

CALL TO ORDER

PUBLIC HEARING REGARDING ZONING

CZ-10-2009: Application of Leslie Capps & Carol England from AG/RM-2 to R-1

CZ-11-2009: Application of Jim L. Baize from AG to R-1

CZ-12-2009: Application of David & Lee Allen from EM-1 to R-1

CZ-13-2009: Application of Rowland Smith from AG to R-1

CZ-14-2009: Application of Bill Mace from R-1A to O-1

CLOSE PUBLIC HEARING

RESOLUTIONS

09-5-1: Resolution to Accept Grant Funds for Park Improvements at Civitan Park and Rotary Park Administered by the Tennessee Department of Environment and Conservation

09-5-2: Resolution of the Montgomery County Board of Commissioners Amending the Montgomery County Personnel Policy Handbook

09-5-3: Resolution of the Montgomery County Board of Commissioners to Transfer Monies for the Genesis Learning Center, d/b/a Montgomery County Teen Learning Center

REPORTS

1. Carolyn Bowers – County Mayor Nominations and Appointments

REPORTS FILED

1. Minutes from April 13, 2009 meeting

CITIZENS TO ADDRESS THE COMMISSION

ANNOUNCEMENTS

ADJOURN

**RESOLUTION OF THE MONTGOMERY COUNTY BOARD OF
COMMISSIONERS
AMENDING THE ZONE CLASSIFICATION OF THE PROPERTY OF
LESLIE CAPPS / CAROL ENGLAND**

WHEREAS, an application for a zone change from AG Agricultural District / RM-2 Single Family Mobile Home Residential District to R-1 Single Family Residential District has been submitted by Leslie Capps & Carol England and

WHEREAS, said property is identified as County Tax Map 091, parcel 092.00, containing 1.70 acres, situated in Civil District 13, located 120 feet +/- west of the centerline intersection of Skyline Terrace and Brownie Drive, on the north side of Brownie Drive; and

WHEREAS, said property is described as follows:

Tract 1: Beginning at a point in the east margin of a 15-foot drive, being the southwest corner of the Carroll Ambrosious property thence along the east margin of said drive north 71 degrees west 108.56 feet +/- to an iron pin; thence along the new east line of Fred hoard north 26 degrees west 284.65 feet +/- to an iron pin; thence along the south line of Bob Dean south 85 degrees 35 minutes east 57 feet to a hickory tree; thence along the west line of Ambrosious south 30 degrees 5 minutes east 333 feet to the beginning

Tract 2; Beginning at a new iron pin set in the west line of the Billy W. Rye property, said iron rod is further described as being located north 24 degrees 05 minute 47 seconds west 215.59 feet +/- from the point of intersection of the center lines of Brownie Street and Skyline Terrace; thence with two severance lines south 28 degrees 53 minutes 14 seconds west 86.08 feet +/- to a new iron rod; thence north 76 degrees 16 minutes 05 seconds west 67.16 feet +/- to a new iron rod set in the east line of Joseph Self property, thence with Self's east line north 35 degrees 17 minutes 43 seconds west 204.80 feet to a 20 inch diameter hickory in the south line of the Michael K. Ramey property; thence with the Ramey's south line north 77 degrees 41 minutes 35 seconds east 187.85 feet +/- to an iron rod; thence with Rye's west line south 15 degrees 47 minutes 43 seconds east 153.51 feet +/- to the beginning

Tract 3 Beginning at a hickory, Fred Suiters's southwest corner and runs along his line marked by a fence north 30 3/4 west 20.7 poles to a hickory, suiter's corner an in Kelly's north boundary line; marked by a fence , thence with said line north 84 1/2 west 9 poles to a stone; thence on two new new lines as follows; south 20 east poles to a hickory, south 71 east 15.6 poles to the beginning. Containing 1.70 acres Map 91 parcel 092.00

WHEREAS, the Planning Commission staff recommends _____ and the Regional Planning Commission recommends _____ of said application.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery County Board of County Commissioners assembled in regular session on this 11th day of May, 2009, that the zone classification of the property of Leslie Capps Carol England from AG / RM-2 to R-1 is hereby approved.

Duly passed and approved this 11th day of May, 2009.

Sponsor *David A. Roggio*
Commissioner _____
Approved _____

Attested: _____
County Clerk

County Mayor

**RESOLUTION OF THE MONTGOMERY COUNTY BOARD OF
COMMISSIONERS
AMENDING THE ZONE CLASSIFICATION OF THE PROPERTY OF
JIM L. BAIZE**

WHEREAS, an application for a zone change from AG Agricultural District to R-1 Single Family Residential District has been submitted by Jim L. Baize and

WHEREAS, said property is identified as County Tax Map 029, parcel 023.00, 024.00, containing 6.208 acres, situated in Civil District 13, located At the intersection of Coburn Road and Britton Springs Road on the west side of Britton Springs Road; and

WHEREAS, said property is described as follows:

Beginning at an iron pin in the western margin of Britton Springs Road, said point of beginning being 2,332.47 feet from the north line of the Garrettsburg Road, as measured along the western margin of said Britton Springs Road, and runs thence north 83 degrees 37 minutes 56 seconds west 656.73 feet to an iron pin; thence north 4 degrees 43 minutes 55 seconds east 190.50 feet to an iron pin; thence south 88 degrees 01 minute 51 seconds east 648.31 feet to an iron pin in the western margin of said Britton Springs Road; thence south along the western margin of said Road, 2 degrees 10 minutes 27 seconds west 174.71 feet to an iron pin in the western margin of said Britton Springs Road; thence south along the western margin of said Road, with a curve in said Road, interior angle of which is 6 degrees 35 minutes 16 seconds, radius 1,139.15 feet, tangent 65.56 feet, a distance of 63.98 feet to then point of beginning, and being 3.32 acres, more or less. Map 029 Parcel 024.00

Beginning at an iron pin in the western margin of Britton Springs Road, said point of beginning being 2,116.66 feet from the north line of the Garrettsburg Road, as measured along the western margin of said Britton Springs Road, and runs thence north 81 degrees 37 minutes 17 seconds west 645.17 feet to an iron pin; thence north 4 degrees 52 minutes 59 seconds east 188.77 feet to an iron pin; thence south 83 degrees 37 minutes 56 seconds east 656.73 feet to an iron pin in the western margin of said Britton Springs Road; thence south along the western margin of said Road with a curve in said Road, then interior angle of which is 6 degrees 35 minutes 16 seconds, radius 1,139.15 feet, tangent 69.56 feet, a distance of 65 feet to an iron pin in the western margin of said Britton Springs Road; thence with said Road south 8 degrees 45 minutes 43 seconds west 150.81 feet to the point of beginning, and being 3.02 acres, more or less. Map 029 Parcel 023.00

WHEREAS, the Planning Commission staff recommends _____ and the Regional Planning Commission recommends _____ of said application.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery County Board of County Commissioners assembled in regular session on this 11th day of May, 2009, that the zone classification of the property of Jim L. Baize from AG to R-1 is hereby approved.

Duly passed and approved this 11th day of May, 2009.

Sponsor David A. Piggins
Commissioner _____
Approved _____

Attested: _____
County Clerk

County Mayor

**RESOLUTION OF THE MONTGOMERY COUNTY BOARD OF
COMMISSIONERS
AMENDING THE ZONE CLASSIFICATION OF THE PROPERTY OF
DAVID & LEE ALLEN**

WHEREAS, an application for a zone change from EM-1 Single Family Mobile Home Estate District to R-1 Single Family Residential District has been submitted by David & Lee Allen and

WHEREAS, said property is identified as County Tax Map 076, parcel 027.06, containing 1.87 acres, situated in Civil District 13, located 133 feet +/- southwest of the intersection of Dennis Road and Poindexter Road on the east side of Dennis Road; and

WHEREAS, said property is described as follows:

Beginning at an iron pin located 478.78 feet +/- southwest of Dailey Road and said iron pin being further described as being located on the east right of way of an unnamed road. Thence south 63 degrees 43 minutes east 270.41 feet +/-
Thence south 63 degrees 43 minutes east 270.41 feet +/-
Thence south 28 degrees 13 minutes west 319.00 feet +/- to an iron pin
Thence north 63 degrees 34 minutes west 69.75 feet +/- to an iron pin
Thence north 63 degrees 32 minutes west 171.77 feet +/- to an iron pin located on the east right of way of the road.
Thence north 22 degrees 14 minutes 30 seconds east 104.16 feet +/-
Thence north 39 degrees 02 minutes east 129.58 feet +/- to an iron pin.
Thence north 21 degrees 39 minutes east 88.00 feet +/- to an iron pin and the point of beginning. Containing(2) two acres +/- Map 076 Parcel 027.06

WHEREAS, the Planning Commission staff recommends _____ and the Regional Planning Commission recommends _____ of said application.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery County Board of County Commissioners assembled in regular session on this 11th day of May, 2009, that the zone classification of the property of David & Lee Allen from EM-1 to R-1 is hereby approved.

Duly passed and approved this 11th day of May, 2009.

Sponsor David A. Peggins
Commissioner _____
Approved _____

Attested: _____
County Clerk

County Mayor

**RESOLUTION OF THE MONTGOMERY COUNTY BOARD OF
COMMISSIONERS
AMENDING THE ZONE CLASSIFICATION OF THE PROPERTY OF
ROWLAND SMITH**

WHEREAS, an application for a zone change from AG Agricultural District to R-1 Single Family Residential District has been submitted by Rowland Smith and

WHEREAS, said property is identified as County Tax Map 087, parcel 033.00 (p), containing 73.64 acres, situated in Civil District 13, located North of US 41-A south, South of Sango Road, west and adjacent to Bagwell Road, north of Smith Brothers Lane; and

WHEREAS, said property is described as follows:

"EXHIBIT A"

WHEREAS, the Planning Commission staff recommends _____ and the Regional Planning Commission recommends _____ of said application.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery County Board of County Commissioners assembled in regular session on this 11th day of May, 2009, that the zone classification of the property of Rowland Smith from AG to R-1 is hereby approved.

Duly passed and approved this 11th day of May, 2009.

Sponsor *David A. Peggini*
Commissioner _____
Approved _____

Attested: _____
County Clerk

County Mayor

"EXHIBIT A"

Beginning at a point in the east right of way Smith Lane, said point being the southwest corner of herein described tract, also being the point of beginning. Thence along said east right of way of said smith lane, north 09 degrees 26 minutes east for a distance of 230.13 feet +/- to a point; Thence continuing along said right of way, on a curve to the right having a radius of 1939.03 feet +/- an arc length of 404.65 feet +/-, a delta of 11 degrees 57 minutes 25 seconds +/-, a tangent of 203.06 feet +/-, a chord bearing of north 15 degrees 33 minutes 28 seconds east for a distance of 403.92 feet +/- to a point, said point being the southwest corner of the James Davidson property; Thence leaving said right of way along the south property line of said Davidson property, south 83 degrees 46 minutes 18 seconds east for a distance of 468.24 feet +/- to a point, said point being the southeast corner of said Davidson property; Thence along the east property line of said Davidson and along the east property line of the David Howard III property, north 08 degrees 51 minutes 17 seconds east for a distance of 1205.06 feet +/- to a point, said point lying in the south property line of said Howard property; Thence along the south property line of said Howard property and crossing the Erik turnkey property, south 79 degrees 25 minutes 36 seconds east for a distance of 1733.94 feet +/- to a point, said point lying in the west right of way of Bagwell Road, also being the southeast corner of the turnkey property; Thence along said west right of way, south 06 degrees 37 minutes 56 seconds west for a distance of 362.39 feet to a point; Thence continuing along said west right of way, south 07 degrees 59 minutes 49 seconds west for a distance of 1283.08 feet to a point, said point being the southeast corner of herein described tract, also lying in the north right of way of the smith brothers lane; Thence along said north right of way of said smith brothers lane, north 89 degrees 13 minutes 03 seconds west for a distance of 1.13 feet +/- to a point; Thence continuing along said north right of way, on a curve to the right having a radius of 538.59 +/- feet, an arc length of 124.54 feet +/-, a delta of 13 degrees 14 minutes 56 seconds, a tangent of 62.55 feet +/- feet, a chord bearing of north 82 degrees 31 minutes 58 seconds west for a distance of 124.26 feet +/- to a point; Thence continuing along said right of way north 75 degrees 54 minutes 21 seconds west for a distance of 380.74 feet to a point; Thence continuing along said north right of way, on a curve to the right having a radius of 250.00 feet +/-, an arc length of 39.17 feet +/-, a delta of 08 degrees 58 minutes 39 seconds, a tangent of 19.63 feet, a chord bearing of north 68 degrees 31 minutes 12 seconds west for a distance of 39.13 feet to a point; Thence continuing along said north right of way, on a curve to the left having a radius of 125.00 feet +/-, an arc length of 86.94 feet +/-, a delta of 39 degrees 51 minutes 02 seconds, a tangent of 45.31 feet, a chord bearing of north 86 degrees 26 minutes 23 seconds west for a distance of 85.20 feet +/- to a point; Thence continuing along said north right of way, on a curve to the right having a radius of 172.25 feet +/-, an arc length of 80.46 feet +/-, a delta of 26 degrees 45 minutes 53 seconds, a tangent of 40.98 feet, a chord bearing of south 85 degrees 12 minutes 39 seconds west for a distance of 79.73 feet to a point; Thence continuing along said right of way, north 81 degrees 02 minutes 10 seconds west for a distance of 965.89 feet to a point; Thence continuing along said north right of way, on a curve to the left having a radius of 253.89 feet +/-, an arc length of 139.52 feet +/-, a delta of 31 degrees 29 minutes 11 seconds, a tangent of 71.57 feet +/-, a chord bearing of south 83 degrees 18 minutes 54 seconds west for a distance of 137.77 feet to a point; Thence continuing along said right of way, south 67 degrees 34 minutes 44 seconds west for a distance of 254.75 feet to a point; Thence continuing along said right of way, on a curve to the right having a radius of 156.91 feet +/-, an arc length of 98.90 feet +/-, a delta of 36 degrees 06 minutes 39 seconds, a tangent of 51.15 feet, a chord bearing of south 85 degrees 47 minutes 49 seconds west for a distance of 97.27 feet +/- to a point; Thence continuing along said right of way, north 75 degrees, 59 minutes 08 seconds west for a distance of 168.07 feet +/- to the point of beginning Containing 73.63 acres +/- Map 087 parcel 033.00

**RESOLUTION OF THE MONTGOMERY COUNTY BOARD OF
COMMISSIONERS
AMENDING THE ZONE CLASSIFICATION OF THE PROPERTY OF
BILL MACE**

WHEREAS, an application for a zone change from R-1A Single Family Residential District to O-1 Office, Medical, Institutional & Civic District has been submitted by Bill Mace and

WHEREAS, said property is identified as County Tax Map 082C-A, parcel 051.00, containing 1.12 acres, situated in Civil District 13, located At the intersection of Mountain Way and Trough Springs Road, North of Trough Springs Road and east of Mountain Way, north of the intersection of Woodson Road and Trough Springs Road; and

WHEREAS, said property is described as follows:

Beginning at the centerline intersection of Mountain Way and Trough Springs Road, in a north direction for 50 feet +/- , thence south 76 degrees 27 minutes 07 seconds west 279.33 feet +/-, to a point
thence south 14 degrees 33 minutes 51 seconds west 44.18+/- to a point,
thence south 51 degrees 50 minutes 50 seconds east 235.72 feet +/- to a point
Thence north 55 degrees 33 minutes 05 seconds east 178.00 feet +/- to a point
thence North 12 degrees 32 minutes 56 seconds west 59.09 feet +/- to the point of beginning
Containing 1.12 acres Map 082 C Group A parcel 051.00

WHEREAS, the Planning Commission staff recommends _____ and the Regional Planning Commission recommends _____ of said application.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery County Board of County Commissioners assembled in regular session on this 11th day of May, 2009, that the zone classification of the property of Bill Mace from R-1A to O-1 is hereby approved.

Duly passed and approved this 11th day of May, 2009.

Sponsor David A. Ruggini
Commissioner _____
Approved _____

Attested: _____
County Clerk

County Mayor

RESOLUTION TO ACCEPT GRANT FUNDS FOR PARK IMPROVEMENTS AT CIVITAN PARK AND ROTARY PARK ADMINISTERED BY THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION

WHEREAS, the Tennessee Department of Environment and Conservation has awarded Montgomery County Government grant funding in the amount of \$440,000.00 from the Local Parks and Recreation Fund for park improvements at Civitan Park; and

WHEREAS, Montgomery County Government agreed in Resolution 08-2-3 to provide matching funds or in-kind services to satisfy the fifty percent (50%) funding match required by the Local Parks and Recreation Fund contract agreement; and

WHEREAS, the Tennessee Department of Environment and Conservation has awarded Montgomery County Government grant funding in the amount of \$45,000.00 from the Recreation Trails Program for the construction of an ADA compliant trail at Rotary Park; and

WHEREAS, Montgomery County Government agreed in Resolution 08-2-4 to provide matching funds or in-kind services to satisfy the twenty percent (20%) funding match required by the Recreation Trail Program contract agreement; and

WHEREAS, the Board of Commissioners deem that the best interest of Montgomery County will best be served by accepting the grant funds from the Tennessee Department of Environment and Conservation for park improvements at Civitan Park and for an ADA trail at Rotary Park.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery County Board of Commissioners assembled in Regular Session on this 11th day of May, 2009 that **Montgomery County is hereby authorized to accept the Local Parks and Recreation Fund grant in the amount of \$440,000.00 for park improvements at Civitan Park and \$45,000.00 from Recreation Trails program grant for the construction of an ADA compliant trail at Rotary Park.**

Duly passed and approved this 11th day of May, 2009.

Sponsor _____

Commissioner _____

Approved _____

County Mayor

Attested _____

County Clerk

**RESOLUTION OF THE MONTGOMERY COUNTY BOARD OF COMMISSIONERS
AMENDING THE MONTGOMERY COUNTY PERSONNEL POLICY HANDBOOK**

WHEREAS, the current Montgomery County Personnel Policy Handbook was last revised in 2007; and was in need of review and federal mandated revisions; and

WHEREAS, the Montgomery County Personnel Policy Handbook has been reviewed by the Director of Human Resources, and recommendations for two amended policies were presented, reviewed and opened for comments by the Department Heads, Elected Officials and Personnel Advisory Committee; and

WHEREAS, the opportunity for comments, suggestions, etc has closed; and

WHEREAS, comments and suggestions have been duly noted and applied to the revisions as appropriate; and

WHEREAS, the revision in this final form, attached, is being presented to the Commission for adoption.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery County Board of Commissioners assembled in Regular Session on this 11th day of May, 2009, that the revised amendments (attached) to the Montgomery County Personnel Policy Handbook are accepted and ratified.

Duly passed and approved this 11th day of May, 2009.

Sponsor _____

Commissioner _____

Approved _____

County Mayor

Attested _____

County Clerk

Family/Medical Leave (FMLA)

POLICY STATEMENT

It is the policy of Montgomery County Government to comply with the requirements of the Family and Medical Leave Act of 1993 (FMLA) which entitles employees to time away from work due to the birth or care of a newborn, the placement of a child through adoption or foster care, the care of a spouse, child, or parent with a serious health condition, or due to a serious health condition of the employee, or for military caregiver leave.

PURPOSE

The purpose of this policy is to establish guidelines governing Family Care and Medical Leaves of Absence.

Eligibility

To be eligible for a Family Care and Medical Leave of Absence, employees must (a) have worked for the County for at least 12 months prior to the date upon which the leave is to commence; and (b) have worked at least 1,250 hours in the 12 months preceding the date upon which the requested leave commences.

Types of Leaves

Family and Medical Leaves of Absence may be requested for any of the following situations:

- The birth of an employee's child within the first 12 months after birth;
- The placement of a child with the employee for adoption or foster care and to bond with and care for the child (within the first 12 months after placement);
- The serious health condition of an employee's child, spouse, or parent, or
- An employee's own serious health condition.
- Maternity Leave: Employees who are disabled because of pregnancy, childbirth, or related medical conditions may also be entitled to take a Family and Medical Leave of Absence.
- The employee experiences a qualifying exigency that arises out of the fact that a spouse, parent, or child has been called to or is on active duty as a member of the National Guard or military reserves (it does not apply to active duty served by a member of the regular armed forces).

Note: When leave is needed to care for a member of the employee's family or the employee's own illness for three (3) or more days it must be a Family and Medical Leave eligible event.

Military Caregiver Leave

An employee who is the spouse, parent, child or next of kin of a current member of the armed forces (including the regular armed forces) who was injured while on active duty may be eligible for up to 26 weeks of FMLA leave in a 12-month period, including the types of leave listed above.

Married Couples Who Work for Montgomery County Government

If an employee and his/her spouse both work for Montgomery County Government, they are both eligible for leave. The employee and employee spouse may be limited to a combined total of 12 weeks of FMLA leave in a 12-month period if the leave is taken for:

- The birth, adoption, or foster placement of a child;;
- To care for and bond with such child who does not suffer from a serious health condition;
- To care for a parent with a serious health condition; or
- A combination of the above.

For military caregiver leave, the employee and employee spouse may be limited to a combined total of 26 weeks of leave in a 12-month period, including the types of leave listed above in this paragraph.

Leave Duration

An eligible employee is entitled to take a total of twelve (12) weeks of unpaid leave under this policy during a twelve (12) month period; the twelve (12) month period begins on the first day of the first approved Family Care and Medical Leave. A rolling twelve (12) month period, measured backward from the date the leave commences, will be used to determine the amount of FMLA leave available to an employee.

For example:

- An employee who becomes eligible for Family and Medical leave on September 1, 2006 does not have an established Family Care and Medical Leave twelve (12) month period until the employee requests this leave for a particular purpose.
- Pursuant to an appropriate first request, the above employee goes on a Family Care and Medical Leave on January 15, 2007. This employee's twelve (12) month leave period runs from January 15, 2007 to January 14,

2008. On January 15, 2008, or any date thereafter, the employee is eligible for a second twelve (12) weeks of Family Care and Medical Leave, provided that the employee has worked 1250 hours during the previous twelve (12) months.

An employee's entitlement to an FMLA leave for the birth or placement of a child expires twelve (12) months after the birth or placement.

Intermittent Leave

Leave taken for childbirth or placement (adoption or foster care) may not be taken on an intermittent or reduced schedule. This leave may be taken only within twelve (12) months of the date of the birth or placement of the child.

- A pregnant employee may take intermittent leave for prenatal examinations or for her own condition, such as for periods of severe morning sickness.

Leave taken to care for a spouse, child or parent or for the serious health condition of the employee, or for military caregiver leave may be taken on an intermittent or reduced schedule when medically necessary. Taking leave on an intermittent or reduced schedule under this paragraph shall not result in a reduction in the total amount of leave to which an employee is entitled.

- For example, one who takes intermittent leave under this policy, who normally works a five-day week and who takes one day of leave under this policy will use one-fifth of one week of leave available. With this intermittent schedule, the employee could take one day (one-fifth of a week) for up to fifty-two (52) weeks (or one year) to get the full twelve (12) weeks of Family Care and Medical Leave.
- Under a reduced schedule for Family Care and Medical Leave, if a full-time employee who regularly works five days a week must take off one half of the workweek, one half week (or two and one half days) of leave under this Policy is used each week. Thus it could take the employee up to twenty-four (24) weeks to use the entire entitlement of Family Care and Medical Leave.

NOTE: An exempt employee's taking Family Care and Medical Leave by the hour is not a violation of the employee's exempt status under the Fair Labor Standards Act.

If leave is taken on an intermittent or reduced work schedule, the County retains the discretion to transfer the employee temporarily to an alternative position with equivalent pay and benefits that better accommodates the employee's leave schedule.

Concurrent Leave

Employees must use any accumulated sick leave or compensatory leave to the extent available during FMLA leave unless such leave is covered under OJI, in which case the employee may use accumulated leave time only for the purpose of satisfying any waiting period. Absences in excess of these accumulated days will be treated as FMLA leave without pay.

PROCEDURE

Employee Responsibility

The employee is responsible for notifying his/her immediate supervisor, in writing, that a leave will be required, the reason for the leave as well as the anticipated duration of the leave.

- An employee shall give the County thirty (30) days advanced notice of the need to take leave under Family Care and Medical Leave when it is foreseeable for the birth or placement of a child for adoption or foster care, or for planned medical treatment.
- When advanced notice is not practicable (e.g., premature birth, emergency injury, etc.), notice shall be given as soon as practicable, ordinarily within one (1) or two (2) work days of the emergency need for the leave.
- An employee shall follow standard department notice for an absence in the case of an emergency need for this leave.
- If the leave is because of a serious health condition, the employee must provide Medical Certification from the physician.

Management's Responsibility

The employee's immediate supervisor is responsible for discussing the leave with the employee, informing Human Resources of the leave, and ensuring that the employee is aware of his/her rights and obligations under this policy.

- The employee's immediate supervisor will notify Human Resources, which will provide the employee with a FMLA Notice.
- The Elected Official/Department Head may require an employee who is using leave under these provisions to report periodically (typically every two weeks) on the status of the situation and the intention of the employee to return to work.

Human Resources' Responsibility

Human Resources is responsible for compliance with this policy and ensuring that all employees eligible for Family Care and Medical Leave are granted time off in a non-discriminatory manner.

Human Resources is responsible for ensuring that the employee is provided with a written notice detailing the specific expectations and obligations of the employee and explaining the consequences of a failure to meet these obligations. The written notice information shall include the following, as appropriate:

- The leave will be counted against the employee's annual Family Care and Medical Leave entitlement;
- Any requirement/request that the employee furnish medical certification of a serious health condition, and the consequences of failure to do so;
- The requirement that the employee substitute paid leave(s);
- The requirement that the employee make any premium payments to the Human Resources Office to maintain such benefits, the arrangements by which the payments could be made, and consequences of failure to make such payments;
- Any requirement for the employee to present a fitness-for-duty certification to be restored to employment in the department upon return;
- If the employee is a highly paid "key" employee and potential consequences that restoration to an equivalent job may be denied;
- The employee's right to restoration to the same or an equivalent position upon return from leave if employee has returned within or before the twelve week period; and
- The employee's potential liability to pay health insurance premiums which were paid by the County during the employee's unpaid Family Care and Medical Leave, if the employee fails to return to work after taking leave.

Under specified and limited circumstances, the County may deny reinstatement to work - but not the use of FMLA leave - to certain highly-paid, salaried ("key") employees. In order to do so, Human Resources will:

- Notify the employee of his/her status as a "key" employee in response to the employee's notice of intent to take FMLA leave.
- Notify the employee as soon as the County decides to deny job restoration and explain the reasons for this decision.
- Offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice.

Note: A "key" employee is a salaried "eligible" employee who is among the highest paid 10% of employees within 75 miles of the worksite.

Medical Certification

All requests for Family Care and Medical Leave in connection with an employee's own serious health condition or to care for a child, spouse, or parent with a serious health condition, or military caregiver leave must be supported by medical

certification from a health care provider. Employees must provide the required medical certification usually within 15 calendar days of the County's request for certification, unless it is not practicable under the circumstances to do so. Failure to provide the certification may result in the denial of the leave until such certification is provided. If an employee refuses to provide certification, his/her leave request may be denied and the employee may be disciplined.

Such a certificate from the health care provider shall state the following:

- The date on which the serious health condition commenced;
- The probable duration of the condition;
- For purposes of leave to care for a child, spouse, or parent with a serious health condition, including certifications for military leave, a statement that the eligible employee is needed to care for individual and an estimate of the amount of time that such employee is needed to care for child, spouse, or parent; and
- For purposes of leave for an employee's serious health condition, a statement that the employee is unable to perform the essential functions of the position at Montgomery County Government;
- In the case of certification for intermittent leave, for leave on a reduced leave schedule, or for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;
- In the case of certification for intermittent leave, or for leave on a reduced leave schedule, a statement of the medical necessity for the intermittent leave or for leave on a reduced leave schedule and the expected duration of the intermittent leave or reduced leave schedule; and
- In the case of certification for intermittent leave or for leave on a reduced leave schedule, a statement that the employee's intermittent leave or leave on a reduced schedule (a) is necessary for the care of the child, parent, or spouse who has a serious health condition or (b) will assist in their recovery, and a statement as to the expected duration and schedule of the intermittent leave or reduced leave schedule.

Montgomery County Government may require the employee to obtain a second opinion from a doctor of the County's choosing at the County's expense if it has a reasonable question regarding the medical certification provided by the employee. In lieu of a second opinion Montgomery County Government may contact the health care provider directly to clarify or authenticate a medical certification, including certifications for military caregiver leaves. Second opinions may not be required for military caregiver leave.

Separate certification may also be required regarding the nature of the family member's military service and/or the existence of qualifying exigency.

Pay During Leave

Time used for Family Care and Medical Leave will be on an unpaid basis except for that portion, if any, of the Family Care and Medical Leave which constitutes the use of accrued sick time and/or annual leave.

An employee taking leave under this policy shall first take any paid leave available under the provisions and limitations of Sick Leave; then exhaust any accrued compensatory time under the provisions of Compensatory Leave, then may choose to exhaust any paid Annual Leave available under the provisions of Annual Leave and then shall be in a leave without pay status for the balance of the twelve (12) week leave period. Any sick, compensatory and/or annual leave time taken will be regarded as part of Family Care and Medical Leave.

- For example, if an employee qualifies for six (6) weeks of Family Care and Medical Leave because of the employee's own serious health condition, that leave would be with pay to the extent that the employee had accrued sick leave.

Pay Status: Employees are considered to be in a pay status any time the County is paying their salary/wages.

Accrual of Sick and Annual Leave

While an employee may continue to accrue sick leave and annual leave if the employee remains in pay status, an employee taking leave under this Policy shall not accrue sick and annual leave time while in an inactive pay status. During any period of leave approved under this Policy, the employee's original date of employment (service date) shall be retained.

Benefits Coverage

During Family Care and Medical Leave, the status of an employee's benefits is as follows:

- During any period that an employee takes leave under this Policy, the County shall continue the employee's health plan for the duration of the leave at the same level and conditions of coverage as if the employee had been in employment continuously for the duration of the leave.
- During any period of leave approved under this Policy, the County shall continue to contribute the employer's credit portion toward the employee's health insurance plan. Employees will be eligible to continue their Group Insurance coverage provided they pay the related premiums equal to the employee contribution rates in effect at the time and any subsequent increase that may occur during the leave.

- During any period of leave approved under this Policy, the County shall continue to cover the cost of the employee's basic life insurance.
- During any period of paid leave approved under this policy or during a period of six (6) months or less of unpaid leave approved under this policy, the County shall continue to cover the cost of employee's enrollment in the long term disability plan.

During any period of leave approved under this Policy, the employee shall make arrangements with Human Resources to pay the cost of other benefits for which the employee would ordinarily be responsible during any period of unpaid leave.

- Payment will be required in advance of the leave date or as soon as practicable after the start of the leave date and will cover the anticipated duration of the leave.
- Human Resources shall terminate any benefits for which the employee has not made appropriate payment after such payment is past due for thirty (30) days.
- Human Resources shall mail to the employee notice that the coverage will cease at least fifteen (15) days before coverage is ceased. The letter will advise the employee that the coverage will cease retroactively on a specific date which is the date the premium was due.

The employee shall be obligated to repay to Montgomery County Government any health insurance premium which the County paid on behalf of the employee, if the employee fails to return to Montgomery County Government employment after an approved period of leave under this Policy, and if the employee fails to return to work for a reason other than the following:

- The continuation, recurrence or onset of a serious health condition that entitled the employee to leave under this policy, or
- Other circumstance beyond the control of the employee.

Return to Work

When an employee is due to return to work from a Family Care and Medical leave, the employee must present a fitness for duty certificate that the employee is able to resume work. The County may delay reinstatement of an employee who fails to provide the certification until the certification is submitted.

- A fitness for duty certification from an employee's health care provider that the employee is able to resume work shall be in accordance with Montgomery County Government's customary and uniformly applied procedures.
- Fitness for duty certificate must be completed by the same health care provider that attended the illness that necessitated the FMLA absence.

If the employee is unable to return to work on the estimated date, employees must notify Human Resources prior to the return date and must obtain another statement with another estimated or firm date of return. Employees who fail to notify Montgomery County Government or furnish this statement may be subject to disciplinary action up to and including discharge.

An employee who takes leave under this Policy shall be entitled, upon return from such leave (within or at the conclusion of 12 weeks):

- a) to be restored by the department to the position of employment held by the employee when the leave commenced or
- b) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another County position under this Policy; however, the County's obligation to the employee shall then be determined by the Americans with Disabilities Act.

An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits, and working conditions, including privileges, prerequisites, and status as were provided when the leave began without added requirements such as a new qualification period. It must involve the same or substantially similar duties and responsibilities which must entail substantially equivalent skill, effort, responsibility, and authority.

Any increases in pay or changes in benefits that are not dependent upon seniority or performance accrual which change during the leave period will also be reflected upon the employee's return to work.

With the approval of the Department Head or Elected Official, the position of an employee taking leave under this Policy may be filled by a temporary employee during the period of approved leave.

If an employee is a qualified individual with a disability under the Rehabilitation Act, the County shall make reasonable accommodations, etc., barring undue hardship. The Equal Employment Opportunity Commission advises that employers may consider FMLA leave already taken when deciding whether granting leave in excess of 12 weeks as an accommodation under the Rehabilitation Act poses an undue hardship. This does not mean, however, that more than 12 weeks of leave automatically poses an undue hardship under the Rehabilitation Act. Agencies must apply the full undue hardship analysis under the Rehabilitation Act to each individual case to determine whether leave in excess of 12 weeks poses an undue hardship.

An employee's right to be returned to the same or equivalent position under the FMLA applies to the position held at the time the employee commences FMLA leave. If an employee is unable to perform the essential functions of the same or equivalent position because of a disability, even with reasonable accommodation, the Rehabilitation Act may require the agency to make a reasonable accommodation when the employee returns. An agency may not change the essential functions of an employee's position in order to deny an employee's rights under the FMLA. However, an employee may voluntarily accept an alternative position (e.g., "light-duty" position) rather than use leave under FMLA.

Leave Beyond Twelve Weeks

Employees who are unable to return to work and have exhausted their 12 weeks of FMLA leave in the designated "12 month period" no longer have FMLA protections of leave or job restoration. If an employee's absence exceeds the FMLA period of 12 weeks, upon the employee's return, the department may:

- Place the employee in same position;
- Offer the employee a different position he/she most qualified; or
- Terminate employment.

FMLA Definitions

For purposes of this policy, the following definitions shall apply:

The term "**parent**" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child (minor). This definition does not include parent-in-law.

The term "**serious health condition**" means an illness, injury, impairment, or physical or mental condition that involves the following:

- a. Inpatient care in a hospital, hospice, or residential medical care facility; or
- b. Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider may include any one or more of the following:
 - a. A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment thereof, or recover thereafter) exists if:
 - i. duration of incapacity lasts more than 3 full consecutive calendar days;
 - ii. is an in-person treatment at least once within 7 days of first day of incapacity; and
 - iii. either is a regimen of continuing treatment initiated by HCP during first treatment or is a second in-person visit for

- treatment (the necessity of which is determined by HCP) within 30 days of first day of incapacity.
- b. Any period of incapacity due to pregnancy or for prenatal care.
 - c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i. Requires periodic visits for treatment by a health care provider or by a nurse or physician's assistant under the direct supervision of a health care provider;
 - ii. Continues over an extended period to time (including recurring episodes of a single underlying condition); and
 - iii. May cause episodic rather than continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.)
 - d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider. Examples include Alzheimer's, a severe stroke, or terminal stages of a disease.
 - e. Any period of absence to receive multiple treatments by a health care provider or by the provider of healthcare services under orders of or on referral by a health care provider, either for restorative surgery after an accident or other injury, for a condition that would likely result in a period of incapacity for more than three (3) full consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis) or chronic conditions, such as asthma, diabetes, and epilepsy, that continue over an extended period of time (i.e., from several months to several years), often without affecting day-to-day activities, but may cause episodic periods of incapacity of less than 3 days.

Note:

- A serious health condition is not intended to cover short-term conditions for which treatment and recovery are very brief; for those purposes, employees should refer to the Sick Leave Policy.
- The statute does not provide for placing an employee in an alternative or light-duty position in lieu of his or her entitlement under the FMLA. While the County cannot require an employee to accept an alternative position offer, an employee continues to maintain the right to request light duty assignment in lieu of unpaid leave under the FMLA.
- For purposes of Family Care and Medical Leave, continuing treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does NOT include routine physical examinations, eye examinations or dental examinations.
- A regiment of continuing treatment includes a course of prescription medication (e.g., antibiotic) or therapy requiring special equipment to resolve

or alleviate the health condition (e.g., oxygen). A regiment of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider is NOT, by itself, sufficient to constitute a regiment of continuing treatment for purpose of Family Care and Medical Leave.

- Serious health condition means that absences are necessary on a recurring basis and for more than a few days and includes heart attacks, cancers, strokes, severe respiratory conditions, spine injuries, injuries caused by serious accidents on or off the job, etc. Generally absences from work or the incapacity to perform other daily activities, in the case of a family member, must be for a period of more than three (3) days.

The term “**child**” means a biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, or a son or daughter of a person standing in loco parentis, who is:

- Under eighteen (18) years of age, or
- Eighteen (18) years of age or older and incapable of self care because of a mental or physical disability.

The term “**spouse**” means a husband or wife, as the case may be. Unmarried domestic partners do not qualify for leave of absence to care for their partners.

The term “**health care provider**” means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner, nurse-midwife, Christian Science practitioners and clinical social workers, or other persons determined by the United States Secretary of Labor to be capable of providing health care services. The federal law places restrictions on specific purposes under which chiropractors and Christian Science practitioners may be health care providers; an employee shall check with Human Resources for an interpretation before relying that these persons are health care providers.

Intermittent Leave or Reduced Schedule Leave - is leave taken in a manner other than in a single block of several weeks.

The 12 Month FMLA Period - The 12 month period during which an employee is entitled to 12 work weeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to 12 weeks of leave during the 12 month period after the leave begins. The next 12 month period will begin the first time the employee requested FMLA leave after the completion of the previous 12 month period.

The term “**Active Duty or Call to Active Duty Status**” means military duty under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation pursuant to Section 688, Section 12301(a), Section 12302, Section 12304, Section 12305, Section 12306, or Chapter 15 of Title 10 of the United States Code, or pursuant to any other law during a war or during a national emergency declared by the President or Congress as long as it is in support of a contingency operation.

Note 1: Means that the military member must be a member of the National Guard of Reserves; employees may not take leave if the family member is in the Regular Armed Forces except certain retired members of the Regular Armed Services.

Note 2: Means a “federal” (not State) call to active duty.

Types of Qualifying Duty:

- Duty Under Section 688 – authorizes ordering to active duty retired members of the Regular Armed Forces and members of the retired Reserve who retired after completing at least 20 years of active service.
- Duty Under Section 12301(a) – Authorizes ordering all Reserve component members to active duty in the case of war or national emergency.
- Duty Under Section 12302 – Authorizes ordering any unit or unassigned member of the Ready Reserve to active duty.
- Duty Under Section 12304 – Authorizes ordering any unit or unassigned member of the Selected Reserve and certain members of the Individual Ready Reserve to active duty.
- Duty Under Section 12305 – Authorizes the suspension of promotion, retirement or separation rules for certain Reserve components.
- Duty Under Section 12406 – Authorizes calling the National Guard into federal service in certain circumstances.
- Duty Under Chapter 15 – Authorizes calling the National and state military into federal service in the case of insurrections and national emergencies
- Duty under any other provision of law during a war or national emergency declared by the President or Congress so long as it is in support of a contingency operation.

Contingency Operation is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations or hostilities against an enemy of the US or against an opposing military force: or

- Results in the call or order to, or retention on, active duty of members of the uniformed services under Sections 688, 12301(a), 12302, 12304, or 12403 or under Chapter 15 of Title 10 of the United States Code, or under

any other provision of law during a war or during a national emergency declared by the President of Congress.

- **Note:** A military member's active duty order will generally specify if the military member is serving in support of a contingency operation by citation to the relevant section or chapter of Title 10 and/or by reference to the specific name of the contingency operation.

The term "**Covered Military Member**" is a member of the military who 1) is "on active duty or called to active duty status," and 2) is an employee's spouse, son, daughter, or parent.

The term "**Son or Daughter on Active Duty or Call to Active Duty Status**" is a member of the military who 1) is "on active duty or call to active duty status," 2) is an employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis; and 3) is of any age.

The term "**Parent**" means an employee's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter (as the term "**son or daughter**" is defined in the regulations), but does include "**parents in-laws.**"

- **Note:** By implication under the regulations, the term "son or daughter" means when the employee was under age 18 or was age 18 or older and incapable of self-care because of a mental or physical disability at the time FMLA begins.

The term "**Qualifying Exigency**" includes any one or more of the following non-medical, non-routine activities and no others:

1. **Short-notice deployment activities:** a) If a military member receives 7 or less calendar days' notice prior to the date of deployment, an employee may take FMLA leave to address any issue arising from an impending call or order to active duty in support of a contingency operation (e.g. the employee may take leave for any purpose related to the military duty, including to spend time with military member, without proving that it qualifies as an exigency). b) An employee may take FMLA leave for up to 7 calendar days beginning on the date the military member receives the call or order to active duty (even if the 7-day leave period ends after the military member has been deployed).
2. **Military events and related activities:** a) To attend any official ceremony, program, or event sponsored by the military that is related to the active duty or call to active duty status of the military member (e.g. arrival or departure ceremonies); b) To attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or American Red Cross that are related to the active duty or call to active duty status of a military member

- (e.g. family briefings that occur pre-deployment, during deployment, or post-deployment).
3. **Childcare and school activities:** a) To make alternative childcare arrangements of a military member's child (e.g. when existing arrangements need to be changed); b) To provide childcare of a military member's child on an urgent, immediate need basis but not on a routine, regular, or everyday basis (e.g. when military duty disrupts preexisting arrangements; when military member is no longer able to transport the child to and/or from school or childcare; to pick up a sick child at school or daycare); c) To enroll in or transfer a military member's child in a new school or day care facility (e.g. when the child is moved or relocated due to the military duty); and/or d) To attend meetings with staff at a school or daycare facility (e.g. meetings with school officials regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, but not for routine academic concerns).
 4. **Financial and legal arrangements:** a) To make or update financial or legal arrangements to address the military member's absence while on active duty or call to active duty status (e.g. preparing and executing financial and healthcare power of attorney, transferring bank account signature authority, enrolling in the Defense Enrollment Eligibility Reporting System/DEERS, obtaining military identification cards, or preparing or updating a will or living trust, but not for routine matter such as paying bills); and/or b) To act as the military member's representative before a federal, state or local agency for purposes of obtaining, arranging, or appealing military services benefits while the military member is on active duty or call to active duty status (up to a period of 90 days following the termination of the military member's active duty status).
 5. **Counseling activities:** a) The need for counseling arises from the military member's active duty or call to active duty; b) Such counseling is provided by someone other than a health care provider (e.g. military chaplain, pastor/minister, a non-HCP offered by the military or a military service organization); and c) The counseling is for the employee, the military member, and/or the military member's child.
 6. **Rest and recuperation activities:** a) If a military member is granted short-term, temporary, rest and recuperation leave during the period of deployment, an employee may take FMLA leave to spend time with the military member (to foster strong relationships among military families and due to the limited opportunities to spend time with their families while on active duty); b) An employee may take FMLA leave for such purpose up to 5 days for each instance of rest and recuperation (presumably meaning 5 work days).
 7. **Post-deployment activities:** a) To attend arrival ceremonies, reintegration briefings and events, and other official ceremony or program sponsored by the military (e.g. briefings, mental and physical screenings) for a period of 90 days following termination of the military member's active duty status (which is not an exact 90 days but is intended to

coincide with the DOD's "Yellow Ribbon Reintegration Program," which conducts reintegration programs at approximately 30-, 60-, and 90- day intervals following demobilization/release from active duty); b) To address issues that arise from the death of a military member while on active duty status (e.g. meeting and recovering the body, making funeral arrangements).

8. **Additional activities:** an employee may take FMLA leave for other exigencies, provided: a) It arises out of the military member's active duty/call to active duty; b) The employer and employee mutually agree that such leave shall be considered a qualifying exigency; and c) The employer and employee mutually agree on both the timing and duration of the leave. Note: This type of activity is intended to cover situations that are unforeseen and not within any prior type of exigency.

The term "**Covered Servicemember**" is a current member (including a former member on the temporary disability retired list, but excluding a member on the permanent disability retired list and other retired/discharged members) of the Regular Armed Forces, National Guard or Reserves:

- Who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list (TDRL), all of which can be determined by the servicemember's authorized health care provider.
- For a serious injury or illness incurred in the line of duty on active duty, which can be determined by the servicemember's authorized health care provider.

The term "**Serious Injury or Illness**" is an injury or illness incurred by a covered Servicemember: a) in the line of duty on active duty; and b) that may render the Servicemember medically unfit to perform the duties of the servicemember's office, grade, rank or rating.

NOTE: The above determination is to be made by the servicemember's authorized health care provider, but if said health care provider cannot make such a determination, he/she may rely on information from an authorized DOD representative (every injured/ill Servicemember has an assigned DOD representative).

The term "**Outpatient Status**" refers to the status of a covered Servicemember who is assigned to: a) a military medical treatment facility as an outpatient; or b) a unit established for the purpose of providing command and control of members of the military receiving medical care as outpatients.

The term "**Son or Daughter of Covered Servicemember**" refers to a covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a

child for whom the covered Servicemember stood in loco parentis, and who is of any age.

The term “**Parent of a Covered Servicemember**” refers to a covered servicemember’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered Servicemember, but does not include “parents in-law.”

The term “**Next of Kin of a Covered Servicemember**” refers to the nearest blood relative or a covered Servicemember (other than his/her spouse, parent, son, daughter) in the following priority order: a) a blood relative designated in writing by the Servicemember as his/her nearest blood relative for purposes of caregiver leave; b) blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions; c) brothers and sisters; d) grandparents; e) aunts and uncles; and f) first cousins. **Note:** if there are multiple family members within same level of relationship, all are “**next of kin**” and each can take caregiver leave; if there is a designated next of kin, he/she is the only next of kin.

Tobacco Free Workplace

POLICY STATEMENT

Montgomery County Government in an effort to improve the health and welfare of its employees is implementing a Tobacco-Free Workplace as part of the County's ongoing efforts to ensure a healthful workplace.

PURPOSE

The purpose of this policy is to provide a healthful work environment for all Montgomery County Government employees and to comply with the various laws and regulations governing workplace smoking.

PROCEDURE

Tobacco is a proven health and safety hazard, and has been proven to be the leading cause of preventable death in the United States. Tobacco use is not just detrimental to our physical health; it impacts our financial health as well. As such, this policy is being established to promote healthier life styles. The County does not wish to regulate employees' private lives, but it must take steps to protect employees from potential harmful substances. This policy will apply to employees, visitors, suppliers and customers.

All Montgomery County Government locations will be tobacco-free environments. Tobacco use of any kind will be prohibited in all buildings or enclosed walkways at all times. This policy bans the use of products such as pipes, cigars, cigarettes, chew and snuff; spit less tobacco and clove cigarettes.

County property covered by this policy includes, without limitation, all County owned or leased buildings to any area enclosed by the perimeter (outermost) walls of the building, including restrooms, warehouses, storage spaces, garages, bay areas atriums, balconies, stairwells and other similar building features considered "within a building" under the County's ownership or control. Montgomery County Government vehicles are covered by this policy at all times regardless of whether they are on County property at the time.

Employee's Responsibility

County Government has a vital interest in promoting employee well-being and maintaining a safe, healthy and efficient work environment. It is expected that employees share the responsibility of promoting and maintaining such an environment.

All employees are expected to comply with this policy and violations will subject the individual to appropriate management action. All employees are authorized and encouraged to communicate this policy with courtesy, respect, and diplomacy, especially with regard to visitors.

Employees found using tobacco on Company property are in violation of this policy and are subject to disciplinary action, up to and including termination. Individuals who use tobacco products will be responsible for their proper disposal.

An employee who does not comply with the policy will first be reminded of the policy through a documented verbal warning. The employee will be informed of the services offered through the Montgomery County Government and available smoke cessation programs. A second occurrence will result in suspension without pay and a third occurrence will be cause for termination.

Employer's Responsibility

Responsibility for compliance with this policy rests with all Department Heads, Elected Officials and their designated supervisors. Department Heads and Elected Officials will need to set independent guidelines and procedures to govern the frequency and the length of time employees may be away from their work area.

If an employee is extending specified break times or maximizing the time spent away from his/her desk due to tobacco use that should be addressed as would any other situation where employees take extended or extra breaks. Employees should understand that continued use of excessive breaks will likely have an impact on their performance evaluations.

RESOLUTION OF THE MONTGOMERY COUNTY BOARD OF COMMISSIONERS
TO TRANSFER MONIES FOR THE GENESIS LEARNING CENTERS D/B/A
MONTGOMERY COUNTY TEEN LEARNING CENTER

WHEREAS, the Genesis Learning Center, d/b/a the Montgomery County Teen Learning Center that provides educational and therapeutic day treatment services to “youth at risk”, whose social function in school and society has been unsatisfactory. The age of the target population is 13 to 18 years of age. The program prevents the youth from ever entering the state’s custody and to strengthen the youth’s ties and relationships with his/her family or community. Services are tailored to the needs of each child and family in order to break the cycle of peer led dependency. It is anticipated that this Teen Learning Center will service approximately 100 youth this funding period. The program currently serves 36 youth on a daily basis who have come before the Juvenile Court. Over the last ten years the program has served over 1,300 families. The program maintains a waiting list of typically 40-70 on our traditional educational program and typically 20-35 on our GED program list; and

WHEREAS, the Genesis Learning Center needs a total of \$39,976.00 to remain operational through the end of this school year as the Department of Children’s Services has been funding the Teen Learning Center since 1994 and has now cut funding by \$140,694.00 for the Fiscal year of 2008-2009; and

WHEREAS, the Montgomery County Juvenile Court would like to award the Genesis Teen Learning Center the amount of \$39,976.00 to keep the program operational until the end of the school year and the Montgomery County Juvenile Court requests permission to transfer said funds from account 101-53300-00000-53-53990 to the account of 101-53902-00000-53-53120.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery County Board of Commissioners assembled in Regular Session on this 11th day of May, 2009, that \$39,976.00 be transferred from the Montgomery County Juvenile Court Account 101-53300-00000-53-53990 to the Genesis Learning Center Account 101-53902-00000-53-53120 and be available for the department's use through procedures established by the 1957 Purchasing Act.

Duly passed and approved this 11th day of May, 2009.

Sponsor _____

Commissioner _____

Approved _____

County Mayor

Attested _____

County Clerk

