If the individual becomes a candidate by reaching the threshold for raising or spending campaign funds, the candidate files his or her **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form with the appropriate election official: candidates for state office file with the Secretary of State; candidates for county office file with the judge of probate. Candidates for city or town office file with the judge of probate in the county in which the city or town hall is located. The **STATEMENT OF ECONOMIC INTERESTS** form is to be filed with the State Ethics Commission on the same date that the election qualifying paperwork (declaration of candidacy) is filed with the appropriate election official.

If the individual becomes a candidate by qualifying with a political party, the **STATEMENT OF ECONOMIC INTERESTS** must be submitted to the State Ethics Commission simultaneously on the date such candidate files his or her qualifying papers with the appropriate political party.

If the individual is seeking ballot access by submitting a petition for independent candidacy, the **STATEMENT OF ECONOMIC INTERESTS** must be submitted to the State Ethics Commission simultaneously on the date such candidate files his or her petition to the appropriate election official: the Secretary of State for state candidates or the judge of probate for county candidates. [§36-25-15(a)]

Each election official who receives a declaration of candidacy or petition to appear on the ballot shall, within five days of receipt, notify the State Ethics Commission of the name of the candidate and the date on which the person became a candidate. The State Ethics Commission shall, within five business days of receipt of such notification, notify the election official whether the candidate has complied with the requirement to submit a **STATEMENT OF ECONOMIC INTERESTS**. [§36-25-15(b)]

If a candidate does not submit a **STATEMENT OF ECONOMIC INTERESTS** in accordance with the requirements of §36-25-15, his or her name shall not appear on the ballot, and he or she shall be deemed not qualified as a candidate in that election. The appropriate election official shall remove the name of that candidate from the ballot. [AG's Opinion 98-00200]



AFTER THE MANDATORY COMMITTEE FILING

While every candidate must appoint a principal campaign committee, candidates who have not reached the \$1,000 threshold are exempt from filing the monthly, weekly and daily FCPA reports until the threshold is reached. [AG's Opinion 90-00343] Otherwise, these reports are due prior to an election. [§17-5-8]

Though not required to file, candidates who have not reached their threshold may still choose to file the optional **WAIVER OF REPORT** form if they are concerned about the appearance of noncompliance.

After reaching the threshold, a candidate files each FCPA report at the required times. All contributions and expenditures, including those received or spent to reach the threshold, are reported. It is important to note that the payment of any qualifying fee or other cost associated with qualifying to run for office is considered an expenditure of the campaign, therefore, it should be reported as such. [§17-5-2(a)(7)]

Contributions from a single source and expenditures made to a single recipient that are greater than \$100 must be itemized on these reports. Therefore, it is important for a candidate to maintain some type of internal record for contributions of \$100 or less, since an additional donation from the same contributor could bring the total to more than \$100 and result in a need to itemize that contributor's contributions. The same is true for expenditures of \$100 or less.

All candidates for all legislative, state school board and statewide offices who receive more than \$5,000 in contributions during an election cycle must file their FCPA reports online. [§17-5-8(g)] The online FCPA reporting system contains everything a candidate needs to record contributions and expenditures and to file the required reports.

A county or municipal candidate may request forms for filing these reports from either the Office of the Secretary of State or from the local probate judge. The forms are also available on the Secretary of State's website. Forms and FCPA educational materials, such as this book, are supplied at no charge to the candidate. However, a candidate is not required to use the forms developed by the Office of the Secretary of State, as long as the information required by the FCPA is included in the report. [AG's Opinion 90-00211]

Electronic filing has been required since the beginning of the

2014 election cycle. Campaign committees and PACs receiving \$5,000 or less in an election cycle are exempt from filing FCPA reports electronically. [§17-5-8(g)] However, these campaign committees are still required to file disclosure forms on paper. These reports may be submitted by FAX, mail, or hand-delivery. [AG's Opinion 2012-028]

Candidates who spend more than \$1,000 on an "electioneering communication" will have met the filing threshold for campaign finance reporting. Therefore, the candidate must disclose its contributions and expenditures relating to the electioneering communication in accordance with Code of Alabama 1975, §17-5-8. However, the candidate is not required to duplicate any reporting. See also CHAPTER THREE, CAMPAIGN ADVERTISING, for further information on electioneering communication.



FILING LOCATIONS

1. Reports for District, Circuit, Legislative, and Statewide Offices

For those candidates who are not filing online, reports are submitted to the Office of the Secretary of State. The mailing address is:

**Office of the Secretary of State
P.O. Box 5616
Montgomery, Alabama 36103-5616**

Candidates hand-delivering reports should bring them to the Elections Division located at 600 Dexter Avenue, Suite E-210, Montgomery, Alabama. Suite E-210 is located on the second floor of the State Capitol, which is in the east wing (just off the rotunda on the 2nd floor).

2. Reports for local offices (municipal and county)

Municipal and county reports are submitted to the local office of the probate judge, unless a county candidate chooses to file electronically with the Secretary of State. **Municipal candidates may not file electronically.**



DEADLINES

According to the FCPA, forms that are hand-delivered or sent by regular United States mail must be received on or before the due date.

In order for disclosure reports sent by certified or registered United States mail to be deemed timely filed, they must be postmarked no later than the required filing date. [§17-5-10(b)]

For state campaign committees and state political action committees eligible to submit reports by FAX, the Secretary of State's FAX number is (334) 353-2295.



FILING SCHEDULE

During the election cycle, but no earlier than 12 months prior to an election, campaign finance disclosure reports are filed at specific times before the election.

The FCPA filing calendar for the current election year is available from the Secretary of State's office and is published on its website. Please take careful note of all deadlines as they may be subject to change.

The online FCPA reporting system contains a filing calendar for each election cycle; each candidate should choose the appropriate calendar for his or her race and the system will automatically generate the correct calendar for the candidate to follow.

Additionally, principal campaign committees and political action committees must disclose the receipt of any single contribution of \$20,000 or more within two (2) business days of receiving the contribution if the contribution is not reported in a monthly, weekly, or daily report. [§17-5-8.1(c)]



PRE-ELECTION REPORTS

1. Monthly Report

Monthly reports are due no later than the second business day of the following month and must include all reportable transactions for the previous full month. [§17-5-8(a)(1)]

2. Weekly Report

Weekly reports are due on the Monday of the following week for each of the four weeks before the election date; a week is defined as running from a Saturday to a Friday. The first weekly report shall include all reportable transactions that occurred since the most recently filed prior report. [§17-5-8(a)(2)]

3. Daily Report (if applicable)

Daily reports apply only to candidates for state legislature, state school board, and statewide offices. Daily reports do not apply to candidates for county and city offices or to candidates for district or circuit court, circuit clerk, or district attorney.

In some instances, campaign committees for state offices and political action committees are required to file daily reports. Beginning on the 8th day prior to the election, daily reports are due for principal campaign committees or PACs that receive or spend \$5,000 or more on that day with a view toward influencing the election. [§17-5-8(a)(3)] To clarify, daily reports would only be due on those days that the \$5,000 daily threshold is met.

Daily reports are due each filing day by 11:59 PM, *including Saturday and Sunday*. The last daily report, if applicable, is due by noon on the day before the election. [§17-5-8(a)]

4. Major Contribution Report (if applicable)

Principal campaign committees must disclose the receipt of any single contribution of \$20,000 or more within two (2) business days of receiving the contribution if it is not

included in a monthly, weekly, or daily report. [§17-5-8.1(c)] The term “contribution” includes monetary and in-kind contributions as well as loans and the other transfers to the principal campaign committee or political action committee.

If not included on a monthly, weekly, or daily report, the contribution is to be filed on a **MAJOR CONTRIBUTION REPORT** form available in the electronic filing system or from the Secretary of State’s Election Division.

5. Duplicate Reports

No duplicate reports are required by the law. A political action committee or principal campaign committee that is required to file a daily report is not required to also file a weekly report for the week preceding an election. A committee required to file a weekly report is not required to also file a monthly report in the month in which the election is held. A committee required to file a monthly report is not required to also file an annual report in the year in which the election is held. [§17-5-8(k)]



ANNUAL REPORTS

An annual report covering the previous year is due no later than January 31st of the succeeding year. [§17-5-8(b)]

Each principal campaign committee, political action committee, and elected state and local official who has not closed his or her principal campaign committee, shall annually file with the Secretary of State or judge of probate. [§17-5-8(b)]

No annual report is required to be filed by a person who holds office because he or she was appointed to serve the remainder of a term vacated by another person, until the person serving has created a principal campaign committee. [§17-5-8(b)]



PENALTIES

The 2013 revisions to the FCPA expanded the penalties for

noncompliance.

A candidate who intentionally violates a reporting requirement is guilty, upon conviction, of a Class A misdemeanor. [§17-5-19(b)]

A candidate who intentionally violates any section other than §17-5-7 of the FCPA is guilty of a Class A misdemeanor. [§17-5-19(a)]

Any person who intentionally violates §17-5-7, which addresses limits on candidates receiving campaign contributions and spending campaign money, is guilty, upon conviction, of a Class B felony. [§17-5-19(c)] See CHAPTER TWO, CAMPAIGN FUNDS, for further information on this section of the law.

The FCPA prohibits any candidate from accepting more than \$1,000 from a principal campaign committee of a federal candidate. [§17-5-15.1(a)] A candidate who violates this provision is guilty, upon conviction, of a Class C felony. [§17-5-15.1(b)]

Commencing with the 2018 election cycle, the appropriate election official, based on the location of filing, shall levy an administrative penalty against any person who fails to timely file a required report and who does not remedy the filing of the required report. The State Ethics Commission shall have the authority to levy an administrative penalty against any person who files a materially inaccurate report and who does not remedy the filing of the report. [§17-5-19.1(a)]

Civil penalties levied shall be paid to the appropriate filing official within 45 days of the finality of any review. All penalties collected by a judge of probate shall be distributed to that county's general fund, and all penalties collected by the Secretary of State shall be distributed to the State General Fund. [§17-5-19.1(e) and (f)]

The schedule of civil penalties shall be as follows [§17-5-19.1(b) (1-3)]:

- ⇒ the lesser of \$300 or 10% of the amount not properly reported for a first offense in an election cycle;
- ⇒ the lesser of \$600 or 15% of the amount not properly reported for a second offense in an election cycle; or
- ⇒ the lesser of \$1,200 or 20% of the amount not properly reported for a third and all subsequent offenses in an election cycle.

A fourth failure to properly file a required FCPA report creates a

rebuttable presumption that the candidate is intentionally violating the reporting requirements. The Secretary of State or judge of probate shall notify the Attorney General or the appropriate district attorney of all persons who violate the filing requirements four or more times in an election cycle. [§17-5-19.1(c)]

Any penalties assessed may be paid with campaign funds. [§17-5-19.1(i)]

Any person upon whom a civil penalty has been imposed may seek a review by filing written notice with the Secretary of State or judge of probate within 14 days after notification of the imposed penalty. The Secretary of State or judge of probate shall refer such review to the State Ethics Commission. [§17-5-19.2(a)]

The commission may set aside or reduce a civil penalty upon a showing of good cause. The person seeking review shall bear the burden of proof. [§17-5-19.2(b)]

Any candidate who voluntarily files an amended report to correct an error without being prompted by the filing official, will not be subjected to the civil penalty. In the case of a candidate, the correction must be filed prior to the election at issue. In the case of a political action committee, the correction must be filed prior to the close of the calendar year. [§17-5-19.1(g)]



FORMS

FCPA candidate forms fall into two categories: 1) committee forms and 2) disclosure filings. Disclosure filings are submitted as pre-election reports (i.e. monthly, weekly, daily reports), annual reports (due each January, except for the year in which a candidate participates in an election), and termination reports (filed upon dissolution of a committee).

As noted previously, candidates who are required to file electronically will have access to all the forms online, and after registering with the online FCPA reporting system, will no longer file paper forms for any reason.

COMMITTEE FORMS

Candidates have two committee filings, the **APPOINTMENT**

OF PRINCIPAL CAMPAIGN COMMITTEE form, used to set up the committee, and the **STATEMENT OF DISSOLUTION**, filed when the committee is closed.

The importance of the mandatory committee filing has already been discussed on pages 4 and 5. Once a committee is formed and the threshold reached, a candidate continues filing disclosure reports until the committee is dissolved.

CHANGES/UPDATES. Whenever a change takes place in the committee, such as the addition or removal of officers or members, change of phone number or address, or change of name for the political committee, candidates may provide the new information by filing a new **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form as discussed on pages 4 and 5. [§17-5-5(c)]

STATEMENT OF DISSOLUTION. Once a candidate determines that he or she will no longer receive contributions or make expenditures, a **STATEMENT OF DISSOLUTION** form must be filed. [§17-5-5(d)] This form should be accompanied by a **TERMINATION REPORT** which itemizes all contributions/expenditures of more than \$100 received or made since the last itemized report. The **TERMINATION REPORT** is filed using FORMS 1A-5, discussed under the **ANNUAL REPORT** and pre-election report forms sections on this and the following pages. If the **TERMINATION REPORT** is not filed with the **STATEMENT OF DISSOLUTION**, then the candidate must file the requisite **ANNUAL REPORT** covering the last year of activity.

The candidate must also disclose how any excess funds will be used. See pages 21 and 22 for information on the law and excess funds.

FCPA DISCLOSURE FILINGS

Upon reaching the disclosure threshold by either raising or spending \$1,000, a candidate is responsible for filing the following disclosure reports, itemizing contributions or expenditures of more than \$100:

- ⇒ **Monthly Reports** — due no later than the second business day of the following month and must include all reportable transactions for the previous full month.

- ⇒ **Weekly Reports** — due on the Monday of the following week for each of the four weeks before the election date; for reporting purposes, a week is defined as running from a Saturday to a Friday.
- ⇒ **Daily Reports** — beginning on the 8th day prior to the election, daily reports are due for principal campaign committees and PACs that receive or spend \$5,000 or more on that day with a view toward influencing the election. [§17-5-8(a)(3)] To clarify, daily reports would only be due on those days that the \$5,000 daily threshold is met. **Daily reports do not apply to circuit, district, county, and city candidates.**
- ⇒ **Major Contribution Report.** Principal campaign committees and PACs must file a report disclosing the receipt of any single contribution of \$20,000 or more within two (2) business days of receiving the contribution if the contribution has not already been reported in a finance disclosure report.

FCPA REPORT FORMS (FORMS 1-5)

Form 1: Summary of Contributions and Expenditures. This FCPA form must be signed by the candidate or elected official and notarized. However, for electronically filed reports, the form is electronically signed and does not require notarization.

Form 2: Cash Contributions. The FCPA requires that cash contributions of more than \$100 be itemized. If they choose to do so, candidates may itemize contributions of \$100 or less, but this is not required by law. However, if contributions of \$100 or less are not itemized, the law does require that they be totaled and reported. They may be reported as “non-itemized” contributions on **FORM 1**.

As mentioned earlier, some type of campaign bookkeeping system should be used to track contributors making small donations of \$100 or less per contribution. If the combined contributions from any one contributor total more than \$100, an itemized entry on **FORM 2** is then required.

For purposes of reporting contributions, the date of

receipt of a contribution shall be the first date the recipient of the contribution is able to make use of the contribution. In the case of a contribution in the form of a check, the date of the receipt is the earlier of: 1) ten days from the date that the check came within the recipient's control; or 2) the date that the check was deposited into the recipient's account. [§17-5-2(a)(3)(c)]

A political action committee and a principal campaign committee shall maintain a checking account, money market account, or other similar banking account. [§17-5-6]

Form 3: *In-kind Contributions*. An "in-kind" contribution is made when equipment, furniture, office space, or some other item of value other than money is contributed or used. A reasonable market value should be listed.

Form 4: *Receipts from Other Sources*. Receipts from other sources are usually funds received through interest payments on a political committee bank account, loans made to the committee or refunds.

Form 5: *Expenditures*. The FCPA requires that expenditures of more than \$100 be itemized. Candidates may itemize expenditures of \$100 or less, but this is not required by law. However, if the expenditures of \$100 or less are not itemized, the law does require that they be totaled and reported. They may be reported as "non-itemized" expenditures on **FORM 1**.

As with contributions, some type of campaign bookkeeping system should be used to track small expenditures. If expenditures to the same vendor total more than \$100, an itemized entry on **FORM 5** is then required.

For purposes of reporting expenditures, the date an expenditure is made is the date the instrument authorizes the expenditure. In the case of an expenditure made by check or electronic payment, the date of expenditure is the date of the check or electronic payment. [§17-5-2(a)(7)(c)]

No expenditure of funds may be made by any such committee except by check drawn on such account, electronic transfer from such account, a credit card the balance of which is paid from such account, or petty cash fund from which it may make expenditures not in excess of \$100 to any person in connection with a single purchase transaction. [§17-5-6]

ANNUAL REPORT

The FCPA requires candidates and elected officials to file an **ANNUAL REPORT** by January 31st, which covers all contributions and expenditures for the campaign committee for the preceding calendar year. Each principal campaign committee, political action committee, and elected state and local official who has not closed his or her principal campaign committee, shall annually file with the Secretary of State or judge of probate. [§17-5-8(b)]

Persons who have been appointed to a public office are not required to file an **ANNUAL REPORT** until they become a candidate by either running for the same office or another office.

The **ANNUAL REPORT** is comprised of the same forms as the other FCPA disclosure reports, discussed in the previous section, with one exception.

FORM 1 of the disclosure reports is replaced by **FORM 1A**, a form specifically designed for the purposes of the **ANNUAL REPORT**. **FORM 1A** is designed with two sections.

Section I summarizes totals of contributions/expenditures since the last filing.

In the itemized sections of the **ANNUAL REPORT (FORMS 2-5)**, candidates include those entries of more than \$100 that have been received or spent since the last itemized report.

Section II is a **summary** of contributions/expenditures for January 1 – December 31 of the previous year. [**FORM 1A** must be notarized if filed on paper.]

WAIVER OF REPORT (OPTIONAL FORM)

Those principal campaign committees that have not reached the contribution/expenditure threshold are not required to file reports. However, an optional **WAIVER OF REPORT** form is provided for those who wish to place a record of their status in a formal FCPA report.

A **WAIVER OF REPORT** form may not be used by: 1) candidates who have a principal campaign committee that has met the contribution/expenditure threshold in any election cycle; 2) elected officials, filing an **ANNUAL REPORT**, regardless of whether they maintain a principal campaign committee.



PUBLIC ACCESS

The FCPA requires the Secretary of State and probate judges to make the campaign finance reports available for public inspection and copying during regular office hours.

However, the law specifies that information copied from the reports may not be sold or used by any political party or any political committee to solicit contributions or for commercial purposes, without the express written permission of the candidate or political committee reporting the information. [§17-5-11(2)]



POINTS TO NOTE

Campaign Activities. The FCPA contains other provisions, in addition to those dealing with campaign finance reporting. The Office of the Secretary of State recommends a complete reading of the act which is contained in the Code of Alabama 1975, §17-5-1 through §17-5-21.

Prohibitions. Candidates should note the statutes on conduct that are contained in §17-17-33 and §17-17-34 of the Code of Alabama. Among the prohibited activities are: making a contribution in someone else's name, buying votes, interfering with a person's right to freely cast a vote, soliciting money or anything of value by

physical force, job discrimination, financial reprisal, or threats, or fraudulently misrepresenting oneself as acting for a candidate.

Other sections of state law also address campaign behavior; see pages 20 through 24 for highlights of those statutes.

CHAPTER TWO

CAMPAIGN FUNDS



The FCPA has strict controls on the purposes for which a candidate may solicit campaign funds, how the funds can be spent, and when candidates can raise money. In the 2010 special legislative session, the Legislature, through Act of Alabama 2010-765, enacted new rules regarding from whom a candidate may receive funds and to whom a candidate may make contributions.

Additionally, Act 2013-311 and Act 2015-495 revised a number of provisions relating to fundraising and contribution limits.



FUNDRAISING

1. Limitations on Campaign Committees

It is unlawful for one candidate’s campaign committee to contribute to another candidate’s campaign. However, a candidate is permitted to conduct a transfer of anything of value from one campaign committee to another campaign committee when the committees are for the same person. Political action committees (PACs) are permitted to make contributions to principal campaign committees (PCCs). [§17-5-15(b)]

State and local campaign committees are prohibited from receiving more than \$1,000 from a principal campaign committee of a federal candidate. [§17-5-15.1(a)]

PAC
Political Action Committee

PCC
Principal Campaign Committee

<i>At-a-Glance Contribution Guide*</i>			
PAC	→	PCC	<input checked="" type="checkbox"/>
PAC	→	PAC	<input type="checkbox"/>
PCC	→	PCC	<input type="checkbox"/>
PCC	→	PAC	<input type="checkbox"/>

*Note—this guide is for general illustrative purposes only. Please refer to *Section 1* above for special circumstances.

2. Accepting and Spending Campaign Funds

The law states that a candidate may only accept campaign contributions for three purposes [§17-5-7(b)(1)-(4)], namely, to:

- ☛ Influence the outcome of an election.
- ☛ Pay off a campaign debt.
- ☛ Pay all expenses associated with an election challenge, including quo warranto challenges.

Campaign funds, including excess funds left after the election, may be spent only for the following purposes [§17-5-7(a)(1)-(7)]:

- ☛ Expenditures of the campaign.
- ☛ Expenditures that are reasonably related to performing the duties of the office held [does not include personal and legislative living expenses].
- ☛ Donations to the State General Fund, the Education Trust Fund or equivalent county or municipal funds.
- ☛ Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U.S. Code.
- ☛ Inaugural or transitional expenses. [Warning: the Ethics Act prohibits converting to personal use contributions from an inaugural or transitional fund (§36-25-6).]
- ☛ Donations to a legislative caucus organization registered with the Clerk of the House, Secretary of the Senate, or both in the case of a bicameral caucus which does not operate as a political action committee. [§17-5-5.1]
- ☛ Legal fees and costs associated with any civil action, criminal prosecution, or investigation related to

conduct reasonably related to performing the duties of the office held.

3. Use of Excess Campaign Funds While in Office

The FCPA permits a campaign committee, during a two-year period beginning on the day after each general election and ending on the day of the next regularly scheduled general election, to pay qualifying fees to a political party and give up to \$5,000 to the political party. The campaign committee can also pay the political party for any tickets to party functions, and state or local party dues. Campaign committees for independent candidates or write-in candidates can pay for similar expenses. [§17-5-7(d)]



FUNDRAISING PERIOD

Candidates may begin raising money 12 months prior to the election in which they intend to be on the ballot [§17-5-7(b)(2)]. However, FCPA provision §17-5-7(b)(2) prohibits candidates for legislative and statewide offices from *raising* money while the Alabama Legislature is in session, except within 120 days of a primary, primary runoff, or general election. [§17-5-7(b)(2)] These restrictions do not apply to loans candidates make to their own committee. [§17-5-7(b)(2)]

The fundraising prohibition does not affect expenditures. State candidates may continue to spend campaign funds while the Alabama Legislature is in session.

The fundraising prohibition does not apply to candidates for county or city offices. They may continue raising money when the Legislature is in session.



CONTRIBUTION LIMITS

State law limits state and local campaign committees from receiving more than \$1,000 from a principal campaign committee of a federal candidate. [§17-5-15.1(a)]

Act 2013-311 specifically repealed previous statutes that limited corporate contributions to \$500 per candidate per election. [§17-5-14(a)]

State law prohibits contributions, transfers of funds, or expenditures to any political action committee, or 527 political organization, from any political action committee, 527 political organization, or a principal campaign committee. [§17-5-15(b)]

It also prohibits contributions from one campaign committee to another campaign committee, except where an individual is giving from his or her campaign committee for one office to his or her campaign committee for another office. [§17-5-15(b)]



CAMPAIGN DEBT

Candidates should take particular note that the FCPA limits the fundraising period to clear campaign debts up to 120 days after the election. They are limited to raising only up to the amount of the debt plus the entire amount of filing threshold for that office (i.e., \$1,000). [AG's Opinion 99-00090]

All contributions received after the election to retire any debt must be reported in the next regular report the campaign files:

"Under the FCPA, all contributions...by candidates, their principal campaign committees, and other political committees are to be reported regardless of the time when the contributions are received." [AG's Opinion 96-00120]



BRIBES AND CORRUPT INFLUENCE

The FCPA prohibits a candidate or campaign finance committee from accepting, soliciting, or receiving a contribution as a bribe or for the intention of corruptly influencing the official actions of a public official or a candidate for public office. [§17- 5-7(c)]



PENALTY

Any person who intentionally violates the section that governs how and when money can be raised [§17-5-7] is guilty, upon conviction, of a Class B felony. [§17-5-19(c)] A Class B felony carries a penalty of up to \$30,000 and/or not less than two and not more than 20 years imprisonment. [§§ 13A-5-6, 13A-5-11]

In general, the statute of limitations for a violation of the Fair Campaign Practices Act (Title 17, Chapter 5 of the Code of Alabama) is two years from the commission of the offense. However, the statute of limitations for a violation of §17-5-7 is 4 years. [§17-5-19(e)]

Violators can be prosecuted by either a district attorney or the attorney general. [§17-5-19(d)]

CHAPTER THREE

CAMPAIGN ADVERTISING



The FCPA specifies that campaign advertising and electioneering communication appearing in print, broadcast, and electronic media must clearly and distinctly identify the entity responsible for paying for the advertisement or electioneering communication. [§17-5-12(a)]

Campaign literature and advertisements must carry this information and broadcast materials must be identified at the beginning, during, or the end of the radio or television spot. [§17-5-12(a)]

Act 2011-697 created the definition of “electioneering communication”. Electioneering communication involves any of the following types of communication:

1. Any communication circulated through federally regulated broadcast media;
2. Any mailing or other distribution;
3. Any electronic communication;
4. Any phone bank; or
5. Any publication. [§17-5-2(a)(5)]

These types of communication must also fulfill all of the four (4) following elements in order for it to meet the “electioneering communication” definition.

1. It must contain the name or image of a candidate;
2. It is made within 120 days of an election in which the candidate’s name appears on the ballot;
3. The only reasonable conclusion from the presentation and content of the communication is that it is intended to influence the outcome of the election; and
4. The expenditure exceeds one thousand dollars (\$1,000). [§17-5-2(a)(5)]



ELECTIONEERING COMMUNICATION DISCLOSURE REPORTS

Any person, including candidates, who spends more than \$1,000 on an “electioneering communication” is required to file a disclosure report. The reports must identify the source or sources of the funds used for the electioneering communication and the recipients of expenditures related to the electioneering communication. [§17-5-8(h)]



DISCLAIMER REQUIREMENT

The FCPA does not give a specific format for wording the disclaimer. However, the FCPA does state that political advertisements or electioneering communication must clearly and distinctly identify the entity responsible for paying for the advertisement or electioneering communication. The disclaimer must also be displayed on printed advertisements. Disclaimers for broadcasts must occur at the beginning, during, or end of a radio or television spot, stating that the communication was a paid advertisement and identifying the paying entity. [§17-5-12(a)]

Such words as paid advertisement by, paid for by, and paid political ad meet the requirements of the act; however, an advertiser is not limited to just those phrases. The attorney general has advised that:

“...words which indicate that the advertisement is a paid political advertisement meet the requirements of the law.” [AG’s Opinion 94-00227]

In addition, the disclaimer must contain the identification of the person, nonprofit corporation, principal campaign committee, or entity placing the ad. Under the FCPA, the term “identification” means full name and complete address [§17-5-2(a)(7)]. The attorney general has stated that a complete address includes the street or post office box, city, and state. [AG’s Opinion 94-00227]

Refer to page 27 for sample illustrations of typical political advertisements with disclaimers.



SAMPLE DISCLAIMER ADVERTISEMENTS

**Elect
John Doe**

Paid for by the
Committee to Elect John Doe
PO Box 5551212
Inacounty, AL 99999

Figure 1: Example of a political advertisement with a disclaimer.

*Elect
Jane Doe to
Public Office*

Paid political advertisement by
Committee to Elect Jane Doe
PO Box 1212555
Ourfair City, Alabama 99999

Figure 2: Example of a political advertisement with a disclaimer.



DISCLAIMER EXCEPTIONS

1. Act of Alabama 2011-697 lists (9) types of paid political advertisements and electioneering communications that

are excluded from the identification requirement. The disclaimer requirements do not apply if the advertisement is:

- a. Designed to be worn by a person; [§17-5-12(b)(1)]
 - b. Placed as a paid link on an Internet website, if the message does not exceed 200 characters in length, and the link directs to another Internet website that has a disclaimer; [§17-5-12(b)(2)]
 - c. Placed as a graphic or picture link where a disclaimer is not practical due to the size of the picture, and the link directs to another Internet website that has a disclaimer; [§17-5-12(b)(3)]
 - d. Placed at no cost on an Internet website where there is no cost to post content for public users; [§17-5-12(b)(4)]
 - e. Placed on an unpaid profile account available to the public without charge or a social networking Internet website if the source of the message is obvious from the content or format of the message; [§17-5-12(b)(5)]
 - f. Distributed as a text message or other message via Short Messages Service if the message does not exceed 200 characters in length or requires the recipient sign up or opt in to receive it; [§17-5-12(b)(6)]
 - g. Connected with or included in software application where the user actively chooses to access the application from or through a website that has a disclaimer; [§17-5-12(b)(7)]
 - h. Sent by a third-party from or through a campaign website that has a disclaimer; [§17-5-12(b)(8)]
 - i. Contained in or distributed through any other form of technology where a disclaimer is not practical due to its size or nature. [§17-5-12(b)(9)]
2. *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995)

A U.S. Supreme Court ruling in *McIntyre v. Ohio Elections Commission* seems to provide one very limited exception for advertising identification. In that case, the court

upheld the right of an individual to distribute anonymous leaflets opposing a proposed school tax levy. The impact on the FCPA disclaimer requirements, however, is minimal. Alabama's Attorney General has written that the ruling:

"...is limited to individuals who distribute anonymous written material (particularly leaflets) in a non-candidate election." [AG's Opinion 95-00218]

In all other circumstances, the advertising must carry identification.



APPLICATION OF DISCLAIMER

The advertising disclaimer must be on all types of non-excluded advertising, such as billboards, yard signs, bumper stickers, and pencils.



ROBOCALL DISCLOSURE

Every automated or pre-recorded communication made through an automated telephone dialing service (often referred to as a robocall) must contain a clear notice at the end of the communication stating that it is a paid political advertisement and identifying the person or other entity that paid for the communication. [§17-5-16(b)]



PENALTY

The Attorney General or a district attorney may prosecute any person who violates the FCPA. [§17-5-19(d)] Failure to comply with the advertising requirements is a Class A misdemeanor and, upon conviction, is subject to a fine of not more than \$6,000 and/or imprisonment of not more than one year. [§13A-5-12; §17-5-19(a)]



CAMPAIGN ADVERTISING AT THE POLLING PLACE

The FCPA requires that all campaign advertising must be clearly marked. Another section of law, §17-9-50, prohibits anyone from campaigning within 30 feet of the polling place. Generally, that distance is interpreted as 30 feet from the door of the polling place. [AG's Opinion 82-00113]

Candidates frequently ask if supporters may wear campaign T-shirts or buttons when they go to the polling place to vote or when campaign workers are asked to accompany a voter who has requested assistance. AG's Opinion 93-00118 states that there is no provision that specifically prohibits an elector from wearing campaign buttons, badges, or T-shirts while inside the polling place to vote or assist another voter.

Also, nothing prohibits a voter from taking a sample ballot into the polling place, but a sample ballot should not be left in the polling place.

It should be noted that poll watchers, who can be appointed by the candidate or a political party, are prohibited from campaigning while inside the polling place, and the attorney general has held that wearing buttons, badges, or T-shirts suggests, either directly or indirectly, how a citizen should vote and therefore, constitutes campaigning. [AG's Opinions 93-00118 and 84-00020]



OTHER CODE SECTIONS OF INTEREST

MISCELLANEOUS OFFENSES **SECTIONS 17-17-36 through 17-17-45**

This section of law prohibits such illegal voting as casting more than one ballot for the same office or knowingly attempting to vote when not entitled to do so.

Citizens are prohibited from bribing or attempting to influence voters, buying or selling votes, altering or changing the vote of an elector, or disturbing an elector on election day.

A candidate convicted of bribing or attempting to influence a voter is not allowed to hold the office to which he or she was elected for that term.

RIGHTS OF CITY, COUNTY, STATE EMPLOYEES
SECTION 17-1-4

City, county, and state employees have the right to participate in city, county, or state political activities to the same extent as any other citizen of the state, including endorsing candidates and contributing to campaigns. City, county, and state employees also have the right to join local political clubs and organizations and state and national political parties. They may also publicly support issues of public welfare.

IMPROPER USE OF STATE PROPERTY, TIME, ETC.
FOR POLITICAL ACTIVITIES
SECTION 17-17-5

No state, county, or city employee shall use public funds, property, or time, for any political activity.

It is unlawful for any officer or public employee to solicit any type of political campaign contributions from other employees who work for the officer or employee in a subordinate capacity.

It is unlawful for an officer or public employee to coerce or attempt to coerce a subordinate employee to work in a political campaign or cause.

USE OF STATE-OWNED PROPERTY
SECTIONS 36-12-60 through 64

It is unlawful for any state officer or employee to use or to permit to be used any state-owned property including stationery, stamps, office equipment, office supplies, or automobiles for political activity.

State employees are also prohibited from transporting campaign literature in either a state vehicle or in a private vehicle while mileage is being paid for by the state.

CHAPTER FOUR

FREQUENTLY ASKED QUESTIONS



The Elections Division receives many questions from candidates regarding the FCPA and how it relates to a particular situation or set of circumstances. The following is a discussion of some of those questions that are asked most frequently.

Should you have a question that is not addressed in this section, please contact the Elections Division for further assistance.

What is the difference between a “state office” and a “statewide office”?

The term “state office” refers to any elected position that is an official in Alabama *state government*. The term includes constitutional officers, legislative members, state school board members, and circuit and district judges, to name a few. The term does not include those positions in *county or municipal government*, such as county commissioner, county school board member, mayor or city council member.

The term “statewide office” refers to any state office that is elected in a statewide vote, such as governor, lieutenant governor, secretary of state, treasurer, attorney general, to name a few.

“Statewide office” does not include any state offices that are elected by district, such as members of the Legislature, circuit or district judges, or state school board members.

I am a candidate and have met the filing threshold for the office I want to hold. However, I do not have any opposition in my election. Do I have to file a campaign finance report?

Yes. In 2009, the Alabama Legislature amended the FCPA to require all candidates who have reached the filing threshold to file all campaign finance reports, even if the candidate has no opposition. See page 46 for additional information.

Must I set up a separate bank account for my principal campaign committee?

Yes. The FCPA specifies that principal campaign committee funds must be segregated and that there can be no commingling of personal funds with campaign funds. [§17-5-6]

A political action committee and principal campaign committee shall maintain a checking account, money market account, or other similar banking account and shall deposit any contributions received by such committee into such account. No expenditure of funds may be made by any such committee except by check drawn on such account, electronic transfer from such account, a credit card the balance of which is paid from such account, or out of a petty cash fund from which it may make expenditures not in excess of \$100 to any person in connection with a single purchase transaction. [§17-5-6]

Am I allowed to campaign before I qualify for candidacy for an office?

Alabama's elections laws do not place a restriction on when a candidate can begin campaigning for office. As a practical matter, the FCPA provides that a campaign can raise or receive funds only for a period of twelve (12) months prior to an election. This restriction does not apply to a loan from a candidate to his or her own campaign committee. [§17-5-7(b)(2)]

I am running for a federal office. Do I have to report under the FCPA?

No. Alabama participates in the FEC State Filing Waiver program that waives the requirement that campaign finance reports filed with the FEC also be filed with the state election office, provided that the state has an adequate system to serve the public with electronic access to, and duplication of, reports and statements.

Do I have to keep receipts for the expenditures made during the campaign?

Yes. The FCPA states that the political committee treasurer

must keep a receipted bill or canceled check for every expenditure greater than \$100 and for expenditures of \$100 or less, if the aggregate amount of such expenditures to the same person during a calendar year is greater than \$100. The receipts should be kept for a period of two years from the date of the expenditure.

I charge many of my campaign expenses on a credit card. Can I itemize only the total amount I pay to the credit card company?

No. The FCPA requires itemization and identification (full name and complete address) of:

each person to whom expenditures have been made... within the calendar year in an aggregate amount greater than \$100.00, the amount, date and purpose of each expenditure...[§17-5-8(c)(7)]

This issue is also addressed in AG's Opinion 95-00132 that says:

Several expenditures should not be lumped together under a general heading of credit card expenses.

If a candidate could legally enter only the name and full identification of the credit card company, many expenditures of more than \$100 could be hidden.

Do I have to file an APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE form even if I do not reach the campaign finance contribution/expenditure threshold of \$1,000?

Yes. All candidates must file an APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE form within five days of qualifying (with a political party or as an independent candidate) or within five days of reaching the campaign finance contribution/expenditure threshold.

I received an unwanted, unsolicited check from a PAC, and I

returned it. Must I report that as a contribution?

Act 2013-311 specifically amended the FCPA to authorize the return or refund of any lawful campaign contribution. A refund is permitted so long as the original contribution was reported in an itemized manner and the refund is also itemized in a report. [§17-5-7.1(a)] If the contribution is not deposited in the committee's bank account, it may be returned without any reporting requirement. The new provision requires candidates or PACs to refund or return any unlawful contribution within 10 days of receipt. [§17-5-7.1(b)]

Does the FCPA require that I put the address of my political committee on a campaign button?

Probably not. §17-5-12(b)(1) provides that disclaimer requirements do not apply if the advertisement is designed to be worn by a person. If the campaign button is designed to be worn by a person, a disclaimer is not required.

Is there any prohibition against my borrowing money from my campaign account, provided that I pay back the money plus the prevailing rate of interest?

The Ethics Act states in §36-25-6:

Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use.

The Office of Secretary of State further believes that such action is also prohibited by these sections:

§17-5-7(b)(1) of the FCPA —

...a candidate, public official, or principal campaign committee may only accept, solicit, or receive contributions: to influence the outcome of an election.

§36-25-5(a) of the Ethics Act —

No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.

§17-5-7(a) of the FCPA —

...A candidate, public official, or treasurer of a principal campaign committee as defined in this chapter, may only use campaign contributions, and any proceeds from investing the contributions that are in excess of any amount necessary to defray expenditures of the candidates, public official, or principal campaign committee, for the following purposes:

1. Necessary and ordinary expenditures of the campaign.
2. Expenditures that are reasonably related to performing the duties of the office held. For purposes of this section, expenditures that are reasonably related to performing the duties of the office held do not include personal and legislative living expenses, as defined in this chapter.
3. Donations to the State General Fund, the Education Trust Fund or equivalent county or municipal funds.
4. Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U.S. Code.

5. Inaugural or transitional expenses.
6. Donations to a legislative caucus organization registered under this chapter which does not operate as a political action committee.
7. Legal fees and costs associated with any civil action, criminal prosecution, or investigation related to conduct reasonably related to performing the duties of the office held.

Does a write-in candidate have to comply with the FCPA?

Yes, if the candidate has received contributions or made expenditures with a view toward bringing about his or her election. As with other candidates, the contributions or expenditures must reach the filing threshold of \$1,000 to trigger the reporting requirements. [AG's Opinion 91-0084]

I have several groups, such as the Young Republicans or the Democratic Women, who want to work in my campaign. May I use campaign funds to donate to a group in return for its members help?

No. A candidate may not transfer campaign funds to any political action committee or 527 political organization, which generally covers most political groups except county and state parties, which are recognized as political action committees under the FCPA. [§17-5-15(b)] Candidates can only transfer funds to a political party, as a political action committee, within the restrictions of §17-5-7(d).

However, candidates are not prohibited from paying individuals directly who assist with the campaign.

I have several volunteers who work in my campaign. Must I assess a fair labor wage and report that as an in-kind contribution?

No. The FCPA lists in §17-5-2(a)(2)(b) several services that are not considered contributions including:

- ⇒ Value of services provided by individuals who volunteer

their time on behalf of a candidate.

- ⇒ The use of real or personal property and the cost of invitations, food, or beverages, voluntarily provided by an individual to a candidate when the voluntary personal service is on the individual's residential or business premises.
- ⇒ Any unreimbursed payment for travel expenses made by an individual who volunteered on behalf of a candidate.
- ⇒ The amount spent by a state or local political party for the preparation, display, mailing, or other distribution of a printed slate card or sample ballot, or other printed listing of two or more candidates for any public office. [Note: this exemption does not extend to the costs incurred by the committee when such a listing is placed on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising.]
- ⇒ The value or cost of polling data and voter preference data and information, if provided to a candidate or political committee, unless the information was compiled with the advance knowledge of and approval of the candidate or the political committee.

I am a member of the Alabama Legislature and am considering renting an apartment in Montgomery. Can I pay the rental expense from my campaign account?

No. The FCPA prohibits using campaign funds for personal or legislative living expenses. The Act lists such prohibited expenses as:

Household supplies, personal clothing, tuition payments, mortgage, rent, or utility payments for a personal residence; admission to an entertainment event or fees for a country club or social club, unless tied to a specific campaign event or functions involving constituents; and any other expense, excluding food and beverages, that would exist irrespective of the candidate's campaign or duties as a legislator. Personal and legislative living expenses shall not include expenses for food, beverages, travel, or communication incurred by the legislator in the performance of the office held. [§17-5-2(a)(11)]

Can I pass out campaign materials on private property, such as an apartment complex, if there is a “no soliciting” sign?

That’s a question that must be addressed with the property owner. Any enforcement of “no soliciting” would be between the owner and an individual who wishes to campaign. [AG’s Opinion 96-00306]

Is it legal to pass out sample ballots at the polling place?

Yes, provided that those handing out the sample ballots are at least 30 feet from the door of the polling place. Also, those individuals distributing sample ballots should not in any manner attempt to intimidate or harass voters. Voters may take marked sample ballots into the polling place for personal use but should not leave them in the polling place.

May a candidate assist a voter?

Yes. Under the *Harris v. Siegelman* federal court order, a voter may request assistance from anyone other than those persons prohibited by federal law. [700 F. Supp. 1083 (1988)] Federal law prohibits assistance from the voter’s employer or an agent of the employer or from an officer or agent of the voter’s union. §17-9-13 was revised to incorporate this language and bring the text of this section into compliance with the terms of *Harris v. Siegelman*.

However, candidates should note that they may assist only if the voter requests the help. The voter is then required to sign the poll list in a designated column showing that assistance is requested, and the candidate must also sign the poll list.

Can citizens use video cameras at the polling place?

No. The United States Department of Justice wrote the following to the state prior to the 1994 general election:

We have found that no useful information is obtained, and federal law is likely to be violated, when private citizens form “ballot security” forces and attempt to take over the role of policing polling places. While this

type of action often is proffered in the guise of helping law enforcement officials, the filming at or near the polls achieves nothing of the kind. Instead, we have found that such action intimidates lawful voters and interjects an element of fear into the process by which our republican form of government is guaranteed to our citizens.

Instead, citizens or poll watchers who believe election violations are occurring at the polling place should immediately notify either the local sheriff, local district attorney or the attorney general's office.

At the end of the campaign, what must I do to dispose of campaign property?

Property purchased by or contributed to a principal campaign committee with a value of \$500 or more shall be liquidated at fair market value or donated to a qualified entity not more than 120 days following the election. Any funds generated by the liquidation of the property shall be deposited in the candidate's principal campaign committee account. [§17-5-7.2(a)]

Property purchased by or contributed to a principal campaign committee that can be used by the person in the performance of his or her duties of the office he or she was elected to hold need not be liquidated as long as he or she holds office. [§17-5-7.2(b)]

CHAPTER FIVE

ELECTED OFFICIALS



The Secretary of State congratulates each candidate who wins his or her election! Before getting immersed in the details of the job, each elected official should take a few minutes to note the information in this chapter.



COMMISSIONS

All state officials must be commissioned by the Secretary of State and Governor before assuming office. County officials who meet certain requirements may also receive commissions.

The law dictates what documents must be filed and where for obtaining a commission. Generally, an elected official must file an oath and/or a bond at the state or county level, depending upon the office. County officials must also have a certification from their probate judge. The law requires the Office of the Secretary of State to charge everyone a \$5.00 commissioning fee.

Information packets providing the specific requirements for each office are available from the Government Services Division in the Office of the Secretary of State.



FILING REQUIREMENTS

FCPA

All elected officials who have not closed their principal campaign committee must file an **ANNUAL REPORT** by January 31st each year, even if they have had no activity. [§17-5-8(b)] Remember, an **ANNUAL REPORT** is due not just for the year you are elected but for every year you are in office if your principal campaign committee has not been closed.

No annual report is required to be filed by a person who holds office because he or she was appointed to serve the remainder of a term vacated by another person, until the person serving has created a principal campaign committee. [§17-5-8(b)]

STATEMENT OF ECONOMIC INTERESTS

All elected officials must file a STATEMENT OF ECONOMIC INTERESTS with the Ethics Commission every year by April 30. For more information, contact the State Ethics Commission, (334) 242-2997.

JUDICIAL REPORTS

Judges have additional requirements and should consult Canons 6C and 7 of the Canons of Judicial Ethics relating to filing requirements and campaign conduct in general.

The requirement previously set forth in 12-24-2(a) to file a statement of disclosure two weeks prior to the commencement of the term of office for any judge or justice was repealed during the 2014 legislative session.

APPENDIX A

INDEPENDENT CANDIDACY

Those not qualifying through a political party may obtain ballot access by submitting a petition on or before 5:00 PM on the date of the statewide primary election. [§17-9-3(a)(3)] In 2016, the statewide primary is scheduled for March 1st.

The petition must contain the required number of signatures of registered voters in the jurisdiction in which ballot access is sought (i.e., statewide, countywide, district). The petition must be submitted to the Secretary of State, if seeking a state or federal office, or to the probate judge for a county office.

The appropriate election official will then verify the petition signatures and subsequently notify the petitioner as to whether he or she gained ballot access.

No qualifying fee is required.



SIGNATURES

FEDERAL CANDIDATES

A congressional candidate must submit a petition with enough signatures to meet or to exceed three percent of the qualified electors who cast ballots for the office of governor in the last general election for the district in which he/she is running. [§17-9-3(a)(3)] For the number of signatures needed in each district, call the Office of Secretary of State's Elections Division at (334) 242-7210. Candidates seeking a U.S. Senate seat would need the number of signatures for statewide candidacy.

STATE OR COUNTY CANDIDATES

The number of signatures on the petition must equal or exceed at least three percent of the qualified electors who cast ballots for the

office of governor in the last general election in the county, district, or other political subdivision for which he/she is seeking ballot access. For the number of signatures needed for a particular state office, call the Office of Secretary of State's Elections Division at (334) 242-7210. For the number of signatures needed for a particular county office, call the judge of probate in the county in which the office is located.



FAIR CAMPAIGN PRACTICES ACT

Independent candidates should be aware of their obligation to file an APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE form at the time they submit their petition or within five (5) days of exceeding the monetary threshold amount set forth by the FCPA. Act 2013-311 established a uniform \$1,000 threshold amount for all candidates in all races throughout the state. (See CHAPTER ONE.)



ETHICS

Independent candidates must file a STATEMENT OF ECONOMIC INTERESTS with the State Ethics Commission simultaneously upon becoming a candidate. For information on filing the STATEMENT OF ECONOMIC INTERESTS, call the Alabama Ethics Commission at (334) 242-2997 or visit its website at www.ethics.alabama.gov.



PETITION REQUIREMENTS & SUGGESTIONS

A sample petition is available from the Secretary of State's office. It may be downloaded from the website www.sos.alabama.gov. The sample petition may be photocopied.

Each petition must include the following information:

- ⇒ A Statement that includes the name of the independent candidate, the date of the general election for which ballot access is sought, and the name of the office sought, including district number, if applicable. Petitions for the establishment of independent candidacy in a special election shall not be required to include the date of the special election at the top of each page. [Alabama Administrative Code, Rule 820-2-4-.05(1)]
- ⇒ Numbered pages.
- ⇒ Requested information for each person signing, which includes: name, residential address, county of residence, city of residence (if applicable), voting place, date of birth and signature. A signature is required but shall not be deemed invalid for lacking any portion of the requested information if the disclosed information is sufficient for determining the validity of the signature and that the voter is a qualified elector for the jurisdiction the petition covers.

The following are suggestions for the petition:

- ⇒ Have the voter sign in ink and write legibly.
- ⇒ Obtain signatures in excess of required number, as some signatures may not be valid or identifiable.
- ⇒ Keep a copy of the petition.

APPENDIX B

CHANGES IN LAW



ACT OF ALABAMA 2009-751

In the 2009 session, the Alabama Legislature approved Senate Bill 205. The bill was signed by Governor Bob Riley on May 22, 2009, and subsequently assigned act number 2009-751. The new law was precleared by the U.S. Department of Justice on November 16, 2009.

Act 2009-751 requires a candidate participating in an election to file all scheduled campaign finance reports once the candidate meets the filing threshold for the office for which he or she is running, even if the candidate has no opposition in the pending election. (See page 4 for more information on filing thresholds.)

Under Act 2009-751, if you are a candidate and have reached the filing threshold for the office you are seeking, you must file all campaign finance reports even if you have no opposition in your primary, special or general election.



ACT OF ALABAMA 2010-765

In the 2010 special session, the Alabama Legislature approved House Bill 9. The bill was signed by Governor Bob Riley on December 20, 2010, and subsequently assigned act number 2010-765.

Act 2010-765 bans any PAC, 527 organization, or private foundation from contributing to any other PAC, 527 organization, or private foundation. Act 2010-765 also makes it unlawful for principal campaign committees to contribute to any other principal campaign committee. However, the Act permits a transfer from one principal campaign committee to another principal campaign committee when committees are for the same person. Act 2010-765 permits PACs to contribute to principal campaign committees.

Act 2010-765 limits state and local campaign committees from receiving more than \$1,000 from a principal campaign committee of a federal candidate.

Act 2010-765 permits a principal campaign committee, while the candidate is in office, to pay qualifying fees to a political party. Additionally, the principal campaign committee may pay dues to a political party and purchase tickets to political party functions or dinners, up to a maximum of \$5,000. Campaign committees for independent candidates or write-in candidates can pay for similar expenses.



ACT OF ALABAMA 2011-566

In the 2011 session, the Alabama Legislature approved House Bill 425. The bill was signed by Governor Robert Bentley on June 9, 2011, and subsequently assigned act number 2011-566. The new law was precleared by the U.S. Department of Justice on August 22, 2011.

Act 2011-566 affects the dates of the presidential preference primary and the statewide primary elections. The presidential preference primary will now be held on the second Tuesday in March in which a President is to be elected beginning in 2012. The statewide primary will be conducted on the second Tuesday in March in the years in which a presidential primary is held. Statewide primaries will be held on the first Tuesday in June on the years in which there is no presidential preference primary.

The presidential delegates will also be elected in the presidential preference primary election. The change in the date for the presidential preference primary eliminates the early voting procedures that were once necessary to accommodate the counties celebrating Mardi Gras.



ACT OF ALABAMA 2011-687

In the 2011 session, the Alabama Legislature approved Senate Bill 136. The bill was signed by Governor Robert Bentley on June 14, 2011, and subsequently assigned act number 2011-687. The new

law was precleared by the U.S. Department of Justice on September 26, 2011.

Act 2011-687 changes the timing of filing FCPA campaign finance disclosure forms. The Act eliminates the 50/45 day and 10/5 day pre-election disclosure reports. It replaces them with periodic finance disclosure reports. The Act requires monthly disclosure reports beginning 12 months prior to the election. Monthly reports are due on the last day of each month. Act 2011-687 also requires weekly reports beginning on the month prior to the election. The weekly reports are due on the Friday of each week.

Beginning on the 8th day prior to the election, Act 2011-687 also requires daily reports for principal campaign committees and PACs that receive or spend \$5,000 or more on any day with a view toward influencing the election. Once a principal campaign committee or PAC meets this daily amount, it must file daily reports up until the election date. Daily reports do not apply to elections involving county and city offices. Candidates for circuit and district offices are also exempt from daily reporting.

Principal campaign committees and PACs must disclose the receipt of any single contribution of \$20,000 or more within 2 business days of receiving the contribution if it is not included in a monthly, weekly, or daily report.

Principal campaign committees and PACs must close their books 2 days prior to the specified reporting dates in order to complete the reports.

Act 2011-687 mandates electronic filing of disclosure reports beginning in the 2014 election cycle.



ACT OF ALABAMA 2011-697

In the 2011 session, the Alabama Legislature approved Senate Bill 284. The bill was signed by Governor Robert Bentley on June 14, 2011, and subsequently assigned act number 2011-697. The new law was precleared by the U.S. Department of Justice on September 26, 2011.

Act 2011-697 provides that all paid political advertisements and “electioneering communications” appearing in print media or broadcast must clearly and distinctly identify the entity responsible

for paying for the political advertisements and electioneering communication. Act 2011-697 defines the new “electioneering communications” term. The Act also lists 9 types of paid political advertisements and electioneering communications that are excluded from the identification requirement.

Act 2011-697 eliminates the requirement notice on the front page of printed campaign literature. Instead, the Act requires that printed political advertisements and electioneering communication must have a clear and unmistakable identification of the entity responsible for directly paying for the advertisements or electioneering communication. For paid broadcasts, Act 2011-697 gives the paying person or entity the option of placing an identification statement on the broadcast at the beginning, during, or at the end of the radio or television spot.

Act 2011-697 requires any person or entity, including candidates, that spends more than \$1,000 on an electioneering communication to file disclosure reports. The reports must identify the source or sources of the funds used for the electioneering communication and the recipients of expenditures related to the electioneering communication. However, the candidate is not required to duplicate any reporting.



ACT OF ALABAMA 2012-173

In the 2012 session, the Alabama Legislature approved Senate Bill 133. The bill was signed by Governor Robert Bentley on April 2, 2012, and was subsequently assigned act number 2012-173. The new law was precleared by the U.S. Department of Justice on May 30, 2012.

Act 2012-173 amends the Code of Alabama, §17-8-1 to authorize the appointment of alternate election officials including additional inspectors and clerks to serve if an appointed inspector or clerk is unable to perform his or her duties.



ACT OF ALABAMA 2012-461

In the 2012 session, the Alabama Legislature approved Senate

Bill 11. The bill was signed by Governor Robert Bentley on May 15, 2012, and was subsequently assigned act number 2012-461. The new law was precleared by the U.S. Department of Justice on August 17, 2012.

Act 2012-461 adds a provision to §17-5-16 to require that all campaign-related automated or pre-recorded telephone calls contain a clear notice at the end of the call that the communication was a paid political advertisement and to clearly identify the entity that paid for the call.



ACT OF ALABAMA 2012-477

In the 2012 session, the Alabama Legislature approved Senate Bill 497. The bill was signed by Governor Robert Bentley on May 15, 2012, and was subsequently assigned act number 2012-477. The new law was precleared by the U.S. Department of Justice on February 6, 2013.

Act 2012-477 changes the timing of filing FCPA campaign disclosure reports to standardize the monthly and weekly periods for candidates and PACs and to eliminate certain duplicate filings during an election cycle.



ACT OF ALABAMA 2013-311

In the 2013 session, the Alabama Legislature approved Senate Bill 445. The bill was signed by Governor Robert Bentley on May 23, 2013, and was subsequently assigned act number 2013-311. The new law was returned by the U.S. Department of Justice in July 2013 as not needing preclearance under the holding of the recent U.S. Supreme Court decision in *Shelby County v. Holder*. The effective date of the Act was August 1, 2013.

This Act repeals the corporate campaign contribution limit, authorizes candidates and PACs to appoint designated filing agents, institutes a progressive administrative fine system for failing to comply with the Act, clarifies which duplicate reports were removed from the reporting schedule, and makes certain editorial changes throughout the Act.



ACT OF ALABAMA 2014-455

In the 2014 session, the Alabama Legislature approved House Bill 543. The bill was signed by Governor Robert Bentley on April 10, 2014, and subsequently assigned act number 2014-455.

Act 2014-455 repealed 12-24-2(a), Code of Alabama 1975, which removed the requirement for any judge or justice to file a statement of disclosure two weeks prior to the commencement of their term of office.



ACT OF ALABAMA 2015-477

In the 2015 session, the Alabama Legislature approved Senate Bill 148. The bill was signed by Governor Robert Bentley on June 11, 2015, and subsequently assigned act number 2015-477.

Act 2015-477 changes deadlines for the filing of certain notices and petitions relating to candidacies and the electing of delegates for presidential and vice presidential elections.



ACT OF ALABAMA 2015-495

In the 2015 session, the Alabama Legislature approved Senate Bill 241. The bill was signed by Governor Robert Bentley on June 12, 2015, and subsequently assigned act number 2015-495.

Act 2015-495 clarifies when campaign contributions and expenditures are made, clarifies the disposition of a campaign committee, and its assets upon its dissolution or termination.

Act 2015-495 also clarifies that legal costs associated with a civil action, criminal prosecution, or investigation that is reasonably related to the performance of duties can be paid using campaign funds. The Act decreases the civil penalties for failure to properly report contributions and expenditures and provides for the payment of civil penalties with campaign funds.

The Act authorizes the State Ethics Commission to affirm, reduce, or set aside civil penalties and to take investigative actions of potential criminal violations. The Act allows for the issuance of advisory opinions, as well as to provide a criminal penalty for disclosing information relating to a filed complaint.

The effective date for Act 2015-495 is September 1, 2015.

APPENDIX C

ONLINE FILING SYSTEM QUICK OVERVIEW



ONLINE SYSTEM REGISTRATION

1. Website - fcpa.alabama.gov + Committee Registration
2. Committee Registration Documents:
 - Candidate – *Appointment of Principal Campaign Committee (PCC)*
 - Political Action Committee (PAC) – *Statement of Organization*
3. Signed *original* committee document should be mailed to:

Office of the Secretary of State
Elections Division
PO Box 5616
Montgomery, Alabama 36103
4. Upon receipt of the signed *original* committee registration document, the Elections Division will activate the FCPA account. After activation, the registered user will receive two emails: 1) an email with a registration confirmation with their USER NAME; 2) an email with their temporary PIN with a link to the website to change the PIN to one of the user's choosing.

Note—if a FCPA report is due within 5 days, an emergency activation can be granted. In this circumstance, a committee should fax a copy of the committee registration document to 334-242-2444 so that the account can be immediately activated. However, the signed *original* committee document should be simultaneously mailed to the Elections Division.



SYSTEM TABS

The FCPA online filing system is operated by the use of a series of tabbed topic sections. This guide will give an overview of the contents

within each section, as well as a brief description regarding the most frequently used functions in the individual tabbed sections. For special circumstances or specific guidance, please call the ELECTIONS DIVISION at **334-242-7210** or **1-800-274-8683**. To reach the FCPA filing system HELP DESK, call **1-888-864-8910**.

1. Overview Tab

- ☞ Account Status—gives an overview of account ending balance and pending transaction balances
- ☞ Transaction History Overview—gives an overview of ending balances by transaction
- ☞ Reports Due—contains a listing of upcoming reports with the function to view and file sequential reports
- ☞ Document Images—contains a function to save report images and add supplemental documents

2. Contributions/In-Kind Tab

- ☞ Contribution History—contains a listing of posted contributions with the function to add new contributions or update existing contributions
- ☞ Contribution Maintenance—contains a function to search by contributor and perform contributor informational changes

3. Other Receipts Tab

- ☞ Receipt History—contains a listing of posted receipts with the function to add new receipts or update existing receipts (i.e., loans/interest/other)
- ☞ Receipt Maintenance—contains a function to search receipts and perform receipt source informational changes

4. Expenditures Tab

- ☞ Expenditure History—contains a listing of posted expenditures with the function to add new expenditures or update existing expenditures
- ☞ Payee Maintenance—contains a function to search by payee and perform payee informational changes

5. File Reports Tab

- ☞ Filing History—contains a listing of FILED reports with the function to view or amend posted reports

- ☞ Reports Due—contains a listing of upcoming reports with the function to view or file sequential reports
- ☞ Supplemental Forms—contains a function to add WAIVER OF REPORT or STATEMENT OF DISSOLUTION reports

6. Search Tab

- ☞ Transaction Search—contains a function to quick-search posted transactions

7. Administration Tab

- ☞ Committee—contains a function to update or perform committee informational changes

Note—if making committee changes or updates, print and have each member sign the amended Principal Campaign Committee or Statement of Organization document and mail it to the Elections Division at PO Box 5616, Montgomery, AL 36103

- ☞ Officers—contains a listing of current committee officers with the function to update or perform informational changes
- ☞ Campaign—contains a function to add an election cycle’s filing schedule
- ☞ Filing Schedule—contains a listing of all reports for an election cycle (includes all FILED reports and REPORTS DUE)
- ☞ Import Data Files—contains a function to import data files from other computer applications



ADDING REPORTS NOT FOUND IN THE REPORTS DUE LIST

The option to add reports not found in the Reports Due list can be accessed in two of the tabbed sections of the online filing system—see OVERVIEW or FILE REPORTS tabbed sections for access to this function. In the top center portion of these section pages there is a bordered note which reads, “Need to begin filing reports that are not shown in the Reports Due list below? [click here](#)”. Click the link to begin the process of adding additional reports not listed.



AMENDING REPORTS

For necessary amendments that are related to the need to update or delete a posted CONTRIBUTION/OTHER RECEIPT/EXPENDITURE

entry, go to the relevant tab and perform the update/deletion activity by accessing the listed transaction in the transaction HISTORY section of the corresponding tabbed section.

Users may *add* any *omitted* transactions by clicking the add button in the corresponding transaction tabbed section.

Users should make all required additions/deletions/updates to transaction entries prior to amending the previously FILED report. Once that task is completed, go to the FILE REPORTS tab and to the FILING HISTORY section to locate the report which should be amended due to the changes that were implemented. Click AMEND so that the new adjustments will be populated into the amended report. Lastly, click FILE to submit the amended report once you are satisfied that all necessary changes are reflected. Click VIEW to access the amended report.

Important—it will be necessary to amend all other subsequent reports listed in the FILING HISTORY section that were FILED *after* the initial report and *prior* to the newly amended report so that the beginning balance in each subsequent report is accurate. The original report remains intact as it was initially filed; any amended reports are filed as separate reports.



PASSWORD RESET

If a user is unable to access the account due to an expired or lost PASSWORD/PIN, please call the ELECTIONS DIVISION at **334-242-7210** or **1-800-274-8683**. To reach the FCPA filing system HELP DESK, call **1-888-864-8910**.

This page is blank intentionally.



Office of the Secretary of State
State of Alabama



STATE OF ALABAMA
ETHICS COMMISSION



COMMISSIONERS

Brig Gen (R) Edward F. Crowell (USAF), Chair
V. Larkin Martin, Vice-Chair
James Jerry Wood, Esq.
Stewart Hill Tankersley, M.D.
Jerry L. Fielding, Ret. Sr. Circuit Judge

MAILING ADDRESS
P.O. BOX 4840
MONTGOMERY, AL
36103-4840

STREET ADDRESS
RSA UNION
100 NORTH UNION STREET
SUITE 104
MONTGOMERY, AL 36104

Thomas B. Albritton
Director

TELEPHONE (334) 242-2997
FAX (334) 242-0248
WEB SITE: www.ethics.alabama.gov

August 5, 2015

TO: ALL MUNICIPAL ELECTION OFFICIALS:

Act 2015-495 signed by Governor Bentley on June 12, 2015 and effective September 1, 2015, amended the Alabama Ethics Act, more specifically, Section 36-25-15 (a)(b) regarding filing of and verification of compliance for Statement of Economic Interests forms by a candidate:

*“(a) Candidates at every level of government shall file a completed statement of economic interests for the previous calendar year with the State Ethics Commission **simultaneously** with the date such candidate files his or her qualifying papers with the appropriate election official or in the case of an independent candidate, the date the person complies with the requirements of Section 17-9-3...”*

The above change no longer allows a candidate to file his/her original Statement of Economic Interests form with your office to forward to the Ethics Commission. The form must be filed with our office first.

“(b) Each election official who receives a declaration of candidacy or petition to appear on the ballot for election from a candidate shall, within five days of the receipt, notify the commission of the name of the candidate, as defined in the chapter, and the date on which the person became a candidate. The commission shall, within five business days of receipt of such notification, notify the election official whether the candidate has complied with the provisions of this section.”

With this new requirement, your point of contact with this office will be Barbi Lee, Chief of Finance & Administrative Division. Please send your lists directly to her, she and her staff will verify the list of candidates, and return your list back to you with certification of compliance of your candidates.

Municipal Election Officials
August 5, 2015
Page 2

It is our goal to help you as much as possible during this election cycle. If you have additional questions, please contact our office at 334.242.2997.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas B. Albritton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Thomas B. Albritton
Executive Director

AFFIDAVIT OF INDIGENCY

STATE OF ALABAMA

JEFFERSON COUNTY

CITY OF MOUNTAIN BROOK, ALABAMA

I, the undersigned, being first duly sworn and depose and say that I am a citizen of the City of Mountain Brook in said County, and reside at

_____ in said City; that I desire to become a candidate for the office of _____ in said City for the term of _____ years at the election of such office to be held on Tuesday, August 23, 2016, and at a runoff election, if necessary, to be held on Tuesday, October 4, 2016; that I am indigent and financially unable to pay the qualification fee established to become a candidate for such office and hereby request a waiver of this fee pursuant to Ordinance 976 of the City of Mountain Brook, Alabama, and I hereby request that my name be printed upon the official ballot at said election.

Signature

Name Printed

Subscribed and sworn to before me said
_____ on this
_____ day of _____, 2016.

Signature

IMPORTANT CANDIDATE INFORMATION

TO: Candidates Qualifying for Elected Office
 RE: Filing of Statements of Economic Interests

The Alabama Ethics Law requires that **candidates for elected office at every level of government file a Statement of Economic Interests with the appropriate election official** (i.e., political party, probate judge, or municipal clerk) **simultaneously with the date he or she becomes a candidate**. Such election official then has five days in which to forward the Statement of Economic Interests to the Commission. **Failure to file your Statement of Economic Interests simultaneously with your qualifying papers could result in your name being removed from the ballot**. Please be careful to see that you comply with this section of the law or you may be disqualified as a candidate.

Pertinent sections of the Ethics Law are as follows:

Section 36-25-15(a), Code of Alabama, 1975, provides:

*“(a) Candidates at every level of government shall file a completed statement of economic interests for the previous calendar year with the appropriate election official simultaneously with the date he or she becomes a candidate as defined in Section 17-22A-2 or the date such candidate files his or her qualifying papers with the appropriate election official, whichever date occurs first. Such election official shall within five days forward the statement of economic interests of the candidate to the commission. **Nothing in this section shall be deemed to require a second filing of the person’s statement of economic interests if a current statement of economic interests is on file with the commission.**” (Emphasis added)*

A Statement of Economic Interests shall be completed and filed in accordance with this chapter with the commission no later than April 30 of each year covering the period of the preceding calendar year . . . *Section 36-25-14(a)*.

Section 36-25-15(c), Code of Alabama, 1975, provides:

“(c) Other provisions of the law notwithstanding, if a candidate does not submit a statement of economic interests in accordance with the requirements of this chapter, the name of the person shall not appear on the ballot and the candidate shall be deemed not qualified as a candidate in that election. Notwithstanding the foregoing, the commission may, for good cause shown, allow the candidate an additional five days to file such statement of economic interests. If a candidate is deemed not qualified, the appropriate election official shall remove the name of the candidate from the ballot.”

Section 36-25-6, Code of Alabama, 1975, Use of Contributions, provides:

“Contributions to an office holder, a candidate, or to a public official’s inaugural or transitional fund shall not be converted to personal use.”

In the event that you have any questions, please contact the Alabama Ethics Commission at 334-242-2997.



This Form May Be Completed Online at www.ethics.alabama.gov

ALABAMA ETHICS COMMISSION - 334.242.2997
100 N. Union Street, Suite 104 (RSA Union) 36104 - P O Box 302300, Montgomery, AL 36130-2300

STATEMENT OF ECONOMIC INTERESTS

Instructions are available on our website.

FOR 2015 CALENDAR YEAR-TO BE FILED NO LATER THAN May 2, 2016, EXCEPT FOR CANDIDATES, who must file SIMULTANEOUSLY with the Ethics Commission on the date(or before)qualifying papers are filed as required by Section 36-25-15, Code of Alabama, 1975.

Candidate Information			
Are you a Candidate	YES	NO	
For Public Office?	Please Circle		
For Office In	State	County	
Please Check	City		
For Office Of			

Law Enforcement Information			
Are you in Law Enforcement?	YES	NO	
	Please Circle		
	Judge - Any Level		
	District Attorney/Asst or Deputy DA/DA Investigator		
	Attorney General/AG Attorney, Special Agent/Investigator		
	POST Certified Law Enforcement Officers		

01. Full Name, Home Address and Telephone Number of Filing Person:

LAST	FIRST	MIDDLE	SUFFIX	NICKNAME
STREET	PO BOX	CITY	ZIP	COUNTY
BUSINESS PHONE				

PLEASE FILL IN THE BLANKS AND CIRCLE ANSWERS AS APPROPRIATE

02. Last year, I was an (elected official) (appointed official) (employee) with the (State) (County) (Municipality) and the NAME and ADDRESS of my (department) (office) (agency) (board) (College) (County) (Municipality) (Commission) was

02.1 As an elected/appointed/employee last year, my Job Title/Position was _____

02.2 Last year, the name(s) of the (State) (County) (Municipal) Boards, Commissions, Committees, Authorities, Councils of which I was a Member was/were _____

02.3 Last year in the above public position(s) in 02. thru 02.2, I earned: [\$0-\$1,000] [\$1,000-\$10,000] [More than \$10,000]

03. Other than my public position(s) in 02. thru 02.2, my and/or my spouse's occupation(s) or business(es) last year to which more of working time was spent was/were _____

03.1 The NAME and ADDRESS of my employer listed in 03. above was _____

03.2 I was SELF-EMPLOYED last year and the NAME and ADDRESS of my business was _____

03.3 From the Occupations or Businesses listed in 03., I, My Spouse and/or Dependents earned last year an aggregate of
[\$0 - \$1,000] [\$1,000 - \$10,000] [More than \$10,000]

03.4 Last year, [I], [My Spouse], [Dependents] owned 5% or more of the stock in the firm(s) listed in 03.1 and/or 3.2

03.5 Last year, [I], [My Spouse], [Dependents] was a CONSULTANT and earned more than \$1,000 from each firm listed in 03.1 and/or 3.2

03.6 Last year, [I], [My Spouse], [Dependents] served as an [Officer] [Director] [Trustee] of the firm(s) listed in 03.1 and/or 3.2

04. INFORMATION ON FAMILY MEMBERS

SPOUSE - Name, Address, Employer or Business Name

DEPENDENT CHILDREN - Name(s), Address and Any Employment

LIVING ADULT CHILDREN - Name(s) Only

LIVING PARENTS - Name(s) Only (No Maiden Names)

LIVING SIBLINGS - Name(s) Only (No Maiden Names)

LIVING PARENTS OF SPOUSE - Name(s) Only (No Maiden Names)

05. OTHER INCOME INFORMATION FOR YOU, YOUR SPOUSE AND DEPENDENT CHILDREN

OTHER HOUSEHOLD INCOME: not reported in 03.-03.6. Provide the name(s) of each SOURCE(s) of income	TYPE OF INCOME RECEIVED: Salary, Fees, Dividends, Profits, Commissions, Bank Interest, Other Compensation	Check Appropriate Box					
SOURCE OF INCOME	TYPE OF INCOME	Less than \$1,000	\$1,000 to \$10,000	\$10,000 to \$50,000	\$50,000 to \$150,000	\$150,000 to \$250,000	More than \$250,000
1							
2							
3							
4							
5							
6							

Please Circle Applicable Response:

05.1 Last year, did you earn more than \$5,000 as an: Officer Director Trustee Consultant N/A

05.2 Last year, did you earn more than \$1,000 but less than \$5,000 as an: Officer Director Trustee Consultant N/A

05.3 Last year, did YOU, YOUR SPOUSE or DEPENDENTS serve as an: Officer Director Trustee Consultant N/A

05.4 Name any business or subsidiary thereof in which YOU, YOUR SPOUSE, or DEPENDENTS, jointly or severally, owned 5% or more of the stock or in which YOU, YOUR SPOUSE or DEPENDENTS served as an OFFICER, DIRECTOR, TRUSTEE or CONSULTANT where the service provides income of at least \$1,000 and less than \$5,000; or at least \$5,000 or more for the reporting period.

06. REAL ESTATE HOLDINGS - DO NOT INCLUDE HOMESTEAD

*****TO BE COMPLETED ONLY BY ELECTED OFFICIALS, APPOINTED OFFICIALS AND ALL CANDIDATES*****

06.1 Did YOU, YOUR SPOUSE or DEPENDENTS own real estate for investment or revenue production last year?

_____ NO _____ YES **If YES, list each property below and provide requested information.**

06.2 Did YOU, YOUR SPOUSE, DEPENDENTS or A BUSINESS WITH WHICH YOU ARE ASSOCIATED receive rent or lease income from ANY GOVERNMENTAL AGENCY IN ALABAMA last year?

_____ NO _____ YES **If YES, specific details of the lease or rent agreement shall be filed with the Alabama Ethics Commission.**

Location of Real Estate	What is the Fair Market Value?					What is the Annual Gross Rent/Lease Income		
	City, County, State	Less than \$50,000	\$50,000 to \$100,000	\$100,000 to \$150,000	\$150,000 to \$250,000	More than \$250,000	Less than \$10,000	\$10,000 but less than \$50,000

Add Additional Sheets As Necessary

07. INDEBTEDNESS INFORMATION: Report debts owed to all businesses operating in Alabama** as of December 31 of the reporting year. Include debts for **YOU, YOUR SPOUSE and DEPENDENT CHILDREN.**

**Doing Business in Alabama, regardless of where the home office is located or where you mail your payment.

DO NOT INCLUDE indebtedness associated with **HOMESTEAD** - the home in which you live.

Provide **ACTUAL** Number of Debts and Check Corresponding **COMBINED** Dollar Amount.

DO NOT list Debtor's Names or Accounts Numbers.

	INDEBTEDNESS TYPE	How MANY do you OWE? NUMBER	How MUCH do you OWE? Check Box That Reflects Combined Total Owed					
			Less than \$25,000	\$25,000 to \$50,000	\$50,000 to \$100,000	\$100,000 to \$150,000	\$150,000 to \$250,000	More than \$250,000
07.1	BANKS Include Credit Cards							
07.2	CREDIT UNIONS and SAVINGS and LOAN ASSOCIATIONS Include Credit Cards							
07.3	INSURANCE COMPANIES							
07.4	MORTGAGE FIRMS							
07.5	STOCKBROKERS or BOND FIRMS							
07.6	INDIVIDUALS or OTHER BUSINESSES Include Store Credit Cards							
07.7	STUDENT LOANS							

08. **PROFESSIONAL OR CONSULTING SERVICES:** Complete this Section **ONLY** if YOU or YOUR SPOUSE received income *last year* in return for professional or consulting activities.

State the NUMBER OF CLIENTS and CHECK Corresponding Income and/or Retainer Income.

Check if No Income was received for Professional or Consulting Services for the Categories of Clients shown below

	Categories of Clients	Number of Clients	Annual Gross Income During Reporting Year							Anticipated Annual Retainer Income			
			Less than \$1,000	\$1,000 to \$10,000	\$10,000 to \$25,000	\$25,000 to \$50,000	\$50,000 to \$100,000	\$100,000 to \$150,000	\$150,000 to \$250,000	More than \$250,000	Less than \$1,000	\$1,000 to \$5,000	More than \$5,000
08.1	UTILITIES												
	Electric												
	Gas												
	Telephone												
	Water												
	Cable Television Companies												
08.2	TRANSPORTATION												
	Intrastate Companies												
	Pipeline Companies												
	Oil Exploration												
	Gas Exploration												
	Oil and Gas Retailers												

Categories of Clients	Number of Clients	Annual Gross Income During Reporting Year								Anticipated Annual Retainer Income		
		Less than \$1,000	\$1,000 to \$10,000	\$10,000 to \$25,000	\$25,000 to \$50,000	\$50,000 to \$100,000	\$100,000 to \$150,000	\$150,000 to \$250,000	More than \$250,000	Less than \$1,000	\$1,000 to \$5,000	More than \$5,000
08.3 FINANCE & INSURANCE												
Banks												
Savings & Loan Associations												
Loan or Finance Companies												
Manufacturing Firms												
Mining Companies												
Life Insurance Companies												
Casualty Insurance Co.												
Other Insurance Companies												
Retail Companies												
Beer Companies												
Wine Companies												
Liquor Companies												
Beverage Distributors												
08.4 ASSOCIATIONS												
Trade												
Professional												
Governmental												
Public Employee												
Public Official												

Categories of Clients	Number of Clients	Annual Gross Income During Reporting Year								Anticipated Annual Retainer Income		
		Less than \$1,000	\$1,000 to \$10,000	\$10,000 to \$25,000	\$25,000 to \$50,000	\$50,000 to \$100,000	\$100,000 to \$150,000	\$150,000 to \$250,000	More than \$250,000	Less than \$1,000	\$1,000 to \$5,000	More than \$5,000
08.5 GOVERNMENT												
State												
County												
Municipal												
Other Government Corporations or Authorities												
08.6 MISCELLANEOUS												

09. DECLARATION OF REPORTING PERSON

I have read and completed this Statement of Economic Interests Form, and do swear (or affirm) that the information contained in said Statement of Economic Interests is true and correct. I fully understand that anyone who violates the disclosure provision of this Act shall be subject to a fine of \$10.00 per day, up to \$1,000 annually. I also understand that any attachments that I place with this form become a part of this public record.

Signature of Reporting Person

Date

PRINTED NAME of Reporting Person

*****Forms Received by FAX or Email will NOT be Accepted*****

RETURN COMPLETED, ORIGINAL SIGNED FORM TO:



Alabama Ethics Commission
 RSA Union - Suite 104 P O Box 302300
 100 N Union Street, Suite 104 Montgomery, AL 36130-2300
 Montgomery, AL 36104

Revised December 2015

LINE-BY-LINE INSTRUCTIONS FOR COMPLETING THE DOWNLOADABLE STATEMENT OF ECONOMIC INTERESTS FORM

The Legislature feels for matters of the public trust, certain individuals should be required to file Statements of Economic Interests, disclosing potential conflicts of interest. These financial disclosures do not violate the United States Constitution and do not intrude on the employee's financial privacy. While the list of job responsibilities set out in Section 36-25-14 is not all-inclusive, it does give a great deal of guidance. In addition, Section 36-25-2(c) states that: *"This chapter shall be liberally construed to promote complete disclosure of all relevant information and to insure that the public interest is fully protected."*

There may be sections of this form that do not apply to you personally, but this form was created to best apply to over 50,000 public officials, public employees, candidates for public office, and members of boards, commissions, committees, authorities, councils, etc.

If you received this form or instructions for downloading from your employer, your name has been submitted to the Alabama Ethics Commission as being required to file for the previous year. Public officials and public employees who are required to file annual Statements of Economic Interests may be fined \$10.00 per day not to exceed \$1,000.00 for failure to timely file a Statement of Economic Interests with the Ethics Commission, or be charged with a Class A misdemeanor for intentional failure to file [36-25-14(d) & (e)]. Each person who meets the necessary criteria, regardless of whether they retired the previous year or served/worked in the public position **for any time (even a portion of one day) during the previous year**, is required to file.

General Information

Top of form: Candidate Information: **Are You a Candidate?** Circle Yes or No (REQUIRED) **For Office In** - Check City, County, or State Check Entity Type (REQUIRED IF ABOVE ANSWER IS YES) **For Office Of** Write in Name of Office for which you are a Candidate.

Law Enforcement Information: **Are you in Law Enforcement?** Circle Yes or No (REQUIRED) If you circled NO, continue to Question 01.

If

you circled Yes, Check the appropriate Classification of Law Enforcement.

01. REQUIRED FIELDS - Print your entire name, beginning with your Last Name, and include your nickname, if applicable. Print your entire home address and include your business phone number only.
02. REQUIRED FIELDS - Circle appropriate designation elected official, appointed official, employee. Circle appropriate public entity with which you are associated. Print the name and address of your public position.
- 02.1 REQUIRED FIELDS - Circle appropriate designation elected, appointed, official, employee. Print your job title/position for your public employment or office held during the reporting year.
- 02.2 REQUIRED FIELD OR N/A - Print the name of any **other** public authority (board, commission, committee, authority, council) of which you were a member during the reporting year.
- 02.3 REQUIRED FIELD - Circle the amount that applies to your earnings in 02. through 02.2

03. REQUIRED FIELD OR N/A - Print the name of the position(s) in which you or your spouse spent 1/3 or more of your time or your spouse's time, whether public or private, other than the aforementioned public position(s) in 02.2.
- 03.1 REQUIRED FIELDS OR N/A - Print the name and address of the business associated with the position mentioned in 03. above. (Print name and address of self-employment in line 03.)
- 03.2 REQUIRED FIELD OR N/A - If the position mentioned in 03. was associated with self-employment, print the name and address of that business.
- 03.3 REQUIRED FIELD - Circle the appropriate amount of earnings as listed in the employment specified in 03. This is employment for you, your spouse and dependents **other than** compensation for your public position.
- 03.4 REQUIRED FIELD OR N/A - Circle the appropriate response if you, your spouse, or your dependent(s) owned 5% or more stock in the company listed in 03.1 and/or 03.2.
- 03.5 REQUIRED FIELD OR N/A - Circle the applicable response if your spouse or you were a consultant and earned more than \$1,000 from the business(es) listed in 03.1 and/or 03.2.
- 03.6 REQUIRED FIELD OR N/A - Circle the appropriate response if you and/or your spouse served as an officer/director/trustee of the business listed in 03.1 and/or 03.2.

Information on Family Members

04. REQUIRED FIELDS - Print your spouse's name, address and occupation/business. Print additional family members' names where applicable.

Other Income

05. through 05.4 - REQUIRED FIELDS OR N/A

Other than previously mentioned income, list all income such as stocks, fees, dividends, profits, commissions and interest, including interest on bank accounts. Also, include any income or salary in which you spent any amount of time earning but have not listed thus far.

In the first column print the name of the employer, bank, stock, etc. from which the income was derived. In the second column, list the type of income, i.e. interest. In the following columns, check the column with the appropriate amount listed. Add attachments as necessary.

- 05.1 REQUIRED FIELD OR N/A - Circle the appropriate designation where you earned more than \$5,000 for one of the incomes mentioned in 05.
- 05.2 REQUIRED FIELD OR N/A - Circle the appropriate designation where you earned more than \$1,000 but less than \$5,000 for one of the incomes mentioned in 05.
- 05.3 REQUIRED FIELD OR N/A - If you, your spouse or one of your dependents served as an officer, director, trustee or consultant last year in one of the businesses from which you received income listed in 05., circle the appropriate designation.

- 05.4 REQUIRED FIELD OR N/A - List any business or subsidiary thereof listed above in which you, your spouse or your dependents jointly or severally owned 5% or more stock and/or served as an officer during the reporting year. Page 252 of 283

Real Estate Holdings

06. This section should be completed **ONLY** by **elected officials, appointed officials or candidates for office**. **DO NOT include your homestead**. Skip this section and go to 07., if you are **NOT** an elected or appointed official or a candidate for office.
- 06.1 If you checked **YES** that you, your spouse and/or your dependents owned real estate **for investment** during the reporting year, list each piece below and check the appropriate boxes. Add attachments as needed.
- 06.2 If you checked **YES**, list any and all **rent/lease income from any government agency in Alabama** that you, your spouse or your dependents received during the reporting year. Also, the detailed lease/rent agreement shall be filed with the Ethics Commission.

Indebtedness Information

07. Report debts owed to all businesses operating in Alabama** **as of December 31** of the reporting year. Include debts for **YOU, YOUR SPOUSE and DEPENDENT CHILDREN**.
****Doing business in Alabama, regardless of where their home office is located or where you mail your payment.**

In the column **“How many do you OWE?”** provide the actual **number** of companies with outstanding balances at the **end of reporting year** and Check the corresponding COMBINED Dollar Amount owed. (i.e., if you, your spouse or dependents owe \$25,000 to each of 5 banks, check the \$100,000 or more block.)

DO NOT INCLUDE indebtedness associated with your **homestead** (residence/home) in which you live.

- 07.1 REQUIRED FIELD OR N/A - Include the number of banks, including credit cards where you, your spouse or your dependents have indebtedness.
- 07.2 REQUIRED FIELD OR N/A - Include the number of credit unions and savings and loan associations in which you, your spouse or your dependents have indebtedness and include credit cards, if any.
- 07.3 REQUIRED FIELD OR N/A - Include the number of insurance companies where you, your spouse or your dependents have indebtedness.
- 07.4 REQUIRED FIELD OR N/A - Include the number of mortgage companies, **except your homestead**, where you, your spouse or your dependents have indebtedness.
- 07.5 REQUIRED FIELD OR N/A - Include the number of stockbrokers and/or bond firms where you, your spouse or your dependents have indebtedness.
- 07.6 REQUIRED FIELD OR N/A - Include the number of individuals and/or any other businesses, including store cards, where you, your spouse or your dependents have indebtedness.
- 07.7 REQUIRED FIELD OR N/A – Include the number of student loans in which you, your spouse or your dependents have indebtedness.

08. Complete this section **ONLY** if you or your spouse received income during reporting year for **professional or consulting activities**, (i.e., **legal, accounting, medical or health-related, real estate, banking, insurance, educational, farming, engineering, architectural management, or other professional services or consultations**).

List the number of clients in the appropriate areas and check the dollar amount (range) received. **If this section DOES NOT apply to you, check the appropriate box, skip this section and go to 09.**

Declaration of Reporting Person

09. Read the declaration, sign your full name, include the date signing, and **legibly print** your full name.

Mail your completed form to the Alabama Ethics Commission to the address on the first page.

CANDIDATE INFORMATION VERY IMPORTANT

Section 36-25-15 requires candidates at every level of government to file a completed Statement of Economic Interests form for the previous calendar year with the appropriate election official simultaneously with the date he or she becomes a candidate as defined in Section 17-22A-2, Code of Alabama, 1975, or the date such candidate files his or her qualifying papers with the appropriate election official, whichever date occurs first. Failure to comply with this section will result in the candidate being deemed not qualified, and their name being removed from the ballot. (36-25-15(c)).

APPLICATION FOR ABSENTEE BALLOT FORM AV-R1

JEFFERSON COUNTY, ALABAMA

Return this application to: Steven Boone, City of Mountain Brook, AL, 56 Church Street, Mountain Brook, AL 35213, 205/802-3825 / boones@mtnbrook.org

General Voter Information - Please provide complete information so that we may verify your eligibility to vote.

Last Name (Please print)		First Name		Middle or Maiden Name		E-mail Address						
If you have moved since registering to vote, please update your voter registration record with the county board of registrars before proceeding with this application.												
Street Address (address where you are registered to vote; do not use PO box)						City	ZIP					
Mail my ballot to the address where I regularly receive mail, if different from the street address provided above												
Precinct where you vote (name and/or location of your polling place)												
Date of Birth		Month	Day	Year	Driver's License Number		IF NO DRIVER'S LICENSE NUMBER					
Home Telephone Number		Work Telephone Number		A	L	STATE	NUMBER	Last 4 digits of Social Security number				

For all registered voters

I hereby make application for an absentee ballot so that I may vote in the following election:

- Primary Election or Presidential Preference Primary
 - Select one: Democratic Party
 - Republican Party
 - Other _____
 - Amendments Only
 - Primary Runoff Election
 - Select one: Democratic Party
 - Republican Party
 - Other _____
 - Amendments Only
- General Election August 23, 2016 Municipal Election Special Election (specify) _____

- Absentee ballots for elections more than 30 days apart must be requested on separate applications, unless you are a member of the armed forces, or a spouse or dependent of such person, or you are a United States citizen residing overseas.
- An application submitted by a member of the armed forces, or a spouse or dependent of such person, or a United States citizen residing overseas, is valid for all county, state and federal elections in the current calendar year.

I am applying for an absentee ballot because (check one box):

- I will be out of the county or the state on election day.
- I have a physical illness or infirmity which prevents my attendance at the polls.
 - Check this box if you are unable to access your assigned polling place due to a neurological, musculoskeletal, respiratory (including speech organs), cardiovascular, or other life-altering disorder that affects your ability to perform manual tasks, stand for any length of time, walk unassisted, see, hear or speak **and**:
 - a) you are an elderly voter aged 65 or older; **or**
 - b) you are a voter with a disability.
- I work a shift which has at least ten (10) hours that coincide with the polling hours at my regular polling place.
- I am enrolled as a student at an educational institution located outside the county of my personal residence, attendance at which prevents my attendance at the polls.
- I am a member of, or a spouse or dependent of a member of, the Armed Forces of the United States or am otherwise similarly qualified to vote absentee pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff.

This application for an absentee ballot will be valid for all county, state, and federal elections held during this calendar year unless you specify an earlier expiration date here: _____.
- I have been appointed as an election officer at a polling place which is not my regular polling place.

When I apply for this absentee ballot, I understand that my name will be stricken from the list of qualified electors and, when I cast this absentee ballot, I understand that I will not be entitled to vote at my regular polling place.

Voter's Signature	Complete this section if voter signs by mark	Witness Signature
		Print Witness Name

The voter may hand this application to the Absentee Election Manager. The voter may also forward this application to the Absentee Election Manager by U.S. Mail [§17-10-4 and §17-10-12, Code of Alabama, 1975].

READ PENALTIES ON BACK

PENALTIES

§17-17-24, Code of Alabama, 1975, as amended

(a) Any person who willfully changes an absentee voter's ballot to the extent that it does not reflect the voter's true ballot, any person who willfully votes more than once by absentee ballot in the same election, any person who willfully votes for another voter or falsifies absentee ballot applications or verification documents so as to vote absentee, or any person who solicits, encourages, urges, or otherwise promotes illegal absentee voting, shall be guilty, upon conviction, of a Class C felony. Any person who willfully aids any person unlawfully to vote an absentee ballot, any person who knowingly and unlawfully votes an absentee ballot, and any voter who votes both an absentee and a regular ballot at any election shall be similarly punished.

(b) Upon request by the local district attorney or the Secretary of State, the Attorney General shall provide investigating assistance in instances of absentee ballot or voting violations.

(c) Nothing in this section shall be construed to impede or inhibit organized legal efforts to encourage voter participation in the election process or to discourage a candidate from encouraging electors to lawfully vote by absentee ballot.

Instructions for taking Absentee Ballots

Ballot Application: Anyone can pick up any number of blank absentee ballot application(s), however only the voter may return the completed application, either in person or by mail. If returned by mail, applications must be returned in separate envelopes.

Regular Absentee: Ask will the voter be out of the County on election day, if they are physically incapacitated, in the military, in school outside the county, or work a 10-hour or greater shift that conflicts with the polling hours, or if they are an election official at a polling location other than their own, then they can vote an absentee ballot either in person or through the mail. The last day to apply for an absentee ballot is five days prior to the election date, except for emergency absentee ballots.

Business Emergency: A business emergency absentee ballot is available if the voter is called out of town on a business emergency, and was not aware of this emergency five days prior to the election. There is a box on the application to mark indicating this, and the application must be signed and sworn. The emergency business ballot must be completed and returned in person not later than 5:00 p.m. on the day prior to the election.

Medical Emergency: An emergency medical application can be obtained by the voter or by his/her designee. The proper box must be marked and it must be signed by the voter and by the attending physician, and also signed by the person designated to deliver the ballot for the voter. (This might happen with an emergency hospital admission, or when the voter is notified after the application cut of date that surgery is scheduled within four days prior to or on election day.) The emergency medical ballot must be returned in person by the designee not later than noon on election day.

2. If the voter knows that they will be out of the County on both the general election day and the runoff election day, they may indicate this on one application since the elections are not more than 42 days apart. The ballots for the general and runoff elections will be sent at the proper time when candidates are known.

Walk-in Absentees

- A. Make sure the name is on the absentee voter list or verify a recent registration by calling the Jefferson County Board of Registrars at 325-5550 or the St. Clair County Board of Registrars at 594-2126. If the voter has registered recently, they may not be on the list. The Board of Registrars will fax you something showing they are registered. Write it in on the list and mark it as absentee.
- B. Give them an absentee ballot application. (They may pick up as many applications as they wish, but each application must be returned in person by the voter himself or through the mail with only one application per envelope.)
- C. Once you have the signed application returned to you, find the name on the voter list and underline it (I use red) or highlight it and put the date and “Absentee” in the margin by the name.

- D. Add the name to the list of persons who have requested absentee ballots that is posted daily at City Hall for the correct county. (Include Name, Address, & Polling place)
- E. Retrieve the next numerical ballot [*single type of ballot for “at large” municipalities or specific ballot for each district in districted municipalities*] (these must be issued in order and every number accounted for – Do not leave ballots out on counter). Write the Ballot Style and Ballot Number on the front of the Affidavit (AB2) envelope. (This information is found at the bottom of the ballot.) Hand the voter the instructions, the ballot, the secrecy envelope (AB4), the affidavit envelope (AB2), and the brown return envelope.
- F. Ask if you need to copy their identification, and give original ID and the copy back to them. (This is done at no charge for the copy.)
- G. The voter may fill out the ballot and hand it back, or may take it with them. Once the ballot is completed, have the voter fold the ballot in half once (and only once) from top to bottom so that it will fit into the Secrecy Envelope (AB4) and the voter must seal the envelope. Envelope AB4 is then inserted into the Affidavit Envelope (AB2). The voter must seal that envelope and complete the affidavit on the back, sign it, and have it witnessed by a notary or two witnesses.
NOTE: I keep an envelope sealer bottle at the counter for voters to use to seal the ballot envelopes.
- H. Sealed envelope A-B2 (Affidavit Envelope) and the voter identification is placed in the manila envelope (brown) and sealed. If you happen to observe the voter putting the ID in the wrong envelope, make another copy to put in the manila (brown) one, as the secrecy and affidavit envelopes cannot be opened.
- I. The voter will then hand the sealed manila envelope (brown) back to you. Find the voter’s name on the posting list of persons voting absentee, and mark it received and the date in the margin.
- J. Make sure the identification is enclosed (Open brown envelope to check). If not, see instructions below.
- K. Place the ballot in the secure box in the vault.

If the voter messes up a ballot and requests another one, take back the first ballot and disable it by tearing off the corner, and place it in the Spoiled Ballot envelope. Change the ballot number on the front of the AB2 envelope to the new ballot number. Do not throw any ballot away – all must be accounted for.

Mailed Absentees

- A. Mail the absentee ballot application to voter.
- B. Upon receipt of the completed application, **strike the voter's name from the absentee poll list (underline in red or highlight) and write in the margin - Absentee and the date.** Write the ballot style number and the ballot number on the front of Envelope AB2 (Affidavit Envelope) and write the voters name in the upper left hand corner of the manila envelope. Then place the ballot, the absentee voting instructions, voter identification instructions, Envelope AB4 (Secrecy Envelope), Envelope AB2 (Affidavit Envelope), and the manila envelope, in the large white mailing envelope, affix proper postage and mail within 24-hours of receipt of the completed application.
- C. Add the voter's name to the Absentee list posted for that day for the correct county.
- D. Upon receipt of a completed ballot, mark received and the date on the posted list of persons voting absentee.
- E. Open the brown envelope and make sure the voter identification is enclosed. If voter identification is not enclosed, see "No Voter Identification" instructions below.
- F. Place the ballot in the secure box in the vault.

Provisional Absentee Ballots

- A. If the person's name is not on the voter list, or not on the voter list at the address provided on the application, and cannot be verified by the Board of Registrars, mark the word "Provisional" on the affidavit envelope (AB2) before mailing the provisional absentee ballot (absentee ballot with the upper left hand corner either cut or torn off) and other provisional absentee materials to the applicant. (I write "Provisional" on both sides of the envelope.)
- B. Fill out sections 1, 2, and 3 of the PB-3 Provisional Verification Statement. In section 2, put Absentee and the date and line number. With the provisional absentee ballot (see above), ballot instructions, AB4 secrecy envelope, AB2 affidavit envelope, and mailing manila (brown) envelope enclose a written explanation as to why the ballot is provisional, with instructions for completing the provisional forms (in drawer):
 - 1. Provisional absentee instructions - Form 2
 - 2. PB-3 Provisional Verification Statement which includes voter re-identification form at bottom
 - 3. Instructions to Absentee voters (how to mark the ballot) from absentee supplies with list of valid voter ID types on back

4. Provisional absentee ballot (see above)
 5. Secrecy Envelope AB-4
 6. Affidavit Envelope AB-2 marked “Provisional”
 7. Mailing envelope (brown)
- C. Add name to Provisional Absentee posting list (pink) for the correct county.
- D. When a provisional ballot and materials are returned by the voter, check to see if identification is enclosed. If not, notify the voter as set out below on Form 1 that begins – Attention Absentee Voter: Your absentee ballot has been received by the Absentee Elections Manager, but proper voter identification has not been provided.
NOTE: Even though the vote is already provisional, if there is no ID, you still must notify them of that fact.
- E. Secure the affidavit envelope AB-2 marked “Provisional” in a provisional ballot return envelope (PB-4A).
- F. Place the PB-2A Provisional Ballot Return envelope in the Provisional Absentee Ballot box for the correct county.
- G. Place the PB-3 Provisional Verification Statement in envelope PB-4A Absentee Provisional Return envelope by correct county. (Do not seal PB-4A envelope until all PB-3 provisional ballots are returned.)

No Voter Identification

Written notice must be sent prior to the election on how to correct the omission, or what happens if identification is not provided and the vote becomes provisional. There is a form designated as Form 1 that begins as follows: Attention Absentee Voter: Your absentee ballot has been received by the Absentee Elections Manager, but proper voter identification has not been provided.

Note on the outside of the envelope the ballot was returned in, that you notified the voter of no identification and the date and initial it.

Hold this ballot until Friday at 5:00 on the Friday preceding the election. If ID is returned, place the ballot with the other absentee ballots. If ID is not returned, process as a provisional absentee and place ballot marked “Provisional” on the affidavit envelope, in the Provisional Absentee ballot box. Fill out Sections 1, 2, & 3 of PB-3 Provisional Verification Statement, noting “Absentee Ballot” in section 2, and place in PB-4A Provisional Return envelope.

Council-Manager Form of Government



Frequently Asked Questions

ICMA *Leaders at the Core of Better Communities*

What is the council-manager form of government, which is used today by so many cities, towns, and counties?

Council-manager government combines the strong political leadership of elected officials with the strong managerial experience of an appointed manager or administrator. All power and authority to set policy rests with an elected governing body, which includes a mayor or chairperson and members of the council, commission, or board. The governing body in turn hires a nonpartisan manager who has very broad authority to run the organization.

Born out of the U.S. progressive reform movement at the turn of the 20th century, the council-manager system was designed to combat corruption and unethical activity in local government by promoting effective management within a transparent, responsive, and accountable structure.

Since its establishment, the council-manager form has become the most popular structure of local government in the United States. The form is also widely used throughout the world in countries such as Canada, Australia, the Netherlands, New Zealand, and the United Kingdom.

How does council-manager government work?

The elected council or board represent their community and develop a long-range vision for its future. They establish policies that affect the overall operation of the community and are responsive to residents' needs and wishes.

To ensure that these policies are carried out and that the entire community is equitably served, the governing body appoints a *highly trained professional manager* on the basis of his/her education, experience, skills, and abilities (and not their political allegiances). If the manager is not responsive to the governing body, it has the authority to terminate the manager at any time.

How can council-manager government benefit my community?

A city, town, or county benefits from the council-manager form of government in a number of important ways:

1. Political power is concentrated in the *entire* governing body. The mayor and council share legislative functions
2. Policy making resides with elected officials, while oversight of the day-to-day operations of the community resides with the manager. In this way, the elected officials are free to devote time to policy planning and development

- 
3. The manager carries out the policies established by the elected governing body with an emphasis on effective, efficient, and equitable service delivery
 4. Because decisions on policy and the future of the community are made by the entire governing body rather than a single individual, council-manager governments more often engage and involve their residents in decision making. Residents guide their community by serving on boards and commissions, participating in visioning and strategic planning, and designing community-oriented local government services
 5. The form is flexible enough to adapt to local needs and demands. For example, some communities elect their councils at large, while others elect them by district or by a combination of an at-large-and-by-district system. Also, the mayor can be directly elected by voters or selected by and from among the council.

What is the role of the manager under council-manager government?

The manager is hired to serve the council and the community and brings to the local government the benefits of his/her training and experience in administering municipal or county projects and programs. The manager prepares a budget for the council's consideration; recruits, hires, terminates, and supervises government staff; serves as the council's chief advisor; and carries out the council's policies. Council members and residents count on the manager to provide complete and objective information about local operations, discuss the pros and cons of alternatives, and offer an assessment of the long-term consequences of their decisions.

Appointed managers serve at the pleasure of the governing body. They can be fired by a majority of the council, consistent with local laws, or any employment agreements they may enter into with the council. The manager makes policy recommendations to the council for consideration and final decision. The manager is bound by whatever action the council takes, and control is always in the hands of the elected representatives of the people.

What is the role of the council?

The council is the community's legislative and policy-making body. Power is centralized in the elected council, which, for example, approves the budget and determines the tax rate. The council also focuses on the community's goals, major projects, and such long-term considerations



as community growth, land use development, capital improvement and financing, and strategic planning. The council hires a professional manager to implement the administrative responsibilities related to these goals and supervises the manager's performance.

What is the role of the mayor or chairperson?

Mayors or chairpersons in council-manager communities are key political and policy leaders, and their specific duties, responsibilities, and authorities depend on the organization's charter. In council-manager communities, typically the mayor or chairperson is a voting member of the city council who presides at council meetings, represents the city in intergovernmental relationships, appoints members of citizen advisory boards and commissions (with the advice and consent of council), assigns agenda items to committees, facilitates communication and understanding between elected and appointed officials, and assists the council in setting goals and advocating policy decisions.

What value does a professional manager contribute to a community?

Professional managers contribute value to a community because they:

- Work in partnership with elected officials to develop sound approaches to community challenges by bringing together resources to make the right things happen and produce results that matter
- Bring a community-wide perspective to policy discussions and strive to connect the past and future while focusing on the present. They help the governing body develop the long-term vision for the community that provides a framework for policy development and goal setting
- Promote ethical government through commitment to a set of ethical standards that goes beyond those required by law. Managers who are members of ICMA subscribe to the organization's Code of Ethics, which requires them to "affirm the dignity and worth of the services rendered by government and maintain... a deep sense of social responsibility as a trusted public servant"
- Encourage inclusion and build consensus among diverse interests (including those of elected officials, the business community, and citizens) by focusing on the entire community rather than the centralized interests of one or two individuals

- Promote equity and fairness by ensuring that services are fairly distributed and that administrative decisions (such as hiring and contracting) are based on merit rather than favoritism
- Develop and sustain organizational excellence and promote innovation. Professional managers focus relentlessly on efficient and equitable service delivery, policy implementation, and evaluation. They align the local government's administrative systems with the values, mission, and policy goals defined by the community and elected officials.

Does it cost more for a community to adopt the council-manager form and hire a professional manager?

Many local governments have found that their overall costs are actually reduced under competent management. Savings can come from decreased operating costs, increased efficiency and productivity, improved revenue collection, and effective use of technology. The economic health of the community may also benefit from implementation of improved business development and retention strategies.

What kinds of communities use the council-manager form of government?

In 2007, more than 3,500 (49 percent) of the 7,171 U.S. cities and towns with populations of 2,500 residents or more operated under the council-manager form. This structure is also used by more than 370 counties. More than 92 million people in the U.S. live in communities that operate under this form.

Is the council-manager form popular among larger communities?

Of the 247 U.S. cities with populations greater than 100,000 residents, 144 (58 percent) use this form of government. Larger cities and counties that use the form include:

- Broward County, Florida (pop. 1,623,000)
- Charlotte, North Carolina (pop. 540,000)
- Dallas, Texas (pop. 1,188,000)
- Fairfax County, Virginia (pop. 969,000)
- Las Vegas, Nevada (pop. 535,000)
- Mecklenburg County, North Carolina (pop. 695,000)
- Oklahoma City, Oklahoma (pop. 506,000) *(continued)*



(continued)

- Phoenix, Arizona (pop. 1,321,000)
- San Antonio, Texas (pop. 1,144,000)
- San Jose, California (pop. 894,000)
- Virginia Beach, Virginia (pop. 425,000)
- Wichita, Kansas (pop. 344,000)

How can a community adopt the council-manager form of government?

Most communities can adopt council-manager government through a charter, local ordinance, state enabling law, or by voter referendum. For information on how your community can adopt council-manager government, contact your state municipal league or association of counties. You can locate the addresses of these organizations on the Internet, or in the back section of ICMA's *Municipal Year Book*, which you may find in your local library.

Once a community adopts council-manager government, how does it choose a professional manager?

The vacancy usually is announced in the *ICMA Newsletter*, and managers, assistants, and other individuals from across the country are invited to apply. Interested parties apply directly to the council, which reviews the applications and interviews qualified candidates. ICMA makes no recommendations regarding candidates. Additional information is available in ICMA's *Recruitment Guidelines Handbook*. To download a copy, visit <http://jobs.icma.org> and click on "Recruitment Guidelines Handbook" under "Resources."

What kind of educational and professional experience do professional local government managers possess?

Nearly 67% of managers surveyed by ICMA in 2006 indicated that they had earned a master's (usually in public administration, business, or public policy), or other advanced degree. Respondents to the same survey said they had spent an average of 19 years in the local government management profession.

Do professional local government managers have a membership organization?

Yes. ICMA (the International City/County Management Association) is the premier local government leadership and management organization that serves as the





professional and educational "home" for appointed professional managers and administrators. ICMA's membership also includes directors of state associations of local governments, other local government employees, academics, students, and concerned citizens who share the goal of improving local government.

ICMA's mission is to create excellence in local governance by developing and fostering professional local government management worldwide. To that end, the organization provides technical assistance and publications for management professionals to help them improve their skills and increase their knowledge. ICMA also serves as a clearinghouse for the collection, analysis, and dissemination of information and data about local government.

Why is membership in ICMA important for a professional local government manager?

In addition to gaining access to valuable resources and lifelong professional development opportunities, managers who belong to ICMA are bound by its Code of Ethics, which states that every member of the organization shall act with integrity in all personal and professional matters so that they will merit the respect and trust of elected officials, employees, and the public. This stringently enforced Code specifies 12 ethical principles of personal and professional conduct, including dedication to the cause of good government.

ICMA members believe in the effectiveness of representative democracy and the value of government services provided equitably to residents within a community. ICMA members are also committed to standards of honesty and integrity that go beyond those required by the law. For more information, contact ICMA or visit <http://icma.org/ethics>.

Finally, ICMA defines professional management and recognizes individual members who are qualified by a combination of education and experience, adherence to high standards of integrity, and an assessed commitment to lifelong learning and professional development. ICMA members who meet these requirements may earn designation as an ICMA Credentialed Manager. For more information on ICMA's Voluntary Credentialing Program, visit <http://icma.org/credentialing>.



Are there other, independent organizations that support council-manager government?

The National Civic League (NCL) is America's original advocate for community democracy. This nonprofit, nonpartisan membership organization is dedicated to strengthening citizen democracy by transforming democratic institutions. NCL accomplishes its mission through technical assistance, training, publishing, research, and promoting the All-America City Awards, America's original and most prestigious community recognition program.

Founded in 1895, NCL serves as a clearinghouse for information on methods of improving state and local government. The League's *Model City Charter*, now in its eighth edition, has endorsed council-manager government since 1915.

For further information, contact

Jared M. Dailey
Assistant Program Manager
ICMA

777 North Capitol Street, NE, Suite 500
Washington, DC 20002-4201
jdailey@icma.org
202-962-3557
202-962-3500 fax
<http://icma.org/formlgovt>

National Civic League
1445 Market Street, Suite 300
Denver, Colorado 80202-1728
303-571-4343
303-571-4604 fax
<http://www.ncl.org>

What Every Potential Candidate Should Know About Municipal Government

Prepared by the Alabama League of Municipalities

On August 23, 2016, the vast majority of Alabama's municipalities will hold elections for the mayor and council. While candidates cannot officially qualify to be on the ballot until July 5, 2016, many candidates have already announced their intention to run for municipal office and have started their campaigns. The Alabama League of Municipalities prepares a manual titled *Procedures for Holding Elections in Mayor-Council Municipalities* which covers issues related to campaigning and holding a municipal election. Included in the manual is an elections calendar out-lining all of the important dates relating to the election process. This manual is available for download on the League's website: www.alalm.org. Over the next several issues, the Legal Viewpoint will explore various issues relating to municipal elections and the election process.

The goal of this article is to inform potential candidates as to the structure of municipal governments in Alabama as well as to the limitations and restrictions on municipal power. It is not intended as a guide for qualifying and running for municipal office. Candidates must understand the extent of the authority a municipality may exercise before making the decision to run for office. Also, an understanding of these laws and functions can help candidates avoid future embarrassment upon discovering that a campaign promise can't legally be fulfilled.

The provisions discussed in this article apply generally to any municipality with a mayor/council form of government. Many state laws, however, apply to only certain municipalities. It is up to the candidate to be sure that the rules and regulations set out in this article govern their municipality.¹

What is a Municipality?

In Alabama, a municipality is a form of local government created by the citizens within a defined area. First, the local government must meet the requirements of state law to incorporate. The laws governing incorporation are found in Article 1 of Chapter 41 of Title 11, Code of Alabama 1975. Following these procedures and an affirmative vote of the majority of citizens in the area proposed for incorporation, a municipality is created.

Historians disagree regarding the reasons municipalities first came into existence. Some reasons include the promotion of commerce, protection from invading armies, convenience, or even just the desire of humans to share time with each other. Regardless of the historical reasons, municipalities today provide many services to their citizens, such as fire and police, utility services, parks and recreation, and historical preservation among others. They also help protect their citizens through these services. Municipalities provide an element of convenience by performing many services which individuals themselves may not be willing to perform, such as construction and maintenance of roads, disposal of garbage and promotion of the arts.

Municipal government provides a means for citizens to have a direct say in which services are needed and how those services should be provided through the process of electing representatives. Representatives, who are chosen from the pool of willing citizens, meet and discuss how the municipality can best meet the needs and desires of their citizens.

When these elected officials meet, however, it is important for all parties to understand that in Alabama, all municipal powers flow directly from the state legislature. That is to say, Alabama's municipalities do not have "Home Rule" and therefore do not have inherent power to operate as a government independent of the Alabama Legislature. Alabama operates under what is known as the "Dillon rule". This rule provides that municipalities have no powers beyond those that are given to them by the state legislature. The authorization must be either explicit or

clearly implied from the language of a state statute or constitutional provision. See generally *Mobile v. Moog*, 53 Ala. 561 (Ala. 1875); *Best v. Birmingham*, 79 So. 113 (Ala. 1918).

Briefly, Alabama is governed by Alabama Constitution of 1901, and any amendments thereto. Laws in the Constitution are passed by the legislature, but only become effective following a vote of the public. The Constitution provides a framework for the adoption of laws by the legislature. Legislative acts cannot conflict with constitutional provisions. If there is a conflict, a new constitutional amendment must be adopted and approved by a vote of the people.

In addition to the Constitution, the legislature meets at least annually--more often if special sessions are needed--to pass general and local laws. Many of these laws apply directly to the operation of municipal governments. Actions taken by a municipal government cannot conflict with state legislation. Beyond that rule, however, is a further limitation on municipal powers. Not only do municipal actions have to comply with these statutes and the Alabama Constitution; under the Dillon rule, there must be legislative authority for the municipality to take the specific action in question.

When potential candidates decide that when they get elected some action needs to be taken, they examine the laws to ensure that the municipality has the power to act in the way desired. If not, authority must be obtained through the Alabama Legislature. Depending on what the official wants to do, this may require either a local act, a general act or possibly even the adoption of a constitutional amendment.

The Extent of Municipal Power

Municipalities are established by incorporation through the procedures set out in the Code. Art.1 of Chap. 41 of Title 11, Code of Ala. 1975. Municipalities grow through annexations. The methods of annexing property are also provided for in the Code. See Chapter

42 of Title 11, Code of Ala. 1975.

Municipalities are divided into cities and towns on the basis of population. Section 11-40-6, Code of Ala. 1975. If the municipality has less than 2,000 citizens, it is a town. Once the population reaches 2,000, however, the municipality is defined as a city.

Municipalities may exercise two types of power: legislative and corporate. Legislative powers affect the public generally. In exercising these powers, the municipality acts very much as an arm of the state. Corporate powers are more comparable to those of a private corporation and are exercised to benefit the municipality in its proprietary capacity.

Municipalities also have authority to exercise certain powers within their police jurisdictions. The police jurisdiction is a legislatively created area outside the corporate limits of a municipality. Section 11-40-10, Code of Ala. 1975. The size of the police jurisdiction is either a mile-and-a-half, or three miles, depending on the population of the municipality. It ensures orderly development beyond the municipal limits and allows the municipality to protect persons who live within these areas.

Municipalities can levy certain types of taxes in the police jurisdiction in order to pay for services which are provided in the area. See Section 11-51-91, Code of Ala. 1975. Additionally, municipalities can enforce criminal ordinances in the police jurisdiction. Construction and development can be regulated through the application of municipal building codes and subdivision regulations. Municipalities can also provide a wide range of services to citizens within the police jurisdiction, and if the municipality licenses businesses within the police jurisdiction, it must spend those funds to provide services within the police jurisdiction.

Appropriations

Frequently, potential candidates for municipal office make promises to voters that will

require some type of appropriation from the municipal treasury. The use of public funds is, of course, of central concern to the voters. Many taxpayers, understandably, want to have a direct say in how their tax money is spent. However, citizens must understand that municipal expenditures are limited by state law.

Perhaps the most common barrier to municipal spending is Section 94 of the Alabama Constitution of 1901. This Section is commonly referred to simply as Section 94. It prohibits municipalities from giving anything of value to any private individual or group of individuals. The prohibition also bars donations to private, nonprofit corporations, even if these organizations benefit the public. Section 94 is the reason municipalities cannot pave driveways or parking lots on private property. The rule is also why government property cannot be given away, unless the use of those funds serves a recognized public purpose.

Section 94 is a frequent source of friction for elected officials, especially for those who are new to the operations of public entities. This is because often the groups requesting financial help from the municipality do provide a valid community service, and there is an inherent desire to assist them. Many are charitable organizations. For the purposes of Section 94, though, it is crucial to distinguish between the public and private nature of the group, and many traditional entities are considered private, not public. Under Section 94, it doesn't matter that the group is non-profit. If it is private (which generally means that it was not directly created by a public organization), the municipality may not donate funds to it without finding a public purpose behind the donation.

In *Slawson v. Alabama Forestry Commission*, 631 So. 2d 953 (Ala. 1994), the Alabama Supreme Court stated that, “[t]he paramount test should be whether the expenditure confers a direct public benefit of a reasonably general character, that is to say, to a significant part of the

public, as distinguished from a remote and theoretical benefit. . . .”

Section 94, though, does not prohibit municipalities from contracting with private companies and individuals for services. For example, although a municipality cannot give money to the Girl Scouts of America, the municipality may compensate the Girl Scouts for legitimate services they can perform for the municipality. Bear in mind that the service being performed generally must be a service that the municipality could perform itself.

Similarly, Section 94 does not ban appropriations to public organizations which serve the municipality. For instance, municipalities may contribute funds to public schools their citizens attend. Municipalities may not, however, make donations to band booster clubs or other private clubs organized by students or parents because these are private groups.

Section 94.01 of the Alabama Constitution of 1901, creates a limited exception to Section 94 for economic development projects. The procedures in Section 94.01 must be followed exactly in order to spend public funds under to this provision.

Municipalities must also comply with State bid laws. Generally speaking, the bid law prohibits expenditures (with certain exceptions which are listed in the Code) of more than \$15,000.00 (\$50,000 for public works contracts) without first soliciting competitive bids. See Article 3 of Chapter 16 of Title 50, Code of Ala. 1975 (Competitive Bid Law) and Chapter 2 of Title 39, Code of Ala. 1975 (Public Works Bid Law). Municipalities may, however, contract with other public agencies or purchase items through a state contract without first obtaining bids. AGO 2008-093. In addition, they may make purchases through a purchasing cooperative under certain conditions or off an existing Government Services Administration (GSA) contract. Section 41-16-51(a)(17).

There are other provisions governing municipal expenditures that are too numerous to

discuss here. What is important is for potential candidates to understand that they must examine expenditures carefully to ensure that the expenditures are legal.

Citizen Petitions

Citizens often draft and circulate petitions to be presented to the municipal governing body. What is the legal effect of these petitions?

In some limited cases the Code requires the council to act on petitions which contain a certain percentage of citizen signatures. Some examples include petitioning for certain methods of annexation and petitioning for a wet/dry alcohol referendum. In these cases, the council must follow through on all statutory requirements. These situations, though, are rare. Usually, the council is not required to act on, or even debate, requests submitted by petition. At best, a petition serves as a means of bringing the issue before the council.

Citizens have the right to make requests of the governing body. And, just as clearly, the number of signatures on a petition has a practical political effect. In most cases, however, a council may deny a petitioner's request, or refuse to even consider it.

Even where a municipal council will consider a citizen petition, it is important that candidates realize that duly elected municipal officials cannot delegate the authority to make legislative decisions to the citizens themselves. Frequently, elected officials want to allow citizens to vote on issues. While it may be admirable to seek approval of those who will become subject to a municipal action, the legislative power of a municipality, exercised by the municipal governing body, cannot be delegated to the citizens. For instance, in Opinion No. 91-00262, the Attorney General held that a city council may not make zoning in a particular district subject to a referendum of the residents.

The prohibition on delegation of municipal powers is particularly applicable to taxation.

A municipality cannot hold a referendum for the voters to approve most tax increases. Ad valorem taxes are the notable exception. Most other taxes must be approved by the council by passage of a general and permanent ordinance. The city may hold a public hearing to obtain input, but it cannot delegate approval of the tax or tax increase to the citizens.

In fact, a city may not sponsor and hold a non-binding referendum using city employees and officials to work on the election, even if the cost of the referendum is paid for with private funds. AGO 94-00001. But, a private group may conduct a non-binding referendum for a municipality, although the municipality may not participate other than as private citizens and the council cannot agree to be bound by the referendum. AGO 97-00257. Keep in mind that under state law a municipality must submit some questions, as provided for by law, to the voters to make the final decision. When making campaign promises, a candidate for municipal office must be sure whether a referendum is required, or even allowed, prior to agreeing to allow the public to vote on specific issues should he or she get elected.

The Division of Duties Between Elected Officials

One of the most misunderstood aspects of municipal government is the separation of powers between the mayor and the council. Like government on the state and federal levels, municipal government is divided into three separate but equal branches: executive, legislative and judicial. Each of these branches has distinct duties, powers and restrictions on how far it can intrude into the affairs of the other branches.

At the municipal level, the mayor serves as the head of the executive branch. Section 11-43-81, Code of Alabama 1975. As such, the mayor is responsible for overseeing the day-to-day operations of the municipality. He or she oversees municipal employees, makes sure that bills are paid on time, executes municipal contracts and, in general, performs many of the same functions

as a C.E.O. of a private corporation.

In municipalities of less than 12,000 inhabitants, the mayor also presides over council meetings and serves as a member of the council. Section 11-43-40, Code of Alabama 1975. In these cities and towns, the mayor may vote on any issue before the council, introduce measures and participate in debates to the same extent as members of the council.

In cities with populations of more than 12,000, the mayor is not a member of the council. However, he or she has a veto over any permanent action taken by the council. The council can override the veto by a two-thirds votes. Section 11-43-40, Code of Alabama 1975.

The council is the legislative branch. Candidates must understand that individual councilmembers, acting alone, have no greater power or authority than any other citizen of the municipality. The council can only act as a body at a legally convened meeting.

The council has authority over the finances and property of the municipality. The council establishes policies, passes ordinances, sets tax levels, determines what sorts of services the municipality will offer and has authority over all other legislative aspects of municipal government.

Council Meetings & Public Participation

Problems frequently arise over public participation in council meetings. This is probably due to the misconception of a council meeting as a public hearing. It is not. A council meeting is intended as a gathering of elected officials brought together to conduct the affairs of the municipality. It is a business meeting. The meeting is open to the public not so much to obtain citizen input, but to allow the public to observe the affairs of government to ensure appropriate and legal representation by their elected officials. Although most councils do set aside a time for public comment, Alabama law does not guarantee citizens the right to speak at a council

meeting. The Open Meetings Act, found in Chapter 25A of Title 36, Code of Alabama 1975, grants citizens the right to be present at public meetings, but does not grant them an absolute right to express their views at the meeting. And, the municipality may establish reasonable guidelines governing public participation in the meeting. AGO 98-00134.

Public Records

Potential candidates must also be aware that problems often arise over public records. Controversies over what is public and what is not public are common. It is probably best to assume as a starting point that all records a municipality keeps are public. Section 36-12-40 and 36-12-41, Code of Alabama 1975, guarantee every citizen the right to inspect and make copies of all public writings, unless otherwise expressly provided by statute. While most records maintained by a municipality are public, some are not available for public inspection even by elected officials. For example, sensitive tax information is protected by state law and employee withholding information cannot be released. Municipalities are encouraged to establish reasonable procedures governing access to public records. Citizens who wish to view public records must follow these procedures. The custodian of records may ask for a reason for viewing the records, and must be convinced that the reason is legitimate. Also, the municipality may charge for making copies. AGO 2008-073.

Additionally, not all records are public. Some records, such as on-going police investigation files, some material in personnel records, confidential tax information and similar records containing information not for public consumption, are not open to the public.

For potential candidates, it is important to note that individual councilmembers and the mayor generally have no greater right to inspect municipal records than do any other members of the public. See AGO 2000-053.

Relationships with Boards

Not all municipal services are provided by the municipality itself. Many are provided by municipal boards. Some of these boards are separately incorporated, while others are not. Municipalities have the authority to create a broad range of boards to control particular functions. Perhaps the most common example is a utility board.

Boards are usually created when the governing body takes on the duty of performing so many functions that it needs to give the responsibility to another entity so that it can adequately provide for the other needs of the citizens. Once a board is created, its powers are specified by the statute under which it was organized. The council may not change the duties of the board from those set out in the statute. Nor can a council create boards that are not authorized by the legislature. Although a council may create an advisory board, it cannot delegate power over any municipal function in its control unless the legislature has given them that authority. McQuillan, *Municipal Corporations*, 3rd ed., Section 12.38. An advisory board can only make recommendations to the council. The council must determine whether or not to act on those recommendations.

Frequently, municipal officials are asked to remove board members or to order the board to take certain actions. Candidates must understand that once a board is created, it has the sole power to act and the council has no power to make demands on the members of the board. Members of these boards are appointed for terms and generally they cannot be removed until their terms expire. This is especially true for separately incorporated boards.

It is particularly important to understand the difference between an incorporated and an unincorporated board. Incorporated boards usually cannot be dissolved until some event defined in the Code occurs. Frequently this is the payment of the debts of the board. Therefore, members

of incorporated boards are totally independent from council members. Unincorporated boards are different. They generally can be dissolved by a governing body. The council will then either establish a new board or assume control over the functions themselves. However, the council may not leave the board in existence and change the duties of the board from those set out in the Code.

Conclusion

This article does not answer every conceivable question regarding municipal government, nor could it. Municipal government is multifaceted. It is difficult to even list all the functions performed by municipalities, and even harder to explain the laws which govern their operation. Multi-volume sets of books have been written which provide only a brief overview.

What is often overlooked, however, is the community nature of a municipality. Although municipal governments are legally recognized entities with a certain amount of control over the affairs of their citizens, municipalities are still communities. They are organized by citizens who feel a need for the services and protection the government provides. In order to make the government effective, elected officials, and the citizens they represent, must work together in a spirit of cooperation, cooperation based on an understanding of what the municipality is permitted to do under state law. The League hopes this article will help foster this spirit of cooperation.

ⁱ The League encourages municipal clerks to make copies of this article to make potential candidates aware of the regulations that will govern their actions as municipal officials. This article should also serve as a refresher for elected officials who are presently in office.



The Legal Viewpoint

By Lori Lein
General Counsel



The Fair Campaign Practices Act: What Municipal Candidates Need to Know

Since the 2008 Municipal Elections, changes have been made to the The Fair Campaign Practices Act (FCPA). This article outlines the basic requirements of the FCPA as they relate to candidates for municipal office. It is written as a service to those candidates but is not a substitute for the Code of Alabama, 1975. It is provided as a guide and is not intended as a authoritative statement of the law as it relates to the FCPA. Candidates who have questions regarding the FCPA should seek further guidance from the Elections Division of the office of the Alabama Secretary of State.

The Fair Campaign Practices Act (FCPA), found in Sections 17-5-1 through 17-5-19 of the Code of Alabama 1975, sets out the rules for how and when candidates can raise and spend money when running for public office.¹ The FCPA also provides for specific reporting requirements for candidates who raise and spend money. For local elections, the FCPA requires all candidates who receive contributions or make expenditures of \$1,000 or more to report their financial activities.

Campaign Contributions

Section 17-5-7, Code of Alabama 1975, states that candidates may not accept, solicit or receive contributions more than 12 months before an election in which they intend to be a candidate². Following an election, candidates are allowed to solicit contributions for a period of 120 days after the election, but only to the extent of any campaign debt, the \$1000 threshold amount or both amounts combined. Candidates may use campaign contributions to help influence the outcome of an election as well as any expenses associated with challenging an election. This Section also outlines how excess campaign contributions may be used. For example, campaign contributions can be used to cover any necessary and ordinary expenditures of the campaign as well as any inaugural or transitional expenses.

Candidates are prohibited from accepting, soliciting or receiving campaign contributions as a bribe or for the intention of corruptly influencing the official actions of the public official or candidate for public office. Further, Section 36-25-6, Code of Alabama 1975, provides that candidates may not convert campaign funds to personal use.

Principal Campaign Committee

Within five days after a candidate either qualifies for municipal election³ or meets the \$1,000 threshold amount, he or she is required to file, with the probate judge of the county in which the office is sought, an "Appointment of Principal Campaign Committee" form.⁴ Failure to file this form could result in the candidate being denied a certificate of election. Section 17-5-18, Code of Alabama 1975. The form must show the names of from two to five persons the candidate has chosen to serve as his or her principal campaign committee, or the candidate may declare themselves as the person to serve as the principal campaign committee. In addition to the form appointing the committee, a candidate must file a written statement showing the acceptance or consent of the committee members of their appointment. If any vacancies occur on the committee, the candidate is to fill the vacancy or the remaining members may discharge and complete the duties required as if the vacancy had not occurred.

Every principal campaign committee must have a chairman and a treasurer. Candidates serving as their own principal campaign committee must perform the duties of the chairman and treasurer. The committee has exclusive custody of all funds contributed, donated, subscribed or in any manner furnished to or for the candidate represented by the committee. No candidate may spend any personal funds to help his election except by contributing those personal funds to the principal campaign committee he or she has designated. Section 17-5-4, Code of Alabama 1975.

The committee must maintain a checking account for all contributions it receives. All committee funds must be segregated from, and not commingled with, personal funds of officers, members or associates of the committee. The committee may not spend any money except by check drawn on the account or out of a petty cash fund from which it may make expenditures in connection with a single purchase or transaction of \$100 or less. Section 17-5-6, Code of Alabama 1975.

It is the duty of the committee treasurer to keep a detailed, exact account of all contributions and expenditures. Essentially, any gift, donation, advance or deposit of money or anything

of value, or a contract to do any of these things, constitutes a contribution. Section 17-5-2, Code of Alabama 1975. A contribution would also include the payment of compensation by any person for the personal services or expenses incurred on behalf of a candidate or political committee without payment of full and adequate compensation by the candidate. Expenditures are defined as any purchase or transfer of anything of value, made to influence the result of the election, or any contract for this purpose. Certain actions, however, are specifically exempted from the definitions of contributions and expenditures in the FCPA. These are listed in full in Section 17-5-2, Code of Alabama 1975.

The committee must report the identity of each person who has made a contribution in an aggregate amount greater than \$100, along with the date and amount of the contribution. The committee must also report the identity of every person to whom an expenditure in an aggregate amount greater than \$100 is made, along with the date and amount of the expenditure and the name of each candidate on whose behalf the expenditure was made. In addition, the treasurer must obtain and keep a receipted bill or cancelled check, stating the particulars for every expenditure made by or on behalf of the committee greater than \$100, and of expenditures of a lesser amount, if the aggregate amount paid to the same person during the calendar year is greater than \$100. The treasurer must preserve all receipted bills and accounts for a period of two years from the date of the expenditure. Items costing more than \$100.00 charged to a credit card must be itemized individually. AGO 1995-00132.

Advertise with Us!

**Reach your customers
through the *Journal***



If you consider Alabama's municipal entities as your target audience, the League provides you the unique opportunity to connect with the decision makers when you advertise through *The Alabama Municipal Journal*, the League's monthly magazine.

Contact Cindy Price for advertising package information: cindyp@alalm.org

If a candidate pays for campaign expenses using that candidate's personal funds, the candidate's principal campaign committee may reimburse the candidate, but the committee and the candidate must itemize the recipients for each of the expenditures made by that candidate to accurately reflect to whom the expenditures were made. This opinion applies prospectively only. AGO 2007-006.

The importance of good record keeping cannot be overstated. It is vital for candidates to maintain some type of internal records on contributions of \$100 or less, since an additional donation from the same contributor could bring the total to more than \$100 and result in the need to itemize that contributor's contributions. The same is true for expenditures of \$100 or less.

Filing Deadlines

For any year in which an election is held, the FCPA requires the treasurer of a principal campaign committee in a municipal election to file with the probate judge reports of contributions and expenditures once a campaign has received contributions or made expenditures of \$1,000 or more. Section 17-5-8, of the Code of Alabama provides that once this occurs, the treasurer of the committee must file a report with the probate judge on the last day of each month during the 12 months leading up to the election with the exception of the month preceding the election. In the month preceding the election, the treasurer of the committee must file a report with the probate judge every Friday leading up to election day. Candidates for municipal office should file financial disclosure forms in all counties in which the municipality lies, unless the candidate is running for election in a district totally contained in one county. AGO 1996-00306.

While every candidate must appoint a principal campaign committee, candidates who have not reached their monetary threshold are exempt from filing the monthly, weekly and daily reports until the monetary threshold has been reached. AGO 90-00343. Otherwise, these pre-election reports are due prior to the election. Section 17-5-8, Code of Alabama 1975. Daily reports only apply to candidates for legislative, state school board, and statewide primary offices. Daily reports do not apply to candidates for municipal office. Section 17-5-8(a)(3), Code of Alabama 1975. Though not required to file, candidates who have not reached their monetary threshold reporting requirement may still choose to file the optional "Waiver of Report" form if they have concerns about the appearance of non-compliance. AGO 2012-0030.

According to the FCPA, forms that are hand-delivered or sent by regular United States mail, must be received on the due date for filing.⁵ In order for disclosure reports sent by certified or registered United States mail to be deemed timely filed, they must be postmarked no later than two days prior to the due date for filing. Beginning in the 2012 Election cycle, candidates receiving \$10,000 or less per election cycle may file his or her FCPA reports by facsimile transmission. AGO 2012-0028.

It is the duty of the Secretary of State or the probate judge to furnish all forms necessary for compliance with the FCPA. Section 17-5-11 of the Code of Alabama 1975. The probate judge must receive all reports required to be filed, along with

any extra information that is voluntarily supplied, and preserve a copy of each report for public inspection and copying. However, no information copied from the reports can be used by any political party or committee to solicit funds or for commercial purposes without the express written permission of the candidate or committee furnishing the information.

In addition to the filings required during the year leading up an election, the FCPA requires that all elected officials file an annual report with the Judge of Probate, even if they had no contributions or expenditures and even if they have dissolved their principal campaign committee. Candidates who are not elected should dissolve their principal campaign committees by filing a form with the probate judge because the FCPA requires all candidates who fail to dissolve their campaign committees to file an annual report listing all contributions or expenditures with the probate judge. This annual report is due January 31st of each year.

Failure to File

Again, it is important to note that no certificate of election shall issue to any person who fails to file any statement or report required by the FCPA. While a municipal election cannot be annulled for a failure to file, Section 17-5-18, Code of Alabama 1975, provides for the revocation of the certificate of election of any candidate who fails to file a statement or report required by the FCPA. Further, a person who violates a reporting requirement is guilty of a Class B misdemeanor and may be fined up to \$1,000 or an amount not more than double the amount or value of contributions or expenditures not reported, whichever is greater, and imprisoned up to six months. A person who intentionally violates Section 17-5-7, Code of Alabama 1975, is guilty of a Class B felony. 17-17-35, Code of Alabama 1975.

Campaign Materials & Activities

It is important for candidates to know that the FCPA contains other provisions in addition to those dealing with campaign finance reporting. For example, all political advertisements or electioneering communications must be clearly marked with a statement identifying the entity who paid for or authorized the advertisement. Section 17-5-12, Code of Alabama 1975. Section 17-5-13, Code of Alabama 1975 provides that it is unlawful for any person or committee to distribute, broadcast or publish any campaign literature, political advertisement, or electioneering communications, including cards, pamphlets, circulars, posters or other printed material related to or concerning the election, without this notice. In *McIntyre v. Ohio Elections Comm.*, 514 U.S. 334 (1995), the U. S. Supreme Court held that a similar provision in Ohio law violated the First Amendment to the U.S. Constitution. The Alabama Attorney General has ruled that the Court decision only applies to individuals in non-candidate elections. Persons placing an ad for the purpose of electing an individual to office in Alabama must continue to comply with this provision of the FCPA. AGO 1995-00218.

Further, it is unlawful for someone to make a contribution in the name of another person, or knowingly permit his or her name to be used to effect a contribution made by one

person in the name of another person, or to knowingly accept a contribution made in the name of another person. Section 17-5-15, Code of Alabama 1975. It is illegal for any person to misrepresent himself or herself, or any other person or organization with which he or she is affiliated, as acting for or on behalf of any candidate, committee or political party, or agent or employee thereof, in a manner which is damaging or is intended to be damaging to such other candidate, committee or political party. Section 17-5-16, Code of Alabama 1975. And finally, it is illegal for any person or committee, or any agent of a person or committee, to solicit or secure anything of value by physical force, job discrimination or financial reprisals, or by threats or by the imposition of dues, fees or other money required as a condition of employment. Section 17-5-17, Code of Alabama 1975.

In addition to the provisions of the FCPA, there are other election laws for candidates to keep in mind. It is illegal for any person to obstruct, intimidate, threaten or coerce any other person in order to interfere with that person's right to vote, or to cause that person to vote for, or not vote for, any candidate or other proposition. Section 17-17-33, Code of Alabama 1975. It is also illegal to pay, offer to pay, or accept payment, either to vote or withhold a vote, or to vote for or against a candidate or proposition. Section 17-17-34, Code of Alabama 1975. A person who violates these provisions is guilty of a Class A misdemeanor and may be fined up to \$2,000 and sentenced to up to one year. 17-17-35, Code of Alabama 1975. ■

For More Information

For more information on the Fair Campaign Practices Act and other state law requirements for candidates, please review the "Candidate Filing Guide" (11th ed.) which is available from the Elections Division of the Alabama Secretary of State. A copy of this publication can be found at: www.sos.alabama.gov/downloads/election/2012/2012CandidateFilingGuide.pdf

For more information on municipal elections in general, please review the publication "Procedures for Holding Elections in Mayor-Council Municipalities" (2012 ed.) prepared and published by the Alabama League of Municipalities. This publication is only available electronically. A copy can be downloaded at: www.alalm.org/PDF%20pages/Legal/2012ElectionsManualONLINE.pdf

(Endnotes)

1. Some municipalities have their own campaign finance laws.
2. For those municipalities holding elections on August 28, 2012, candidates can begin raising and spending money as of August 28, 2011.
3. Qualification for the 2012 Municipal Elections begins on July 3, 2012 and ends on July 17, 2012.
4. Every candidate must also file a "Statement of Economic Interests" as required by the Alabama Ethics Law. Section 36-25-15, Code of Alabama 1975. This statement is filed with the city clerk at the time the candidate qualifies for office.
5. Currently there is no provision for electronic filing of required reports under the FCPA.