

CHAPTER 33: PERSONNEL

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GENERAL PROVISIONS

§ 33.001 WORKERS COMPENSATION, EMPLOYMENT COMPENSATION, TORT AND OTHER LIABILITY; LEGISLATIVE FINDINGS.

(A) The County Council finds that it is beneficial and advantageous, and in the best interest of the county for the county to be a self-insurer with respect to workers' compensation claims, unemployment compensation claims, and tort and general liability claims.

(B) The County Council further finds that, based on the loss experience of the county, it is economically desirable for the county to operate as a self-insurer under the terms and provisions of the State Workers' Compensation Law, the state unemployment compensation statutes, and the general statutes and laws relating to tort and general liabilities of the county. The County Council finds that it would be desirable to create three separate funds, as hereinafter designated, in order to provide for the payment of contingent liabilities, administrative expenses, cost of investigation, legal expenses and other costs incurred in the administration of the State Workers' Compensation Law, unemployment compensation statutes, and the payment of tort and general liability claims.

('77 Code, § 13-4) (Ord. 112, passed 12-13-82; Am. Ord. 5288, passed 10-17-88)

Cross-reference:

Tort and General Liability Funds, § [34.04](#)

Unemployment Compensation Fund, § [34.03](#)

Workers Compensation Self-Insurance Fund, § [34.02](#)

§ 33.002 POLICIES AND PROCEDURES ESTABLISHED.

(A) Pursuant to the mandate of Article VIII, Section 7, of the Constitution of South Carolina 1895, and in accordance with the provisions of Act 283 of the Acts and Joint Resolutions of the General Assembly, 1975, there is hereby developed, created and established a uniform system of policies and procedures by which all county personnel shall be governed in the recruitment, hiring, promotion, transfer, evaluation, disciplining and termination of employment of the county; by which grievances by county employees may be filed, prosecuted, heard and disposed of; and by which policies and provisions the terms, conditions and benefits of employment by the county are established, prescribed and delineated.

(B) The uniform policies and procedures by which all county personnel shall be governed in their recruitment, hiring, promotion, transfer, evaluation, disciplining and termination; by which employee grievances may be filed, prosecuted, heard and disposed of; and by which the terms, conditions and benefits of employment by the county shall be governed, established, prescribed and delineated are as set forth in this chapter.

(C) These policies and procedures do not create a contract of any sort, nor do they create a property interest in employment.

(‘77 Code, § 13-16) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.003 AUTHORIZATION TO AMEND.

The policies and procedures established by this chapter and the terms, conditions and benefits of employment by the county may be amended, modified, expanded or rescinded at any time and from time to time by proper legislative action by the County Council.

(‘77 Code, § 13-17) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) *Employee classification.*

PROBATIONARY EMPLOYEE.

(1) An individual who has completed less than the required months of service to obtain regular status.

(2) If an employee is transferred, promoted or demoted while serving the initial six-month probationary period, a new probationary period will begin on the effective date of the transfer.

REGULAR FULL-TIME EMPLOYEE. An individual who has completed six months of satisfactory service, works no less than the department’s official work schedule, is eligible for all county benefits, is not a temporary employee, and fills a regular position.

REGULAR PART-TIME EMPLOYEE. An individual who has completed six months of satisfactory service, works fewer hours per day or fewer days per week, by agreement with the county, than the department's official workday or week, who is not a temporary employee, and fills a regular part-time position.

TEMPORARY EMPLOYEE. An individual who is employed for a limited period of time, by agreement with the county, and is not entitled to any county benefits.

(B) *Change of status.*

DEMOTION. The movement of an employee to a different position having a lesser degree of responsibility and a lower maximum salary.

LAY-OFF. The temporary or permanent termination of employment necessitated by a shortage of funds or work, or as a result of a change in the duties or organization of a department.

PROMOTION. Promotion involves the movement of an employee to a different position having a greater degree of responsibility and a higher maximum salary.

RESIGNATION. Separation from employment at the election of the employee.

SUSPENSION. The action taken to temporarily relieve an employee of prescribed duties and place him or her on leave-without-pay.

TERMINATION. The action taken against an employee to separate him or her from county service.

TRANSFER. The movement of an employee from one position to another position having the same salary range and the same level of responsibility

('77 Code, § 13-18) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

EMPLOYMENT PRACTICES

§ 33.015 EQUAL EMPLOYMENT OPPORTY.

(A) In accordance with the following federal laws, it is the goal of the county to prohibit job discrimination based on race, color, religion, sex, national origin, age, or disability:

- (1) Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex, or national origin;
- (2) The Equal Pay Act of 1963 (EPA), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination;
- (3) The Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older; and
- (4) Title I of the Americans with Disabilities Act of 1990 (ADA), which prohibits employment discrimination against qualified individuals with disabilities. The ADA defines a disability as any of the following:
 - (a) A physical or mental impairment that substantially limits one or more of the major life activities of the individual;
 - (b) A record of such impairment;

(c) Being regarded as having such impairment.

(B) In order to comply with these laws, York County job descriptions include essential functions for every county position. York County attempts to provide reasonable accommodations in all aspects of employment.

(C) This equal opportunity policy applies to all aspects of employment, including:

- (1) Hiring and firing;
- (2) Compensation, assignment, or classification of employees;
- (3) Transfer, promotion, layoff or recall;
- (4) Job advertisements;
- (5) Recruitment;
- (6) Testing;
- (7) Use of facilities;
- (8) Training and apprenticeship programs;
- (9) Fringe benefits;
- (10) Pay, retirement plans, and disability leave.

(D) It is the goal of the county to maintain and build a county organization of the highest quality that provides equal employment opportunities to all persons on the basis of individual merit.

('77 Code, § 13-26) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 2601, passed 7-16-01)

§ 33.016 RECRUMENT.

(A) The county seeks to employ the best qualified persons available. In this effort, the county conducts an active job information and recruitment program. When possible, the county shall attempt to fill vacancies by promotion or transfer within the organization. If this does not yield a suitable candidate, applications from other sources shall be considered.

(B) The administrative procedure shall be as follows:

(1) Upon learning that a vacancy shall occur, all department heads shall immediately notify the personnel director. The personnel director shall prepare a job announcement, stating the position title, minimum training and experience requirements, salary range and application procedures. This announcement shall be posted on the county bulletin board and other conspicuous locations.

(2) Applicants from the department where the vacancy occurs shall be considered first. If this does not result in filling the position, all other county employees seeking the position shall be considered. If the position remains unfilled, applications from other sources shall be sought.

(3) The personnel director shall select the recruitment sources to be utilized. When deemed necessary, job announcements shall be advertised in local and area-wide newspapers. Educational institutions, employment agencies, and professional organizations may also be utilized as advertisement sources.

(‘77 Code, § 13-27) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.017 HIRING.

(A) (1) In order to be considered for employment with the county, there must be an available and posted job vacancy. All persons seeking employment with the county shall complete an application at the personnel office. Current county employees seeking to transfer to a vacant and posted position must also complete a new application form at the personnel office. Applications will be accepted at the personnel office only when there is an available and posted job vacancy.

(2) It shall be the responsibility of the job applicant to specify which available position or positions they wish to apply for and indicate their preference on the application form.

(a) The personnel director shall review all applications and eliminate those which do not meet the minimum requirements of the position. The personnel director shall then forward the remaining applications to the appropriate department head for further consideration.

(b) Interviews shall be scheduled between the department head and the top candidate(s).

(c) After the interviews, reference checks shall be conducted on the top job candidate(s).

(d) With the consent of the personnel director and the approval of the county manager, the department head shall make the final selection.

(e) 1. Department heads are required to reside in York County at the time of employment or must relocate to York County prior to the completion of the probationary period. Other regular employees must reside within 50 miles of their assigned work site. Job responsibilities and schedules will not be altered based on the location of an employee’s residence. All employees in positions which require a minimum response time or after hours callbacks must meet those requirements, regardless of the location of their residence.

2. Approval must be given by the county manager or elected official for a county vehicle to be assigned as a take home vehicle to an employee who does not reside in the county.

(B) The hiring of personnel within departments under the direction of elected officials shall ultimately be vested in the elected officials. However, elected officials shall be required to comply with the selection process as prescribed by the county’s personnel policies and procedures.

(‘77 Code, § 13-28) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 1393, passed 3-15-93; Am. Ord. 2601, passed 7-16-01)

§ 33.018 PAY.

(A) An employee who receives an original appointment shall be paid at the minimum rate for the job class covering the position unless:

(1) The employee is employed on a trainee basis in which case he or she shall be paid at a rate of 5% less than minimum for the grade. Trainee status should remain in effect for any one employee for no more than six months;

(2) The employee possesses education or experience above the minimums required as currently specified in the position’s job description in which the county manager may approve employment at a salary above the specified minimum according to the following schedule:

(a) The employee’s documented education and/or experience exceeds the minimums required as specified

in the position's job description by at least three years of related work experience and/or at least documentation of successful attainment of a more advanced academic degree at least one level above that required. For an employee meeting these requirements, the employee may be paid at a rate up to 10% above the minimum for the grade;

(b) The employee's documented education and/or experience exceeds the minimums required as specified in the position's job description by at least five years of related work experience and/or documentation of successful attainment of a more advanced academic degree at least two levels above that required. For an employee meeting these requirements, the employee may be paid at a rate up to 15% above the minimum for the grade.

(B) An employee who is reinstated to a position previously held by the employee may be paid at the same rate the employee received during the previous employment but at least equal to the current minimum rate for the position.

(C) Newly elected officials, appointed magistrates, probate judges and masters-in-equity will be paid using the state mandated requirements for minimum salaries. In the absence of a state mandated minimum salary, elected officials will be paid within their position grade and their salary cannot be reduced during their term of office. For the elected positions who have no mandated minimum salary, such as sheriff, clerk of court and coroner, the salary of the outgoing elected official will become the salary of the newly elected official. Salary adjustments will be made to ensure that salaries do not fall below the state mandated requirements for minimum salaries. Annual increases will match the higher of the state or county cost of living adjustment.

('77 Code, § 13-29) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 6896, passed 12-16-96; Am. Ord. 2601, passed 7-16-01)

§ 33.019 PROMOTION.

(A) (1) Whenever a vacancy occurs in the county work force, the county shall first seek to fill the position by promotion of existing personnel.

(2) Decisions shall be made on the basis of an employee's potential and merit as determined and recommended by the respective department head, subject to the review of the personnel director and the approval of the county manager.

(B) (1) When an employee is promoted, the employee's salary will be adjusted by a 6% increase in salary for the first advance in grade and 2% for each grade advance thereafter or the minimum rate for the new grade whichever is greater.

(2) However, the salary of an employee who is promoted shall not be increased to above the maximum for the new grade to which the employee is promoted. The salary change shall become effective at the beginning of the pay period following the promotion.

(3) Promotions of deputy I to deputy II, detention officer I to detention officer II, and correctional officer I to correctional officer II receive only a 3% increase at the time of promotion due to an incentive program which provides for a 3% increase on their first service anniversary date.

(C) Promoted employees shall be required to serve a three-month probationary period in the new position.

('77 Code, § 13-30) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 1490, passed 2-5-90; Am. Ord. 2601, passed 7-16-01)

§ 33.020 RECLASSIFICATION.

(A) (1) When the work content of a position is substantially changed or altered so that the job description which formerly defined the duties and responsibilities of the position is no longer applicable, then the county may conduct a job analysis, prepare a new job description and may re-evaluate the position to determine its appropriate

classification and salary range. If the newly evaluated position shows that the position should be reclassified upward then the reclassification may be treated as a promotion and may be subject to the provisions defined under § 33.019.

(2) In January of each year, a Position Audit/Reclassification Questionnaire will be sent to all department heads to complete for any positions that they consider to be candidates for reclassification. The completed questionnaires will be sent back to the human resources director. For all positions which meet reclassification guidelines, a position questionnaire will be sent to the departments for completion. When position questionnaires are received by the human resources director, they are forwarded to the personnel consultant for reclassification consideration. If deemed appropriate, the personnel consultant may recommend a new job description, salary grade and salary range.

(3) All consultant recommendations will be reviewed by the human resources director, county manager and the relevant department head before being presented to County Council for final approval. Appropriate funding will be planned for in the budget for the next fiscal year.

(4) Reclassifications requested at any other time of year must be approved by the county manager.

(B) If the newly evaluated position shows that the position should be classified downward, then the employee currently holding the position may have the option of:

- (1) Applying for a transfer to a position classified at a level equal to the classification previously held; or
- (2) Choosing to stay in the current position.

(C) If the employee chooses to apply for a transfer, then the county shall give the employee the first available opportunity to transfer to a position for which the employee is qualified. Until the opportunity for a transfer is made available to the employee by the county, the employee shall continue to occupy the current position at no loss in pay and shall continue to be a candidate for merit increases and benefits as if no reclassification has occurred.

(D) If the employee accepts the transfer opportunity offered by the county, then the acceptance shall be treated as a transfer and shall be subject to the provisions of § 33.022.

(E) If the employee chooses to remain in a position that has been reclassified downward, or refuses to accept a transfer opportunity when it is offered by the county, then the continuance of the employee in the reclassified position shall be treated as a demotion and shall be subject to the provisions defined in § 33.021.

(F) The reclassification of a position shall become effective after the approval of the County Council.

(G) When an employee is demoted because the position the employee occupies has been reclassified downward, the employee's pay shall remain at the same rate for a period of two years following reclassification if the employee's salary is above the maximum for the new grade. After two years, the employee's salary will be reduced to the maximum of the new grade. If the employee's salary at the time of reclassification is below the maximum of the new grade, it shall remain unaffected by the reclassification, and the employee shall be eligible for consideration for merit salary adjustments not to exceed the maximum of the new grade. Salary changes will become effective at the beginning of the pay period following the date of the change.

('77 Code, § 13-31) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 2601, passed 7-16-01)

§ 33.021 DEMOTION.

(A) When an employee is demoted, either voluntarily or involuntarily, the employee's salary will be adjusted by a 6% decrease in salary for the first decrease in grade and 2% for each grade decrease thereafter or to the minimum rate for the new grade, whichever is greater; provided, however, the salary of an employee who is demoted shall not be decreased to below the minimum for the new grade to which the employee is demoted or below the employee's

previous salary if returning to their previously held position. The salary change shall become effective at the beginning of the pay period following the demotion.

(B) Affected employees may not be paid at rates above the maximum for the grade to which they are reassigned.

(C) Demoted employees shall be required to serve a three-month probationary period in the new position.

('77 Code, § 13-32) (Ord. 1584, passed 9-17-84; Am. Ord. 1490, passed 2-5-90; Am. Ord. 6896, passed 12-16-96; Am. Ord. 2601, passed 7-16-01)

§ 33.022 TRANSFER.

(A) (1) The county is not required to transfer an employee to another position. However, transfer opportunities may be made available to employees as vacancies occur or as special requests and circumstances warrant.

(2) Transfers shall be made only with the agreement of department heads involved and the approval of the county manager.

(B) Transferred employees shall be required to serve a three-month probationary period in the new position.

('77 Code, § 13-33) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 1490, passed 2-5-90)

§ 33.023 PERFORMANCE APPRAISAL.

(A) (1) Formal employee performance appraisals shall be conducted at established intervals of an individual's employment.

(2) The purpose of the appraisal shall be to formally assess and appraise the employee's performance over a designated period and to provide an opportunity for the supervisor and the employee to discuss all aspects of the individual's performance with respect to fulfilling the requirements, duties and responsibilities of the position held by the employee.

(B) Formal performance appraisals shall be conducted for new employees at the end of six months and for promoted and transferred employees at the end of three months. After an employee has earned regular status, the employee's job performance shall be appraised at least once a year. Informal appraisals shall be conducted periodically, as each supervisor considers necessary.

(C) All performance appraisals shall be conducted by the appropriate supervisor, reviewed by the appropriate department head, discussed with the employee, and reviewed by the personnel director.

(1) *New employees.*

(a) If the probationary employee receives a satisfactory rating and is recommended for regular status by the employee supervisor or appropriate elected official, then the employee shall be granted regular status.

(b) If the probationary evaluation is marginal, a three-month extension of the probationary status may be granted. The extension shall be based on the supervisor's and the department head's judgements that the employee can improve in deficient areas. If an extension is granted, a subsequent marginal rating at the completion of the extended time shall result in termination of the employee. If an employee is not granted an extension, the employee shall be terminated.

(c) If the probationary employee receives an unsatisfactory performance rating, the employee may be terminated.

(d) During the probationary period, a new employee may be terminated at any time if his or her work performance is considered to be below expected levels.

(2) *Promoted employees.*

(a) If the promoted employee receives a satisfactory rating and is recommended for regular status by the department head, or appropriate elected official, then the employee shall be granted regular status.

(b) If the promoted employee receives a marginal performance appraisal, the employee may be granted an extension of three months in the position. If an extension is granted, a subsequent marginal rating at the completion of the extended time shall result in either transfer or demotion of the employee to an existing vacancy of a lower classification, or the employee may be terminated.

(c) If the promoted employee receives an unsatisfactory performance rating, the employee shall be either transferred or demoted to an existing vacancy of a lower classification or terminated. If transferred or demoted, the employee shall be required to serve a three-month probationary period in the new position.

(3) *Transferred employees.* The preceding performance appraisal procedures for promoted employees shall also be applied to transferred employees.

(4) *Regular employees.*

(a) When a regular employee receives a marginal appraisal, a special appraisal shall be conducted after a period of three months. If the employee is still marginal, another special appraisal may be conducted again in three months, or the employee may be transferred, demoted to an existing vacancy of a lower classification, or terminated. After the second successive special appraisal of marginal, the employee shall be either reassigned or demoted to an existing vacancy of a lower classification or terminated.

(b) When a regular employee receives an unsatisfactory performance appraisal, the employee may be terminated. However, if the supervisor, the department head, and the county manager concur that the employee may perform more proficiently in another position, the employee may be transferred or demoted to an existing vacancy of a lower classification, at which time he or she shall complete a satisfactory probationary period of three months.

(c) Pay for performance salary adjustments shall be awarded on the basis of performance appraisals accomplished on a schedule prescribed by County Council. It is expected that employees will perform at an adequate level to successfully perform all the duties and responsibilities to which they are assigned. Pay for performance adjustments are given to employees who meet or exceed an adequate level of performance.

(d) Pay for performance adjustments shall be awarded as follows:

1. Employees who receive performance appraisals which indicate that their performance is substantially below expectations, or below expectations, shall not receive a pay for performance salary adjustment;

2. Employees who receive performance appraisals which indicate that their performance meets expectations, exceeds expectations, or substantially exceeds expectations, shall receive their pay for performance salary increases in accordance with the amount annually appropriated by the Council.

('77 Code, § 13-34) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 6896, passed 12-16-96; Am. Ord. 2601, passed 7-16-01)

§ 33.024 GUIDELINES FOR DISCIPLINARY ACTION.

(A) *Purpose.* The purpose of disciplinary action is to cause the employee to understand that his or her performance or conduct does not meet the county's standards and, if possible, to give the employee a chance to make

the changes necessary to avoid the termination of his or her employment.

(B) *Types of disciplinary action.*

(1) In many situations, problems can be corrected by casual, informal discussion between the employee and his or her immediate supervisor. No record need be made of the discussion.

(2) If oral discussions have not been effective or if the employee's problems of performance or conduct are too serious for unwritten action, a written warning may be given. The warning should outline the facts briefly and inform the employee that further problems of the same or a different nature will result in more severe disciplinary action, possibly including discharge.

(3) If other forms of disciplinary action have not been effective, or if the employee's problems of performance or conduct have been particularly serious, the written warning may be accompanied by a suspension without pay for up to three work days.

(4) If a department head feels that other forms of disciplinary action have been ineffective or that the employee's performance or conduct warrants discharge, the department head may recommend that the county manager or elected official discharge the employee and the department head may suspend the employee without pay for as long as it takes for the manager or elected official to make a decision.

(C) *Employee signature on warnings.* In order to avoid any dispute over whether an employee has been warned previously, employees are required to sign copies of all written warnings, suspensions, and similar documents. This signature does not constitute agreement or an admission. It is merely a receipt.

If an employee refuses to sign a warning or suspension or similar document, he or she must be suspended immediately and given until 4:00 p.m. on the next regular workday to sign the document. If he or she does not sign the document by that time, he or she should be suspended indefinitely and his or her discharge be recommended to the manager or elected official.

(D) *Rules of conduct.*

(1) It is not possible to list all conduct which may result in disciplinary action, nor is it possible to state what disciplinary action will be taken with regard to particular problems of conduct or performance. In each instance an employee's overall work record and record of prior discipline will be considered.

(2) The list which follows contains common misconduct which results in disciplinary action. The fact that particular conduct is not listed does not mean that it is not considered grounds for disciplinary action.

- (a) Failure to follow oral or written instructions;
- (b) Inefficiency in the use of time and the performance of duties;
- (c) Careless, negligent or improper use of property and equipment;
- (d) Thoughtless conduct which endangers others or results in minor property damage;
- (e) Failure to maintain satisfactory working relationships with the public or fellow employees;
- (f) Habitual tardiness or absenteeism;
- (g) Any action or practice which unfavorably reflects or causes embarrassment for the county or county officials;

- (h) Insubordination;
- (i) Reporting to work while under the influence of intoxicants;
- (j) Willful failure to use safety equipment or observe safety rules;
- (k) Sleeping while on duty;
- (l) Gambling on county property;
- (m) Engaging in political activity which is strictly prohibited by the county;
- (n) Unprovoked abusive language and unbecoming conduct when dealing with the public;
- (o) Unauthorized absences of less than three days;
- (p) Falsification of records or misrepresentation of facts;
- (q) Misuse of county funds;
- (r) Unauthorized or improper use or disclosure of county records;
- (s) Unauthorized absences of three days or more;
- (t) Willfully causing damage or destruction to equipment or property belonging to the county or fellow employees;
- (u) Taking of county property or fellow employee's property;
- (v) Drinking alcoholic beverages while on duty;
- (w) Unauthorized possession of firearms on county property;
- (x) Fighting or unbecoming behavior while on county property; and/or
- (y) Conviction of a felony.

(E) *Status of employee.* Any employee who has been recommended for discharge by his or her supervisor, department head or the elected official by whom he or she is employed, shall be deemed to be an employee without pay and without benefit under § 33.079 until a final decision has been made by the individual with employment and discharge authority.

('77 Code, § 13-35) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 1393, passed 3-15-93)

§ 33.025 TERMINATION OF EMPLOYMENT.

(A) Ordinarily, termination of employment with the county may occur under five general conditions. They are:

(1) *Voluntary termination.* The county recognizes the right of any individual to terminate their employment with the county, at will, for any reason, with or without explanation. A minimum of two weeks notice is required by the county in the case of voluntary termination.

(2) *Disciplinary termination.* The county may terminate the employment of any individual in accordance with

the policy defined under § 33.024.

(3) *“For cause” termination.*

(a) The county may terminate the employment of any individual who, by his or her conduct:

1. Demonstrates a flagrant disregard for the policies established in this chapter;

2. Engages in acts of violence, dishonesty, breach of trust, moral turpitude or other acts which demonstrate a flagrant disregard for the duly established laws of the county, state and other duly recognized legal entities; or

3. Demonstrates gross incompetence or gross negligence in performing the duties and responsibilities required by the position held by the individual.

(b) In general, “for cause” termination applies to conditions or situations of such import that reason would clearly indicate that the retention of the individual would be a continuing detriment to the reputation, efficacy and/or operating capability of the county.

(4) *Financial exigency termination.* The county may terminate the employment of any individual whose position is dependent upon funding by an agency other than the county wherein funding is declined, withheld or withdrawn either by the action of the Council or by the action of the agency who has the legal authority to withhold or withdraw the funding. This provision applies to departments, divisions, programs or any other entity affected by the exigency. The county may also terminate the employment of any individual whose position is funded by the county’s general revenue funds, but where funding for the position is eliminated, redesignated, withheld or withdrawn by action of the County Council because of financial exigency.

(5) *Layoff or reduction in work force termination.* The county may terminate the employment of an individual when financial exigency, reallocation of resources, job obsolescence or other conditions necessitates or warrants a layoff or reduction in the county work force, in an event the layoff or reduction shall take place in accordance with the policy defined under § 33.027.

(B) Although an employee may be placed in a nonpay status by any of his or her superiors, the termination of an employee shall be effective only after approval by the employee’s department head and subject to the review of the county manager, as outlined in § 33.024(B)(4).

(‘77 Code, § 13-36) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.026 GRIEVANCE.

(A) This procedure is adopted in accordance with the County and Municipal Employees Grievance Procedure Act, S.C. Code §§ 8-17-110 *et seq.*

(1) A “grievance” is any complaint by an employee that he or she has been treated unfairly, unlawfully or in violation of his or her rights under county policies, with regard to any matter pertaining to his or her employment by the county. This includes, but is not limited to discharge, suspension, involuntary transfer, promotion and demotion. If an employee believes that he or she has not received or been credited with or has otherwise lost wages or benefits to which he or she is entitled, he or she must present his or her grievance in accordance with procedure or wages or benefits may be forfeited.

(2) An employee who feels that he or she has a grievance must follow the following procedure:

(a) *Step 1.* He or she must discuss the grievance with his or her immediate supervisor. If his or her supervisor is unable or unwilling to adjust the grievance to the satisfaction of the employee, the employee must take Step 2.

(b) *Step 2.* The employee must follow the chain of command in his or her department, appealing to each successive level of supervision. All Step 1 and Step 2 appeals may be oral. At each level each supervisor shall have two work days (Saturdays and Sundays excluded) to render a decision. If no decision is made within this time, the grievance shall be considered denied. If a supervisor at a particular level is unavailable to consider the grievance, it shall be considered denied and the employee shall appeal to the next level of supervision.

(c) *Step 3.* If the head of the department in which the employee is employed denies the grievance, this decision shall be final as to any grievance brought by a probationary employee. A new employee shall be considered probationary until his or her probationary evaluation is completed and approved by the county manager.

(3) (a) Other employees may appeal to the employee grievance committee the denial of their grievances by department heads by filing a written request for appeal at the county personnel department. This must be done within 14 calendar days of the time at which the facts on which the grievance is based become available to the employee.

(b) The written request for appeal must include the following information:

1. The purpose of the appeal and what recommendation is requested of the Grievance Committee; and
2. A statement that the chain-of-command has been followed in the appeal as is required by the grievance procedure.

(c) The personnel department staff will assist in preparing the appeal, if requested.

(4) Within ten days of receipt of the employee's request, the chairperson of the Grievance Committee shall schedule the requested hearing and notify the Grievance Committee, the employee requesting the hearing, the affected department and the personnel department.

(B) The County Council shall appoint a committee composed of six employees to serve for terms of three years, except that the members appointed initially shall be appointed so that their terms will be staggered, and approximately one-third of the terms shall expire each year. A member shall continue to serve after the expiration of his or her term until a successor is appointed. Any interim appointment to fill a vacancy for any cause prior to the completion of a member's term shall be for the unexpired term. Any member may be reappointed for succeeding terms at the discretion of County Council. All members shall be selected on a broadly representative basis from among county employees. Members employed in the same department as the grieving employee and members having formed an opinion on the issues prior to the hearing, shall not participate in that employee's hearing.

(1) The committee annually shall select its own chairperson from among its members. The chairperson shall serve as the presiding officer at all hearings which he or she attends but may designate some other member to serve as presiding officer in his or her absence. The chairperson shall have authority to schedule and to reschedule all hearings.

(2) A quorum shall consist of at least four members and no hearings may be held without a quorum.

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

(4) The committee shall have the authority to call for files, records and papers which are pertinent to any investigation and which are subject to the control of the County Council; to call for or consider affidavits of witnesses; to request and hear the testimony of witnesses; to consider the results of polygraph examinations; and to secure the services of a recording secretary in its discretion. The committee shall have no authority to subpoena witnesses, documents or other evidence, nor shall any county employee be compelled to attend any hearing. All proceedings shall be tape-recorded. Witnesses, other than the grieving employee and the department representative, shall be sequestered when not testifying. All witnesses shall testify under oath.

(5) All hearings shall be held in executive session unless the grieving employee requests at the beginning of the hearing that it be held in open session. The official tape recording and the official minutes of all hearings shall be subject to the control and disposition of the county manager.

(6) Neither the grieving employee nor the department may be assisted by advisors or by attorneys during the hearing itself. However, the committee shall have an attorney available to it at any and all times it considers necessary and the personnel department shall provide assistance in reading written materials to the committee at the request of the grieving employee.

(7) In disciplinary actions by department heads and their subordinate supervisors, the employee must receive in reasonable detail written notice of the nature of the acts or omissions which are the basis for the disciplinary action. This notice may be amended at any time 24 hours or more before the commencement of the hearing. The department must demonstrate that the disciplinary action is for the good of the county. The department shall make the first presentation. The committee may base its findings and recommendations on any additional or different grounds developed from the employee's presentation.

(8) In nondisciplinary grievances the employee must establish that a right existed and that it was denied him or her unfairly, illegally or in violation of a county policy. The employee shall make the first presentation.

(9) In all grievances, the grieving employee and the department shall each be limited to one hour of initial presentation. The party required to make the first presentation shall be entitled to a ten-minute rebuttal of the other party's presentation. The chairperson shall appoint himself, herself or another member of the committee as timekeeper.

(10) In all grievances, presentations may be oral or in writing or both, and may be supported by affidavits or unsworn, signed statements from witnesses, by records, other documentary evidence, photographs and other physical evidence. Presentations shall be made by the grieving employee (with reading assistance from a member of the personnel department if the employee desires) and by a managerial employee of the affected department. Neither party may call witnesses or question the other party or question any witness called by the committee.

(11) Except as provided in division (B)(12) below, the committee shall, within 20 days after hearing an appeal, make its findings and recommendation, and report the findings and recommendation to the county manager. If the county manager approves, the recommendation of the committee shall be his or her decision and copies of the decision shall be transmitted by the committee to the employee and to the head of the particular department involved. If, however, he or she rejects the decision of the committee, the county manager shall make his or her own decision without further hearing and that decision shall be final. Copies of the decision shall be transmitted to the employee and the head of the particular department involved.

(12) In grievances involving the failure to promote or transfer, or the discipline or discharge of personnel employed in or seeking assignment to departments under the direction of an elected official or an official appointed by an authority outside county government, the committee shall, within 20 days after hearing an appeal, make its findings and recommendation and report the findings and

recommendation to the official. If the official approves, the recommendation of the committee shall be his or her decision and a copy of the decision shall be transmitted by the committee to the employee. If, however, the official rejects the decision of the committee, the official shall make his or her own decision without further hearing, and that decision shall be final. A copy of the decision shall be transmitted to the employee.

(13) Nothing in these grievance procedures creates a property interest in employment or a contract of employment, nor does this procedure limit the authority of the county or an elected or appointed official to terminate any employee when the county or respective elected or appointed official considers such action to be necessary for the good of the county.

('77 Code, § 13-37) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 1589, passed 3-6-89; Am. Ord. 1393, passed 3-15-93)

§ 33.027 REDUCTION IN WORK FORCE.

Should it be necessary at any time to reduce the staff size of a given department, regular employees shall be notified by the department head at least two weeks prior to the effective date of the layoff or reduction in work force, or shall be given pay in lieu of notice or shall be given a combination of pay and notice totaling two weeks. Within a particular department, those employees holding a specific position shall be laid off first who have the shortest length of service with the county, followed by those who have the lowest seniority in the specific position, followed by those who have the lowest average performance rating over the past two years or for the entire period of employment if less than two years. Layoffs or reductions in work force shall be effective only after review by the department head and approval by the county manager.

('77 Code, § 13-38) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.028 INTERVIEW EXPENSES.

If prior authorizations are granted by the county manager, reimbursement shall be made for travel and subsistence expenses incurred by applicants for employment interviews with the county. The rates shall be the same as those established for county employees travel and subsistence allowance.

('77 Code, § 13-39) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.029 MOVING EXPENSES.

If prior authorizations are granted by the county manager, reimbursement shall be made for moving expenses incurred by new employees moving into the county from a distance beyond 50 miles. The new employee shall promptly complete the necessary expense report and attach proper receipts.

('77 Code, § 13-40) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.030 TRAVEL AND SUBSISTENCE ALLOWANCE.

(A) When employees are required to travel on official county business, the county shall pay reasonable amounts for transportation, meals and lodging. Business or professional travel requests initiated by a full-time regular employee shall be given serious consideration. The appropriate department head and/or the county manager shall approve or disapprove the request based on the benefits of the conference or meeting and the respective department's budget for travel.

(B) All travel expenses shall be promptly reported upon returning to work.

(1) *Transportation costs.*

(a) When feasible, a county vehicle shall be utilized. If the employee's personal vehicle is utilized, then the employee shall be reimbursed at a rate established in the county's annual budget. The employee must receive prior authorization to utilize his or her personal vehicle.

(b) Cost of air travel, if applicable, shall be an eligible expense. Employees shall be required to travel tourist class when possible.

(c) Upon presentation of proper receipts, employees shall be reimbursed for all ferry, bridge, highway and parking tolls incurred during a trip. Taxi expenses shall be reimbursable if properly itemized.

(2) *Meal allowance.* Employees shall be reimbursed for actual meal expenses incurred while traveling. The amount of reimbursement shall not exceed the maximum amount allowable as established in the county's annual

budget.

(3) *Lodging.*

(a) When an overnight stay is required, employees shall utilize standard, moderately priced accommodations when possible. However, if an employee is attending an organized convention or conference located in a specific motel or hotel, the employee may stay at the designated site of the conference.

(b) The county shall pay only single occupancy rates. Lodging reimbursement requests must be accompanied by proper receipts.

(4) *Conference registration fee.* The county shall pay the registration fee for employees representing the county.

(5) *Advances.* Travel advances in excess of \$50 may be authorized if requested five days prior to departure.

(a) Travel within the state must be approved in advance by the appropriate department head. Employees shall make the necessary travel request two days prior to the date of departure.

(b) Overnight travel must be approved in advance by the department head and the county manager. Employees shall complete the necessary travel request two days prior to the date of departure and forward it to their department head. The department head and the county manager shall make the final determination.

('77 Code, § 13-41) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.031 RESIGNATION.

All county employees resigning from county employment are requested to furnish notice of their intention at least two weeks before the effective date of resignation. The notice should be submitted to the appropriate department head. Failure to give notice shall be noted in the employee's personnel file.

('77 Code, § 13-42) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

CONDITIONS OF EMPLOYMENT

§ 33.045 NEPOTISM.

(A) Two or more relatives shall not be employed with the county if the employment shall result in an employee supervising a member of his or her family, or occupying a position of influence over another family member's employment, promotion, salary adjustments or other related personnel considerations.

(B) Employment of close relatives may be permitted in strictly emergency situations for temporary periods of time not to exceed 30 days. The temporary appointments must have the approval of the county manager.

(C) For the purpose of this section, relatives shall include spouse, mother, father, sister, brother, son, daughter, mother-in-law, father-in-law, daughter-in-law, son-in-law, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepson, stepdaughter, stepsister, stepbrother, aunt, uncle, niece, nephew, brother-in-law, sister-in-law, half-brother, half-sister, guardian and ward.

(D) This policy shall be effective from the date of its adoption and shall not be retroactive.

(E) If two employees become related as a result of their marriage to each other or as the result of the marriage of others, and if their continued employment in their present jobs would violate this policy, one of the employees must

transfer to a different position or terminate his or her employment. If the employees cannot decide between themselves which will change jobs or terminate, the employee earning less straight time compensation will be terminated. If the employees earn identical straight time compensation, then the employee having less length of service will be terminated.

('77 Code, § 13-46) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 2601, passed 7-16-01)

§ 33.046 PROFESSIONAL ETHICS.

(A) *Political activities.*

(1) County employees may participate in both partisan and nonpartisan political activities other than county elections. In county elections, county employees participation shall be limited to voting as a private citizen.

(2) In other county elections, no employee shall:

(a) Engage in any political activity while on duty;

(b) Be required as a duty of his or her office or a condition of his or her employment, promotion or tenure to contribute to, solicit for or act as custodian of funds for political purposes; or

(c) Coerce or compel contributions by any other employees for political purposes.

(3) Restrictions on employees in departments where federal funds are used may be more stringent. Employees should refer to the provisions of the Hatch Act which is available in the personnel office.

(4) In the event that an employee of the county decides to seek an elected county office, then the employee seeking the office shall be placed on leave without pay status at the time the employee files or otherwise qualifies as a candidate for office and remain on a leave without pay status until the termination of the candidacy.

(B) *Accepting gifts and gratuities.* The acceptance of any gratuity by a county official or employee is strictly forbidden. Employees shall not accept any gift, favor or item of value that may tend to influence them in the discharge of their duties. County employees shall be fair and impartial in their dealings with any person, firm or corporation which may be interested directly or indirectly in business dealings with the county.

(C) *Statement of economic interests.* The South Carolina Ethics Act requires a statement of economic interests to be filed by the following officials and employees no later than April 15 of each year:

(1) All elected officials;

(2) County manager;

(3) Chief finance officer;

(4) Chief purchasing official; and

(5) All members of the judiciary.

(D) *Conflict of interest.* The South Carolina Ethics Act requires a public official or employee to remove himself or herself from possible conflict of interest, actions or decisions. Business dealings with a governmental agency can take place only after:

(1) Public disclosure of the possible conflict of interest;

- (2) Public notice and competitive bidding when that is the normal contract award process; and
- (3) Complete removal of the interested official or employee from the agency's decision making process.

('77 Code, § 13-47) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.047 SAFETY.

(A) The personal safety and health of each county employee and the safety of the public are of primary importance. Every attempt will be made to reduce the possibility of accidents that may result in injury or property damage.

(B) Safe working conditions shall be the goal of all departments. It shall be the responsibility of every employee to observe safe practices in all daily activities. Department heads and supervisors are assigned responsibility and accountability for safety in their departments. When a safety hazard is detected, it shall be immediately reported to the appropriate supervisor or department head.

(C) York County attempts to provide generalized safety training on an ongoing basis. Department heads and supervisors are required to participate in these safety-training opportunities. In addition to the generalized safety training provided, department heads and supervisors are required to offer updated specialty training, which is specific to performing job duties in their departments. All employees are required to attend generalized and specialty training which would benefit them in the safe performance of their jobs.

('77 Code, § 13-48) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 2601, passed 7-16-01)

§ 33.048 PAY PERIODS.

County employees shall be paid biweekly. When a payday falls on a scheduled holiday, employees shall be paid on the workday preceding the holiday.

('77 Code, § 13-49) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 1393, passed 3-15-93)

§ 33.049 OUTSIDE EMPLOYMENT.

Outside employment shall in no way conflict with or be detrimental to the employee's work for the county. Employees currently engaged in or considering outside employment must immediately report the activity or interest to their department heads and may not continue or begin employment without department head approval. The letter along with the department head's determination shall be placed in the employee's personnel file. Approved requests shall be subject to the periodic review.

('77 Code, § 13-50) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.050 COUNTY OFFICE HOURS.

(A) The office hours for county departments shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, except as otherwise established by individual departments and approved by the county manager. All employees shall be required to observe the established hours of work. Abuse shall result in appropriate disciplinary action.

(B) Employees shall promptly notify their supervisor if their arrival in the morning or return from lunch shall be delayed for any reason. Personal matters should be attended to during non-working hours.

('77 Code, § 13-51) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 1393, passed 3-15-93)

§ 33.051 LUNCH PERIODS.

Department heads shall schedule employee lunch periods so that at least one person shall be in the various county offices at all times during office hours. Individual lunch periods shall not exceed one hour.

(‘77 Code, § 13-52) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.052 BREAKS.

When work requirements permit, county employees shall be allowed 15-minute morning and afternoon breaks. Breaks shall be scheduled so that at least one person will be in the various county

offices at all times during office hours. Persons on break should be careful not to disturb others. Breaks may not be scheduled to justify late reporting, early quitting or a longer meal period.

(‘77 Code, § 13-53) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.053 OVERTIME AND COMPENSATORY TIME.

(A) (1) Employees subject to the Fair Labor Standards Act shall earn compensation on all hours worked beyond their normal workweek(s) at one and one-half times their regular rate. It is the policy of the county to grant compensatory time at the rate of one and one-half hours for each hour worked beyond the employees normal workweek(s). The employee may be paid at one and one-half times his or her hourly rate for the hours worked in excess of his or her normal workweek(s) if it is considered by the county to be in its best interest to do so rather than grant compensatory leave.

(2) All compensatory time requests for leave will be allowed within a reasonable time as long as the request does not unduly disrupt the operation of the department. All compensatory time earned shall be taken within 30 workdays from the date earned.

(3) Exempt employees have no right to compensatory leave even if it has been credited. Request for compensatory leave must be approved by the appropriate department head and must be taken within 30 workdays of the date of being earned or it is forfeited. Under no circumstances will such leave be paid for in cash upon termination.

(B) Regular county employees who are exempt from overtime under the FLSA and who, on a special assignment, work longer than their normal working hours may be granted compensatory leave. The leave will be credited only for work in excess of one hour beyond the normal working hours and will be credited at the rate of one and one-half hours for each additional hour worked.

(‘77 Code, § 13-54) (Ord. 1584, passed 9-17-84; Am. Ord. 586, passed 4-21-85; Am. Ord. 5288, passed 10-17-88)

§ 33.054 ON-CALL STATUS AND COMPENSATION.

(A) On-call pay is compensation for those employees who are regularly required to be available when needed to handle emergency situations occurring outside of standard working hours. It is available only to full-time salaried employees who fall under the nonexempt status as determined by the Fair Labor Standards Act.

(B) When conditions warrant, county departments may schedule sufficient personnel to work outside of standard working hours. Specific individuals who are scheduled to be on-call shall be scheduled on a rotation basis consisting of seven consecutive days per assignment.

(C) “On-call” will be considered to be a period of time when an employee is not required to remain at his or her usual work station and is free to engage in his or her own pursuits, subject only to the understanding that the employee

may leave word at their home and with a department dispatcher where they may be reached and report promptly as outlined by their supervisor.

(D) An on-call employee shall be paid compensation or receive equivalent compensatory time based upon county manager approval for either a minimum of four hours at straight time, or overtime (if appropriate) for the time actually called out, whichever is larger, for each seven-day on-call assignment. Compensatory time earned for being on-call shall be accrued based on FLSA regulations.

(E) Employees shall be considered to be on-call only when so designated in writing by the appropriate department head and approved by the county manager. A copy of this designation shall be forwarded to the official employee file located in the personnel office.

('77 Code, § 13-56) (Ord. 6896, passed 12-16-96)

BENEFITS OF EMPLOYMENT

§ 33.065 MEDICAL INSURANCE.

(A) *Normal coverage.* Probationary and full-time employees shall be eligible for coverage for the comprehensive medical insurance plan offered by the county. Employee premium contributions are based on the type of coverage selected by the employee.

(B) *COBRA benefits.*

(1) The Consolidated Omnibus Budget Reconciliation Act, better known as COBRA, became law in 1985 and amended the Employee Retirement Income Security Act (ERISA) to provide continuation of group health coverage that would otherwise be terminated. The cost of group health coverage shifts to the party electing COBRA benefits. The county employee, retiree, or family member must notify the personnel department within 30 to 60 days of a qualifying event to be considered for COBRA benefits. Examples of qualifying events are:

(a) Voluntary or involuntary termination of employment for reasons other than misconduct of covered employee;

(b) Change of covered employee from full-time status to part-time status;

(c) Spouse and children would be eligible upon:

1. Covered employee's becoming entitled to Medicare;

2. Divorce or legal separation of the covered employee;

3. Death of the covered employee;

4. Loss of "dependent child" status under the plan rules.

(2) Duration limitations for COBRA benefits are defined as part of the Act.

(C) *HIPAA coverage.*

(1) York County provides HIPAA benefits as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(2) HIPAA limits exclusions for pre-existing conditions and prohibits medical coverage discrimination against

employees and dependents based on their health status.

('77 Code, § 13-60) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 3891, passed 12-9-91; Am. Ord. 2601, passed 7-16-01)

§ 33.066 RETIREMENT.

(A) All regular county employees shall be members of the South Carolina State Retirement System. Both county and employee shall make contributions in accordance with state law.

(1) Upon separation from the county, the employee may withdraw his or her contributions plus interest as authorized by the retirement system.

(2) After five years of creditable service in the retirement system, an employee who terminates with the county may choose to leave his or her contributions in the system. Upon reaching 60 years of age, the employee may start receiving a deferred retirement allowance.

(3) Employees shall be eligible for disability retirement benefits after five years of creditable service.

(4) As members of the state retirement system, employees shall also be covered under the pre-retirement death benefit program. After a minimum of one year of creditable service, upon the death of an employee, the beneficiary shall receive a single payment equivalent to the employee's annual salary. This payment shall be separate from the employee's contribution to the retirement system.

(5) Persons retiring after the effective date of Ordinance No. 3891 shall be entitled to have the cost of their health insurance under the county's health insurance program paid by the county, provided

that the employee is employed by the county at the time of his or her retirement; and that the employee has at least ten years of employment with the county prior to retirement; and the retiring employee is eligible for retirement under the South Carolina Retirement System at the time of his or her retirement from the county under applicable South Carolina Retirement System regulations.

(6) Persons retiring after the effective date of Ordinance No. 3891 who meet all requirements of division (A) (5) above, except the requirement of ten years of employment with the county prior to retirement, may continue health insurance through the county health insurance program at their own expense if the persons have not less than five years of service as an employee of the county.

(7) Surviving spouses of deceased former county employees may continue health insurance through the county health insurance program at their own expense.

(B) (1) All regular certified officers of the sheriff's office shall be members of the South Carolina Police Officers Retirement System. Both the county and the employee shall make contributions in accordance with state law. Law enforcement employees leaving county service shall receive the same benefits as all other county employees covered by the state retirement system.

(2) Sheriff's office personnel shall also be covered by the pre-retirement death benefits program. In addition to this benefit, law enforcement officers shall be covered under an accidental death benefit which provides additional benefits to beneficiaries of employees who suffer accidental death in the line of duty.

('77 Code, § 13-61) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 3891, passed 12-9-91)

§ 33.067 CREDIT FOR MILITARY SERVICE IN THE SOUTH CAROLINA RETIREMENT SYSTEM.

(A) County employees who are members of the South Carolina Retirement System with two or more years of credited service shall receive additional credited service in the system for any period of military service. The eligible employee must be separated from military service under conditions other than dishonorable. The additional credited service shall be based on the length of military service in relation to years in the retirement system.

(B) The employee shall be required to pay the retirement system his or her contributions for credited service. The county portion or contribution shall be paid by the state. Additional information may be obtained from the personnel office.

('77 Code, § 13-62) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.068 WORKERS COMPENSATION.

(A) All county employees are covered under the provisions of the South Carolina Workers Compensation Act pertaining to injuries and diseases sustained while on the job. Injured employees shall receive as weekly compensation a percentage of their regular pay, as authorized by the act.

(B) Employees who miss work due to an injury or disease covered by workers compensation shall not lose benefits or status with the county.

(1) Accidents occurring on the job must be promptly reported to the appropriate supervisor.

(2) The appropriate supervisor or department head shall complete the necessary reporting forms and forward them to the personnel director.

(C) *Return to Work/Temporary Light Duty Program.*

(1) *Purpose.*

(a) York County's policy is to keep its employees healthy and on the job, therefore a return to work program is important to the employee and to the county. In a return to work program, injured employees, while recovering, are kept in a productive capacity while being protected from re-injury. Temporary light duty in a return to work program gives the employee the opportunity to earn regular wages and to maintain payroll benefits. This program is also designed to enhance self-esteem, reduce stress and speed recovery. When appropriate, light duty also preserves a skilled and stable workforce for York County.

(b) The purpose of the Return to Work/Temporary Light Duty Program is to temporarily place employees who have sustained work-related injuries, in positions consistent with the medical restrictions prescribed by an authorized treating physician. Ideally, the employee will work within his or her own department. However, it may become necessary to place the employee in another department and/or adjust work hours to accommodate their medical restrictions. Employee training may also qualify as a temporary light duty assignment.

(c) The goal of the program is to promote psychological recovery and to minimize lost time by encouraging appropriate levels of activity for injured employees.

(d) York County Risk Management staff will be responsible for managing the Return to Work/Temporary Light Duty Program. Decisions concerning the placement of injured and recovering employees will be made jointly by the employee's department head/supervisor and Risk Management staff.

(2) *Scope.* The Return to Work/Temporary Light Duty Program is designed to help regular (full or part-time) employees of York County who have received on-the-job injuries.

(3) *General guidelines.*

(a) Temporary light duty is an alternate assignment for an employee recovering from an on-the-job injury. Work assignments are subject to work restrictions as determined by the authorized treating physician. The duration of a temporary light duty assignment may range from one day to a maximum of 12 weeks. If necessary for the employee to remain in the temporary assignment for 12 weeks, Risk Management will consult with the authorized treating physician as to the necessity for continuing the light duty assignment beyond 12 weeks. However, a temporary light duty assignment cannot be extended beyond six months.

(b) A return to work authorization stating any physical activity/limitations, signed by a treating physician, must be submitted to human resources before an employee may return to work after an illness or injury (work related or otherwise).

(c) Departments may request temporary duty assistance by submitting the Request for Temporary Light Duty Assistance Form (see Appendix, Exhibit F) to Risk Management. Department should be innovative in developing and assigning meaningful tasks which will allow the employee to utilize their experience, education and physical capability.

(d) Work schedules will be arranged to permit injured employees to keep physician appointments and any prescribed physical therapy sessions.

(e) The temporary light duty employee's home department (the department in which the employee worked at time of injury) is responsible for all salary expenses associated with the employee for the duration of their temporary duty status.

(f) If an employee chooses not to work in an assigned temporary duty position within the medical restrictions prescribed, then workers compensation indemnity benefits will not be paid.

(4) *Responsibilities.*

(a) *Risk Management.*

1. Maintain a list of available temporary duty positions requested by departments.

2. Assign the employee, under the advisement of the health care provider, to a temporary position which meets the employee's medical restrictions. Consideration will be given to the employee's home department, assignment, shift, and the like. However, if temporary duty cannot be arranged within the employee's home department, the employee will be assigned to a different department, if available. Placement decisions will be made jointly by the employee's department head/supervisor and Risk Management staff.

3. Obtain status reports from the authorized treating physician concerning employee's health status/restrictions.

4. Notify employee's home department of the employee's temporary placement and provide updates regarding changes in the employee's medical restrictions.

5. Maintain contact with supervisor of assigned departments regarding employee's performance.

6. Maintain contact with employee regarding temporary assignment and overall health condition.

(b) *Employee.*

1. Adhere to the temporary limitations identified by his or her authorized treating physician.

2. Follow the policies of the assigned department. If the employee's work habits are not conducive to the overall effectiveness of the assigned department, the assigned supervisor may request that the temporary employee be

placed elsewhere. This request must be submitted in writing to Risk Management.

3. Advise assigned supervisor and Risk Management if assigned responsibilities fall outside of medical restrictions.
4. Return to full duty in home department upon receipt of return to work authorizing full duty from authorized treating physician.
5. Provide copies of all doctor's notes to supervisor after each medical appointment.
6. Communicate any change in doctor's orders with the county Risk Management as soon as changes are received.
7. Report to work unless there is a physician's written document stating not to return.

(c) *Assigned supervisor.*

1. Ensure that employees in temporary duty assignments work within the identified medical restrictions.
2. Coordinate employee's work schedule and leave, making provisions for medical appointments.
3. Submit employee's time cards to human resources no later than 10:00 a.m. on Monday of payroll week.
4. Inform Risk Management of changes in the status of temporary assignment.
5. Complete and submit weekly to Risk Management, the Time Lost Due To On The Job Injury Form (see Appendix, Exhibit G). Submit immediately when status of employee changes.

(5) *Returning to full duty.* Once the authorized treating physician notifies the employee and Risk Management in writing that the employee is released to return to full duty, the employee must return to their home department on the release day, unless changed by the supervisor.

(6) *Definitions.*

ASSIGNED DEPARTMENT. Department where injured employee is placed pending full medical release to job where injury occurred.

AUTHORIZED TREATING PHYSICIAN. Physician who is authorized by the county's managed care provider to provide treatment to county employees.

HOME DEPARTMENT. Department in which employee worked at time of injury.

INDEMNITY BENEFITS. Benefits paid to an injured worker to replace part of wages lost as a result of a work injury. Indemnity benefits could also be benefits paid to York County for reimbursement of sick/annual leave if employee chose to continue receiving regular wages, using sick and/or annual leave for lost time in lieu of temporary total.

TEMPORARY TOTAL. Workers Compensation pays 66 2/3% of employee's gross wages. If sick and/or annual leave is used in lieu of temporary total, it is reimbursed to the county at the rate of 66 2/3%. Employees receiving temporary total continue to be responsible for payment to the county for the employee portion of their elected medical insurance premiums.

RETURN TO WORK AUTHORIZATION. Written authorization, from the authorized treating physician, allowing the injured employee's return to duty.

TEMPORARY LIGHT DUTY ASSIGNMENT. Temporary job assignment which meets the medical restrictions as prescribed by an authorized medical physician. Assignment is not to exceed six months.

('77 Code, § 13-63) (Ord. 1584, passed 9-17-94; Am. Ord. 5288, passed 10-17-88; Am. Ord. 2601, passed 7-16-01)

Cross-reference:

Workers compensation, § [33.001](#)

§ 33.069 OFFICIAL HOLIDAYS.

(A) The following days shall be observed as paid holidays:

- (1) January, New Year's Day;
- (2) May, Memorial Day (Federal Observance);
- (3) July, Independence Day;
- (4) September, Labor Day;
- (5) November, Thanksgiving Day;
- (6) November, Friday after Thanksgiving;
- (7) December, Christmas Eve; and
- (8) December, Christmas Day.

(B) In the event a holiday occurs on Saturday, Friday shall be taken as the holiday. If the holiday occurs on Sunday, Monday shall be taken as the holiday.

(C) Some employees must work on official holidays of the county. When the duty requirements occur, an employee thus affected shall be entitled to compensatory leave of one hour for each hour worked or monetary compensation of one hour for each hour worked in addition to their regular salary.

(D) The nationally observed Martin Luther King Day (Monday following January 15th) and each employee's birthday will become optional paid holidays. Each employee has the option of having either the Martin Luther King Day or the date of their actual birthday. If the employee's birthday falls on an existing paid holiday, the employee may choose to take either the day prior to the paid holiday or the day following the paid holiday.

(E) In addition to other paid official holidays, each county employee may take one additional optional holiday at the option of the employee, with the approval of the supervisor of the employee.

(F) Optional paid holidays must be used each calendar year and cannot be carried forward if not used. Upon termination of employment with the county, employees shall not be reimbursed for any unpaid holiday time.

('77 Code, § 13-64) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 891, passed 4-1-91; Am. Ord. 3695, passed 7-17-95)

§ 33.070 LONGEVITY.

Full-time regular county employees and elected and appointed county officials and judges having ten or more years

of full-time continuous service shall receive a monthly longevity allowance in addition to their regular compensation. An employee's or official's years of full-time continuous service transferred from employment with another county, municipality, state or political entity created by the state, may contribute to eligibility for the longevity allowance provided herein. Longevity allowance shall be paid according to the following schedule:

<i>Total Continuous Service In Years Per Month</i>	Longevity Allowance
10-14	\$20
15-19	\$25
20-24	\$30
25-29	\$35
30-34	\$40
35-39	\$45
40 or more	\$50

('77 Code, § 13-65) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 3891, passed 12-9-91)

§ 33.071 ANNUAL LEAVE.

(A) Probationary and regular full-time and part-time county employees shall be entitled to earn annual leave with pay. Temporary employees shall not accrue annual leave. Probationary employees shall not be able to use annual leave until they become regular county employees.

(B) Employees who are separating from county service shall be paid for all earned, unused annual leave up to the maximum authorized level of annual days that may be accumulated. Probationary employees who are terminated or separated from employment shall not be paid for earned annual leave.

(C) When a paid holiday occurs during the time an employee is on annual leave, the holiday shall not be charged as part of the employee's annual leave.

(D) New employees may transfer to the county previous years of continuous service from employment with another county, municipality, state or political entity created by the state. This transferred service shall be included in the determination of the employee's earning rate for annual leave.

(E) (1) Full-time employees with less than ten years of continuous service shall earn annual leave at the following rates: employees with work schedules of eight hours or more per day shall earn at the rate of eight hours of paid annual leave for each month of service during a 12-month period.

(2) Full-time employees with at least ten years, but less than 20 years of continuous service, shall earn annual leave at the following rates: employees with work schedules of eight hours or more per day shall earn at the rate of ten hours of paid annual leave for each month of service during a 12-month period.

(3) Full-time employees with 20 or more years of continuous service shall earn annual leave at the following rates: employees with work schedules of eight hours or more per day shall earn at the rate of 12 hours of paid annual leave for each month of service during a 12-month period.

(F) (1) Part-time employees who are scheduled to work at least one-half the regular workweek shall earn annual leave at a rate based on the above schedule and in proportion to the percentage of the regular workweek that they are scheduled to work.

(2) Part-time employees who are scheduled to work less than one-half the normal workweek shall not earn nor be paid for any annual leave.

(G) (1) No employee shall be required to use all of his or her annual leave in any one year.

(2) The maximum amount of annual leave that can be accumulated is 360 hours for employees who work eight hours or more per day.

(3) When a regular employee's service with the county is terminated, for whatever reasons, he or she shall be paid for unused annual leave up to a maximum of 360 hours for employees who work eight hours or more per day.

(H) (1) Annual leave shall be charged in units of half-hours.

(2) All annual leave must be authorized on the leave request form. Annual leave should be requested and approved at least three days in advance.

(3) Leave requests shall be completed and forwarded to the department head for approval. If approved, requests shall then be forwarded to the personnel director to be verified with the employee's annual leave record.

(4) Whenever possible, employees shall be allowed to take annual leave at times most convenient to them.

(5) However, in order to assure operational efficiency and quality service, the county reserves the right to limit the number of employees that may be absent from a given department at any one time.

('77 Code, § 13-66) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 1393, passed 3-15-93; Am. Ord. 2601, passed 7-16-01)

§ 33.072 SICK LEAVE.

(A) Probationary and regular full-time and part-time county employees shall be entitled to earn sick leave with pay. Temporary employees shall not accrue sick leave time. Sick leave may be accumulated or carried from one year to the next, not to exceed 720 hours for employees who work eight hours or more per day. Upon termination of employment with the county, employees shall not be reimbursed for any unused sick leave.

(B) When a paid holiday occurs during the time an employee is on sick leave with pay, the day shall not be charged as sick leave.

(C) Use of sick leave:

(1) Sick leave may be used when an employee is unable to work due to personal illness, pregnancy or injury, or when the employee's presence may endanger the health of other employees;

(2) Sick leave may be taken for medical or dental appointments;

(3) Sick leave may be taken in circumstances where illness in the employee's immediate family makes it necessary for the employee to be absent. Immediate family shall include spouse, mother, father, son, daughter, sister, brother, mother-in-law, father-in-law, stepmother, stepfather, stepson, stepdaughter, daughter-in-law, son-in-law, grandson, granddaughter, grandmother, grandfather, aunt, uncle, brother-in-law, sister-in-law, guardian and ward;

(4) Sick leave, not to exceed three days, may be taken when death occurs in the employee's immediate family. The above definition for immediate family shall apply;

(5) The use of sick leave is restricted to the foregoing and in no instance shall be considered as earned "time-

off.” Using sick leave for reasons other than the foregoing shall be considered an abuse of policy and is subject to disciplinary action;

(6) The employee’s supervisor is authorized to request and receive a doctor’s certificate or other appropriate certification from the employee for the purpose of verifying the appropriateness of the use of sick leave.

(D) (1) Full-time employees shall earn paid sick leave at the following rates: employees with work schedules of eight hours or more per day shall earn at a rate of eight hours per month of service during a 12-month period.

(2) Part-time employees who work at least one-half of the normal workweek shall earn paid sick leave at a rate in proportion to the percentage of the regular workweek that they are scheduled to work.

(3) Part-time employees who work less than one-half the normal workweek shall not earn sick leave.

(E) (1) Sick leave shall be charged in units of half-hours.

(2) Employees shall notify the appropriate supervisor within 30 minutes after the scheduled starting time that they plan to be absent for eligible reasons.

(F) *Sick leave bank policy.*

(1) *Purpose.* The purpose of the sick leave bank is to protect eligible employees from undue financial burdens which may result when extended absence (30 or more consecutive calendar days) from work is necessary due to a prolonged or catastrophic personal illness or accident. The sick leave bank will be established by the voluntary donation of current leave to the bank by county employees, thereby establishing their eligibility to participate in the bank. Leave hours contributed to the sick leave bank may not be reclaimed by the donor. Designated donations will not be allowed.

(2) *Eligibility for membership.*

(a) All employees who are on full-time status with York County and who earn sick leave are eligible to participate, as long as they have at least 120 hours of accrued sick leave available. Participation is voluntary.

(b) To become a member, an employee must complete a membership application (see Appendix, Exhibit H) and contribute 16 hours of sick leave during the open enrollment period.

(3) *Procedures and regulations for membership.*

(a) An open enrollment period shall occur between December 1 and January 1 of each year. January 1 begins each sick bank year. A special open enrollment may be declared should the bank become depleted.

(b) Sick leave bank members must contribute 16 hours of sick leave at the initial enrollment period and eight additional hours each year at the open enrollment period except as noted below:

1. Any time the total number of hours in the bank reaches a level equal to or less than 480 hours, an additional assessment of eight hours will be requested and an open enrollment period declared. If a member does not have accrued sick time at time of assessment, then time will be assessed when earned;

2. If membership falls below 40 members and the sick leave balance is less than 240 hours, the Sick Leave Bank Committee may decide to dissolve the bank rather than making an assessment. If the bank is dissolved, any days on deposit shall be returned to the current members at the time of dissolution and credited to their personal sick leave accumulation in proportion to the days each has contributed.

(c) All contributions to the bank remain the property of the bank, and under no circumstances can a member

withdraw his or her accumulated days from the bank.

(d) Any employee may cancel membership from the bank by written request during the open enrollment period, which runs from December 1 through January 1.

(e) The right to membership or to apply for membership ceases with termination of employment, retirement, cancellation of membership, or refusal to comply with assessments.

(f) Membership in the bank shall remain confidential and be divulged only as necessary to maintain and administer the bank.

(4) *Regulations for use of the bank.*

(a) In order to make application to receive days from the sick leave bank, an employee must meet the following criteria:

1. The employee must be a current member of the bank for at least 30 calendar days. However, for employees with conditions determined to be pre-existing to the date of their sick leave bank membership, the employee will not be eligible for sick leave bank benefits until six months following the effective date of membership;

2. The employee must be absent from work at least ten consecutive calendar days as the result of personal illness or accident before receiving payment for approved sick leave bank hours. Bank sick leave hours may not be granted for elective surgery, normal pregnancy, or during a period an individual is receiving disability benefits from social security, a retirement plan, long term disability, or during any period of time an individual is drawing or is eligible to receive workers compensation benefits. Any other absence due to illness or accident which does not meet the aforementioned exceptions will be considered a covered event;

3. The employee must have exhausted all accrued sick, annual, holiday and compensatory time and not be eligible to activate long-term disability insurance provisions.

(b) 1. An employee (or family member of an incapacitated employee) who meets the eligibility criteria may apply to draw upon the sick leave bank by completing an "Application for Use of Sick Leave Bank" form (see Appendix, Exhibit I). This application must have the "Physician's

Confirmation" completed confirming the nature and expected duration (which must be 30 or more consecutive calendar days) of the disabling condition. If possible, the application should be filed at least two weeks prior to use of the leave. This will help to ensure payment for all eligible sick bank days. If necessary, a department head may make application for the employee.

2. Initial application would be for a maximum of 240 hours. Employees requesting additional hours should reapply at least two weeks prior to use of the additional leave. An additional form from the physician must be completed after each 240 hours drawn from the bank.

3. Members may appeal a rejected decision once by reapplying and submitting additional documentation. Appeal decisions will be made based on compliance with sick bank policy and will be final.

(c) The maximum number of hours, which may be drawn from the sick leave bank for any covered event is 480 hours.

(d) 1. Applications should be submitted to the human resources director who will coordinate application review with the Sick Leave Bank Committee. The Sick Leave Bank Committee is a five-member employee committee consisting of the two assistant county managers, human resources director, and the immediate supervisor and department head of the employee requesting sick bank days.

2. The committee is authorized to grant leave up to the total amount of hours in the sick leave bank and to act only in accordance with this policy, state statutes and the county personnel policy. Decisions of the Sick Leave Bank Committee must be approved by the county manager. Deliberations of this committee shall remain confidential.

(e) If sick leave from the bank is granted to an employee, the employee is considered to be in active pay status during the use of that leave and all employment benefits will apply including the accrual of annual and sick leave.

(f) If any sick leave is granted but not used by the employee, the unused portion of the amount of sick leave transferred is returned to the sick leave bank. This would apply in the case of an employee's death or recovery from the illness or injury.

(g) The employee's department will assume the financial responsibility for sick leave bank hours paid and must continue to submit time cards for the employee.

('77 Code, § 13-67) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 1393, passed 3-15-93; Am. Ord. 2601, passed 7-16-01)

§ 33.073 MATERNITY LEAVE.

Maternity leave shall be treated in all respects as sick leave under the provisions of § 33.072.

('77 Code, § 13-68) (Ord. 1584, passed 9-17-84)

§ 33.074 CIVIL LEAVE.

(A) *Jury duty.*

(1) All regular county employees selected for jury duty shall be entitled to civil leave with pay for the period of absence required. The leave shall not be charged to annual or sick leave. On any day, however, that the employee is excused from service on a jury, he or she is expected to promptly report to his or her job with the county if within reasonable commuting distance or be charged annual leave for time excused from jury duty.

(2) Any period of time for which an employee is excused from jury duty because of illness shall be charged to sick leave. Compensation received for jury duty shall be turned over to the county.

(B) *Official court attendance.* All regular county employees, excluding law enforcement and corrections personnel, subpoenaed or ordered to attend court to appear as a witness or to testify in some official capacity on behalf of the county or the federal government shall be entitled to leave with pay for the period as the court may require.

(C) *Private litigation.* The absence of a county employee to appear in any capacity in private litigation shall be charged to annual leave or leave without pay.

('77 Code, § 13-69) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.075 MILITARY LEAVE FOR ENCAMPMENT OR EMERGENCY SERVICE.

(A) (1) In accordance with state law, all employees who are members of the South Carolina National Guard or any reserve unit of the United States Armed Forces shall be entitled to military leave of absence without loss of pay, performance rating or other benefits for up to 15 days in any one calendar year for the purpose of training or other duties as required by the appropriate authority.

(2) In addition, if these employees are ordered by the appropriate authority to serve during an emergency, they

shall be entitled to a leave of absence not to exceed 30 additional workdays.

(B) An employee going on military leave shall present a copy of his or her orders to the appropriate department head not more than three days after receiving them. Employees are entitled to reinstatement upon release from military service as provided in state and federal laws.

('77 Code, § 13-70) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.076 MILITARY LEAVE OF ABSENCE.

(A) Any permanent county employee who leaves county service to join the military forces of the United States during time of war or national emergency shall be placed on military leave of absence without pay.

(B) Employees are entitled to the leave of absence and reinstatement upon return from leave of absence for military service, including Reserve and National Guard duty, as may be provided by applicable state and federal law at the time the leave of absence is taken.

('77 Code, § 13-71) (Ord. 1584, passed 9-17-84; Am. Ord. 1393, passed 3-15-93)

§ 33.077 EDUCATIONAL LEAVE.

(A) County employees are encouraged to maintain and improve their job related skills and knowledge. In addition, employees may be required to take special training or attend seminars to improve job performance.

(B) Eligibility for educational leave shall be based on several factors.

(1) *Education or training required by the county.*

(a) Any regular employee determined to need additional or special training to perform his or her duties with the county shall be eligible to receive the training.

(b) The employee and the department head shall develop a proposal which outlines the necessary training, the time involved, the source of the training, and the estimated cost. The request shall be forwarded to the county manager for review and approval or disapproval.

(c) The county shall reimburse the employee for educational expenses incurred. Proper documentation of all expenses shall be required prior to reimbursement.

(d) The employee shall continue to accrue annual leave and sick leave and shall remain covered by all county benefits and employment policies. The employee shall continue to receive his or her full salary.

(e) The employee who receives training or education at the expense of the county shall agree, prior to educational leave, to remain with the county for a period of time at least equivalent to the period of training.

(2) *Educational leave.*

(a) Any regular county employee may request educational leave to work toward a degree or certificate which will improve the employee's ability to perform his or her job functions or which will prepare the employee to assume additional job responsibilities. Full-time educational leave is classified as leave-without-pay.

(b) Any employee desiring full-time educational leave must apply directly to his or her department head. A detailed letter of request shall be submitted 30 days prior to the date the leave

should begin. The letter of request shall contain the following: the purpose and benefits of the educational training; the duration of the leave; the letter of acceptance from the educational institution; a list of required courses; and other information relevant to the decision.

(c) The appropriate department head and the county manager shall make a determination and notify the employee of their decision within ten working days.

(d) The county shall reimburse the employee for expenses such as tuition, approved course related fees and a certain amount of required book costs, provided the employee receives satisfactory ratings for the course work. The county shall not reimburse the employee for any course for which the employee is receiving or has received financial aid from another source. Proper documentation of expenses shall be required prior to reimbursement.

(e) Upon completion of the educational leave, the employee shall be reinstated to either his or her former position, an equivalent position, or a position of a higher classification. The employee shall agree, prior to his or her educational leave, to remain an employee of the county for a period of time at least equivalent to the period of educational leave.

(3) *Part-time educational leave.*

(a) Any full-time regular county employee may request educational leave without pay from his or her regular work schedule to take a maximum of one approved course per school term.

(b) The employee shall make the request for part-time educational leave in writing to the appropriate department head at least ten days prior to commencement of the course. The department head and the county manager shall make the determination and shall notify the employee within five working days.

(c) All expenses incurred for the approved course shall be paid by the employee.

(d) The employee shall be expected to maintain an acceptable job performance level with the county.

(4) *Reimbursement.*

(a) Any regular county employee may receive reimbursement for approved courses taken during nonworking hours. Approved courses shall be directly job related and endorsed by the appropriate department head and the county manager.

(b) An employee must present a satisfactory rating for the course work and proper documentation of expenses prior to reimbursement.

(5) *Applicability.*

(a) These benefits apply only to regular county employees.

(b) All course work or degrees pursued must be approved in advance.

(c) All course work or degrees pursued must be directly job related. There must be immediate and/or long range applicability to the job and/or benefit to the county.

(d) In addition to the county manager's approval, the course work must be approved, in writing, by the department head.

(e) To be reimbursed, the individual must provide documentation of satisfactory completion of the course work and documentation of expenses.

(f) Reimbursement will be for tuition and lab fees and other related expenses required by the institution. Books and other required consumables are not reimbursable items.

(g) If a degree is being pursued, the person making the request must include an outline, of all courses that make up the curriculum of the desired degree. This list must show which of these courses the individual wants to take in pursuit of the desired degree.

(h) At the time the request is made, the individual must state the length of time necessary to complete the course of study. Failure to follow the time schedule may result in the termination of the county's participation.

(i) All courses approved under this section will be completed without interruption of the normal working day.

('77 Code, § 13-72) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88)

§ 33.078 FAMILY AND MEDICAL LEAVE.

(A) Employees who have been employed at least 12 months consecutively with the county and who have worked 1,250 hours or more in the preceding 12 months are entitled to additional leave under the Family and Medical Leave Act of 1993. An eligible employee may be granted a leave of absence if a serious health condition prevents the employee from being able to perform his or her job; if the employee's spouse, child or parent has a serious health condition, and the employee must be absent from work to care for that relative; or to care for a natural child, adopted child or formally placed foster child. Proof of need for leave of absence may be required.

(B) An eligible employee is entitled to the equivalent of a total of 12 workweeks of leave during any calendar year. An employee who must be absent due to family and medical leave should be paid for time lost from work first from accrued sick and annual leave balances. The remaining portion of the 12-week total shall be without pay.

(C) At the conclusion of the leave of absence, the employee is entitled to reinstatement to his or her former position or to an equivalent position. In no case will an employee have a greater right to a job than he or she would have had if he or she had not taken leave under this policy. The employee must demonstrate that he or she is fit for duty and must give reasonable notice of his or her intent to return to work. Following the family and medical leave, employees may request physical disability leave or personal leave as described in this code.

('77 Code, § 13-73) (Ord. 6896, passed 12-16-96)

§ 33.079 PHYSICAL DISABILITY AND PERSONAL LEAVE.

(A) An employee who has completed his or her initial probation (and any extension thereof) may request a leave of absence for up to six months when unable to work because of sickness, pregnancy or injury on or off the job. The employee may also apply for leave of absence for personal reasons. Personal leaves are granted only in the discretion of the county manager upon recommendations by the employee's department head. Employees still in their initial probation periods who are absent for more than five consecutive scheduled workdays because of any physical disability may be automatically terminated, but may be eligible for rehire.

(B) Employees are requested to apply for leaves of absence as far in advance of need as is possible, but an employee may be placed on leave status without application when the circumstances warrant the action.

(C) Physical disability leaves will begin when the employee exhausts employer administered paid time off, except that in the case of leaves caused by on-the-job injury, the leave will begin on the day the employee's employer-administered paid time off would have been exhausted if the employee has begun using the paid time off on the first full day of absence caused by the injury.

(D) As a general rule, an employee on leave of absence is not entitled to wages or fringe benefits and does not

accrue fringe benefits; however, certain exceptions may be established by law or provision of this code.

(E) Employees desiring to return to work from an unpaid leave of absence should notify the county manager in writing at least ten days prior to their desired date of return. If the department head finds that the employee is fit to resume his or her duties, the employee shall be recalled to his or her former job if a vacancy exists which is to be filled. If no vacancy exists, the employee shall be recalled to any job in which there is a vacancy which is to be filled and for which he or she is qualified. If no vacancy

exists at the time the employee desires to return to work, the employee's leave of absence shall be continued. Any employee who has not been reinstated within six months following the commencement of a leave of absence shall be permanently separated from the payroll. This action shall not affect the employee's eligibility to be considered for hire as a new employee at some future time.

('77 Code, § 13-74) (Ord. 1584, passed 9-17-84; Am. Ord. 5288, passed 10-17-88; Am. Ord. 1393, passed 3-15-93; Am. Ord. 6896, passed 12-16-96)

§ 33.080 HARASSMENT PROHIBITED.

The county shall provide a working environment in which employees, vendors and other members of the general public shall be free from discomfort or pressure relating from jokes, ridicule, slurs on the basis of race, color, sex, religion, national origin, age, disability and similar distinctions, or resulting from a lack of consideration for a fellow human being. Harassment by employees is prohibited and the county shall take appropriate action to protect employees from harassment by non-employees. The county manager shall adopt, and from time to time revise, procedures to implement this section and to provide for investigation of allegations of harassment.

('77 Code, § 13-75) (Ord. 1393, passed 3-15-93) [Penalty, see § 10.99](#)

§ 33.081 EMPLOYEE ASSISTANCE PROGRAM.

(A) York County has contracted with Piedmont Employee Assistance Program to provide an added benefit to health care coverage, at no cost to employees. The Employee Assistance Program has been established to provide easily obtainable, highly confidential help for employees and their dependents. The Piedmont Employee Assistance Program is designed to help improve health and productivity, minimize health costs and assist employees who are experiencing personal problems. These issues may include, but are not limited to:

- (1) Lifestyle or job related stress;
- (2) Work performance problems;
- (3) Alcohol or other drug abuse and addiction;
- (4) Relationship problems;
- (5) Depression;
- (6) Financial and legal problems;
- (7) Other mental health problems.

(B) Employees are encouraged to use this program. For more information about the program or for an appointment, call 1-888-617-0785 and ask for Employee Assistance. ALL CALLS ARE CONFIDENTIAL.

(Ord. 2601, passed 7-16-01)

USE OF DRUGS BY COUNTY EMPLOYEES

§ 33.090 FINDINGS.

The County Council finds that the Drug-Free Workplace Act of 1988 became effective on March 18, 1989. The Council further finds that the Drug-Free Workplace Act requires federal contractors with contracts for more than \$25,000 and employers receiving federal grants to maintain a drug-free workplace. The Council finds that the county is a covered “contractor” and “grantee” under the Drug Free Workplace Act, and this section is intended to implement the Drug-Free Workplace Act of 1988.

(‘77 Code, § 13-81) (Ord. 6189, passed 12-4-89)

§ 33.091 USE OF DRUGS IN THE WORKPLACE PROHIBITED.

(A) The illegal manufacture, distribution, possession or use of narcotics, drugs or other controlled substances is strictly prohibited on county premises.

(B) The violation of § 33.090(A) by any county employee will result in immediate discipline up to and including discharge.

(C) County employees will be given a copy of the York County Drug-Free Workplace Policy attached to Ordinance No. 6189 as “Exhibit A,” which policy is hereby adopted, and county employees will be required to sign a form acknowledging its receipt. By continuing to work, each county employee agrees that he or she will abide by the policy as a condition of employment. Failure to sign the form or abide by the policy will result in discipline up to and including discharge.

(D) As a condition of employment, county employees agree to notify the personnel department within five calendar days after any criminal conviction for the manufacture, distribution, dispensation, possession or use of narcotics, drugs or other controlled substances at the workplace. Criminal conviction means a finding of guilt, imposition of a sentence, a plea of no contest or a plea of guilty.

(E) The county shall notify all federal contracting agencies or contractors of the conviction within ten days after receiving notice of the conviction.

(F) Law enforcement authorities will be notified whenever illegal drugs are found in the workplace.

(‘77 Code, § 13-82) (Ord. 6189, passed 12-4-89)

§ 33.092 USE OF DRUGS BY COUNTY EMPLOYEES WHILE NOT AT THE WORKPLACE.

(A) The illegal manufacture, distribution, dispensation, possession or use of narcotics, drugs or controlled substances either off the premises or on the nonwork time or both is prohibited and will result in discipline up to and including discharge.

(B) County employees must notify the personnel department of any drug-related convictions within five calendar days after the conviction.

(C) Conviction means a finding of guilt, imposition of a sentence, a plea of no contest or a plea of guilty.

(‘77 Code, § 13-83) (Ord. 6189, passed 12-4-89)

§ 33.093 DRUG-FREE AWARENESS PROGRAM ESTABLISHED.

(1) York County has a vital interest in providing for the safety and well being of all employees and the public and maintaining efficiency and productivity in all of its operations. In fulfillment of its responsibilities, York County is committed to maintaining a drug and alcohol free workplace. The public has a right to expect county employees to be free from the effects of drugs and alcohol as they serve the community. Further, county employees have a reasonable right to work in an environment safe from the potential dangers posed by drug and alcohol misuse. In keeping with federal requirements under the Drug Free Workplace Act of 1988 (41 USC section 701 *et seq.*), York County has adopted policies prohibiting the use of drugs in the workplace as well as the use, manufacture, distribution, or possession of illegal drugs or controlled substances by county employees on or off the job. York County is also obliged to comply with the Omnibus Transportation Employee Testing Act of 1991 (and implementing regulations issued by the Federal Highway Administration of the U.S. Department of Transportation (49 CFR Part 382 and 40) which mandates drug testing for all holders of CDL's (commercial drivers licenses). This act also prescribes test procedures to assure accuracy and privacy of the results, establishes rules for rehabilitating drivers in violation and describes sanctions for compliance failure. York County's testing program includes: pre-employment, reasonable suspicion, post-accident, random and return-to-work. The type of testing requirements an employee will be subject to is dependent on the safety and/or security sensitive nature of the employee's position. This policy establishes drug and alcohol testing procedures for employees of York County in support of organizational values and legal requirements.

(2) York County is also committed to assisting employees who may be experiencing problems with drugs or alcohol. Employees are encouraged to seek counseling and treatment for drug abuse problems. The desire on the county's behalf to assist employees does not relieve it of the responsibility to maintain a drug-free workplace. The use of alcohol, illegal drugs, or the misuse of prescription drugs is not acceptable in the county workplace. Such behavior seriously affects job performance and can create danger to the public and co-workers. The use of illegal drugs is not acceptable at any time or place. The policy and regulations pertaining to a drug-free workplace apply to all employees in the county.

(3) York County reserves the right to adopt additional policies relating to drugs and alcohol in the workplace.

(4) This subchapter contains various rules, policies and procedures relating to employment. Personnel policies are subject to change at any time, with or without notice. Neither York County's policies nor its practices, nor the oral assurances of its representatives create a contract of employment.

(B) *Scope/application.*

(1) This policy applies to individuals seeking employment and all full-time and part-time employees of York County except as noted. Employees appointed by an authority outside the York County Council are also exempted from this policy. For employees, this policy is effective while the employee is being compensated by or is acting in an official capacity for York County while in county vehicles/equipment, on county property or in county facilities. It does not intend to supersede or conflict with binding state or federal laws, statutes or regulations. Where a conflict occurs, state and federal mandates take precedence. (Employees working for the office of sheriff of York County are not covered by this policy. There is another specific policy for drug testing that provides for coverage for these employees.)

(2) It is the policy of York County that all county work sites shall be maintained as a drug-free workplace. This policy applies to applicants (any person who applies to become an employee) and to employees (any person whose position is included in the York County Classification Plan, any person receiving salary payments based upon that Pay Plan and any person whose employment is administered by the York County personnel department).

(3) York County is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors and managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor or manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to discipline up to and including termination.

(4) The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited.

However, the use of any substance which carries a warning label that indicates that mental

functioning, motor skills, or judgment may be adversely affected must be reported to the employee's supervisor and medical advice sought, as appropriate, before performing work-related duties. The misuse or abuse of legal drugs while performing county business is prohibited.

(5) Elected officials, temporary employees, Seniorworks and School To Work program participants and York County interns shall be exempt from the testing portions of this policy.

(C) *Prohibited conduct.*

(1) *Manufacturing, trafficking, possession and use.* Any employee engaged in the manufacture, distribution, dispensing, possession or use of prohibited substances on county premises, in county vehicles/equipment, in uniform, or while on county business will be subject to disciplinary action, up to and including termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

(2) *Intoxication/under the influence.* Any employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be removed from job duties pending an investigation and verification of condition. Employees found to be under the influence of prohibited substances or who fail to pass a drug or alcohol test shall be removed from duty and subject to disciplinary action up to and including termination. CDL holders must be removed immediately from performing safety sensitive functions.

(3) *Alcohol use and possession.* No employee shall report to duty or remain on duty when his or her ability to perform assigned functions is adversely affected by alcohol or when his or her blood alcohol concentration is .02 or higher. No employee shall use alcohol while on duty or during periods while they are on breaks or at lunch or performing non-safety-sensitive functions. No employee shall have used alcohol within four hours of reporting for duty. No employee shall use alcohol during the hours they are on-call. Employees are prohibited from consuming alcohol during the eight hours immediately following certain vehicle accidents or until the employee has been tested. Violations of these provisions are prohibited and punishable by disciplinary action up to and including termination.

(4) *Use of alcohol at county sponsored activities.* Alcohol is prohibited at all official activities where county business is conducted or where services are provided. The prohibition applies to both public and private facilities, vehicles and premises. Alcohol use in conjunction with any county sponsored activity is prohibited on all county facilities, vehicles and premises at all times except as expressly approved by the county manager and county attorney. Any county sponsored activity where the serving of beer, wine or spirits have been so approved must serve adequate amounts of food; offer non-alcoholic beverage options; observe state laws regarding the sale and service of alcoholic beverages; have alternate transportation available; promote and provide for designated drivers; and have event organizers acknowledge and understand how these issues affect the county's general liability and public image. Violation of these provisions is prohibited and punishable by disciplinary action up to and including termination.

(5) *Inspections/searches.* York County reserves the right to conduct searches or inspections of property assigned to an employee and their personal belongings whenever there are reasonable grounds to believe that a specific employee is in possession of alcohol or illegal drugs which are prohibited under this policy. Such searches or inspections may include, for example, an employee's locker, desk, purse or county-assigned vehicle, including being asked to empty their pockets. Search efforts will be conducted by the employee's supervisor/manager in cooperation with local law enforcement authorities. All searches under this policy will occur with the utmost discretion and consideration for the employee involved.

(D) *Requirements.*

(1) *Compliance with testing requirements.* All employees (except those previously specified) are subject to urine drug testing and breath alcohol testing at the county's expense as a condition of employment. Any employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty

immediately, and be subject to termination. Refusal can include the inability to provide a specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

(2) *Treatment requirements.* The county encourages all employees to voluntarily and confidentially seek assistance at an early date, prior to testing for any substance abuse problem, through the Employee Assistance Program (EAP), employee health plan or other outside source. The county has furnished a voluntary Employee Assistance Program to assist all employees who wish to seek help for alcohol and drug problems. Participation in the EAP is confidential and will not jeopardize employment or advancement with the county. Should an employee undergo alcohol/drug treatment, whether voluntary or mandatory, any absence from the job should be handled in accordance with existing leave policies and benefit policies. In the case of mandatory treatment, it is the employee's responsibility to verify compliance to his or her supervisor. Refusal to accept referral to mandated treatment or to follow recommended treatment plans will be considered a violation of this policy and, therefore, may subject the employee to corrective or disciplinary action up to and including termination. Employees who fail or refuse to take a test must be referred to a substance abuse professional (SAP) who: (1) must determine what assistance or rehabilitation is needed; (2) oversee rehabilitation; and (3) set up a follow-up testing plan. It remains the responsibility of the employee to meet established work standards.

(3) *Notifying the county of a criminal drug conviction.* Any employee who fails to notify the county within five days of a criminal drug statute conviction shall be subject to disciplinary action up to and including termination.

(4) *Notifying the county of a suspended or revoked drivers license.* Employees, whose duties require the operation of a county motor vehicle, must report to the county any change in their driver's license status, including suspension and revocation, resulting from alcohol (such as, conviction for driving under the influence) or drug misuse. Failure to do so may result in disciplinary action up to and including termination.

(5) *Refusal to submit.* A refusal to submit to a drug or alcohol test is defined as: (1) failing to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing in accordance with policy requirements; (2) failing to provide adequate urine for controlled substances testing without a valid medical explanation after the employee has received notice of the requirement for urine testing in accordance with policy requirements; or (3) engaging in any conduct that clearly obstructs the testing process after the employee has received notice of the requirements for breath or urine testing in accordance with policy requirements. Refusal by a county employee to submit to an alcohol or drug test, when requested to do so under the terms of this policy, will be considered the same as a confirmed positive test result. This action will require that they be referred to a substance abuse professional and will be grounds for disciplinary action up to and including termination.

(E) *Drug-Free Awareness Program/education and training.*

(1) Based upon provisions of the Drug-Free Workplace Act of 1988 and the education and training requirements of 49 CFR Part 382 and 40, York County will establish a Drug-Free Awareness Program to assist employees and supervisors to understand and avoid the perils of substance abuse. This program will be part of an ongoing educational effort to maintain a drug-free workplace.

(2) This program will inform employees about:

- (a) The dangers of substance abuse in the workplace;
- (b) York County's policy of maintaining a drug and alcohol free workplace; and
- (c) The requirements of 49 CFR Part 382 and 40 and the county's efforts in meeting those requirements.

(3) Within the first 90 days of employment, all covered employees shall undergo an orientation by the county covering the effects of drug and alcohol abuse, its safety implications, and this substance abuse policy.

(F) *Definitions.*

ALCOHOL. Alcohol is a central nervous system depressant. It is the major intoxicating ingredient in wine, beer and distilled liquor. It is the product of distillation of any fermented liquid whether rectified or diluted. It includes synthetic ethyl alcohol.

COMMERCIAL MOTOR VEHICLE.

- (a) Has a gross combination weight rating of 26,001 or more pounds, exclusive of a towed unit, with a gross vehicle weight rating of more than 10,000 pounds; or
- (b) Has a gross vehicle weight rating of 26,001 or more pounds; or
- (c) Is designed to transport 16 or more passengers including the driver; or
- (d) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which requires the motor vehicle to be placarded under the Hazardous Material Regulations, 49 CFR, Part 172, Subpart F.

CONTROLLED SUBSTANCE. Any of those substances listed under the South Carolina Drug Law, Section 44-53-10 *et seq.* as well as those substances listed on schedules I through V, 21 USC S 812, as they may be revised from time to time.

DRUG. Any chemical substance which produces physical, emotional, and behavioral changes in the user including controlled substances and/or illegal drugs. For the purposes of testing, **DRUGS** mean marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescribed drugs.

EMPLOYEE ASSISTANCE PROGRAM (EAP). A county sponsored program that offers assessment, short-term counseling and referral services to employees for a wide range of personal, drug, alcohol and mental health problems. The program monitors the progress of employees while in treatment.

ILLEGAL DRUG. Drugs for which the sale, possession, use or distribution is unlawful in the State of South Carolina. For the purpose of this policy, illegal drugs include drugs that are not legally obtainable and drugs that are legally obtainable but have been illegally obtained.

LEGAL DRUGS. A legally prescribed drug means the individual has a prescription or other written approval from a licensed physician for the use of the drug in the course of medical treatment. All prescription drugs must be in the employee's name and in the original container. It must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization.

MEDICAL REVIEW OFFICER (MRO). A licensed physician with knowledge of substance abuse disorders and appropriate training to interpret drug/alcohol test results together with an individual's medical history and other relevant biomedical information. The MRO receives and evaluates laboratory tests generated pursuant to the county's drug and alcohol testing policy.

MATERIAL PARTICIPANT. Any person who has an active, on-site role in directing or participating in an activity that results in a fatal accident.

SAFETY-SENSITIVE FUNCTION.

- (a) Includes any of those on-duty functions listed below. On-duty means all time from the time the employee begins work or is required to be in readiness to work until the time he or she is relieved from work and includes:

1. All time at a facility waiting to start a work activity;
2. All time inspecting work equipment as required for operation, servicing or preparing equipment for operation;
3. All time driving vehicles or operating equipment;
4. All time loading or unloading a vehicle, supervising or assisting in the loading or unloading a vehicle, remaining in readiness to operate the vehicle;
5. All time spent performing the driver requirements related to an accident; and
6. All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

(b) Positions determined to involve ***SAFETY-SENSITIVE FUNCTIONS*** include those that the condition or action of an individual affected by alcohol or drugs could result in significant harm or death to another employee, themselves or the public at large. The job functions associated with safety-sensitive positions have a direct and immediate impact on public health and safety, the protection of life and property, or law enforcement.

SERIOUS EMPLOYEE ACCIDENT. A vehicle accident involving a fatality; an accident causing bodily injury requiring medical treatment away from the scene of the accident where the employee receives a citation for a violation; or an accident where one or more vehicles incurs disabling damage requiring towing away from the scene and where the employee receives a citation for a moving violation.

SUBSTANCE ABUSE PROFESSIONAL. The substance abuse professional (SAP) shall be a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor, with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders. The SAP shall evaluate each employee who has engaged in prohibited conduct regarding the use of drugs and alcohol to determine what assistance, if any, the employee needs in resolving problems associated with use of drugs and alcohol.

WORKPLACE. Any site for the performance of work by an employee, including but not limited to any county building or premise or county-owned vehicle; any building or premise used by the county for county business; and any non-county property during a county-sponsored or county-approved activity, event, or function. ***WORKPLACE*** also includes all county-owned property such as, but limited to, offices, desks, lockers, safes, file cabinets, and toolboxes.

(G) *Responsibilities.*

(1) The administrative services department is responsible for:

- (a) Administration and broad oversight of the county's Substance Abuse Program;
- (b) Oversight of contracted services, supervisory training, notification processes, record keeping and the appropriate protection of sensitive information;

(c) The administrative services department will keep verified negative test result information for one year, records of collection and employee training for two years; verified positive test results, refusal information and referral information for five years. The information involving alcohol/drug testing shall be treated as confidential to the extent possible within the scope of this policy. Information will be maintained in a file separate from the employee's personnel file. This information will be disclosed only to those personnel involved with the discipline of the employee or who have a legitimate need to know the information.

(2) Elected officials, county manager, assistant county manager and department heads are responsible for:

- (a) Maintaining a drug and alcohol free workplace;
- (b) Knowing and complying with the provisions of this policy;
- (c) Notifying affected employees that they are subject to testing;
- (d) Authorizing/directing testing of employees;
- (e) Ensuring prompt employee notification when directed to test;
- (f) Ensuring testing correspondence/results are kept confidential;
- (g) Ensuring that subordinate supervisors are trained in drug/alcohol misuse recognition;
- (h) Implementing appropriate action for failure to comply with this policy;
- (i) Attending all required substance abuse training as provided.

(3) Supervisors at all levels are responsible for:

- (a) Maintaining a drug and alcohol free workplace;
- (b) Reporting and documenting behavior that suggests reasonable suspicion exists to warrant drug/alcohol testing;
- (c) Understanding the substance abuse policy, explaining the policy to employees, and knowing when to take action;
- (d) Advising employees whenever they see changes in performance or behavior that suggest an employee has a drug or alcohol problem. It is not the supervisor's job to diagnose personal problems or treat substance abuse problems (these are the responsibilities of the medical review officer or substance abuse professional); however, supervisors should encourage such employees to seek help and advise them about valuable resources for getting help; and
- (e) Attending all required substance abuse training as provided.

(4) All employees are responsible for:

- (a) Maintaining a drug and alcohol free workplace;
- (b) Knowing and complying with this policy; and
- (c) Advising supervisors when taking substances that may impair performance or safe execution of their duty.

(H) *Testing for prohibited substances.*

(1) (a) Alcoholic beverages and drugs are considered to be prohibited substances in the workplace. Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or as authorized or required by federal and/or state law and regulations. All employees (except those stipulated in this policy), as a condition of employment, may be subject to testing at the county's expense prior to employment, for reasonable suspicion, and following any accident involving property damage and/or personal injury. In addition, all employees will be tested prior to and after return-to duty after failing a drug test and/or after completion of

rehabilitation treatment. The county will provide for initial testing of all employees as called for under this policy; however, the cost of any necessary treatment or rehabilitation shall be at the employee's expense except where coverage for these expenses may be provided for eligible employees under provisions of the county's benefit programs. Employees will be asked by their supervisor or other appropriate county officials to report to a testing site. Employees who are believed to be under the influence of drugs/alcohol will be transported to the testing site by the employee's supervisor, deputy sheriff or other appropriate county officials. Applicants subject to testing will be told to report to the testing site at a specified time.

(b) Those employees who perform safety sensitive functions as defined in this policy (and listed in Appendix, Exhibit E); or who maintain a commercial drivers license and operate vehicles over 26,001 pounds as identified in this policy shall, as a condition of employment, also be subject to testing on a random unannounced basis.

(c) To obtain satisfactory results from a drug screening, there must be an absence of any illegal substances and the presence and use of any prescription drug must be in accordance with the prescribing physician's instructions and be consistent with the maintenance of a safe and productive workplace.

(d) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability using techniques, equipment and laboratory facilities that have been approved by the U.S. Department of Health and Human Services. All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40. (Approved testing facilities are noted in Appendix, Exhibit D.)

(e) Drug screening will test for marijuana, cocaine, opiates, phencyclidine and amphetamines/methamphetamines. If a sample tests positive for an aforementioned controlled substance, a confirmation test will be conducted using gas chromatography/mass spectrometry analysis.

(f) Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration approved evidential breath testing device operated by a trained breath alcohol technician. For alcohol screening, an alcohol concentration of .02 or higher will constitute a positive test. A positive test will be immediately (within 20 minutes) confirmed by a second screening. If the second test results in a concentration level of .02 or higher, the outcome will be deemed a valid positive. A second test resulting in a concentration of less than .02 will result in an overall negative screening outcome. With all positive tests, the MRO will contact the employee being tested to determine if there is an alternative medical explanation for test results. If documentation is provided and the MRO determines that there is a legitimate medical use for the prohibited substance, the test result may be reported to the county as a "negative."

(g) York County affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

(2) *Pre-employment testing.*

(a) All candidates for employment shall be informed that the pre-employment process includes drug screening. This policy will apply to all applicants for any regular full-time or regular part-time position open except elected officials, Seniorworks and School to Work program participants and county interns. Current county employees applying for other vacant positions with York County will not be required to complete a pre-employment test unless they are applying for a position requiring a CDL or a position included in this policy as a "safety-sensitive" position. All job announcements, notices and employment application forms shall contain the following statement: "Any offer of employment is contingent upon the applicant agreeing to and obtaining satisfactory results from a pre-employment drug screening." In considering the hire of job applicants currently possessing a CDL, York County is required to obtain, pursuant to the applicant's consent, information of the applicant's prior employment alcohol tests with a concentration of .02 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years, that are maintained by the applicant's previous employers. Failure of the applicant to provide such consent will result in denial of employment, or if such information is obtained after employment is gained with the county, as an employee the applicant is subject to discipline up to and including termination. If the requested information cannot be obtained or a previous employer does not comply with the county's request, the documentation of such action must

be kept with the applicant's other testing information. As an employee, the applicant can perform safety sensitive functions under these documented circumstances (see Appendix, Exhibits B and C).

(b) Applicants who have received an offer of employment must successfully complete a drug detection test. A negative alcohol/drug test result does not guarantee an applicant employment. A person may not begin working for the county before the results of the test are known. Pre-employment screening for alcohol may be conducted at the county's option. A verified positive finding of alcohol or illegal drugs will result in a denial of employment. In those situations, the applicant will be informed that he or she has failed to meet medical standards. Applicants testing positive will be ineligible to apply for employment with York County for one year unless they provide certified documentation of successful completion of a substance abuse rehabilitation program. A positive drug/alcohol test administered by York County may be considered in future hiring decisions.

(c) Applicants will be required to sign an informed consent form. A refusal to consent or failure to appear at the designated collection site on the appointed date and time will terminate the hiring process.

(d) Drug/alcohol test results will be reported to the county personnel department and the applicant by the testing facility. The applicant will be promptly notified in writing, delivered in person or by certified mail, of positive test results. A return receipt will be required for mailed notifications. As part of the notification process, the applicant will be provided an opportunity to explain positive results. A medical inquiry consent letter to allow verification of medical facts must accompany medical explanations.

(e) Prescribed use of legally controlled substances under the auspices of a properly licensed health care professional will not deny the applicant an opportunity for employment unless the treatment adversely affects job performance. Prescriptions must be substantiated by a verifiable medical report.

(f) Applicants who refuse to test or who attempt to tamper with tests may be denied employment.

(3) *Procedure for pre-employment testing and screening.*

(a) When the hiring authority has made a selection decision, the prospective employee will be offered employment contingent on passing a drug/alcohol screening test. The hiring authority will also inform the county personnel department of the contingent employment offer. Time and most convenient location of a county designated testing facility will be coordinated by the personnel department with the prospect. Testing should be completed within seven days of the offer of employment. The hiring authority will ensure the appropriate testing facility is notified of time of the appointment and the name of the prospective employee.

(b) The testing facility will inform the personnel department and the applicant of test results. If the test results are negative, the personnel department will notify the hiring authority and process necessary paperwork. A prospective employee will not begin employment until a negative testing outcome is established.

(c) If test results are positive (drug/alcohol thresholds are exceeded), the personnel department will record the information and notify the hiring authority. The hiring authority will take appropriate steps to fill the position with another candidate. (In cases where the initial testing results are positive, lab protocol may require that they confirm the testing results directly with the applicant in order to verify/rule out the presence of prescription drugs.)

(4) *Random testing and screening.*

(a) Employees in the below listed categories will be subject to random, unannounced drug and alcohol testing in accordance with U.S. Department of Transportation (U.S. D.O.T.) mandated policy and procedures and York County policies:

1. Designated commercial drivers license holders who operate commercial motor vehicles exceeding 26,001 pounds per U.S. D.O.T. regulations; and

2. Those employees currently in designated safety-sensitive positions (see Appendix, Exhibit E).

(b) D.O.T. covered employees of the county will be pooled separately for random selection purposes.

(5) *Procedures for random testing and screening.*

(a) 1. The personnel director will arrange to select via a computer generated random sample the specified number of employee names from each of the below listed employee groups quarterly:

a. CDL Holders - 50% of the total number of current license holders per calendar quarter to be selected for drug testing. Twenty-five percent of the total number of current license holders per calendar quarter to be selected for alcohol testing;

b. Others in "safety-sensitive positions"- 25% of the total number of others per calendar quarter to be selected for drug and alcohol testing.

2. The random alcohol test may only be administered just prior to the employee performing a safety sensitive function, while the employee is performing a safety-sensitive function or just after the employee has stopped performing a safety-sensitive function.

(b) Personnel director notifies the appropriate department heads for each of the employees selected for random testing. Some employees may be tested more than once in a year, while others may not be tested at all depending on the random selection process. The supervisor or department head shall explain to the employee that the employee is under no suspicion of taking drugs or using alcohol and that

the employee's name was selected randomly pursuant to this policy. An employee selected for random testing may obtain a deferral of testing only if the employee's supervisor and department head concur that a compelling need necessitates a deferral on the grounds that the employee is:

1. In a leave status (sick, annual, administrative or leave without pay); or

2. On official travel status away from the job site or about to debark on official travel prior to the testing notification. An employee whose random test is deferred will be subject to an unannounced test within the following 60 days.

(c) Each department head is responsible for making arrangements with the testing lab for each of their employees selected for random testing. Department heads are responsible for providing/arranging transportation for the employee to and from the testing lab.

(d) Test results shall be provided to the personnel director as they become available. The personnel director will notify the employee's department head if there is a verified positive test result. The department head is responsible for taking any follow-up action with the employee in the event of a verified positive test result. This action may include referral to the county EAP and/or any appropriate disciplinary action as outlined in county personnel policies.

(e) A return-to-duty test must be conducted prior to an employee returning to work following a verified positive test result. Thereafter, the employee may be subject to unannounced follow-up drug tests in the next 12-month period.

(6) *Reasonable suspicion testing for substance abuse.*

(a) 1. All employees except those previously specified (see division (B) Scope/application) may be subject to fitness for duty evaluation, to include appropriate urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. The supervisor's determination of reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior,

speech or body odors of the employee. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances that are consistent with the long or short-term effects of substance abuse. Suspicion is not reasonable if it is based solely on the observations and reports of third parties or a violation of a safety rule or other unsafe work act.

2. Examples of reasonable suspicion include but are not limited to:

- a. Adequate documentation of unsatisfactory work performance or on-the-job behavior together with other manifestations of substance abuse such as: excessive absenteeism, attendance problems, poor work-performance, and/or erratic behavior;
- b. Physical signs and symptoms consistent with prohibited substance abuse such as: bloodshot or watery eyes; very large or very small pupils; runny nose; excessive perspiration; nausea and vomiting; lack of coordination; slurred speech; or unpredictable responses to ordinary requests;
- c. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances;
- d. Occurrence of a serious or potentially serious accident that may have been caused by human error;
- e. Fights (meaning physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

(b) Supervisors at all levels are responsible to recognize and evaluate circumstances and behavior that may warrant reasonable suspicion drug/alcohol testing. Reasonable suspicion determinations will only be made by supervisors who are properly trained to detect the signs and symptoms of substance abuse and who can reasonably conclude that an employee may be adversely affected or impaired in his or her work performance due to prohibited substance abuse or misuse. The required observations must be made by two of the employee's supervisors (supervisor/division head/department head/assistant county manager/county manager as appropriate) who are trained in detecting the signs and symptoms of misuse of alcohol and drug use. The county Employee Assistance Program (EAP) should be consulted, if possible, during the deliberation process. Supervisors who have reasonable suspicion that an employee is under the influence of alcohol or illegal drugs will document the specific facts, symptoms or observations that form the basis of such reasonable suspicion in detail. An Observation of Impairment Report (see Appendix, Exhibit A) prepared by the supervisor and approved by the appropriate department head/assistant county manager/county manager should be submitted to the personnel director.

(c) To ensure that supervisors are trained to make reasonable suspicion determinations, supervisors vested with this authority must attend at least one hour of training on alcohol abuse and one hour on controlled substance use as described in division (E), Drug-Free Awareness Program/education and training. The training covers the physical and behavioral manifestations of probable misuse of alcohol or controlled substances. Refresher training will be provided on an as-needed basis. Training will be documented and maintained in the individual's personnel file.

(d) Individuals directed to test will be provided a written copy of the facts and rationale leading to the testing decision prior to taking a drug/alcohol detection test. Employees will be escorted to the testing site.

(e) Drug and alcohol testing procedures and thresholds are the same as in division (H)(2)(c), (d) and (e). However, an employee whose alcohol concentration is .02 or greater but less than .04 will be removed from duty, without pay, for 24 hours from administration of the test. An employee

with an alcohol concentration less than .02 need not undergo further treatment nor be required to take return-to-duty tests. Tests yielding alcohol concentrations greater than .04 will result in removal from duty without pay until return-to-duty provisions are satisfied. A positive test result (.02 or greater) may subject the employee to disciplinary action. All disciplinary actions less than termination will mandate the employee be evaluated by the county's EAP. If intervention is warranted, the employee will be rolled in a rehabilitation program. Employees who successfully complete the rehabilitation program are subject to a follow-up no-notice testing when returned to duty. The EAP will

determine the schedule of no-notice testing; six unannounced tests may be requested per 12 months for a period of up to 60 months.

(f) Employees who fail to successfully complete the rehabilitation program may be terminated. A second positive drug or alcohol test within five years may be cause for termination.

(g) Refusal to test or attempting to tamper with the testing process are grounds for discipline up to and including termination.

(7) *Post-accident testing.*

(a) Supervisors have a responsibility to assess work related accidents to determine if drugs or alcohol played a role in the event. A “serious employee accident” as defined will result in a post-accident test.

(b) Following a vehicle accident, all reasonable steps to obtain a testing sample from an employee should be implemented (prudent medical treatment for injuries remains, however, first priority). For vehicle accidents in which the employee is medically incapacitated and law enforcement is present, the county will rely on investigating law enforcement agencies to direct testing.

(c) Post-accident testing should be accomplished as soon as possible after an accident. As a guideline, testing for alcohol should be conducted within two hours of an accident; testing for drugs within 32 hours. Testing for alcohol may not be administered more than eight hours (24 hours for CDL holders) following an accident. Any employee who fails to remain readily available for post-accident testing may be deemed to have refused to submit to such testing. Employees required to take a post-accident test will refrain from consuming alcohol for eight hours (24 hours for CDL holders) after an accident or until a valid breath alcohol test has occurred.

(d) Reasons for failure to test for alcohol within two hours and for drugs within 32 hours must be explained in writing by employee’s supervisor/department head and submitted to personnel.

(e) Employees must report out of area, on duty mishaps that result in the employee being tested for drugs/alcohol by a legally empowered testing agency. The employee must notify his or her supervisor of the incident as soon as possible after occurrence.

(f) No affected employee will be permitted to take leave until required testing is complete.

(g) Testing procedures/criteria are the same as in division (H)(2)(c), (d) and (e).

(h) Refusal to test or tampering with the testing process is grounds for termination.

(8) *Return-to-duty testing.*

(a) All employees who previously tested positive on a drug or alcohol test must test negative and be evaluated and released to duty by the substance abuse professional (SAP) before returning to work. The employee will be subject to no-notice testing as outlined in division (H)(4).

(b) A covered employee must submit to a return-to-duty test before he or she may be returned to his or her safety sensitive position. The test result must indicate an alcohol concentration of less than .02 or a verified negative result on a controlled substance test. Absences will be without pay following notification of positive test results. Because studies have shown that the relapse rate is highest during the first year of recovery, return-to-duty tested employees are subject to follow-up testing which is separate from the random testing. For employees identified as needing assistance in resolving problems associated with alcohol/drug abuse, the county may perform at least six unannounced drug/alcohol tests on such employees during their first year back in their commercial driver’s license capacity. Return-to-duty follow-up testing can be conducted for up to 60 months from the date of the employee’s return to duty.

(9) *Tests by other jurisdictions.* Results of a drug or alcohol test conducted by legally authorized federal, state or local officials shall be considered to meet the requirements of this policy if testing conforms to applicable federal, state or local requirements. A legal demand for testing must be made while the employee is on duty for the test to be accepted under the provisions of this policy.

(10) *Release of testing information.* Employee test results will be handled confidentially and on a “need-to-know” basis. Records will be stored to provide carefully controlled access. Records are the property of York County. Copies of test results shall be made available to the employee for inspection and copying. Individual records will not be released to outside agencies/individuals without the employee’s written consent unless mandated by law. Violation of an employee’s confidentiality can result in disciplinary action leading to termination.

(11) *Employee rights.*

(a) Embodied in the county’s desire to maintain a drug and alcohol free workplace is the commitment to assist employees who on their own seek treatment for substance abuse. The county will not initiate disciplinary action against an employee who meets all of the following conditions:

1. Voluntarily self-identifies as an alcohol/drug abuser before being identified through other means;
2. Obtains professional counseling or rehabilitation through an EAP or other formal drug/alcohol mediation program;
3. Refrains from abusing drugs/alcohol thereafter.

(b) Employees have the prerogative to file a grievance for any disciplinary action pursuant to this policy in accordance with established county procedures. Compliance with York County’s substance abuse policy is a condition of employment. Failure or refusal to cooperate fully, sign any document, submit to any inspection or test, or follow any prescribed course of substance abuse treatment as called for in this policy may be grounds for disciplinary action up to and including termination.

(I) *Generally.* This policy is intended to be a unilateral expression of the general policies, procedures and guidelines concerning the Omnibus Transportation Employee Testing Act and the Drug Free Workplace Act. It is not intended to create contractual rights of employment, either express or implied, between the county and its employees. In addition to the general policies and procedures listed above, county employees will continue to be covered by the policies and procedures as listed in the county’s personnel policies. The county reserves the right to interpret, change, rescind, or depart from this policy in whole or in part without notice.

(Ord. 2601, passed 7-16-01)

EMPLOYMENT POLICIES

§ 33.110 WORKPLACE VIOLENCE POLICY.

(A) *Purpose.*

(1) Violence is a substantial contributor to death and injury on the job. Data from the National Institute for Occupational Safety and Health (NIOSH) reports that homicide, due to workplace violence, is the leading cause of death for women in the workplace and the second leading cause of death for men. In addition, an estimated one million workers are assaulted annually in the U.S. workplace.

(2) Employees of York County are entitled to work in an environment, which is safe and free of unreasonable disruption or violence. Additionally, citizens, clients and patrons of county programs and facilities are entitled to conduct their affairs in a similar environment.

(3) It is the intent of this policy to ensure that everyone associated with York County, including employees and citizens, never feel threatened by another's actions or conduct.

(B) *Policy.*

(1) It is the policy of York County to promote a safe work environment for its employees. The county is committed to working with its employees to maintain a work environment free from violence, threats of violence, harassment, intimidation, and other disruptive behavior. While this kind of conduct is not pervasive within our workplace, no employer is immune.

(2) Violence, threats, harassment, intimidation, fighting, and other disruptive behavior in our workplace will not be tolerated; that is, all reports of incidents will be taken seriously and will be dealt with appropriately. Such behavior can include oral or written statements, gestures, or expressions that communicate a direct or indirect threat of physical harm. Individuals who commit such acts may be removed from the premises and may be subject to disciplinary action, criminal penalties, or both.

(3) The county needs your cooperation to implement this policy effectively and maintain a safe working environment. Do not ignore violent, threatening, harassing, intimidating, or other disruptive behavior. If you observe or experience such behavior by anyone on county premises, whether they are an employee or not, report it immediately to a supervisor or department head. If the supervisor or department head cannot be notified, then the report should be given to the human resources director immediately. Anyone who receives a report should contact a member of the Threat Assessment Team.

(C) *Policy enforcement.*

(1) If any part of this policy is determined to be unenforceable under state or federal law, the remainder of the policy, to the extent possible, will remain in full force and effect. No part of this policy, or any procedures related to it, is intended:

(a) To be considered a contract for employment; or

(b) To affect the county's right to manage its workplace, or to discipline its employees, or to guarantee employment, continued employment, or terms and conditions of the employment.

(2) York County reserves the right to make changes to this policy.

(D) *Training.* As part of its commitment to preventing workplace violence, York County has established training programs for all employees. Training is a critical component of any prevention strategy. Training is necessary for all employees, including supervisors and department heads. Training sessions enable employees to get to know who can help them when potentially violent situations arise. Employees and supervisors seek assistance at a much earlier stage when they have met the people that can help them and understand the proper methods of reporting.

(E) *Reporting violence.*

(1) It is everyone's responsibility to prevent violence in the workplace. It is the obligation of every employee to immediately report any threat of violence against any coworker, supervisor, citizen,

visitor or other individual to a supervisor or department head. The potential loss of life associated outweighs the obligation to preserve any confidence requested by the employee articulating the threat. Accordingly, if any employee fails to report another's threat of violence as outlined above, that employee will be subject to discipline up to and including termination.

(2) Employees should know that every reasonable attempt to preserve the confidentiality of any reported threat of violence will be made. However, the county must do everything possible to maintain a safe workplace, acting

within the framework of the law. No employee acting in good faith, who reports real or implied violent behavior will be subject to retaliation or harassment based upon his or her report.

(F) *Weapons.* York County specifically prohibits the possession of weapons by any employee in a county building, including in a county vehicle, unless such possession or use is an approved requirement of the job.

(G) *Assessment.* The Threat Assessment Team will address all incidents, or reports of potential problems. The Threat Assessment Team consists of representatives from the Employee Assistance Program, human resources director, assistant county manager for internal services, risk manager, sheriff's department, county manager and the county attorney. This team will also conduct periodic reviews of violent incidents to identify ways in which similar incidents can be prevented in the future. Any suggestions an employee has for making the workplace a safer environment should be discussed with their supervisor.

(H) *Danger signals.*

(1) No one can predict human behavior and there is no specific profile of a potentially dangerous individual. However, the following indicators of increased risk of violent behavior have been identified by the Federal Bureau of Investigation's National Center for the Analysis of Violent Crime, Profiling and Behavioral Assessment Unit:

- (a) Intimidating, belligerent, harassing, bullying, or other inappropriate aggressive behavior;
- (b) Numerous conflicts with supervisors and other employees;
- (c) Bringing a weapon to the workplace, brandishing a weapon in the workplace;
- (d) Making inappropriate references to guns, or fascination with weapons;

(e) Statements showing fascination with incidents of workplace violence, statements indicating approval of the use of violence to resolve a problem, or statements indicating identification with perpetrators of workplace homicides;

(f) Statements indicating depression (over family, finances, and other personal problems) to the point of contemplating suicide;

(g) Drug/alcohol abuse; and

(h) Extreme changes in behaviors.

(2) Each of these behaviors is a clear sign that something is wrong. None should be ignored. Identifying the problem and dealing with it appropriately may prevent violence. Be aware that an individual can exhibit one or more warning signs and never resort to violence. It is important to remember that people have different levels of sensitivity. What is a violence-triggering event to one person may not be to another. Each case must be examined on an individual basis and, to the extent possible, viewed from that person's perspective.

(I) *Responsibilities.*

(1) Human resources:

- (a) Complete criminal background investigations on new employees;
- (b) Insure enforcement of Substance Abuse Policy for all employees;
- (c) Offer Employee Assistance Program for counseling;

- (d) Follow-up and document all workplace violence incidents or reports of possible incidents; and
- (e) Provide training for employees.

(2) Employee:

- (a) Obey all York County personnel policies;
- (b) Attend workplace violence training;
- (c) Report any suspicious activity to supervisor/department head or member of Threat Assessment Team;
- (d) Report any incident to supervisor/department head or member of Threat Assessment Team; and
- (e) Follow the Steps for Coping With Threats and Violence (listed in division (J) of the policy).

(3) Department heads/supervisors:

- (a) Verify references and previous employers for all new hires;
- (b) Consider all information given to you important and pass along to the Threat Assessment Team;
- (c) Be aware of changes in employees work habits and attitudes;
- (d) Promote a healthy workplace environment;
- (e) Make necessary changes if dangerous procedures are being used; and
- (f) Offer the Employee Assistance Program for counseling, when appropriate.

(J) *Coping with threats and violence.*

(1) For an angry or hostile customer or coworker:

- (a) Stay calm;
- (b) Listen attentively;
- (c) Maintain eye contact;
- (d) Be courteous and patient; and
- (e) Keep emotions in control.

(2) For a person shouting, swearing, and threatening:

- (a) Signal a coworker, or supervisor, that you need help (use an alarm system, if available or a prearranged code word);
- (b) Do not make any calls yourself; and
- (c) Have someone call 911.

- (3) For someone threatening you with a gun, knife or other weapon:
- (a) Stay calm, quietly signal for help;
 - (b) Maintain eye contact;
 - (c) Stall for time;
 - (d) Keep talking - but follow instructions from the person who has the weapon;
 - (e) Don't risk harm to yourself or others;
 - (f) Never try to grab a weapon; and
 - (g) Watch for a safe chance to escape to a safe area.
- (4) Telephone threats:
- (a) Keep calm; keep talking;
 - (b) Don't hang up;
 - (c) Signal a coworker to get on an extension;
 - (d) Ask the caller to repeat the message and write it down;
 - (e) Repeat questions, if necessary;
 - (f) For a bomb threat, ask where the bomb is and when it is set to go off;
 - (g) Listen for background noises and write down a description;
 - (h) Write down whether it's a man or a woman; pitch of voice, accent; anything else you hear;
 - (i) Try to get the person's name, exact location, and telephone number;
 - (j) Signal coworker to immediately call 911;
 - (k) Notify your immediate supervisor.

(K) *Conclusion.* It is the responsibility of all York County employees to participate in making and keeping their workplace a safe environment, which is free from violence. Any suggestions or questions regarding any issue related to workplace violence should be forwarded to the supervisor, department head, or a member of the Threat Assessment Team. Employee cooperation and adherence to policies can make York County a safer and better community.

(Ord. 2501, passed 7-16-01)

§ 33.111 VEHICLE POLICY.

(A) *Purpose.*

(1) The purpose and intent of this policy is to provide for safe, efficient and effective use of all county vehicles. It is intended to provide regulations and procedures for effective vehicle management. York County

promotes the safety of all employees and citizens through this policy. These procedures are in addition to all federal, state and local transportation laws and guidelines.

(2) When using county vehicles, employees should be aware that they are representatives of York County government and that their conduct is a reflection on the entire organization.

(3) Failure to comply with this policy may constitute grounds for disciplinary action, including suspension or dismissal from employment.

(B) *Vehicle definition.* Vehicles shall include any automobile, motorcycle, boat, truck, tractor, heavy equipment, or any other motorized vehicle which is owned, leased, or in possession or control of York County.

(C) *Vehicle authorization.*

(1) A 24-Hour Usage Authorization Form (see Appendix, Exhibit J) must be completed before employees are assigned vehicles on a 24-hour basis. The authorization form should be prepared by the department head and forwarded to the county manager for approval.

(2) In accordance with IRS guidelines, a non-cash, taxable fringe benefit of \$3 per day shall be included in the employee's pay. Employees provided with a vehicle are responsible for maintaining proper documentation of use and for submitting use records to the finance (payroll) department. Personnel who are classified as "emergency" are exempt from this tax. Emergency personnel include the following:

- (a) Sheriff's office, excluding the staff attorney and the financial officer;
- (b) Detention center;
- (c) Fire prevention;
- (d) Emergency management office;
- (e) Coroner;
- (f) On-call employee for water/sewer department.

(3) (a) Examples of situations which may warrant a county vehicle to be taken home include the following:

- 1. Managerial employees whose use of a county owned vehicle is consistent with the requirements of the position;
- 2. Employees who are subject to 24-hour call out or have job responsibilities requiring highly irregular work hours;
- 3. Duty vehicles designed or equipped for high priority response, (sheriff's office, fire prevention and emergency services department) where response time will be enhanced by allowing the vehicle to remain in the custody of individual employees. Employees assigned to duty vehicles, which are taken home, must be available to respond upon request on a 24-hour basis any time the employee has custody of the vehicle.

(b) County vehicles taken home overnight shall be locked and parked in a safe location, which is in close proximity to the employee's residence.

(4) Business hour use vehicles will be assigned to personnel by department heads.

(5) Vehicles may be taken home on a night preceding business use or may be kept at home following business

use, with prior approval by their respective department head. This shall not exceed two consecutive days without written approval of the county manager.

(6) Personal vehicle use may be allowed in the performance of county business when a county vehicle is not otherwise appropriate or available. Employees who use personal vehicles for county business are responsible for maintaining adequate insurance to meet the circumstances of employment. The mileage reimbursement rate approved in the annual budget is intended to cover all costs related to vehicle operation. Accurate mileage records must be submitted to finance for reimbursement. Persons traveling more than 500 miles per month consistently should be considered for assignment of a county vehicle for business hour usage.

(D) *Latitude of use.*

(1) Personnel assigned county vehicles shall use the vehicles for county business only. Incidental stops are approved as long as the stop is in line with the shortest practical distance between two approved points. Personal use is restricted to obtaining lunch, breakfast, or supper and approved breaks insofar as the most practical and closest source is utilized.

(2) Authorized passengers are:

(a) York County employees;

(b) Persons having official business with York County at time of said trip;

(c) Other persons that may travel with the driver from any approved site to another approved site as long as the particular trip is in line with the shortest practical distance between two approved points.

(3) Any items carried in a county passenger vehicle must meet all of the following criteria:

(a) Be of a size and weight that they in no way offer any danger to or the ability to harm, damage, or cause to depreciate any county vehicle;

(b) Be normally handled by one individual without the aid of any special loading equipment or any special parking needs. Building maintenance and public works vehicles would be an exception to this criteria.

(E) *Driver requirements.*

(1) All drivers who operate vehicles owned by York County are responsible for proper care, use and safety of county property.

(2) (a) Drivers must adhere to the following minimum responsibilities:

1. Possess and maintain a valid state driver's license which is appropriate to the class of vehicle they will be operating;

2. Receive physicals every two years if they have positions for which a commercial driver's license is necessary, and also be subject to random/alcohol testing;

3. Notify their supervisor and human resources of any change in driver's license status within 24 hours. If an employee is found to have a suspended license, the employee's driving privileges will be taken away and the employee will be subject to disciplinary measures;

4. Practice safe and defensive driving by observing all public safety traffic laws and driving courtesies;

5. Complete county sponsored driver training (pursuant to subsection (b) below), within 90 days of hire

date or 90 days from date of job reassignment from a non-driving position to a driving position. Initial course is eight hours and a four-hour refresher course shall be completed every three years. Additional specialty training may be required by employees of the sheriff's office, emergency management and fire prevention;

6. Heavy equipment operators will be required to complete a four-hour heavy equipment training course (pursuant to subsection (b) below);
 7. Submit with employment application and every third year with performance evaluation a three-year driving history from the South Carolina Department of Public Safety and Transportation if their position requires driving a county vehicle;
 8. Wear seat belts (drivers should not start engine until all passengers, including the driver, have their seat belt properly latched);
 9. Ensure that all vehicles are used for authorized purposes only;
 10. Maintain vehicles within manufacturer's safe operation standards;
 11. Use county facilities for fuel, oil and related services when operating in the county;
 12. Report immediately to supervisor and equipment maintenance supervisor any damage or breakdown of vehicular equipment;
 13. Follow the established accident reporting procedures;
 14. Accept legal responsibility for violations and fines resulting from actions of driver and report violations to immediate supervisor in writing;
 15. Refrain from transporting excessive loads of unsecured cargo;
 16. Pay for parking of county vehicles in situations where free parking is not provided. Parking charges will be reimbursed if conducting official county business. Violators are personally responsible for tickets or other fines resulting from illegal parking;
 17. Use off-street parking, if available, for those vehicles assigned on a 24-hour basis and driven to and from a place of residence; and
 18. Refrain from smoking in county vehicles.
- (b) Employees must complete driver training which is scheduled by the county and conducted in the classroom.

(F) *Human resources requirements.*

- (1) The human resources department is responsible for acquiring and maintaining the following documentation in the applicant's/employee's personnel files:
 - (a) Copy of driver's license;
 - (b) Training certificate from driver training;
 - (c) Any documentation relating to vehicle accidents or driving violations;

(d) Signed understanding of contents of county vehicle policy;

(e) Current three-year motor vehicle driving record to be provided by the applicant at time of application. Employees will be responsible for providing current motor vehicle records every third year at evaluation time, if their position requires driving. Employees and applicants will be responsible for any costs associated with obtaining this record;

(f) Provide a driving course for county employees and maintain records on their attendance and need for retraining.

(2) This list pertains to driving requirements only.

(G) *Department head/supervisor requirements.*

(1) Before an applicant is interviewed, the three-year motor vehicle driving record should be reviewed and have points assigned based on the following criteria. Periodic review of a driver's Motor Vehicle Record (MVR) is helpful in monitoring overall driver performance and in predicting future problems. This review process also needs to be followed every third year at evaluation time for employees who are required to drive a county vehicle. To help motivate persons to drive safely and obey traffic laws, the county has established this policy, which is based on the accumulation of points incurred through driving violations reported on the MVP. MVR's showing a frequency of accidents or tickets can affect an applicant's employment opportunity and an employee's rights to drive a county vehicle.

(2) Points accumulation for violations or accidents as they appear on the motor vehicle report shall use the conviction date as the date of reference. Should a violation occur in conjunction with an accident and driver receives points for both, only the higher total shall apply. Points shall be assigned for violations occurring both on and off the job.

(3) Common violations and possible points (NOTE: This list is not all-inclusive):

(a) Major violations (6 points):

1. Reckless driving;
2. Racing;
3. Fleeing from a law enforcement officer;
4. Passing a stopped school bus;
5. Driving when impaired;
6. Fleeing the scene of an accident; and
7. Driving under license suspension or revocation.

(b) Minor violations (4 points):

1. Twenty or more MPH above the speed limit;
2. Improper driving;

3. Failure to drive on the right side of the road;
4. Passing on the yellow line;
5. Running a red light; and
6. Driving too fast for conditions.

(c) Minor violations (2 points):

1. Nineteen or less MPH above the speed limit;
2. Failure to yield right of way;
3. Failure to obey traffic signals;
4. Failure to provide proper signal;
5. Following too close;
6. Improper parking;
7. Improper backing; and
8. Improper lane changing.

(4) Disciplinary action: Supervisors shall review MVR information and consider taking the following minimum disciplinary action, if appropriate.

<i>Points</i>	Applicants	Current Employees
Four	Defensive driving course	Must attend the next scheduled York County driving course
Six	Not eligible for hire	Review of driver information and counseling by supervisor
Eight	Not eligible for hire	Suspension of driving privileges for a specified time

(H) *Risk management requirements.*

(1) Maintain and administer an aggressive program for county employees, that seeks to reduce vehicular collisions and liability claims against the county.

(2) Maintain complete records on county collisions, property damage, and liability claims, and provide the county manager and his or her staff with meaningful reports on program progress.

(3) Schedule regular safety committee meetings to review all vehicle accidents and safety hazards and make recommendations for improvements.

(I) *Maintenance.*

(1) (a) It shall be the responsibility of the person assigned a vehicle to see that the vehicle receives proper

maintenance and care. All maintenance requests shall be submitted to York County equipment maintenance shop. Mechanical problems due to operator neglect may result in disciplinary action. It shall be the responsibility of the operator to keep his or her own vehicle as clean as practical at all times. Personnel who are assigned a vehicle should monitor all fluid levels daily.

(b) If maintenance is needed when outside of York County, the equipment maintenance supervisor should be notified prior to acquiring maintenance for the vehicle.

(c) Employees who use pool vehicles should follow the same maintenance procedures as employees who are assigned vehicles. Supervisors should be informed by employees who use pool vehicles when routing or emergency vehicle maintenance is required.

(2) All fueling should be done at the York County fueling stations. The stations are located in Rock Hill at the County Complex on Heckle Boulevard, and in York across from the equipment maintenance shop. Receipts should be presented for reimbursement for all fueling done outside of York County on business trips.

(J) *Marking.*

(1) (a) It is the policy of York County that only officially approved decals or markings are placed on county vehicles by equipment maintenance personnel. Professional decorum mandates that county vehicles depict a standard, professional appearance, as established in the York County Seal Manual.

(b) Any additional exceptions must be approved by the county manager. Approval should be forwarded to the equipment maintenance supervisor.

(2) Placement of bumper stickers on county vehicles is discouraged. Approval by the county manager is required in order to place bumper stickers on county vehicles.

(K) *Vehicle record management.* The York County equipment maintenance supervisor will maintain an information system for all county vehicles, which will record at least, but not be limited to, the oil and fuel use, mileage and maintenance history.

(L) *Safety equipment.* Seat belts shall be installed in all vehicles and must be worn by the driver and all passengers at all times.

(M) *Mobile communication.*

(1) Mobile communication equipment in county vehicles is to be used for county business only.

(2) The equipment should be checked to be sure it is functioning properly before leaving.

(3) Personnel are encouraged to use hands free features on mobile phones. Whenever possible, calls should be made with the vehicle parked. Calls with the vehicle in motion are to be kept as brief as possible and should not interfere with the driver's concentration of vehicle operations.

(4) When a call is expected to be lengthy, or where written notes are needed, the driver should pull off to the side of the road or to a parking area to complete the call.

(N) *Accident reporting.*

(1) Each department head is responsible for instituting and reporting accident investigations, which involve county vehicles and his or her department personnel. Reports will be submitted in writing to risk management not later than 12 hours after the accident occurred. If an accident occurs on a weekend or holiday, the written accident report should be submitted to risk management no later than 9:00 a.m. on the first business day following the accident.

- (2) Any employee involved in an automobile accident while operating a county vehicle, which results in personal injury and/or damage to property shall complete each of the following steps, unless prevented by injury:
- (a) Turn off engine;
 - (b) If necessary, get medical attention for injuries. Guidelines for workers compensation injuries should be followed, depending on the severity of injuries of the county employee;
 - (c) Immediately notify the appropriate law enforcement agency (the York County sheriff's office shall not conduct the on-scene investigations of accidents involving York County owned vehicles):
 - a. In a city or town, the local police department;
 - b. Outside a municipality, the state highway patrol.
 - (d) Do not move vehicle unless directed by law enforcement;
 - (e) Do not discuss who is at fault with the other driver(s) or by-stander(s). An investigating law enforcement officer will ask pertinent questions for determination of fault;
 - (f) Notify your supervisor;
 - (g) Notify the equipment maintenance department at 628-3202. If the county vehicle cannot be driven, then it shall be towed to the equipment maintenance shop at 1751 York Highway in York. It shall not be towed to a private garage unless the accident occurs outside of York County. The equipment maintenance supervisor will give additional instructions when notified;
 - (h) Obtain the name and insurance company of other drivers, and provide all required information to the officer investigating the incident;
 - (i) Obtain the names and addresses of witnesses;
 - (j) Cards containing the name of the county's insurer are located in vehicle glove compartments;
 - (k) Obtain the green FR-10 proof of insurance form from the officer investigating the accident;
 - (l) Secure a TR-310 Uniform Traffic Collision Report and submit to risk management ASAP;
 - (m) For employee injuries, supervisors shall complete a workers compensation "First Report of Injury";
 - (n) If the accident results in a fatality and/or three or more people are hospitalized, the county risk manager must be informed immediately. If such an accident occurs at night or on holidays or weekends, ask 911 to contact the risk manager;
 - (o) Copies of all documents provided to the employee must be forwarded to their supervisor for filing with risk management as soon as possible;
 - (p) Additionally, when the employee is able, they need to prepare a detailed statement of the accident and forward to risk management; and
 - (q) Any employee driving a vehicle who has an accident will be drug/alcohol tested, if it is a serious accident that results in 1) fatality, 2) medical treatment away from the scene of the accident or 3) aggregate property damage of at least \$1,000. (Refer to Substance Abuse Policy for instructions.)

(O) *Accident review.*

(1) The York County Safety Committee has established an Accident Review Subcommittee. This committee reviews all accidents and losses involving York County vehicles, employees, on the job injuries and property damage, and presents its findings to the full Safety Committee for review.

(2) The Accident Review Subcommittee has the following authority:

- (a) To convene meetings of the Accident Review Subcommittee when necessary;
- (b) To review personnel, accident and injury reports;
- (c) Call before it employees, department heads, supervisors and other witnesses;
- (d) Require specific records to be forwarded to department head within three days;
- (e) Recommend attendance at a defensive driving course;
- (f) Recommend appropriate disciplinary action in accordance with personnel policies.

(3) Upon review of the accident, the subcommittee will gather and analyze the factor(s) contributing to the accident to determine preventability on the part of the county driver. Each accident will be given one of the following designations, and the employee may be assigned points accordingly:

- (a) Non-preventable: no points;
- (b) Preventable: 2 points;
- (c) Definitely preventable: 6 points.

(4) Points assigned will be effective on the accident date and should be added to the points which were assigned to the employee's Motor Vehicle Record.

(5) Any driver who has an accident determined to be preventable or definitely preventable is required to complete the next available York County sponsored driver training course.

(6) There will be no right of appeal or grievance regarding the subcommittee's determination of preventability.

(7) The subcommittee will present its findings and recommendations to the Safety Committee, which will determine what recommendations should be made to the county manager, department head and the driver. Department heads may take disciplinary action in accordance with current personnel policies.

(Ord. 2501, passed 7-16-01)

§ 33.112 E-MAIL AND INTERNET POLICY.

(A) *Purpose.* The intent of this policy is to establish the terms of access to and use of York County's e-mail and internet system. It is intended to encourage responsible and acceptable use of the Internet services provided for the county. Efficient utilization of the Internet for communications and research can improve the quality, productivity and general cost-effectiveness of the county's work force as well as provide information both internally and to the public about the activities and services of the county. This policy should clearly communicate York County's expectations with respect to what is and what is not "acceptable use," and to prevent offensive and/or inappropriate behavior when using the network.

(B) *General principles.*

(1) These principles apply to all York County employees when they are accessing the Internet as representatives of the organization. It also covers any individual when they are accessing the Internet through the county-hosted access points, or through any other access point when county provided equipment, such as a laptop computer, is used.

(2) Users of network services provided by York County may be subject to monitoring for security and/or network management reasons. Users of these services are therefore advised of this potential monitoring and agree to this practice.

(3) York County employees, as well as York County may be held accountable for abusive, inappropriate or unethical behavior when accessing the network from county facilities or equipment.

(C) *Responsibilities.*

(1) *Proper usage.*

(a) Each user of a county-provided Internet account is responsible and accountable at all times for the proper use of that account. Employees with e-mail and internet access will be required to sign the York County E-mail and Internet Agreement (see Appendix, Exhibit K). The signed agreements will be kept on file in the MIS Department and the employee personnel file.

(b) County business correspondence is encouraged over the Internet. Messages must be related to the employee's professional responsibilities and positively reflect on the county.

(c) Employees whose PCs are enabled to accept files via the Internet are individually and directly responsible for checking them for viruses using the latest version of a reliable virus-checking program.

(2) *Downloading.* Downloading of programs is strictly prohibited without consent of the department head or the MIS director. Audio and video streaming, chatting, chat clients, live interactive broadcast and other interactive software are strictly prohibited. The Internet provides a vast array of shareware and freeware software, data, graphics, voice and video files, which may be downloaded. Any download must be for county business purposes. York County will not be responsible for any bills that are incurred when chargeable downloads occur. All downloads must be in support of county mission priorities. After each download, employees should scan files for viruses using a virus checking software program.

(D) *General guidelines.*

(1) Use of the Internet by York County employees is permitted and encouraged in cases where such use is both suitable for business purposes and supports the goals and objectives of the county. In such cases, the Internet is to be used in a manner that is consistent with York County's standards of business conduct and as part of the normal execution of employee's job responsibilities.

(2) Using York County's facilities or equipment for abusive, unethical or "inappropriate" use of the Internet will not be tolerated and may be considered cause for disciplinary action up to and including termination. Employees should be aware that the use of York County's computers and computer networks is subject to monitoring by York County and will be maintained by the county.

(3) *Permissible use:*

(a) York County provides e-mail and internet to its employees as a fast means of communication for business purposes as deemed necessary by the department head, the MIS director or the county manager;

(b) York County's Internet System is intended to be used for business purposes only. Informal or personal use must be limited in duration and should take place on personal rather than paid time. Such informal or personal use is strictly subject to the other terms and conditions of these guidelines and other related county policies. Excessive personal use or other violations of this policy may be considered cause for disciplinary action, up to and including termination. Any employee desiring to make personal or informal use of the county's Internet System should secure prior approval from his or her manager.

(4) Prohibited use:

- (a) Uploading or downloading documents in violation of copyright laws or software licensing agreements;
- (b) Downloading any files or software without a reasonable computer virus detection/protection program in place;
- (c) Downloading any or utilizing any chat clients;
- (d) Downloading any software programs without permission of the department head or MIS director;
- (e) Downloading any web or network interactive software; accessing, downloading or using offensive, abusive, threatening, pornographic, obscene, racist, sexist or other inappropriate language or images;
- (f) Conducting personal business without consent of his or her manager;
- (g) Using the county's system for private gain or profit;
- (h) Representing personal opinions as those of York County; intentionally interfering with the normal operation of any York County Internet gateway or network bandwidth; using the county's system for political purposes that are not work related; conducting any illegal activities; violating any local, state or federal laws or regulations; and violating any York County policy.

(E) *Summary.* It is not possible to anticipate every behavior that would be inappropriate with respect to the use of the Internet system. Employees should expect that behavior, whether specified or not, that disregards consideration for themselves, their job, co-workers, or property rights, will be subject to appropriate review and possible discipline, up to and including discharge. This policy is subject to change. It is the responsibility of employees to know and comply with all county rules, including the e-mail/internet use guidelines.

(Ord. 2501, passed 7-16-01)

§ 33.113 INCLEMENT WEATHER POLICY.

(A) York County offices will remain open except in only the most extreme situations. An announcement that the county will be operating on a delayed basis will be made on the radio stations listed below:

- (1) WRHI 1340 AM;
- (2) WRHM 107.1 FM;
- (3) WAGI 105.3 FM.

(B) In the case of operating on a delayed basis, employees should report to work no later than two hours after their normal start time to receive a full day's pay. However, if an employee feels the conditions are too severe, they may choose to take a full day of annual leave or unpaid leave if they have not accumulated sufficient annual time; except that the county manager may, in his or her sole discretion and based upon the conditions, make a determination on an individual basis as to the severity of the conditions which may prevent an employee from reporting to work. In

that event, the county manager shall make a determination as to whether the employee's absence will be paid or unpaid leave.

(C) Due to the nature of their job requirements, employees working in emergency management, sheriff's office, and public works may be required to report to work in inclement weather.

(Ord. 2501, passed 7-16-01)

§ 33.114 CELLULAR PHONE USAGE POLICY.

(A) The use of county owned cellular phones is for improved efficiency in conducting county related business. Use of county owned cellular phones for personal use should be minimized and is discouraged whenever possible. Employees will be responsible for reimbursement to the county of any personal phone calls, which result in additional expense over the contracted billing amount.

(B) In the interest of safety, cellular phone users are encouraged to stop or park the vehicle when using the phone.

(Ord. 2501, passed 7-16-01)

§ 33.115 DRESS CODE POLICY.

(A) Employees shall be required to maintain a professional, orderly appearance, which is appropriate for their position at all times. Dress code standards for each department shall be set at the discretion of the individual department head or elected official.

(B) It is recognized that it is necessary that the attire of employees in certain departments be suitable for work requiring physical exertion or work that must be performed in an outdoor environment or outside of the office setting; however, at all times, employees shall dress and groom in a manner that inspires confidence and conveys professionalism to the public.

(Ord. 2501, passed 7-16-01)

§ 33.116 SMOKING POLICY.

(A) In the interest of providing a safe and healthy environment for employees and the public, and in accordance with the South Carolina Clean Indoor Act of 1990, the following smoking policy has been adopted: Smoking is prohibited throughout all York County facilities. County facilities include county owned properties, leased properties, elevators, courtrooms and restrooms, and the like.

(B) Smoking is only allowed in outdoor designated areas. Employees should be mindful not to block entrances/exits.

(C) The success of this policy will depend upon the thoughtfulness, consideration and cooperation of smokers and non-smokers. All employees share in the responsibility for adhering to and enforcing this policy.

(D) Employees who violate this policy will be subject to discipline in the same manner and magnitude as violation of other county policies. This policy recognizes "free choice" in the matter of smoking; however, it recognizes a more fundamental right of non-smokers to breathe clean air.

(E) For employees who desire to stop smoking, smoking education and cessation programs are available in most communities through such organizations as the American Cancer Society, American Heart Association, as well as counseling services provided by Piedmont Employee Assistance Program.

(Ord. 2501, passed 7-16-01)