

Chapter 1 GENERAL PERSONNEL POLICIES

ARTICLE A. FILLING OF VACANCIES

Sec. 4-1-1. Equal employment opportunity.

It shall be the policy of the county council to fill all vacant positions with the best qualified available applicant. Selections will be made on the basis of educational background, related work experience and other job-related factors but without regard to race, religion, age, sex, national origin or disability.

(Code 1980, § 4-1-1; Ord. No. 5-85, § 1, 6-4-85)

Sec. 4-1-2. Recruitment.

In order to eliminate duplication of effort in recruiting qualified applicants and to ensure that all potential applicants within a reasonable area have an opportunity to learn of vacancies within the county government, it shall be the policy of the county that only the personnel director shall be authorized to expend funds for the advertisement of vacancies or for any other purpose related to the recruitment of applicants. All department heads shall notify the personnel director immediately upon learning that a vacancy will occur. The personnel director will then take those steps as may be necessary to attract qualified applicants. He will eliminate those applicants who do not meet the minimum training and experience requirements before forwarding the remaining applications to the appropriate department head for further consideration. The elected officials shall have a right to choose their own employees provided they meet the requirements established by the council.

(Code 1980, § 4-1-2; Ord. No. 5-85, § 1, 6-4-85)

Sec. 4-1-3. Examinations.

(a) As determined by the personnel director, the selection process may include one or more or all of the following: oral interviews, evaluation of experience and training, reference checks, written examinations, performance tests or nonassembled examinations.

(b) Annual physical examinations will be required for all public safety employees, to include a drug screen, to be scheduled at the discretion of the personnel director.

(Code 1980, § 4-1-3; Ord. No. 5-85, § 1, 6-4-85)

Sec. 4-1-4. Promotions and transfers.

(a) In order to provide upward mobility for the employees in county service, it shall be the policy of the county to consider applications from persons currently employed before applications from the public are considered. A notice will be posted on the bulletin board for each vacancy that occurs stating the position, the minimum training and experience requirements, the salary range, and how and when to apply.

(b) First consideration shall be given to those persons in the unit or department where the vacancy occurs for whom the vacant position would represent a promotion. If none of these persons are selected to fill the vacancy, all other county employees requesting consideration will be considered. Finally, any other applications may be considered.

(Code 1980, § 4-1-4; Ord. No. 5-85, § 1, 6-4-85)

Sec. 4-1-5. Final selection of new employees.

The final selection of the person to fill each vacancy shall be made by the appropriate department head, with the advice and consent of the personnel director. Utilizing reporting forms designated for this purpose, the department head shall indicate his appraisal of each applicant referred to him and state the reasons for appointment or rejection.

(Code 1980, § 4-1-5; Ord. No. 5-85, § 1, 6-4-85)

Sec. 4-1-6. Probationary period.

(a) All new employees shall serve a minimum probationary period of six months. If the new employee's performance is not coming up to expected levels, he may be terminated at any time during the probationary period.

(b) If requested by the department head and approved by the personnel director, the probationary period may be extended for a period of up to three months. If, at the end of the probationary period, the employee has earned a satisfactory rating, he will be given regular status.

(c) If an employee is required to attend a formal training program of five or more days in length which is conducted outside the county during his probationary period, the period of such training shall not be counted as time in service toward completion of the probationary period.

(d) All new employees will be eligible for all county paid holidays. New employees will also earn accrued leave, but will not be able to receive credit or use leave until regular status is granted.

(Code 1980, § 4-1-6; Ord. No. 5-85, § 1, 6-4-85)

Sec. 4-1-7. Evaluations.

(a) All probationary employees shall have a formal evaluation using the county's standardized performance evaluation form. All six-month probationary employees shall be evaluated at intervals of one, three and six months. All 12-month probationary employees shall be evaluated at intervals of one, four, eight and 12 months. Any employee receiving an extension of his probation must be evaluated at the end of such extension.

(b) The personnel director shall not issue a payroll check to any probationary employee for any subsequent pay periods after which an evaluation is due and not received.

(Code 1980, § 4-1-7; Ord. No. 5-85, § 1, 6-4-85)

Sec. 4-1-8. Achievement of regular status.

Employees who have satisfactorily completed at least six months of continuous service with the county shall be granted regular status. Regular employees are entitled to all benefits and privileges provided by the county for its employees, including vacation leave, sick leave and other benefits.

(Code 1980, § 4-1-8; Ord. No. 5-85, § 1, 6-4-85)

Sec. 4-1-9. Holding dual positions prohibited.

No county employee shall hold two or more paid positions in county government at the same time.

(Code 1980, § 4-1-9; Ord. No. 5-85, § 1, 6-4-85)

Sec. 4-1-10. Right of county and employee to terminate employment.

Except where a specific agreement obligates an employee to work for the county for a certain period of time, all employees are employed by the county at will. This means that the employee may terminate his employment with the county at any time without cause and the county may terminate the employment of an employee at any time without cause.

(Code 1980, § 4-1-10; Ord. No. 20-87, § 1, 9-15-87)

Secs. 4-1-11--4-1-20. Reserved.

ARTICLE B. VACATIONS, SICK LEAVE AND HOLIDAYS

Sec. 4-1-21. Vacation policy; accrual of vacation leave.

(a) It is the policy of the county to provide paid vacations affording opportunity for healthful rest and relaxation to all regular employees.

(b) As used in this article and other policies within the personnel program, the term "workweek" shall mean the number of hours an employee is scheduled to work during a normal week.

(c) All employees assigned to regular positions who have completed at least six months of satisfactory service shall

earn vacation time according to the following schedule:

- _____ (1) Fulltime employees with less than five years of continuous service shall earn vacation leave at the rate of one day of paid vacation for each month of service.
- _____ (2) Fulltime employees with at least five years but less than ten years of continuous service shall earn vacation leave at the rate of $1\frac{1}{4}$ days of paid vacation for each month of service.
- _____ (3) Fulltime employees with at least ten years but less than 20 years of continuous service shall earn vacation leave at the rate of $1\frac{1}{2}$ days of paid vacation for each month of service.
- _____ (4) Fulltime employees with 20 or more years of continuous service shall earn vacation leave at the rate of $1\frac{3}{4}$ days of paid vacation for each month of service.
- _____ (5) Part-time employees who are scheduled to work less than a full normal workweek and employees hired to fill temporary or seasonal positions for periods of six months or less shall not earn and shall not be paid for any vacation time.
- _____ (6) Reserved.
- _____ (7) Employees on fulltime leave without pay for more than ten consecutive workdays shall not earn credits for paid vacation while in leave status.
- _____ (8) Department heads shall accrue annual leave as provided in subsection (c)(3) of this section for up to 20 years, and then as provided in subsection (c)(4) of this section.

(Code 1980, § 4-1-21; Ord. No. 5-85, § 2, 6-4-85; Ord. No. 02-96, § I, 2-6-96)

Sec. 4-1-22. Use of vacation leave.

- (a) Vacation time will be charged in units of one-fourth hour or whole days.
- (b) All fulltime employees are required to take the equivalent of at least one workweek of paid vacation each calendar year.
- (c) Except in the case of an emergency, all vacation time must be approved in advance by the employee's department head. Vacation time for department heads must be submitted in advance to the county manager. Whenever possible, an employee wishing to take more than four hours of vacation time should request approval at least one week in advance.
- (d) Whenever possible, employees will be allowed to take paid vacation time at times most convenient to them. However, in order to ensure continued smooth operation and maintain a high level of quality in the delivery of services to the citizens of the county, the county reserves the right to limit the number of employees that may be absent from a given department or unit at any one time. When there is a conflict in the vacation choices of two or more employees who cannot be spared at the same time, preference will be given to the employee with the longest continuous service to the county.
- (e) When a paid holiday is observed by the county during the period an employee is on paid vacation, the employee shall receive only his regular holiday pay, and that day shall not be charged against the employee's vacation earnings.

(Code 1980, § 4-1-22; Ord. No. 5-85, § 2, 6-4-85)

Sec. 4-1-23. Carryover and payout of vacation earnings.

- (a) Annual leave may be carried over from one calendar year to the next in the following amounts:
 - _____ (1) Employees with under ten years of service, 20 days.
 - _____ (2) Employees with over ten years of service, 30 days.
- (b) Upon leaving the county's employ, the maximum payout of vacation leave shall not exceed 45 days.

(Code 1980, § 4-1-23; Ord. No. 5-85, § 2, 6-4-85)

Sec. 4-1-24. Attendance records.

(a) An attendance record shall be maintained for each employee by the personnel office. This record shall reflect all absences, including sick leave, vacations, civil leave, etc., and shall be balanced not less than once each year. An employee's record shall be made available to him for inspection annually and shall be available at other times upon request of the department head.

(b) The head of each department shall be responsible for the completion of a biweekly attendance report for his department. This report shall be filed with the county treasurer no later than noon on the Monday preceding the next payday. Regular payroll checks for a department shall not be issued until the attendance report is submitted to the personnel office.

(Code 1980, § 4-1-24; Ord. No. 5-85, § 2, 6-4-85)

Sec. 4-1-25. Sick leave policy; accrual of sick leave.

(a) It is the policy of the county to provide reasonable time off with pay, up to unused sick leave earnings, to employees who are unable to work due to illness or injury.

(b) All fulltime employees assigned to regular positions shall earn credits for paid sick leave at the rate of one day of paid leave per month of continuous service, which shall reach a maximum accrual of 90 days.

(Code 1980, § 4-1-25; Ord. No. 5-85, § 2, 6-4-85)

Sec. 4-1-26. Use of sick leave.

(a) Sick leave will be charged in units of one-fourth hour or whole days.

(b) Sick leave may be paid when an employee is unable to work due to personal illness or injury, when the employee's presence may endanger the health of fellow workers, or for illness or injury in the employee's immediate family as defined in subsection (d) of this section.

(c) Sick leave may be taken for medical and dental appointments.

(d) In case of death in an employee's immediate family, up to three days' leave with pay may be authorized by the personnel director and charged against the employee's sick leave credits. Immediate family shall be defined as parent, child, spouse, brother, sister, grandparent, grandchild, parent-in-law, brother-in-law and sister-in-law.

(e) When a paid holiday occurs during the period an employee is on sick leave with pay, the employee shall receive only his regular holiday pay, and that day shall not be charged against his sick leave earnings.

(Code 1980, § 4-1-26; Ord. No. 5-85, § 2, 6-4-85)

Sec. 4-1-27. Eligibility for use of sick leave; reimbursement for unused sick leave.

(a) In order to be eligible for sick leave with pay, an employee must:

_____ (1) Report to his supervisor within 30 minutes of the scheduled starting time the reason for the absence. An employee who fails to so notify his supervisor shall not be paid for the day taken.

_____ (2) If the absence extends beyond three days, keep his supervisor advised as to his condition and anticipated date of return.

_____ (3) Submit a statement from the attending physician as to the nature and duration of the illness, if requested.

(b) Upon leaving county employment, for whatever reason, an employee will not be reimbursed for unused accrued sick leave.

(Code 1980, § 4-1-27; Ord. No. 5-85, § 2, 6-4-85)

Sec. 4-1-27.1. Family and medical leave.

It is the policy of the county to provide eligible employees unpaid leave in accordance with the Family and Medical Leave Act. To provide a fair and systematic procedure by which eligible employees may take unpaid leaves of absence for family and medical reasons, the county adopts the following guidelines which are to be implemented by the county manager or designee:

(1) *Eligibility requirements.* To qualify for leave under this policy, an employee must have been employed by the county for at least 12 months, as of the date on which the requested leave will commence, and must have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

(2) *Leave entitlement.*

a. An eligible employee is entitled to a total of 12 workweeks of unpaid leave during any 12-month period:

1. For the birth, adoption, or foster care placement of a child, so long as leave is taken within one year of such birth, adoption, or placement;

2. To care for a spouse, child, or parent who has a serious health condition; and/or

3. Because of a serious health condition of the employee that renders the employee unable to perform the essential functions of his or her position.

b. An eligible employee who desires to take leave under this policy shall request such leave from his or her immediate supervisor, who will then notify the county manager of the request. Requests will be responded to in a timely manner.

(3) *Intermittent or reduced schedule leave.*

a. Leave for the birth or placement of a child shall not be taken intermittently or on a reduced schedule without the written consent of the county manager, who shall consult with the employee's immediate supervisor before granting such consent.

b. Leave to care for a seriously ill spouse, son, daughter, or parent, or for the employee's own serious health condition may be taken intermittently or on a reduced schedule only when medically necessary.

(4) *Substitution of paid leave.*

a. An eligible employee may elect, or the county may require the employee, to substitute any available accrued paid vacation, personal, or family leave of the employee for leave taken for:

1. The birth or placement of a child; or

2. To care for a seriously ill spouse, child, or parent.

b. An eligible employee may elect, or the county may require the employee, to substitute any of the available accrued paid vacation, personal, or medical or sick leave of the employee for leave taken for:

1. To care for a seriously ill spouse, child, or parent; or

2. For the employee's own serious health condition.

(5) *Foreseeable leave/notice required.* When the necessity for leave is foreseeable, the employee must provide at least 30 days' notice to his immediate supervisor of the anticipated timing and duration of the leave. If leave must begin in less than 30 days, the employee must provide as much notice as is practicable. The failure to provide notice with no reasonable excuse may result in the delay of an employee's leave.

(6) *Certification.* A request for leave to care for a seriously ill spouse, child, or parent, or the employee's own serious health condition, must be supported by an appropriate certification issued by the health care provider of the employee or family member.

(7) *Employment and benefits protection.*

a. *Restoration to position.*

1. Any employee who takes leave for the intended purpose of the leave shall be entitled, on return from leave, to be restored to the position of employment held by the employee when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

2. As a condition of restoration for an employee who has taken leave due to his or her own serious health condition, the employee must provide a certification from the health care provider stating that the employee is able to resume work. Until such a certification is provided,

reinstatement will be denied.

b. *Maintenance of health benefits.*

1. During an employee's leave, the county will maintain coverage under any group health plan at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.

2. The employee must continue to pay his portion of all insurance premiums to maintain coverage. If an employee's premium payment is more than 30 days late, the county may discontinue coverage of the employee under the policy.

3. If coverage lapses because an employee has not made premium payments, upon the employee's return from leave, the county will restore the employee to coverage and benefits equivalent to those the employee would have had if leave had not been taken and the premium payments had not been missed.

(Ord. No. 5-96, § I, 3-5-96)

Editor's note--Ordinance No. 5-96, adopted March 5, 1996, did not specifically amend the Code; hence, codification of § I of said ordinance as § 4-1-27.1 was at the discretion of the editor.

Sec. 4-1-28. Reserved.

Editor's note--Ordinance No. 17-97, § I, adopted June 3, 1997, repealed § 4-1-28 in its entirety. Formerly, § 4-1-28 pertained to leave for long-term illness and derived from § 4-1-28 of the 1980 Code; and Ord. No. 5-85, § 2, adopted June 4, 1985.

Sec. 4-1-29. Official holidays.

(a) The following shall be observed as official paid holidays for the employees of the county:

- (1) New Year's Day.
- (2) Martin Luther King, Jr.'s Birthday (observed).
- (3) President's Day (observed).
- (4) Memorial Day.
- (5) Independence Day.
- (6) Labor Day.
- (7) Good Friday.
- (8) Thanksgiving Day.
- (9) Day after Thanksgiving Day.
- (10) Christmas Day.
- (11) Day after Christmas Day.
- (12) Employee's birthday.

(b) For each paid holiday, each employee assigned to a regular position shall receive a holiday allowance equal to his normal pay for eight straight-time work hours. This time shall not be counted as hours worked for the purpose of computing overtime.

(c) A holiday falling on Saturday shall be observed on Friday. A holiday falling on Sunday shall be observed on Monday.

(d) An employee who is required to work on an official holiday shall receive the regular straight time for all hours worked on that day, together with a holiday allowance equal to his normal pay for eight straight-time work hours. The holiday allowance shall not be counted as hours worked for the purposes of computing overtime.

(e) An employee may not resign on an official county holiday. Absence on the last day of employment will be charged to annual leave, if approved, or leave without pay.

(f) Unauthorized leave the day prior to or following a holiday will result in the loss of pay for the holiday.

(Code 1980, § 4-1-29; Ord. No. 5-85, § 2, 6-4-85; Ord. No. 10-85, § 2, 7-16-85; Ord. No. 29-90, § I, 12-18-90; Ord. No. 1-91, § I, 3-5-91; Ord. No. 3-94, §§ I, II, 1-18-94; Ord. No. 8-96, § I, 4-2-96)

Cross reference(s)--Holiday pay, § 4-3-12.

Secs. 4-1-30--4-1-40. Reserved.

ARTICLE C. WORK HOURS AND OVERTIME; OUTSIDE EMPLOYMENT

Sec. 4-1-41. Work hours; workweek.

(a) *Exempt and nonexempt employees.* Executive, professional, administrative and seasonal employees as determined by the county manager under provisions of the Federal Labor Standards Act are exempt from the provisions of the act and this article relating to overtime. All other fulltime personnel to which this article is applicable shall be classified as nonexempt.

(b) *Forty-hour workweek.* Certain fulltime, nonexempt employees shall be paid on the basis of a 40-hour workweek. No employee shall be paid for overtime work unless he shall work in excess of 40 hours of actual work time in one given week. For purposes of overtime compensation and for all other purposes, an employee's regular hourly rate of pay shall be computed on the basis of 40 hours per week. Overtime for these employees shall be computed at $1\frac{1}{2}$ times the straight time hourly rate for all actual hours worked over 40.

(c) *Lesser workweek.* Certain fulltime, nonexempt employees may be paid on the basis of a $37\frac{1}{2}$ -hour workweek. The departments or divisions allowed to work such a workweek shall be designated by the county council. Employees of these departments shall work a fluctuating workweek as provided for by the Federal Labor Standards Act, with overtime paid on a fluctuating workweek basis.

(d) *Standard workday.* For all employees whose actual workweek, as authorized in subsection (c) of this section, is $37\frac{1}{2}$ hours, the workday shall begin at 8:30 a.m. and end at 5:00 p.m. These employees shall be allowed one hour each day for lunch break, which shall not be counted as time worked. In addition, they shall be allowed a 15-minute morning breaktime and a 15-minute afternoon breaktime each day. Exceptions to these schedules may be made by department heads with the approval of the county council or its designee.

(e) *Hours for public safety personnel.* Public safety personnel, with the exception of dispatchers, who shall be paid on a seven-day workweek, shall be paid on the basis of a 28-day fluctuating work cycle. The sheriff shall specify the regular hours for such nonexempt employees under his jurisdiction. The EMS director shall specify regular hours for each nonexempt employee under his jurisdiction. No overtime shall be paid to any public safety employee unless such employee shall work in excess of the schedule of hours as provided by the Fair Labor Standards Act for fire or police personnel as it respectively applies in a 28-day schedule. Such overtime will then be paid on a fluctuating basis. This schedule of hours shall be revised as required by the federal labor standards provisions.

(f) *Hours for parttime employees.* Parttime employees shall be scheduled to work at the discretion of the department head, provided that such employee shall be supervised at all times.

(g) *Attendance record.* All nonexempt employees shall, as a condition of their payment, complete, with the approval of their department head, a biweekly time and attendance record. Such record shall correspond to actual time worked and be forwarded to the personnel director as required in section 4-1-24.

(h) *Beginning and end of workweek.* The workweek for all employees shall begin at midnight Saturday morning and shall end at midnight Friday night; provided, however, the workweek for emergency communications shift personnel shall begin and end on such schedule as shall be determined by the county manager.

(i) *Compensation for emergency medical service employees.* Notwithstanding any other provision of law, and beginning with the first pay period of November, 1995, emergency medical service (EMS) employees shall be paid on a fixed hourly rate, with an additional overtime premium of $1\frac{1}{2}$ times the regular rate for all hours worked in excess of 40 per

week. Effective with such pay period, the county's EMS employees no longer will be compensated pursuant to the partial overtime exemption for law enforcement and firefighting personnel, and will not be paid pursuant to the fluctuating workweek method of compensation. Each affected employee shall be advised in writing of this modification in the method of their compensation.

(Code 1980, § 4-1-41; Ord. No. 10-85, § 1, 7-16-85; Ord. No. 8-93, § 1, 7-27-93; Ord. No. 14-95, § 1, 10-3-95)

Sec. 4-1-42. Overtime.

Department heads and supervisors shall arrange their work schedule so as to accomplish the required work within the standard workday and keep overtime at an absolute minimum. Except in emergencies, overtime shall be approved in writing by the county manager. Overtime work shall be considered work performed by a nonexempt employee which the supervisor or department head suffers or permits which exceeds the workweek as designated for that department by the county council. Accurate records must be kept and reported by department heads. Executive, professional, administrative and seasonal employees shall be identified by the county manager and shall be considered exempt and shall not be paid for overtime work. Special overtime provisions are made for public safety personnel who must be paid for overtime work in excess of the schedule of hours set forth in the Fair Labor Standards Act. Compensatory time for nonexempt regular employees shall not be allowed unless taken within the same workweek in order to prevent an overtime situation, holidays excepted.

(Code 1980, § 4-1-42; Ord. No. 10-85, § 1, 7-16-85)

Sec. 4-1-43. Emergency work.

All employees are subject to be summoned for off-duty work in cases of emergency.

(Code 1980, § 4-1-43; Ord. No. 10-85, § 1, 7-16-85)

Sec. 4-1-44. Leave for probationary employees on fluctuating workweek.

Any probationary employees on a fluctuating workweek shall be allowed to charge emergency leave to accrued annual leave or sick leave to accrued sick leave. However, at no time during probation will a probationary employee be allowed to take discretionary leave of any sort. Emergency leave and sick leave taken by probationary employees must be closely scrutinized by the department head and approved by the department head. This section shall take precedence over section 4-1-6(d) in regard to employees working fluctuating workweeks.

(Code 1980, § 4-1-44; Ord. No. 10-85, § 1, 7-16-85)

Sec. 4-1-45. Compliance with federal wage and hour standards.

In all cases relating to wage and hour issues, the Federal Labor Standards Act, as amended, shall be the determining guide, and all determinations shall be based on compliance with the act.

(Code 1980, § 4-1-45; Ord. No. 10-85, § 1, 7-16-85)

Sec. 4-1-46. Employment outside county service.

(a) *General policy.* It is the policy of the county that employment with the county shall be the principal vocation of all of its fulltime employees. No employee shall be allowed to hold a public office with the county or have conflicting employment while in the employ of the county. No fulltime county employee shall engage in any private business or profession during the hours for which he is employed to work for the county. The county manager may establish whatever additional procedures or limitations are deemed necessary for regulating outside employment activities of county employees in accordance with this policy.

(b) *Use of county property.* Under no circumstances shall a county employee use county property, equipment or material in the conduct of approved secondary employment.

(c) *Participation in unlawful activities.* Employees should not participate in any secondary employment with a firm, business or profession which conducts its business in violation of existing state or local laws.

(d) *Nonliability of county.* The county will not assume any responsibility for employees engaging in secondary employment during the hours of that employment with the secondary employer, nor will it accept any liability for any

illnesses, injuries or damages incurred by the employee while in the execution of secondary employment duties. Employees engaged in secondary employment shall be required to execute a form releasing the county from all liability for claims resulting from illnesses, injuries or damages resulting from secondary employment.

(Ord. No. 8-91, § I, 6-18-91)

Secs. 4-1-47--4-1-50. Reserved.

ARTICLE D. GUIDELINES FOR DISCIPLINARY ACTION

Sec. 4-1-51. Purpose.

(a) The guidelines set out in this article are provided to ensure that, when it becomes necessary for a supervisor or department head to take disciplinary action against an employee, such discipline will be administered in a fair, equitable and consistent manner in all departments and without regard to race, religion, age, sex, national origin or disability.

(b) Except where a specific agreement obligates an employee to work for the county for a certain period of time, all employees are employed by the county at will. This means that the employee may terminate his employment with the county at any time without cause and the county may terminate the employment of an employee at any time without cause. These guidelines do not alter this employment relationship between the county and the employee.

(Code 1980, § 4-1-51; Ord. No. 5-85, § 3, 6-4-85; Ord. No. 20-87, § 2, 9-15-87)

Sec. 4-1-52. Conformance with guidelines required; documentation of actions.

(a) In many cases, potential problems can be corrected by a casual, informal discussion between the employee and his immediate supervisor. When it becomes necessary to administer discipline, such discipline shall be administered in a manner consistent with the guidelines established in this article.

(b) Complete documentation of all actions, including a description of the violation and the action taken, shall be made and placed in the employee's folder in the personnel office.

(Code 1980, § 4-1-52; Ord. No. 5-85, § 3, 6-4-85)

Sec. 4-1-53. Rules of employee conduct; maximum disciplinary actions.

(a) Offenses which will result in disciplinary action include but are not limited to those presented in this section. Since the violation of some rules is more serious than the violation of others, these rules have been divided into three groups. Discipline listed for each group constitutes the maximum allowable discipline, and any lesser discipline may be imposed in a particular case. At the occurrence of any of the listed offenses, or any that are not listed, the appropriate discipline shall be determined after the particular circumstances of the case have been carefully considered.

(b) Although the offenses listed in this section are grouped according to severity, the groups are not to be considered as independent of one another. For example, an employee who has been suspended or demoted for a group B violation may be discharged for any group A violation that occurs within the next 12 months. A period of 12 months from the date of a violation will clear the employee's record of such violation.

_____ (1) *Group A.*

_____ a. A first violation may result in a written warning. One copy shall be placed in the employee's folder in the personnel office and one copy shall be given to the employee.

_____ b. A second violation may result in suspension of up to one week without pay, or demotion.

_____ c. A third violation may result in discharge.

_____ d. Group A offenses include the following:

_____ 1. Failure to follow oral or written instructions.

_____ 2. Inefficiency or lack of application in the performance of duties.

_____ 3. Careless, negligent or improper use of county property or equipment.

- _____ 4. Thoughtless conduct which endangers others or results in minor property damage.
- _____ 5. Failure to maintain satisfactory and harmonious working relationships with the public or fellow employees.
- _____ 6. Repeated failure to report for duty at the assigned time and place.
- _____ 7. Unexcused absence.
- _____ 8. Reading books, magazines or other materials not pertaining to work while on duty.
- _____ 9. Creating or contributing to unsanitary conditions.
- _____ 10. Engaging in horseplay.
- _____ 11. Knowingly using county equipment in an unauthorized manner.

_____ (2) *Group B.*

- _____ a. A first violation may result in suspension of up to one week without pay, or demotion.
- _____ b. A second violation may result in discharge.
- _____ c. Group B offenses include the following:
 - _____ 1. Reporting for duty while under the influence of intoxicants or drugs.
 - _____ 2. Willful failure to use safety equipment or refusal to comply with safety rules.
 - _____ 3. Unauthorized sleeping while on duty.
 - _____ 4. Gambling on county property.
 - _____ 5. Thoughtless conduct which results in injury to others or in more than minor property damage.
 - _____ 6. Improper use of leave.
 - _____ 7. Unprovoked use of excessive force or language in dealing with the public.
 - _____ 8. Actively engaging in political activities as prohibited by the personnel policy.

_____ (3) *Group C.*

- _____ a. A first violation may result in discharge.
- _____ b. Group C offenses include the following:
 - _____ 1. Falsification of records or misrepresentation of material information.
 - _____ 2. Unauthorized or improper use or disclosure of county records or documents.
 - _____ 3. Misuse of county funds.
 - _____ 4. Willfully causing damage or destruction of equipment or property belonging to the county or to fellow workers.
 - _____ 5. Insubordination.
 - _____ 6. Thievery.
 - _____ 7. Being the aggressor in a fight on county property while on duty.
 - _____ 8. Drinking or possession of alcoholic beverages or drugs while on duty.
 - _____ 9. Unauthorized possession of firearms on county property.
 - _____ 10. Unauthorized absence of three days.

11. Conviction of a serious crime or felony which impairs ability to continue in public employment.

(Code 1980, § 4-1-53; Ord. No. 5-85, § 3, 6-4-85; Ord. No. 21-89, § I, 8-1-89)

Secs. 4-1-54--4-1-60. Reserved.

ARTICLE E. GRIEVANCES

Sec. 4-1-61. Purpose of article; general policy.

(a) The purpose of this article is to provide a means whereby any employee who feels that he has been subjected to unfair, discriminatory or abusive treatment may secure a hearing without delay and be assured of a prompt, orderly and fair response to the grievance or appeal.

(b) The employee shall be entitled to such time off from his regular duties as may be necessary and reasonable for the presentation and processing of the grievance or appeal without loss of pay, vacation or other credits.

(Code 1980, § 4-1-61; Ord. No. 5-85, § 4, 6-4-85)

Sec. 4-1-62. Subjects of grievances.

Grievances may include but are not necessarily limited to grievances relating to dismissal, suspension, involuntary transfer, promotion and demotion. Compensation shall not be deemed a proper subject for consideration under the grievance procedure, except as it may apply to alleged inequities within a department.

(Code 1980, § 4-1-62; Ord. No. 5-85, § 4, 6-4-85)

Sec. 4-1-63. Grievance committee.

(a) The county manager shall appoint, subject to the approval of the county council, a committee composed of five members, to be known as the grievance committee. The committee shall be appointed so that it will produce a cross section of the county's employees. The committee members shall serve terms of office of three years, except that, of the members initially appointed, one shall serve for one year, two shall serve for two years, and two shall serve for three years. Positions which become vacant shall be filled on an interim basis for the remainder of the unexpired term.

(b) The committee shall annually select a chairman from among its own members. The chairman shall serve as the presiding officer at all meetings unless he designates another committee member to act in his absence.

(c) Whenever a grievance comes before the committee initiated by or involving an employee of a department of which a committee member is also an employee, such member shall be disqualified from participating in the hearing.

(d) A quorum shall consist of at least three members, and no hearing shall be held without a quorum.

(e) The presiding officer will have control of the proceedings. He shall take whatever action is necessary to ensure an equitable, orderly and expeditious hearing. Parties shall abide by his decisions, except when a committee member objects to a decision to accept evidence, in which case the majority vote of the committee will govern.

(f) The committee shall have the authority to call for files, records and papers pertinent to any investigation, to determine the order of the testimony and the appearance of witnesses, to call additional witnesses, and to secure the services of a recording secretary.

(g) All grievance appeals and decisions must be in writing and issued within the prescribed time limits.

(h) Department heads and the employees of the sheriff's department are not subject to the rules of grievance described in this article. All recourse in these cases shall lie with the county council and sheriff respectively.

(Code 1980, § 4-1-63; Ord. No. 5-85, § 4, 6-4-85)

Sec. 4-1-64. Procedure.

(a) *Informal discussion.* Whenever possible, a potential grievance should be resolved by the employee and his

supervisor during informal discussions. This provides an opportunity for the employee to tell his side of the story and for the supervisor to explain his position in the matter.

(b) *Step 1.* If any employee who in regular status has a problem which cannot be resolved through the normal process of informal discussion, he may notify the department head, within 30 working days of learning of the grievable action, that he wishes to present a formal grievance. The department head, without delay, shall schedule a hearing with the employee. The employee shall reduce the grievance to writing, and shall also have an opportunity to present his case in person. The department head shall conduct whatever investigations and factfindings he may consider necessary. The employee will be advised of the department head's decision in writing within five working days after the hearing.

(c) *Step 2.* If the employee is not satisfied with the decision reached in step 1, he may, within five days after receipt of such decision, present the grievance in writing to the county manager. The county manager, without delay, shall schedule a hearing with the employee. The employee shall have another opportunity to present his case in person. The county manager shall conduct whatever additional investigations and factfindings he may consider necessary. The employee will be advised of the county manager's decision in writing within five working days after the hearing.

(d) *Step 3.* If the employee is not satisfied with the decision reached in step 2, he may, within five workdays after receipt of such decision, present the grievance in writing to the chairman of the grievance committee. The committee chairman shall, within three working days, notify the grievance committee and schedule a hearing. The committee shall conduct such investigations and factfindings as may be necessary and will give its written decision to the county council within ten working days after the hearing. If the council approves the committee's decision, the decision of the committee shall be final and shall be transmitted to the employee and the employing department. If, however, the council rejects the decision of the committee, the council shall make its own written decision without further hearing, and that written decision shall be final. Copies of the written decision shall be transmitted to the employee and the employing department. The written decision of the county shall be rendered to the parties concerned within 30 working days after the receipt of the committee's decision.

(Code 1980, § 4-1-64; Ord. No. 5-85, § 4, 6-4-85; Ord. No. 21-97, § 1, 8-5-97)

Secs. 4-1-65--4-1-70. Reserved.

ARTICLE F. TRAVEL AND SUBSISTENCE ALLOWANCE

Sec. 4-1-71. General policy.

When employees of the county are required to travel on official business, the county will pay reasonable amounts for transportation, meals and lodging.

(Code 1980, § 4-1-71; Ord. No. 5-85, § 5, 6-4-85)

Sec. 4-1-72. Transportation costs.

(a) The county may purchase tickets in advance for employees traveling by common carrier. All employees shall travel in tourist class whenever possible.

(b) Employees who, with proper authorization, use their personal vehicles for official business may be reimbursed at the rate prescribed in the annual budget.

(c) Employees may be reimbursed for all ferry, bridge, road and parking tolls. Receipts for taxi fares are not required; however, taxi expenses must be itemized.

(Code 1980, § 4-1-72; Ord. No. 5-85, § 5, 6-4-85)

Sec. 4-1-73. Meal allowances.

Employees may be reimbursed for actual meal expenses while traveling, in an amount not to exceed the per diem prescribed in the annual budget. However, breakfast expense is not allowed unless it is necessary for the employee to depart prior to 8:00 a.m. in order to arrive at his destination on time, and dinner expense is not allowed unless the employee's departure delays his arrival in Greenwood until after 6:00 p.m. Meals included in registration fees are to be deducted from the per diem allowance. Receipts are not required for per diem allowances.

(Code 1980, § 4-1-73; Ord. No. 5-85, § 5, 6-4-85)

Sec. 4-1-74. Lodging.

When lodging is required, employees are expected to utilize standard, medium-priced hotels and motels whenever possible. If an employee is to attend a formal, organized meeting or convention, he may stay at the hotel or motel where the meeting is to be held. In all cases, the county will pay no more than the regular single room rate. Receipts must be presented for all lodging.

(Code 1980, § 4-1-74; Ord. No. 5-85, § 5, 6-4-85)

Sec. 4-1-75. Advances; authorization; expense report.

(a) Travel advances may be made to cover anticipated travel expenses with the approval of the county manager.

(b) All travel must be authorized in advance. All expenses must be supported by an expense report.

(c) All expense reports are to be filed within 30 days of the time expenses are incurred, or the employee shall forfeit reimbursement.

(Code 1980, § 4-1-75; Ord. No. 5-85, § 5, 6-4-85)

Secs. 4-1-76--4-1-80. Reserved.

ARTICLE G. ETHICS*

***Cross reference(s)**--Conflict of interest of councilmembers, § 2-2-6; conflict of interest in purchasing decisions, § 5-2-3.

Sec. 4-1-81. Hiring of relatives.

(a) Two or more members of an immediate family shall not be employed by the county if such employment will result in one supervising a member of his immediate family, or where one member occupies a position which has influence over another's employment, promotion, salary administration and other related management or personnel considerations.

(b) Employment of close relatives may be permitted strictly in emergency situations for temporary periods of time, not to exceed 30 calendar days, with the approval of the county manager, in cases where other qualified applicants are not available for an essential task.

(c) For the purpose of this section, the immediate family shall include spouse, mother, father, sister, brother, son, daughter, mother-in-law, father-in-law, brother-in-law, son-in-law, daughter-in-law, grandmother, grandson and granddaughter.

(Code 1980, § 4-1-81; Ord. No. 5-85, § 6, 6-4-85)

Sec. 4-1-82. Gifts, tips and gratuities.

(a) No employee shall accept gifts, kickbacks, tips, gratuities, loans or any special form of consideration from any institution, business, organization or individual with whom he relates while on the official business of the county. Inspection officers, officers making contracts and county officials in general must guard against any relationship, formal or informal, which might be construed as showing evidence of coercion, conflicting interests, collusion or the like.

(b) The limits in this section are not to be understood to prohibit acceptance of small articles generally distributed, engaging in usual social courtesies or interaction, or obtaining a loan from a public lending institution under circumstances and arrangements available to the general public.

(Code 1980, § 4-1-82; Ord. No. 5-85, § 6, 6-4-85)

Secs. 4-1-83--4-1-90. Reserved.

ARTICLE H. EDUCATIONAL, CIVIL AND MILITARY LEAVE**Sec. 4-1-91. Educational leave; reimbursement of education expenses.**

(a) *Purpose.* This section is provided in order to encourage all regular employees to continue their education in order to maintain and improve skills and knowledge useful in their current positions or necessary for assuming additional responsibilities in the future. Classes should be scheduled during off-duty hours whenever possible.

(b) *Eligibility.* Any regular employee who has satisfactorily completed at least six months of continuous employment during his current period of employment with the county is eligible to receive all benefits provided in this section.

(c) *Approved courses.* As used in this section, an approved course shall mean:

_____ (1) Any course taken at an accredited institution which will help the employee improve his performance in his present position or prepare him for opportunities for advancement; or

_____ (2) All courses taken at an accredited institution as a part of a curriculum leading to a certificate, diploma or degree which will help the employee improve his performance in his present position or prepare him for opportunities for advancement.

(d) *Educational leave without pay.*

_____ (1) Educational leave without pay is fulltime or parttime leave in a nonpay status requested by the employee so that he may take approved courses. Such leave is to be approved in advance by the employee's department head and the personnel director.

_____ (2) An eligible employee may apply by submitting a letter of request to his department head at least 30 days before the first day of leave requested or within five days of notification of his acceptance for admission by the school, whichever is later. The letter of request must include:

_____ a. The type and purpose of the leave requested;

_____ b. The duration of the leave;

_____ c. An attached copy of the letter of acceptance from the school at which the leave will be taken; and

_____ d. Such other information as may be helpful to the reviewing authority in reaching its determination.

_____ (3) The employee's request shall be acted upon and the employee notified within ten working days.

_____ (4) Upon an employee's successful completion of a fulltime leave, the county shall reinstate the employee to his former position, or a position of like status and pay, or promote him to a higher position.

(e) *Tuition reimbursement.*

_____ (1) An employee who takes an approved course during off-duty hours or while on educational leave without pay may be reimbursed for certain expenses as provided in this subsection. However, no reimbursement may be paid for any course for which the employee is receiving or has received financial aid from another source.

_____ (2) An employee may be reimbursed for the cost of tuition, all course-related fees, and one-half the cost of required books. All other costs, such as activity fees, graduation fees, etc., shall be paid by the employee.

_____ (3) Within ten days after receiving his grades, the employee shall submit an application for tuition reimbursement to the personnel director with the following attachments:

_____ a. Receipts showing the amounts paid for tuition, fees and books; and

_____ b. A copy of the grade sheet or other proof of satisfactory completion, as appropriate.

Payment may be made only for those courses in which the employee earns a grade of "B" or better for graduate and post-graduate study and "C" or better for all other study. Proof of satisfactory completion will be required for those courses for which grades are not given. After approving the application, the personnel director will forward the approved form for payment.

(f) *Time off.* When an approved course cannot be scheduled during off-duty hours, any regular, fulltime employee may request time off from his regular work schedule so that he may meet classes. Such requests shall be made in writing, using the request for educational leave for professional development form, and submitted to the employee's department

head. If his request is endorsed by the department head and approved by the personnel director, the employee may be granted time-off pay to take one course per school term for up to the equivalent of three semester hours credit, provided such time off will not interfere with the normal operation of the department.

(g) *Required courses.* From time to time it may be necessary for the county to require certain employees to take one or more courses. When this does occur, the county will pay all of the costs of the course, including tuition, fees, books and reasonable transportation costs.

(Ord. of 10-19-76; Code 1980, § 4-1-91)

Sec. 4-1-92. Civil leave.

(a) *Jury duty.* All permanent county employees selected for jury duty shall be entitled to civil leave with pay for the period of absence required. Such leave shall not be charged to vacation or sick leave earnings, except that, on any day when such employee is excused from service on a jury, he will be expected to report for duty at his regular place of work if within reasonable commuting distance or he shall be charged vacation time for the time excused from jury duty. Likewise, any period of time for which an employee is excused from jury duty because of illness shall be charged to sick leave. An employee shall be entitled to fees received as a juror.

(b) *Official court attendance.* Any regular employee subpoenaed or ordered to attend court to appear as a witness or to testify in some official capacity shall be entitled to leave with pay for such period as his court attendance may require.

(c) *Private litigation.* Absence of a county employee to appear in private litigation in which he is a principal party shall be charged to annual leave or to leave without pay.

(Ord. of 10-19-76; Code 1980, § 4-1-92)

Sec. 4-1-93. Military and training camp leave.

(a) *Involuntary induction.* Any employee called into the military service involuntarily may be granted military leave sufficient to cover the period of service for which he is involuntarily inducted and shall be entitled to reinstatement in the county service in the same position, or an equivalent position, without loss of accumulated sick leave, provided the employee applies for his old position within a period of 60 days after discharge. Upon taking military leave, the employee shall be entitled to payment for accumulated vacation time as stipulated in the sections governing vacation.

(b) *Reserve training camp leave.* Any employee belonging to a national guard unit or other military reserve unit may be granted a leave of absence for a period not to exceed two calendar weeks during any one calendar year for the purpose of attending camp with his unit. Any such leave of absence shall be without loss or reduction of the employee's regular county compensation and shall not affect the employee's sick leave or annual leave.

(c) *Emergency leave.* Any employee called upon by appropriate authority to serve during an emergency, as declared by the president or the governor, shall be entitled to military leave not to exceed an additional 30 days. Such emergency leave shall be without loss or reduction of the employee's regular county compensation and shall not affect the employee's sick leave or annual leave.

(d) *Submission of copy of orders.* Any employee required to go on training duty or emergency duty shall submit a copy of his official orders as soon as possible after receipt thereof by the employee.

(Ord. No. 78-2-18, § 7, 8-15-78; Code 1980, § 4-1-93; Ord. No. 2-84, §§ 1, 2, 2-7-84)

Secs. 4-1-94--4-1-100. Reserved.

ARTICLE I. EXCEPTIONS FROM APPLICABILITY OF CHAPTER

Sec. 4-1-101. Elected officials; county attorney and county physician.

The provisions of this chapter are not applicable to elected officials in the county so far as this chapter relates only to the elected official personally, or to the county attorney or county physician, who are employees of the county whose employment is controlled directly by the council.

(Ord. of 10-19-76; Code 1980, § 4-1-101)

Secs. 4-1-102--4-1-110. Reserved.

ARTICLE J. BENEFITS

Sec. 4-1-111. Cafeteria plan.

(a) There is hereby authorized the establishment of an Internal Revenue Service section 125 cafeteria benefit plan for the benefit of the employees of the county. Benefits under the cafeteria plan shall be available to all county employees and may include group term life insurance benefits, health care benefits, group legal services benefits, dependent care assistance benefits and other appropriate benefits. Premiums or costs for these benefits shall be paid by the employees on a salary reduction basis.

(b) The chairman of the county council and the county manager are authorized to execute the written plan document, any amendments thereto and all other documents and supplementary plans necessary to implement the cafeteria plan and the benefits provided under the plan.

(Code 1980, § 4-1-111; Ord. No. 8-86, §§ 1, 2, 6-17-86)

Secs. 4-1-112--4-1-120. Reserved.

ARTICLE K. SUBSTANCE ABUSE POLICY AND PROCEDURES*

***Editor's note**--Section I of Ord. No. 1-97, adopted January 7, 1997, deleted Art. K in its entirety and added a new Art. K to read as set forth herein. Formerly, Art. K consisted of §§ 4-1-121--4-1-128, which contained similar provisions and derived from Ord. No. 4-91, § I, adopted May 7, 1991; and Ord. No. 1-96, § I, adopted January 16, 1996.

Sec. 4-1-121. Statement of position.

Alcohol and drugs have no place at work. Their abuse potentially endangers the public, the employee who abuses alcohol and drugs, and his coworkers. Alcohol or drug abuse leads to excessive absenteeism and tardiness, increased medical problems and costs, and diminished job performance. Alcohol or drug abuse destroys family relationships. Because of these havocs, the county cannot allow the abuse of alcohol and drugs by its employees. Therefore, it has adopted this policy for alcohol and drug testing.

(Ord. No. 1-97, § I, 1-7-97)

Sec. 4-1-122. Policy on alcohol and drug use.

(a) The possession or use, or being under the influence, of intoxicating beverages while at work or on duty is strictly prohibited.

(b) The possession, sale or use of illegal drugs at any time, either on or off duty, is strictly prohibited. Illegal drugs include marijuana, cocaine and the drugs and controlled substances identified in S.C. Code 1976, tit. 44, ch. 53, as amended from time to time.

(Ord. No. 1-97, § I, 1-7-97)

Sec. 4-1-123. Applicability of article.

The substance abuse policy and procedures set forth in this article apply to all county employees, whether full-time, part-time or temporary. In addition, employees who operate commercial motor vehicles and are subject to testing under the Omnibus Transportation Employee Testing Act of 1991 must be tested pursuant to a separate policy adopted by the county to implement U.S. Department of Transportation regulations issued pursuant to that act.

(Ord. No. 1-97, § I, 1-7-97)

Sec. 4-1-124. Circumstances for testing.

Employees may be asked to give blood or urine samples for testing under the following circumstances:

_____ (1) *New employees.* All applicants for employment will be asked to give blood or urine samples for testing for use of illegal drugs. Any applicant, if hired, will be employed in a probationary status. If the initial test is positive for use of illegal drugs, such person shall be denied employment or terminated immediately, without further testing.

_____ (2) *Reasonable cause.* Any employee may be asked to give blood or urine samples for testing if reasonable cause exists to believe that the employee has used or is under the influence of intoxicating beverages while at work or on duty or has used illegal drugs at any time, either on or off duty. Reasonable cause exists under a number of circumstances, including, but not limited to, the following:

_____ a. An employee is involved in an accident or near accident which indicates the possible use, or being under the influence, of intoxicating beverages at work or on duty.

_____ b. An employee is involved in an accident or near accident at any time, either on or off duty, which indicates the possible use of illegal drugs.

_____ c. An employee has excessive absenteeism or tardiness, or declining work productivity, which, combined with additional circumstances, indicates the use, or being under the influence, of intoxicating beverages or drugs.

_____ d. An informant provides information that an employee has possessed or used, or has been under the influence of, intoxicating beverages while at work or on duty.

_____ e. An informant provides information that an employee has possessed, sold or used illegal drugs.

_____ f. An employee engages in suspect or abnormal behavior so as to appear to be under the influence of intoxicating beverages or illegal drugs.

_____ (3) *Random testing.* Employees may be asked to give blood or urine samples on a random basis under the following circumstances: Because of the sensitivity of the positions, certain employees in the sheriff's department, the department of emergency medical services, the department of emergency communications, the department of public works and the department of parks and recreation may be asked to give blood or urine samples on a random basis to determine if the employee has used or is under the influence of intoxicating beverages while at work or on duty or has used illegal drugs. A list of positions in which employees are subject to random testing is included in this policy. A similar list also must be given to each employee hired for one of these positions.

(Ord. No. 1-97, § I, 1-7-97)

Sec. 4-1-125. Conditions of testing.

(a) Utmost privacy will be provided during the testing process. Employees selected for testing will be notified of the results at the earliest opportunity. Strict confidentiality of the results will be maintained.

(b) If an employee has a positive test for illegal drug use, the laboratory which conducted the testing shall confirm the test using a gas chromatography/mass spectrometry (GC/MS) confirmatory test. Should the employee dispute the results of the test, a re-test may be conducted on the same blood or urine sample at the employee's expense. This expense will be reimbursed to the employee if the re-test is negative; however, if the re-test is positive, or if the employee does not request a re-test, the employee may be subject to disciplinary action as provided in section 4-1-127.

(Ord. No. 1-97, § I, 1-7-97)

Sec. 4-1-126. Refusal to participate in test.

Refusal by an employee to give a blood or urine sample, when requested to do so under the terms of this article, will be considered the same as a confirmed positive test result and will be grounds for disciplinary action as provided in section 4-1-127.

(Ord. No. 1-97, § I, 1-7-97)

Sec. 4-1-127. Violations of policy.

(a) A first violation of the policies provided in section 4-1-122 shall be grounds for disciplinary action, up to and including termination from employment.

(b) Before the employment of any employee is terminated for violation of the policies provided in section 4-1-122, the employee shall be given the opportunity to resign voluntarily. In such event, the county will not disclose the reason for the resignation to any potential employer.

(c) At the request of an employee who has violated the policies provided in section 4-1-122, such employee may be placed in the county's second chance program. Such placement shall be entirely in the discretion of the county. In determining such placement, the county shall consider the work history of the employee and shall balance the employee's continued employment against the need to protect the public and other county employees. If an employee is placed in the second chance program, the employee must agree to the following conditions:

(1) The employee must follow and successfully complete the treatment program prescribed by the Greenwood-Edgefield-McCormick-Abbeville Commission on Alcohol and Drug Abuse or such other treatment agency as may be approved by the county. Such treatment shall be at the sole expense of the employee, but the employee may use sick leave or annual leave, if available. Unpaid leave under the Family and Medical Leave Act also may be available. The employee may also receive such health insurance benefits for treatment as are available under the county's health insurance plan.

(2) Until an assessment is completed and a treatment program prescribed by the treating agency, the employee will be suspended from work without pay, except that the employee may use available sick leave or annual leave. The employee shall not return to work until such time as may be designated by the county and the treating agency following consultation. After returning to work, the employee must follow such guidelines and agree to such restrictions as are designated by the county.

(3) An employee's participation in the second chance program requires that he remain free of drugs at all times and remain free of the influence of alcohol while at work or on duty. If the employee fails a second alcohol or drug test, or refuses to give a blood or urine sample for such second test, the employment of such employee shall be terminated. Further, if the employee fails to complete the prescribed treatment program, his employment shall be terminated.

(4) An employee's participation in the second chance program is not a guarantee of continued employment, and the employment of an employee may be terminated subsequently for any lawful reason; however, participation in the program is an employee's second chance to overcome his addiction to alcohol or drugs.

(Ord. No. 1-97, § 1, 1-7-97)

Secs. 4-1-128--4-1-140. Reserved.

ARTICLE L. HIRING OF APPLICANTS WITH CRIMINAL RECORD; PROCEDURE FOR COUNTY EMPLOYEES WHO ARE ARRESTED

Sec. 4-1-141. General policy.

(a) If a prospective employee has not more than two convictions for offenses tried in magistrate's or municipal court and if the employee was not incarcerated as a result of either conviction, the employee may be hired by a department head with the written consent of the county manager, unless otherwise prohibited in this article.

(b) If a prospective employee has one misdemeanor conviction for an offense tried in general sessions court and if the employee was not incarcerated as a result of the conviction, the employee may be hired by a department head with the consent of the county manager if the date of the conviction is more than five years prior to the date of the employee's application and the prospective employee has no other record of criminal activity since the date of the conviction, unless otherwise prohibited in this article.

(c) No employee may be hired without the approval of the governing body of the county whose criminal record includes:

(1) A felony conviction.

(2) A conviction for any offense if the prospective employee was actually incarcerated as a result of the conviction.

(3) A conviction for a crime involving dishonesty or deceit.

(4) Multiple convictions except as allowed in subsection (a) of this section.

(d) In any situation where a prospective employee is hired with a criminal record, the department head or the county manager shall include in the employee's personnel file a description of the offense and the sentence which was imposed, along with the reasons why the department head or county manager feels the employee should be hired in spite of his criminal record. In all cases, the county manager shall have the discretion to extend the employee's period of probation for up to one year.

(e) Any employee who, after being hired, is arrested for any offense, may be suspended at the discretion of the county manager, with or without pay, pending a disposition of the charges made against that employee. Any employee who is convicted for any criminal offense may be terminated immediately as a result of the conviction.

(f) As used in this section, the term "offense" means any crime other than a minor traffic violation, but specifically includes driving under the influence and driving under suspension.

(Ord. No. 8-92, § I, 4-7-92)

Secs. 4-1-142--4-1-150. Reserved.

ARTICLE M. ANTI-HARASSMENT POLICY AND PROCEDURES*

***Editor's note**--Ordinance No. 6-96, adopted March 5, 1996, did not specifically amend the Code; hence, codification of §§ I, II(A--C) as §§ 4-1-151--4-1-154 was at the discretion of the editor.

Sec. 4-1-151. Policy.

(a) The county is committed to maintaining a positive, constructive working environment. In keeping with this goal, the county will not tolerate discrimination or harassment based on race, color, religion, ancestry, national origin, sex, age, disability, veteran status, or any other protected characteristic. The county will make every effort to provide a work environment free from all forms of discrimination, harassment, or intimidation. This policy applies to supervisors, managers, coworkers, outsiders, and any other persons who come in contact with employees of the county.

(b) Sexual harassment deserves special mention. It is illegal and against the policies of the county for any employee to make any unwelcome sexual advances, request sexual favors, engage in verbal or physical conduct of a sexual nature and/or demonstrate any sexually harassing conduct that creates an intimidating work environment for any person in the county. The county recognizes that the question of whether a particular action, incident, or general course of action is sexual harassment or simply a socially acceptable action is sometimes a difficult factual determination. The county also recognizes that any and all such events will demand a prompt, complete, and unbiased investigation that protects the rights of the complaining employee(s) and the alleged harasser(s).

(c) The county will not tolerate discrimination or harassment of any kind, nor will it tolerate reprisals against any employee who makes a harassment complaint. All employees, supervisors, managers, and others who violate this policy are subject to disciplinary action, including discharge.

(d) Any supervisor or manager who receives a complaint of harassment and fails to take corrective action pursuant to this policy shall also be subject to disciplinary action, including immediate termination.

(Ord. No. 6-96, § I, 3-5-96)

Sec. 4-1-152. Sexual harassment defined.

Sexual harassment is any unwelcome sexual attention, advances, requests for sexual favors, or physical or verbal conduct of a sexual nature forced by one employee, either male or female, upon another. This unwanted attention may take the form of repeated requests for dates, obscene jokes, lewd and lascivious comments, or physical gestures, whether at or away from the county, and may include the following circumstances:

_____ (1) Submission to such conduct is made a term or condition of an individual's continued employment, promotion, or other condition of employment. This can occur by clearly stated or implied words or actions.

_____ (2) Submission to, or rejection of, such conduct is used as a basis for employment decisions affecting an individual employee.

_____ (3) Conduct is intended to interfere, or result in interference, with an employee's work performance, or creates

an intimidating, hostile, or offensive work environment for an employee.

(4) Derogatory or vulgar comments regarding any person's gender, sexually suggestive language, sexually vulgar language, remarks about a person's physical anatomy or characteristics, threats of physical harm, or distribution of written or graphic sexual materials. Sexual materials would include nude pictures, sexually oriented magazines or posters, and other words or pictures of a sexually suggestive nature.

(5) Person(s) touching others in a sexually suggestive way. This would include touching others so as to invade their personal privacy, as well as physical contact, such as hitting or pushing, and threats to take such action.

(Ord. No. 6-96, § II(A), 3-5-96)

Sec. 4-1-153. Complaint procedures and investigation.

(a) All county employees are responsible for helping to assure that [the county] avoids harassment. Employees who believe they are being harassed, or who have witnessed harassment, should immediately notify the county manager. The county forbids retaliation against anyone who has reported harassment.

(b) The county's policy is to investigate all complaints thoroughly and promptly. All complaints will be handled in a timely and confidential manner. In no event will information concerning an employee's complaint be released by the county to any third person or anyone within the county who is not involved in the investigation.

(c) As part of the investigation, the complainant, the accused harasser, and any coworkers or other witnesses will be questioned. The accused harasser will also be warned not to retaliate or to discuss the matter with the complainant. Any person in authority within the county who shall give poor performance appraisals, assign demeaning tasks, demote, or take any kind of adverse action against a person who complains about harassment shall receive immediate disciplinary action, up to and including discharge.

(Ord. No. 6-96, § II(B), 3-5-96)

Sec. 4-1-154. Corrective action.

(a) After all the circumstances of the complaint have been documented in detail, a determination will be made as to whether or not harassment has occurred.

(b) The complainant and other directly involved persons will be given notice of the county's determination in the matter.

(c) Prompt corrective action, if warranted, will follow immediately. This may include discipline or termination of the perpetrator or the complainant in the case that a falsified complaint or contributory behavior was discovered.

(d) Whenever any disciplinary action is taken against an accused harasser, the victim will be informed only that "corrective action was taken."

(e) It shall be an ongoing policy of the county that all prior complainants be contacted by the county manager on a periodic basis, to be certain they are working in an environment free from all forms of harassment or intimidation.

(Ord. No. 6-96, § II(C), 3-5-96)

Chapter 2 CLASSIFICATION PLAN

Sec. 4-2-1. Adoption.

The position classification plan attached to Ordinance No. 8-89, which includes a schematic list (appendix 1-A) and alphabetical list (appendix 1-B) and the assignment of classes to the salary grades (appendix 1-C), shall be the classification plan of the county.

(Ord. No. 78-2-18, § 1, 8-15-78; Code 1980, § 4-2-1; Ord. No. 8-89, pt. I, § I, 3-7-89)

Sec. 4-2-2. Definitions.

For purposes of this chapter:

- _____ (1) A position is a group of currently assigned duties and responsibilities requiring the fulltime employment of one person. A position may be occupied or vacant.
- _____ (2) A class is a group of positions, or one position, which are substantially similar with respect to difficulty, responsibility, degree of supervision required and exercised, and character of work required, and require generally the same kind and amount of training and experience for proper performance which merits approximately equal pay. These positions shall be allocated to the same class.
- _____ (3) The class title is the official designation or name of a class as stated in the class specifications. It shall be used on all personnel records and action forms. Titles used in the operating activities of the various departments may be left to the discretion of department heads.

(Ord. No. 78-2-18, § 1, 8-15-78; Code 1980, § 4-2-2; Ord. No. 8-89, pt. I, § II, 3-7-89)

Cross reference(s)--Definitions and rules of construction generally, § 1-1-2.

Sec. 4-2-3. Coverage.

This classification plan shall include all regular classes of positions in the county service.

(Ord. No. 78-2-18, § 1, 8-15-78; Code 1980, § 4-2-3; Ord. No. 8-89, pt. I, § III, 3-7-89)

Sec. 4-2-4. Allocation of positions.

The county manager shall allocate each position covered by the classification plan to its appropriate class in the position classification plan.

(Ord. No. 78-2-18, § 1, 8-15-78; Code 1980, § 4-2-4; Ord. No. 8-89, pt. I, § IV, 3-7-89)

Sec. 4-2-5. Maintenance of plan.

(a) The county manager shall be responsible for the administration and maintenance of the position classification plan. Department heads shall be responsible for bringing to the attention of the county manager:

- _____ (1) The need for new positions; and
- _____ (2) Material changes in the nature of duties, responsibilities, working conditions and other factors affecting the classification of any existing position.

(b) Following the receipt of such information concerning any new position, the county manager shall either:

- _____ (1) Allocate the new position to the appropriate class within the existing classification plan; or
- _____ (2) Recommend that the county council amend the position classification plan to establish a new class to which the new position may be allocated.

(c) When the county manager finds that a substantial change has occurred in the nature or level of duties and

responsibilities of an existing position, the county manager shall:

- _____ (1) Revise the existing class specification;
- _____ (2) Reallocate the position to the appropriate class within the existing classification plan; or
- _____ (3) Recommend that the council amend the position classification plan to establish a new class to which the position may be allocated.

(Ord. No. 78-2-18, § 1, 8-15-78; Code 1980, § 4-2-5; Ord. No. 8-89, pt. I, § V, 3-7-89)

Sec. 4-2-6. Appeals.

If an employee has facts which indicate to him that his position is improperly classified, he may request through his department head that the county manager review the classification of his position. Such requests shall be submitted in writing and shall contain a statement of justification.

(Ord. No. 78-2-18, § 1, 8-15-78; Code 1980, § 4-2-6; Ord. No. 8-89, pt. I, § VI, 3-7-89)

Sec. 4-2-7. Official copy.

(a) The official copy of the position classification plan shall be the original copy of the ordinance duly passed by the county council and shall be included in the Code of Ordinances as maintained by the clerk of council.

(b) The county manager shall be responsible for maintaining a copy of the position classification plan, which shall include policies and regulations for administration, a schematic list of class titles, an alphabetical list of class titles, assignment of classes to the pay grades, and class specifications, plus all amendments thereto. A copy of the official plan shall be available for inspection by the public under reasonable conditions during business hours.

(Ord. No. 78-2-18, § 1, 8-15-78; Code 1980, § 4-2-7; Ord. No. 8-89, pt. I, § VII, 3-7-89)

Sec. 4-2-8. Amendment.

Classes of positions shall be added to and deleted from the position classification plan by the county council upon the recommendation of the county manager.

(Ord. No. 78-2-18, § 1, 8-15-78; Code 1980, § 4-2-8; Ord. No. 8-89, pt. I, § VIII, 3-7-89)

Chapter 3 COMPENSATION PLAN

Sec. 4-3-1. Adoption; coverage.

The county schedule of salary ranges (appendix 1-D) and assignment of classes to the salary grades (appendix 1-C) attached to Ordinance No. 8-89 shall be the compensation plan of the county. The compensation plan shall include all fulltime and regular classes of positions.

(Ord. No. 8-89, pt. II, § I, 3-7-89)

Sec. 4-3-2. Maintenance of plan; amendments.

(a) Every year in the annual budget, the county manager will recommend to the council a cost of living allowance (Cola) by which the compensation plan will be adjusted in its entirety if the county council appropriates funds for this purpose. The cost of living allowance would reflect the actual rate of inflation for the previous 12 months from April 1 to March 30 as calculated by the Lander University consumer price index for the county.

(b) Every five years from July 1, 1988, the county manager shall secure information concerning the general level of salaries paid and fringe benefits provided in private industry in the area, and the salaries paid and fringe benefits provided comparable county, municipal and state employees. The county manager shall conduct continuing studies of the internal relationships between classes of positions within the county. Based on his studies and the general financial condition of the county, the county manager shall recommend to the council such increases, reductions or amendments to the salary plan as he deems necessary to maintain the fairness and adequacy of the salary plan. The annual budget adopted by the council, and any amendments thereto, together with the authorized appropriations, shall constitute the approval of amendments to the pay plan by the council.

(Ord. No. 8-89, pt. II, § II, 3-7-89)

Sec. 4-3-3. Entrance salary.

Each new employee shall be appointed at the minimum salary which has been established for the classification in which he is employed on recommendation of the department head, except as follows:

- (1) If the new employee does not meet the minimum requirements of the position and qualified applicants for the position are not available, the county manager or his designee may designate the employee as a trainee, to be appointed at a salary below the minimum; and
- (2) When a department head shall submit a written statement that qualified applicants cannot be recruited at the minimum salary or that an applicant possesses exceptional qualifications, the county manager may be authorized to employ an applicant at a higher rate than the minimum in the salary range.

(Ord. No. 8-89, pt. II, § III, 3-7-89)

Sec. 4-3-4. Salary of trainees.

An applicant hired, or employee promoted to a position in a higher class, who does not meet all of the established requirements of the position may be appointed with the approval of the county manager or his designee at a training salary as much as two steps below the minimum salary. An employee in a trainee status shall continue to receive a reduced salary until the county manager shall find that the trainee is qualified to assume the full responsibilities of the position.

(Ord. No. 8-89, pt. II, § IV, 3-7-89)

Sec. 4-3-5. Salary increases; merit bonus.

(a) Regular merit increases of one step on the applicable salary range may be granted to deserving regular employees whose work has exceeded the established performance standards and when such an increase will not exceed the maximum salary rate for the class of his position.

(b) Merit increases shall be recommended by an employee's department head and shall be approved by the county manager before becoming effective. An employee shall be considered eligible for a merit raise upon completion of the probationary period prior to October 31 of each year.

(c) Merit bonuses may be granted in the same manner as a merit increase, but are only available to those employees at the maximum salary rate for his class. Merit bonuses will not exceed two percent of the employee's salary and shall be paid in a lump sum amount.

(d) Merit increases will be dependent upon the availability of funds appropriated by the county council.

(Ord. No. 8-89, pt. II, § V, 3-7-89), 3-7-89)

Sec. 4-3-6. Salary of promoted employees.

The salary of an employee promoted from one class to another having a higher overlapping pay range shall be adjusted to the minimum of the new range or not to exceed two steps above his current salary, whichever is higher. Promotional salary increases may be delayed on a recommendation from a department head for a period not to exceed three months pending proven ability to perform the job to which promoted, or be given as one step at the beginning and one step at the end of the three-month period.

(Ord. No. 8-89, pt. II, § VI, 3-7-89)

Sec. 4-3-7. Salary of reclassified employees.

The salary of an employee reclassified from one class to another having a higher overlapping pay range shall be adjusted to the minimum of the new range or to the step above his current salary, whichever is higher. The reclassification of a position to a class having a lower pay range shall not result in a reduction of an employee's salary.

(Ord. No. 8-89, pt. II, § VII, 3-7-89)

Sec. 4-3-8. Salary of transferred employees.

The reassignment of an employee to a position in the same class or to a position in a different class with the same pay range shall not change the employee's salary.

(Ord. No. 8-89, pt. II, § VIII, 3-7-89)

Sec. 4-3-9. Salary of demoted employees.

(a) An employee given a disciplinary demotion shall be reduced in pay two steps or to the median of the pay range, whichever is lower, for the class to which he is demoted.

(b) An employee given an administrative demotion to a position in a different class with a lower minimum salary may be reduced in pay one step or to the maximum of the pay range, whichever is lower, for the class to which he is demoted.

(Ord. No. 8-89, pt. II, § IX, 3-7-89)

Sec. 4-3-10. Salary of parttime and temporary employees.

The pay plan established by this chapter is for fulltime service. When employment is on a parttime or temporary basis, the employee shall be paid only for the hours actually worked at one of the standard hourly rates established for his class or position and approved by the county manager.

(Ord. No. 8-89, pt. II, § X, 3-7-89)

Sec. 4-3-11. Salary of reinstated employees.

A reinstated employee shall be paid at a salary rate within the approved salary range for the position which he will occupy. The salary rate of his former position shall have no bearing on the salary rate for his reinstated position.

(Ord. No. 8-89, pt. II, § XI, 3-7-89)

Sec. 4-3-12. Holiday pay.

All regular employees are paid for all holidays established by the county council. A parttime or temporary employee paid on an hourly rate for actual hours worked shall not be paid for such holidays except if the employee is scheduled and actually works on the holiday.

(Ord. No. 8-89, pt. II, § XII, 3-7-89)

Cross reference(s)--Official holidays, § 4-1-29.

Sec. 4-3-13. General salary range adjustments.

Whenever a new or different scale of salaries is made applicable to a class of positions, persons employed in position of that class at the effective date of the adjustment shall be placed at the salary step in the new range corresponding to that step which they had reached under the formerly applicable scale. For example, upon reassignment of a class from pay grade 9 to pay grade 10, all employees within the class who were on the third step of pay grade 9 would move to the third step of pay grade 10.

(Ord. No. 8-89, pt. II, § XIII, 3-7-89)

Sec. 4-3-14. Effective date of salary adjustments.

Salary adjustments approved after the first working day of a pay period shall generally become effective at the beginning of the next pay period, or may become effective at such later date as may be provided.

(Ord. No. 8-89, pt. II, § XIV, 3-7-89)

Sec. 4-3-15. Pay period; deductions.

(a) All employees shall be paid on a biweekly basis.

(b) The following deductions are mandatory from each employee's salary: social security, federal income tax, state income tax and retirement (nonregular exempted). Employees may have optional deductions for any program the county has so designated.

(Ord. No. 8-89, pt. II, § XV, 3-7-89)

Sec. 4-3-16. Official copy.

(a) The official copy of the compensation plan shall be the original of the ordinance duly passed by the county council and shall be included in the Code of Ordinances as maintained by the clerk of council.

(b) The county manager shall be responsible for maintaining a copy of the compensation plan, which shall include a salary schedule and a schedule of assignment of classes to the pay grades, plus all amendments thereto. A copy of the official plan shall be available for inspection by the public under reasonable conditions during business hours.

(Ord. No. 8-89, pt. II, § XVI, 3-7-89)