

ORDINANCE NO. 1999
AN ORDINANCE ESTABLISHING RULES OF PROCEDURE
FOR THE MAYOR-COUNCIL FORM OF GOVERNMENT
FOR THE CITY OF PRICHARD, ALABAMA

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD, ALABAMA, that the order of procedure in all instances for meetings of the Council shall be as follows:

SECTION ONE: Meetings to be Open. All meetings of the Council and all meetings of a quorum of a committee or subcommittee of the Council shall be open to the public and news media, except on those occasions when the Council, a committee or a subcommittee thereof may choose to go into executive session for the purposes authorized by and in accordance with *The Alabama Open Meetings Act*, Act No. 2005-40, *Acts of Alabama*, and codified at §36-25A-1 et seq., *Code of Alabama* 1975.

SECTION TWO: Regular Meetings. The Council shall hold regular public meetings in the Council Chamber at City Hall as follows:

- (a) *Regular Scheduled Meetings.* The Council shall hold regular public meetings in the Council Chamber at City Hall on Thursday of each calendar week at 5:30 p.m. Each council meeting will be preceded by a Pre-Council Conference one (1) hour before the regularly scheduled meeting in the Council Conference Room. Unless otherwise rescheduled by notice in accordance Open Meetings Act, if such meetings fall on a legal holiday, the meeting shall be adjourned until, and held on, the following day at 5:30 p.m.
- (b) All meetings of the Council shall be held in such Council Chamber except when otherwise ordered or adjourned; provided, however, that nothing in this Section shall preclude conferences and meetings of the Council outside the Council Chamber so long as they are scheduled and noticed in accordance with the Alabama Open Meetings Act.
- (d) The mayor shall be given notice of all council meetings and shall have the privilege of attending the meetings of the council and of taking part in the deliberations thereof. The mayor shall not have the right to vote on any matter that is presented to the council.

- (d) **Posting of Notice.** The City Clerk of the City of Prichard shall post a notice of all meetings described in this Section at least seven (7) calendar days prior to the meeting on the bulletin board located in the lobby of City Hall. The "Posted Notice" required by this Section shall include the following:

- I. The time of the meeting;
- ii. The date of the meeting;
- iii. The Place of the meeting; and
- iv. If a preliminary agenda is not available, a general description of the nature and purpose of the meeting; or
- v. If a preliminary agenda is created; it shall be posted, as soon as practicable, next to the notice required by this subsection.

SECTION THREE: Special or Called Meetings.

- (a) The Council may hold such special or other called meetings as the business of the City may require. Special or other called meetings of the Council shall be called as follows:
- (I) The President of the Council shall call special meetings of the Council, by written notice, whenever, in his or her opinion, the public business may require it; or
 - (ii) The President of the Council shall call special meetings of the Council, by written notice, whenever two (2) members of the Council or the mayor request the President in writing to call such meeting.
 - (iii) Upon the failure or refusal of President to call such meeting when requested, the two members of the Council or the mayor making the request shall have the right to call such meeting, by written notice.
- (b) **Written Notice.** The written notice calling for a special meeting shall be filed with the City Clerk and shall specify the time, place and purpose of the meeting. Notice of the call of such special meetings shall be given in writing by the City Clerk to the Mayor, the City Attorney, the Council Attorney, and to each Council Member, **not less than 24 hours** before such special meeting shall commence, or not less than 48 hours if the notice has been properly addressed and placed in the United States mail with correct postage thereon, before such meeting shall commence. Such notice shall be spread on

the minutes of the meeting, unless there is entered a Waiver of Notice signed by all Council Members.

- (c) **Public Notice; Posting.** The City Clerk of the City of Prichard shall post a notice of the Special or Called Meeting described in this Section as soon as practicable after the meeting is called, **but in no event less than 24 hours before the meeting is scheduled to begin**, on the bulletin board located in the lobby of City Hall. The "Posted Notice" required by this Section shall include the following:

- I. The time of the meeting;
- ii. The date of the meeting;
- iii. The Place of the meeting; and
- iv. If a preliminary agenda is not available, a general description of the nature and purpose of the meeting; or
- v. If a preliminary agenda is created, it shall be posted, as soon as practicable, next to the notice required by this subsection.

- (d) **Emergency Meeting; Posting of Notice.** In the event a Special or Called Meeting is called under emergency circumstances requiring immediate action to avoid physical injury to persons or damage to property or to accept the resignation of a public official or employee, in such situations notice shall be posted on said bulletin board as soon as practicable, **but in no case less than one (1) hour before the meeting is to begin**.

SECTION FOUR: Recessed and Reconvened Meetings. The City Council of the City Prichard, Alabama may recess a duly convened meeting and reconvene said meeting on a subsequent date provided that prior to recessing, the Council shall specify:

- (a) the date that the meeting will be reconvened;
- (b) the time that the meeting will be reconvened;
- (c) the place where the meeting will be reconvened; and
- (d) proper notice of the reconvened meeting is given in accordance with the Alabama Open Meetings Act.

Only matters appearing on or otherwise added to the agenda of the original meeting shall be discussed at the reconvened meeting.

SECTION FIVE: Policy on Direct Notice to the Media and Public. The following shall be the policy of the City of Prichard, Alabama with respect to giving direct notice of public meetings to the media and the public.

- (a) Purpose. The purpose of this policy is to set forth the procedures and policies applicable to all members of the public or media who wish to receive direct notice of meetings held by entities in the City of Prichard, Alabama, in compliance the Alabama Open Meetings Act.
- (b) Applicability. Any member of the public or media may request to receive direct notice of meetings held by entities in the City of Prichard, Alabama, in compliance the Alabama Open Meetings Act.
- (c) Procedure. City of Prichard, Alabama may provide direct notice via Electronic Mail (e-mail). The city reserves the right to use alternative methods of notification such as fax, telephone and or mail if e-mail if for technical reasons electronic means are not available at the time of notification.
 - (i) Any member of the media or public who wishes to receive direct notice of meetings held by entities in the City of Prichard, Alabama that are subject to the Alabama Open Meetings Act must file a written application with the city clerk.
 - (ii) Persons wishing to receive direct notice must provide, at a minimum, their name, address and telephone number, and a valid e-mail address. The list of individuals requesting direct notice shall be maintained as a public record by the City of Prichard, Alabama.
- (d) Updating List. Following application, the applicant's name shall be added to the list of those who shall receive direct notice of all future meetings, provided that notice may not be given for meetings held within one week of the receipt of the application so that the clerk may have time to update the list.
- (e) Removal from List. A applicants's name may be removed from the list if he or she fails to attend five meetings after notice has been provided. That person may then reapply to receive direct notice by following the procedures set out in this policy. An individual may also be removed if the City of Prichard, Alabama has information that indicates that the e-mail address is no longer valid or that the applicant is not checking his or her messages. Misuse of the e-mail notification in any manner will also result in removal from the list and may constitute grounds to prevent future applicant to receive direct meeting notice by the offending individual.
- (f) Notice Failure. The City of Prichard, Alabama is not responsible in the event of any notice failure that is not due to a fault of its own.

- (g) Notice Fee. It is hereby determined by the City Council of the City of Prichard, Alabama that the actual cost of personnel in compiling the list of individuals requesting direct notice, updating and maintaining said list, and issuing direct notice of public meetings under this section is \$1.25 per e-mail addressee per month. In order to defray said cost of personnel in compiling the list of individuals requesting direct notice, updating and maintaining said list, and issuing direct notice of public meetings, there is hereby assessed an annual nonrefundable fee in the amount of \$15.00 per e-mail addressee.

SECTION SIX: Preparation and Distribution of Agendas.

- (a) The mayor and any member of the Council shall have the authority to place items on the agenda provided that each such person shall provide a cover page with the submission providing at a minimum (a) the name of the person submitting the item, (b) the date of the submission, (c) a short description of the item and (d) what action on the item the proponent proposes the council to take.
- (b) All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the Council shall be delivered to the City Clerk by 12:00 p.m. on the Monday prior to the next regular meeting of the Council.
- (c) The City Clerk shall immediately prepare a list of such matters according to the order of business and furnish each Member of the Council, the Mayor, the City Attorney, and the Council Attorney with a copy of such lists, together with copies of matters to be presented to the extent that such copies are available, prior to the regular, special or called Council meeting and as far in advance of the meeting as time for preparation will permit.
- (d) The city clerk shall assure that scheduled public hearings have been duly advertised;
- (e) The city clerk shall post a copy of the agenda next to the notice of meeting on the bulletin board designated for such purpose.

SECTION SEVEN: Quorum. The quorum for the transaction of any business by the Council shall be not less than three (3) Council Members. All measures shall be adopted by the affirmative vote of at least three (3) Council Members. In the absence of a quorum, the Presiding Officer shall compel the attendance of absent Members, or shall adjourn the meeting to a stated time and date to permit the establishment of a quorum.

SECTION EIGHT: Presiding Officer.

- (a) The President of the Council or, in his absence, the President Pro Tempore, shall

preside over regular, special and called meetings of the Council. In the absence of the President and the President Pro Tempore at the hour appointed for any meeting, the City Clerk or his assistant shall call the Council to order, whereupon a temporary chairman shall be elected by the Members of the Council present. Upon the arrival of the President or the President Pro Tempore, the temporary chairman shall relinquish the chair upon the conclusion of the business immediately before the Council.

- (b) The Presiding Officer shall possess the powers and perform the following duties:
- (I) Preserve strict order and decorum at all meetings of the Council.
 - (ii) Announce the business before the body in the order in which it is to be acted upon.
 - (iii) Recognize the speakers entitled to the floor and guide and direct the proceedings of the body.
 - (iv) State every question given before the council;
 - (v) Direct the Clerk to call the roll.
 - (vi) Put to vote all questions which are regularly moved or otherwise arise in the course of the proceedings.
 - (vii) Record the vote on all matters which the recording of yeas and nays is required by law, or with respect to which any council member requests such recording;
 - (viii) Announce the decision of the council on all subjects;
 - (ix) Decide all points of order, subject to appeal, unless the presiding officer submits the question to the decision to the council.
 - (x) Use the Roberts Rules of Order, unless point of order is specified herein, as a guide for the conduct of all meetings of the Council.

SECTION NINE: Roll Call. Before proceeding with the business of the Council, the City Clerk or his assistant shall call the roll of the Members, and the names of those present and absent shall be entered in the minutes.

SECTION TEN: Order of Business. All meetings of the Council shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, all Council Members shall take their regular stations in the Council Chambers. The Mayor, the City Clerk, City Attorney, Council Attorney, Public Works Director, Finance Director, Public Safety Director, and such other Department Heads or

employees of the City of Prichard, when requested, shall attend all meetings of the Council, and remain available for such length of time as the Council is in session, or they are excused by the Council.

- (a) The business of the Council shall be taken up for consideration and disposition in the following order, unless the order is suspended by unanimous consent:

- (1) Call to Order.
- (2) Invocation.
- (3) Roll Call - City Clerk.
- (4) Approval of Minutes of Previous Meeting.
- (5) Communications from the Mayor.
- (6) Reports of Committees, and new Committee assignments.
- (7) Reports from Members, Mayor or Department Directors.
- (8) Public Hearings.
- (9) Consent Agenda.
- (10) Consideration of Ordinances for final passage (laid over from previous meeting).
- (11) Consideration of Resolutions for final passage (laid over from previous meeting).
- (12) Ordinances being first introduced.
- (13) Resolutions being first introduced.
- (14) Presentations of petitions and other communications to the Council.
- (15) Announcements.
- (16) Adjournment.

- (b) A resolution or ordinance, whether of a permanent nature or not, must first be introduced by a Council Member at a meeting and read to the body. Each such resolution or ordinance must show the name of the sponsoring Council Member.
- (c) If no motion is made to consider the resolution or ordinance immediately, the City Clerk will cause it to be placed on the agenda for the next regular meeting under the caption: "ORDINANCES/RESOLUTIONS LAID OVER FROM PREVIOUS MEETING." If a motion be made to consider the resolution or ordinance immediately, such motion must be seconded, and thereupon, the Chair shall call for the question without debate; but unless all present vote in favor of the motion for immediate consideration, the resolution or ordinance must be laid over to the next regular meeting and placed on the agenda by the City Clerk under the caption: "ORDINANCES/RESOLUTIONS LAID OVER FROM PREVIOUS MEETING."
- (d) The foregoing necessity of obtaining unanimous consent for immediate consideration shall not apply, however, to a resolution calling for a public hearing. Such resolutions

may be approved at the meeting at which they are introduced.

- (e) If unanimous consent be given for immediate consideration of an ordinance or resolution, it is presupposed that the urgency of the matter is such that the resolution or ordinance or other matter must be acted upon immediately.
- (f) If a resolution or ordinance is on the agenda under the caption "PUBLIC HEARINGS", the public must be given an opportunity to be heard and express its opinion. Such expression from the public shall be prior to any motion relative to the resolution or ordinance. If, on the other hand, an item is on the agenda for consideration under any caption other than "PUBLIC HEARINGS", it may be moved to the category of, and under the caption of, "PUBLIC HEARINGS" by a majority vote of the Council prior to the commencement of any business of the Council, such motion being "to amend the order of the business of the day." (Act 85—229, 1985 Session, Section 28.)

SECTION ELEVEN: Reading of Minutes. Unless a reading of the minutes of a City Council meeting is requested by a member, such minutes may be approved without reading. The Clerk shall furnish each Council Member with a written copy of the minutes of each meeting.

SECTION TWELVE: Motions.

- (a) A main motion presents an ordinance, resolution, or other proposition for the passage, adoption, or rejection. The question is usually stated in the positive form, as follows: motion to adopt; motion to approve; motion to pass; motion to concur.
- (b) No motion made at any Council Meeting shall be debated or put to a vote unless seconded. When seconded, the proposer shall have the floor and the matter subject to debate. In the absence of a second, the motion fails. Main motions are debatable, amendable, and can be reconsidered after adoption.
- (c) Each resolution or ordinance introduced at a Council Meeting shall be in writing and read by the Clerk at the time it is introduced. Motions shall be reduced to writing when required by the Presiding Officer of the Council or any Member of the Council.
- (d) Motion for Reconsideration. A motion for reconsideration is permissible to reconsider previous action of the Council, whether a negative vote on a matter or a favorable vote on a matter, at the same meeting or a subsequent meeting, under the following procedure:
 - (I) The motion must be made by a member who voted on the prevailing side.

- (ii) The motion is inappropriate after the action taken has gone into effect or after it is too late, for any reason, to reverse the action taken.
- (iii) Before any action can be reconsidered, there must first be a *motion for reconsideration*, a second and the affirmative vote of at least three (3) members of the Council.
- (iv) Should the motion for reconsideration pass, the item to be reconsidered is then immediately before the Council to be acted upon or scheduled for hearing at a subsequent meeting.
- (v) Should the motion for reconsideration fail, the item to be reconsidered remains as adopted.
- (vi) A motion to reconsider must be made not later than the next regular meeting following the action taken.
- (vii) When the matter the subject of reconsideration requires notice before it can be acted upon, a vote to reconsider the matter must be scheduled on a date and time in compliance with all rules requiring public notice.
- (viii) Debate on the motion to reconsider shall be limited to the merits of whether the reconsideration and not the merits of the question to be reconsidered.

SECTION THIRTEEN: Rules of Debate and Points of Order.

- (a) The Presiding Officer of the Council may move, second and debate from the Chair, subject only to such limitations of debate as are by this article imposed on all Council Members, and shall not be deprived of any of the rights and privileges of a Council Member by reason of his acting as the Presiding Officer.
- (b) Every Council Member or official desiring to speak shall address the Chair, and upon recognition by the Presiding Officer, shall address himself to the question under debate, avoiding all personalities and indecorous language.
- (c) A Council Member or official, once recognized, shall not be interrupted when speaking, unless it be to call him to order or as herein otherwise provided. If a Member, while speaking, is called to order, he shall cease speaking until the question of order is determined, and if in order, he shall be permitted to proceed.
- (d) No persons shall speak more than twice on any matter before the Council, except by unanimous consent, and then not until every Council Member desiring to speak has had

an opportunity to do so. No person shall speak more than three (3) minutes on any subject, except by permission granted by majority vote. However, the Council Member moving the adoption shall have the privilege of closing debate, and shall not be limited on the answering of questions pertinent to the matter proposed.

- (e) When a question is under debate, the following motions shall be in order and shall have precedence over each other in the order stated:

- (1) To adjourn to a day certain.
- (2) To adjourn.
- (3) To take a recess.
- (4) To lay on the table.
- (5) To previous question.
- (6) To refer to a committee.
- (7) To amend.
- (8) To postpone to a time certain.
- (9) To postpone indefinitely.

Motions 1 through 5 shall be decided without debate.

- (f) Debate may be closed immediately by a "Call for the Question". When a call for the question is made, the Presiding Officer shall ask if there is any objection. If there is no objection, the Presiding Officer shall immediately call the question. If there is an objection, the Presiding Officer shall call for a second and, if made, shall immediately take a vote on whether to order the call for the question. If the call for the question passes by at least three (3) affirmative votes, the debate ends and a vote on the matter under consideration shall proceed. The call for the question is neither amendable nor debatable and can be reconsidered.
- (g) The minutes of the City Council are recorded in summary form not verbatim. If Council Members desire that their comments on a particular subject be recorded in their entirety, the City Clerk should be informed at the time the comments are made.

SECTION FOURTEEN: Communication with Council.

- (a) Public Hearings. Where required by law, or by unanimous consent of the Council, public hearings on matters before the Council shall be held by the Council at which taxpayers or residents of the City or their authorized legal representatives shall be permitted to present oral statements for or against the matter made a subject of the hearing.

- (1) Requests to appear at such a public hearing may be filed in writing with the City

Clerk, who shall refer the same to the President of the Council prior to the hearing. Persons making these requests in writing shall, together with witnesses requested to appear by the Council, be heard prior to other persons who appear at the hearing.

- (2) Each person addressing any public hearing shall, when called, step up in front of the rail, give his name and address in an audible tone of voice for the records. No person shall speak more than twice on any matter before the Council, except by unanimous consent, and then not until every Council Member desiring to speak has had an opportunity to do so.
- (3) No person shall speak more than three (3) minutes on any subject, and rebuttal speakers shall be limited to two (2) minutes, after an issue has been discussed by both sides, except by permission granted by majority vote. Those speaking on any subject will be limited to two (2) spokespersons on each issue, unless permission is granted by unanimous consent of the Council Members present to allow others to speak.
- (4) The President must notify each speaker, before he/she has begun to speak, that said speaker will be limited to three (3) minutes on any subject, and additionally must also notify rebuttal speakers, before said speaker has begun to speak, that he/she will be limited to two (2) minutes on any subject.

(b) Other than Public Hearings; Citizens Comments. Except for public hearings or unless waived by the unanimous consent of the Council, a person not a member of the council may be allowed to address the council while it is in session, provided that said person has completed a Request to Address the Council form prior to the close of the agenda for the meeting at which said person desires to address the council.

- (1) For the purpose of this section, the following terms shall have the meaning ascribed herein:
 - i) Agenda - shall mean the proposed order of business for each meeting of the council.
 - ii) Close of the Agenda - shall mean the day and time set by the Council for all business and materials to be submitted to the council secretary for inclusion in the Agenda for the next meeting of the council. Public Comment. Except for public hearings, a person not a member of the council may be allowed to address the council while it is in session, with the permission of the presiding officer, provided that said person has completed a

Request to Address the Council form prior to the close of the agenda for the meeting at which said person desires to address the council.

- (2) Time Limit. A person permitted to address the council by the presiding officer shall be limited to three (3) minutes which period shall include the person's comments, questions from members of the council and any response thereto
- (3) Disruptions, Good Name and Character. No person permitted to address the council shall be disruptive by either speaking on matters not before the council or by loud talk or disruptive actions. Further, no person addressing the council shall be permitted to discuss the good name and character of an individual.
- (4) Removal From the Meeting. The presiding officer shall have the right to have a disruptive person removed from the room in which the council meeting is conducted.

SECTION FIFTEEN: Decorum.

- (a) While a Council is in session, the Members shall preserve order and decorum; and, a Member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council nor disturb any Member while speaking or refuse to obey the orders of the Council or its Presiding Officer, except as otherwise herein provided.
- (b) Any person not a member of the Council, making personal, impertinent or slanderous remarks or who shall become boisterous while the Council is in session, shall be forthwith, by the Presiding Officer, barred from further audience before the Council, unless permission to continue is granted by a majority vote of the Council.
- (c) The Chief of Police or those members of the Police Department as he may designate shall be Sergeant—at—arms of the Council Meetings. He or they shall carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum at the Council Meeting. Upon instructions of the Presiding Officer, it shall be the duty of the Sergeant—at—arms or any of them present to place any person who violates the order and decorum of the meeting under arrest and cause him to be prosecuted upon complaint to be signed by the Presiding Officer.

SECTION SIXTEEN: Committees.

- (a) Special Committees. A special committee is an ad hoc committee appointed to work on a single subject matter. The fact that such subject would ordinarily be within the

jurisdiction of a standing committee does not prohibit its referral to a special committee in the manner prescribed by ordinance. Special committees shall consist of a chairperson and two (2) committee members; such committees shall be created and its members appointed by the Council President as needed.

- (b). Standing Committees. The Council shall maintain three (3) Standing Committees which shall make recommendations to the Council as appropriate. The three (3) Standing Committees shall be: (1) Finance Committee; (2) Public Safety Committee; and (3) Public Works Committee. All Standing Committees shall consist of a chairperson and two (2) additional committee members, all appointed by the Council President.

- (1) Finance Committee. The functions of the Finance Committee shall be to study for the City Council policy changes recommended by the Mayor, to recommend to the City Council the budget hearing process, and to recommend to the City Council budget modifications requested by the Mayor.
- (2) Public Safety Committee. The function of the Public Safety Committee shall be to study for the City Council policy matters and policy recommendations of the Mayor.
- (3) Public Works Committee. The function of the Public Works Committee shall be to study for the City Council policy matters and policy recommendations of the Mayor.

SECTION SEVENTEEN: Ordinances, resolutions, motions and contracts.

(a) Any ordinance or resolution shall be prepared by the Council Attorney upon the written request of the President of the Council. Any ordinance or resolution not prepared by the Council Attorney shall be submitted to him for review as to form and legality prior to the entertainment by the Council of any motion to adopt that ordinance or resolution.

(b) All ordinance, resolution and contract documents shall, upon adoption, be submitted to the Mayor for his administrative recommendation with reference thereto.

(c) Ordinance, resolution and other matters or subjects requiring action by the Council shall be introduced by a Council Member; except that the Mayor, City Attorney or Council Attorney may present ordinances, resolutions, and other matters or subjects to the Council. Any Council Member may assume sponsorship thereof by moving that such ordinance, resolution, matter or subject be adopted; otherwise, they shall not be considered.

(d) At least ten (10) copies of any ordinance or resolution to be submitted or introduced at any meeting of the Council shall be filed with the City Clerk prior to or at the beginning of the meeting.

Copies shall be distributed to each Council Member and official present at the meeting, and copies shall be made available to the Mayor for distribution to any department affected. After the meeting, the City Clerk shall prepare additional copies, if necessary, to supply to interested citizens or taxpayers requesting copies at the office of the City Clerk, at the charge established by the governing body for such copies.

(e) No ordinance shall be put on its final passage on the same day on which it was introduced, except upon unanimous consent.

(f) No ordinance shall relate to more than one (1) subject, which shall be expressed clearly and briefly in its title; provided a single ordinance may amend one or more sections of the code which relate to the same general subject matter as contained in a single title, chapter, or article thereof.

(g) No ordinance or section thereof shall be amended or repealed unless the new ordinance contains the title or designation of the ordinance or section amended or repealed. When practicable, all ordinances shall be introduced as amendments to existing ordinance. Prior to the adoption, the Presiding Officer shall refer any ordinance or resolution to the committee of the whole. An ordinance, after reference and report thereon, may be referred at any time prior to its final passage.

SECTION EIGHTEEN: Incontestability of duly adopted legislation. No ordinance, resolution or action duly adopted or taken by the Council shall be held to be invalid because of failure of the council to comply with or abide by any one or more of the provisions of this Section, if the ordinance, resolution or action would otherwise be valid under the laws of this state but for the provision of this section alleged to have been violated or ignored.

SECTION NINETEEN: Written Reports. All written reports to the Council shall be filed with the City Clerk and entered in the minutes at which the report was submitted.

SECTION TWENTY: Recording Meetings. A meeting of the Council, except while in executive session, may be openly recorded by any person in attendance by means of a tape recorder or any other means of sonic, photographic, or video reproduction provided the recording does not disrupt the conduct of the meeting. The governmental body may adopt reasonable rules for the implementation of this section.

SECTION TWENTY ONE: Executive Sessions; Procedure. Executive sessions are not required, but may be held by the governing body only for the following purposes:

- (a) General reputation and character, physical condition, professional competence, etc. To discuss the general reputation and character, physical condition, professional competence or mental health of individuals, or, subject to the limitations set out herein, to discuss the job performance of certain public employees.

Exceptions:

- (I) Discussions of the job performance of specific public officials or specific public employees may not be discussed in executive session if the person is an elected or appointed public official, an appointed member of a state or local board or commission, or a public employee who is one of the classification of public employees required to file a Statement of Economic Interests with the Alabama Ethics Commission pursuant to Section 36-25-14, *Code of Alabama* 1975.
- (ii) The salary, compensation, and job benefits of specific public officials or specific public employees may not be discussed in executive session.
- (b) Disciplinary Matters. When expressly allowed by federal law or state law, to consider the discipline or dismissal of, or to hear formal written complaints or charges brought against a public employee or an individual, corporation, partnership, or other legal entity subject to the regulation of the governmental body.
- (c) Pending and Imminent Litigation. To discuss with the attorneys the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action or to meet or confer with a mediator or arbitrator with respect to any litigation or decision concerning matters within the jurisdiction of the governmental body involving another party, group, or body.
 - (I) Written Declaration Prior to Vote. Prior to voting to convene an executive session under this exception the Council shall receive a written opinion or oral declaration reflected in the minutes from an attorney licensed to practice law in Alabama that this exception is applicable to the planned discussion.
 - (ii) Discussion of Action to Take Prohibited. Notwithstanding the foregoing, if any deliberation begins among the members of the Council regarding what action to take relating to pending or threatened litigation based upon the advice of counsel the executive session shall be concluded and the deliberation shall be conducted in the open portion of the meeting or the deliberation shall cease.
- (d) Security Plans, Safety, etc. To discuss security plans, procedures, assessments, measures, or systems, or the security or safety of persons, structures, facilities, or other infrastructures, including, without limitation, information concerning critical infrastructure, as defined by federal law, and critical energy infrastructure information, as defined by federal law, the public disclosures of which could reasonably be expected to be

detrimental to public safety or welfare.

Provided, however, that when the discussion involves critical infrastructure or critical energy infrastructure information, the owners and operators of such infrastructure shall be given notice and an opportunity to attend the session.

- (e) Undercover Law Enforcement. To discuss information that would disclose the identity of an undercover law enforcement agent or informer or to discuss the criminal investigation of a person who is not a public official in which allegations or charges of specific criminal misconduct have been made or to discuss whether or not to file a criminal complaint. Provided, however, that prior to such discussions a law enforcement officer with authority to make an arrest or a district or assistant district attorney or the attorney-general or assistant Attorney General shall advise the governmental body in writing or by oral declaration entered into the minutes that the discussions would imperil effective law enforcement if disclosed outside of an executive session.

- (f) Amount of Consideration; Purchase, Sale or Lease of Real Property. To discuss the consideration the governmental body is willing to offer or accept when considering the purchase, sale, exchange, lease, or market value of real property. Provided, however, that the material terms of any contract to purchase, exchange, or lease real property shall be disclosed in the public portion of a meeting prior to the execution of the contract. If an executive session is utilized pursuant to this exception in addition to the members of the governmental body, only persons representing the interests of the governmental body in the transaction may be present during the executive session. This real property discussion exception shall not apply if:
 - (i) Any member of the governmental body involved in the transaction has a personal interest in the transaction and attends or participates in the executive session concerning the real property.
 - (ii) A condemnation action has been filed to acquire the real property involved in the discussion.

- (g) Preliminary Negotiations; Trade, Commerce. To discuss preliminary negotiations involving matters of trade or commerce in which the governmental body is in competition with private individuals or entities or other governmental bodies in Alabama or in other states or foreign nations or to discuss matters or information of the character defined or described in the Alabama Trade Secrets Act. Provided, however, that prior to such discussions a person involved in the recruitment or retention effort or who has personal knowledge that the discussion will involve matter or information of the

character defined or described in the Alabama Trade Secrets Act advises the governmental body in writing or by oral declaration entered into the minutes that the discussions would have a detrimental effect upon the competitive position of a party to the negotiations or upon the location, retention, expansion, or upgrading of a public employee or business entity in the a would disclose information protected by the Alabama Trade Secrets Act.

- (h) Negotiation Strategy. To discuss strategy in preparation for negotiations between the governmental body and a group of public employees. Provided, however, that prior to such discussions a person representing the interests of a governmental body involved in such negotiations advises the governmental body in writing or by oral declaration entered into the minutes that the discussions would have a detrimental effect upon the negotiating position of the governmental body if disclosed outside of an executive session.
- (i) To deliberate and discuss evidence or testimony presented during a public or contested case hearing and vote upon the outcome of the proceeding or hearing if the governmental body is acting in the capacity of a quasi-judicial body, and either votes upon its decision in an open meeting or issues a written decision which may be appealed to a hearing officer, an administrative board, court, or other body which has the authority to conduct a hearing or appeal of the matter which is open to the public.
- (j) Procedure for Calling an Executive Session. When the governmental body (whether the city council, a committee or subcommittee of the council, or any municipal board or commission) desiring to convene an executive session, other than to conduct a quasi-judicial or contested case hearing, the following procedure shall be utilized:
 - (i) Duly Called and Properly Noticed Meeting. A quorum of the governmental body must first convene a duly called and properly noticed meeting as provided under SECTIONS TWO or THREE of this ordinance.
 - (ii) Oral/Written Declaration, if Required. If an oral or written declaration is required before the executive session can begin, such oral or written declaration shall be made, **prior to a vote on a motion calling for the executive session.**
 - (iii) Motion for Executive Session; Majority Vote. A majority of the members of the governmental body present must adopt, by recorded vote, a motion calling for the executive session and setting out the purpose of the executive session, as provided in subsections (a) through (I) of Section Nineteen of this ordinance.
 - (iv) Vote Recorded in Minutes. The vote of each member shall be recorded in the minutes.
 - (v) Whether Meeting Will Reconvene; Time. Prior to calling the executive session:

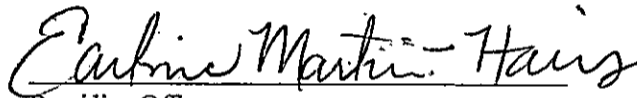
to order, the presiding officer shall state whether the governmental body will reconvene after the executive session and, if so, the approximate time the body expects to reconvene.

SECTION TWENTY TWO: Repealer. All ordinance, resolutions and parts of ordinance and resolutions in conflict herewith are hereby repealed.

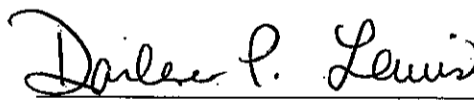
SECTION TWENTY THREE: Severability It is hereby declared to be the intention of the City Council of the City of Prichard, Alabama, that the sections, paragraphs, sentences, clauses and phrases of this ordinance hereby adopted are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance hereby adopted, since the same would have been enacted by the City Council without the incorporation of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION TWENTY FOUR: This ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED this the 5th day of November, 2012.


Presiding Officer

ATTEST:


DARLENE PALMER LEWIS, City Clerk

APPROVED this the 5th day of November, 2012.


TROY L. EPHRIAM, Mayor