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[HISTORY: Adopted by the Board of County Commissioners of Calvert County 10-20-2009 by Ord. No. 42-09. (This ordinance also repealed former Ch. 86, Personnel, adopted 5-2-2006 by Ord. No. 19-06, as amended.) Amendments noted where applicable.]

Part 1
Introduction

ARTICLE I
Objectives, Authority and Scope
[Amended 4-5-2011 by Ord. No. 06-11]

§ 86-1-101. Objective.

The objective of this chapter is to establish for the Calvert County Board of County Commissioners a system of personnel administration governing the appointment, promotion, transfer, layoff, removal, discipline, and welfare of its employees; an employment contract is neither expressed nor implied by the contents of this chapter.

§ 86-1-102. Authority.

- A. Article 25, § 3, of the Annotated Code of Maryland authorizes the Board of County Commissioners to provide for the appointment and removal and to establish a merit system for all County officers and employees except those people whose appointment or election is provided for by the Constitution or public general or public local laws and to fix and prescribe the salary or compensation of all appointed officers and employees.
- B. The chapter does not limit the authority of the Board of County Commissioners to exercise prerogatives necessary to regulate the competent and efficient management and operation of Calvert County Government. These prerogatives shall include the authority to direct and assign the work of their employees, including but not limited to the authority to appoint, promote, transfer, and reassign. Such prerogative shall not be construed as an exclusive enumeration nor as a waiver of any not specifically enumerated above or elsewhere in this chapter, whether or not exercised prior to its effective date.

§ 86-1-103. Delegation of authority.

As part of the departmentalization of the County Government, the Board of County Commissioners of Calvert County hereby authorizes the delegation of its powers as it deems necessary to the Office of Personnel and various departments established hereunder. The Director of Personnel may delegate authority to departmental staff, and Department Heads and upon approval engage contractors to execute any responsibilities set forth herein.

§ 86-1-104. Scope.

- A. The scope of this chapter includes statements of policies and procedures that govern personnel administration for all employees compensated by the Board of County Commissioners who do not work under any other sovereign authority or body politic and corporate. This chapter does not contain all terms and conditions of employment and is not to be interpreted as a contract or as the full scope of the employment relationship.
- B. The following parts of this chapter shall apply to the Deputies of the Calvert County Sheriff: Part 2, Article IV, Probationary Status, §§ 86-2-401, 86-2-402 and 86-2-403 A, C and D; Part 3, Article I, Pay Plan and Adjustments, §§ 86-3-101, 86-3-102, 86-3-103, 86-3-104 A, B, C and F
- C. (1), 86-3-106; Part 3, Article II, Overtime and Compensatory Time Policy, §§ 86-3-201, 86-3-202, 86-3-203, 86-3-204, 86,3-205, 86-3-208, 86-3-209 and 86-3-210: Part 3, Article III,

Compensation; Part 3, Article VI, Holiday Compensation; Part 4, Leave Administration; and Part 8, Performance Evaluation. Should any of these provisions stated be inconsistent with the Law Enforcement Officers Bill of Rights (LEOBR), that Bill of Rights shall govern.

§ 86-1-105. Amendment.

The Board of County Commissioners may, from time to time, amend, supplement, change, modify, or repeal any of these policies and procedures not inconsistent with the provisions of the Annotated Code of Maryland. Changes in job titles and classification, and changes in the authorized staffing level shall not be considered amendments to this chapter and need not be done by resolution of the Board of County Commissioners.

§ 86-1-106. Severability.

If any part of this document shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this document.

§ 86-1-107. Repeal of conflicting provisions.

All other documents, resolutions, or ordinances of the Board of County Commissioners that are in conflict with this one are hereby repealed to the extent of such a conflict.

§ 86-1-108. Distribution of Chapter 86 of the County Code.

Each Department and Division shall have a copy of this chapter. The Office of Personnel is required to make a copy available to each new employee. A reference copy shall be available in the Office of Personnel.

§ 86-1-109. Development of administrative procedures.

The Director of Personnel may establish procedures necessary to effectuate the provisions of this chapter and to comply with state and federal laws and regulations.

ARTICLE II

**Equal Employment Opportunity Statement
[Amended 12-2-2014 by Ord. No. 49-14]**

§ 86-1-201. Statement of policy.

- A. It is the policy of the Board of County Commissioners to comply fully with Federal Government and State regulations with regard to equal employment opportunity. It is, and shall continue to be, the policy of the Board of County Commissioners to provide employment, training, compensation, promotion, and other conditions of employment in the County service based on merit and without regard to age, sex (including pregnancy) (except where age or sex are essential bona fide occupational requirements), sexual orientation, marital status, ancestry or national origin, religion, race, color, genetic information, actual or perceived disability, or gender-related identity or expression.
- B. The Board of County Commissioners shall continue to direct its employment and personnel practices toward ensuring equal opportunity for everyone in the County service. Therefore, the Board of County Commissioners intends that all matters related to recruiting, hiring, training,

benefits, tuition, grants, compensation, promotion, transfer, layoff, disciplinary action, termination, and all treatment on the job be free from discriminatory practices.

- C. In addition, while it is the policy of the Board of County Commissioners to apply job-related standards appropriate to each position in the County service and to maintain such standards at a level consistent with effectiveness of the County's operations, it is also the policy to take affirmative action to seek out individuals at any level of the organization whose potential has not been fully met, with the objective of assisting them to reach their full potential and meet job standards. Affirmative action shall include finding additional sources of applicants who can meet minimum job standards, utilizing appropriate training, which shall assist these individuals toward full qualification, and developing programs to assure upward mobility for such qualified individuals.
- D. All County personnel who are responsible for recruiting, hiring, training, supervising, promoting, transferring, and assigning employees are governed by this policy.

ARTICLE III

Terminology Used

[Amended 12-2-2014 by Ord. No. 49-14]

§ 86-1-301. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACTUAL HOLIDAY – The actual calendar day of a holiday.

ADMINISTRATIVE EMPLOYEE – An exempt employee who primarily performs office or nonmanual work directly related to the County's management policies and operations that requires the exercise of discretion and independent judgment.

APPOINTED EMPLOYEE – An appointed nonmerit employee who is hired by the authority of law and who serves for an indefinite period of time and serves at the pleasure of an elected official.

CLASSIFICATION PLAN – The listing of all established classes of work.

CLASS OF WORK – One or more positions which have similar duties, tasks and responsibilities, require the same minimum qualifications and have been assigned the same grade, salary range and title; also called "classification."

CLASS SERIES – A grouping of two or more classes of work within the same occupational group, based on the similarity of the nature and type of work and representing ascending levels of responsibility and qualifications, which reflect normal promotional lines.

CLASS SPECIFICATION – A description of a class of work which summarizes the job, its essential functions and other duties, the required knowledges, abilities and skills, minimum qualifications and other pertinent requirements. A class specification is generally descriptive of all positions assigned to the class of work, but not restrictive.

CONTRACTUAL EMPLOYEE – A nonmerit individual employed under written agreement for a specific position for a specific length of time.

COUNTY – Calvert County Government, Board of County Commissioners, or Department Head, as the context requires.

DEMOTION – The personnel action by which an employee, while continuously employed, is voluntarily or involuntarily changed to a position with a lower grade.

DEPARTMENT HEAD – The highest ranking official in each department or agency.

DETAIL – The official temporary assignment to an employee of all or part of the duties and responsibilities of another position in order to accommodate an emergency situation or a temporary disability.

DIRECTOR – The Director of Personnel who serves as the County Personnel Officer.

ELIGIBILITY LIST – Those applicants qualified for employment for positions in a specific class of work.

EMPLOYMENT VERIFICATION – The process of verifying the identity of U.S. work eligibility of all persons selected for County employment, including the presentation of qualifying documents at the time of hire and periodically thereafter in the case of aliens temporarily authorized to engage in U.S. employment.

EXECUTIVE EMPLOYEE – An exempt employee who primarily manages a recognized County department or office and who regularly directs the work of at least two employees or their equivalent. An executive employee makes decisions or recommendations that affect the status of other employees.

EXEMPT EMPLOYEE – An employee exempt from the minimum wage and overtime requirements of the federal Fair Labor Standards Act.

FULL-TIME EMPLOYEE – An employee intended to be employed for the total number of hours within the standard workweek applicable to the position.

GRANT-FUNDED EMPLOYEE – A nonmerit individual employed for an indeterminate period relative to availability of and/or interest in grant-funded programs. A grant-funded employee is not a merit employee and is not entitled to the benefits and privileges of merit employment other than those required by law or expressly provided by the County.

HOLIDAY COMPENSATION – Compensation granted to eligible employees that is in addition to their normal compensation when those employees are required to work on legal holidays observed by the County.

HOLIDAY LEAVE – Paid leave granted to eligible employees in observance of the holidays listed in § 86-3-601.

HOURLY EMPLOYEE – A nonmerit individual employed for an indeterminate number of hours.

MERIT EMPLOYEE – An employee hired for an indefinite period in accordance with the County's merit selection system and subject to the terms and conditions of employment adopted by the Board of County Commissioners for merit employees.

MINIMUM QUALIFICATIONS – A written description for each class of work which specifies the basic qualifications requisite for any employee to occupy and continue to occupy a position in that class of work.

NON-EXEMPT EMPLOYEE – An employee who is covered by the minimum wage and overtime requirements of the federal Fair Labor Standards Act.

OBSERVED HOLIDAY – The day a legal holiday is observed by the County when it differs from the actual calendar day.

PART-TIME EMPLOYEE – An hourly rated nonmerit employee intended to be employed for less than the total number of hours within the standard pay period applicable to the position. A part-time employee is not a merit employee and is not entitled to the benefits and privileges of merit employment other than those required by law or expressly provided by the Board of County Commissioners.

PAY PERIOD – One of 26 units of time comprising a pay year commencing on Monday 12:00 midnight and terminating the second following Sunday at midnight for purposes of calculating salary to be paid to an employee.

PAY SCALE – Tables of Position Grades setting forth Salary Ranges constructed around an established number of hours in a Pay Period.

PAY YEAR – A twelve-month period beginning with the first day of the first full pay period and ending with the last day of the last full pay period for which wages are paid in a calendar year. A pay year may begin in one calendar year and end in another calendar year.

POSITION – A group of duties, tasks, and responsibilities allocated by the Director of Personnel to a class of work and requiring the full- or part-time employment of one person.

POSITION DESCRIPTION – An optional document reflecting duties, responsibilities and requirements which are specific to an individual position and fall generally within the scope of those contemplated for the class of work.

POSITION GRADE – An alpha or numeric rating assigned to a position based on requirements and duties.

PROFESSIONAL EMPLOYEE – An exempt employee who primarily performs work requiring advanced education and consistent exercise of discretion and judgment, or originality or talent in a recognized artistic or creative field.

PROMOTION – The personnel action by which an employee, while continuously employed, is competitively changed to a vacant position with a higher grade or by which an employee hired in a classification designated as probationary or trainee and their position is noncompetitively moved to the next higher level in their classification series.

PUBLIC SAFETY EMPLOYEE – An employee partially exempt from the payment of overtime under Section 7(k) of the federal Fair Labor Standards Act as amended, including but not limited to deputy sheriffs and correctional officers, and for whom the County has elected an extended work period of 28 days/171 hours standard for overtime calculation purposes.

RECLASSIFICATION – The personnel action by which a position and, if applicable, its incumbent are changed to a different grade or title as a result of a review of the responsibilities of the position.

RECALL LIST – A list of individuals formerly occupying nonprobationary merit County positions who were separated through a layoff action and who may be recalled in positions of the same or of a lower graded class of work in the class series than they previously occupied for which they are qualified.

SALARY RANGE – A set of pay rates for a grade, officially established and published, which begin at the minimum or base rate and continue through the maximum rate.

SALARY RATE – An employee's regular straight time hourly rate of pay, exclusive of premium pay, upon which all personnel actions are based.

SEASONAL EMPLOYEE – A nonmerit individual employed to fill a position for a periodic peak season.

SHIFT WORK SCHEDULES – The written schedules of the required daily hours of work constituting a work shift within a standard workweek.

STEP – An adjustment to an employee's salary rate in accordance with the applicable pay scale.

TEMPORARY EMPLOYEE – A nonmerit individual employed to work sporadically or for a fixed term while a position is vacant and coverage must be provided while the hiring process is underway, when an employee is absent and coverage must be provided, when additional help is authorized due to workload, or when the future of a position is uncertain.

TRANSFER – The personnel action by which an employee, while continuously employed, is changed to a position of the same grade and same or different title, or by which an employee and position are moved to a different unit of County government.

VACANT POSITION – An authorized, budgeted position that has no incumbent.

WORK PERMIT – A certificate of eligibility for minors (age 14 to 17) to be employed by the Board of County Commissioners.

WORKWEEK – The standard number of hours an employee is scheduled to work in seven consecutive calendar days.

Part 2
Personnel Administration

ARTICLE I
Position Classification

§ 86-2-101. Responsibility.

- A. The Director of Personnel under the direction of the Board of County Commissioners is responsible for the overall administration and maintenance of the classification plan. The Director:
- (1) Shall allocate new positions to a new or existing class of work upon consideration of a Department Head's comments;
 - (2) May reallocate vacant positions to a new or different class of work upon consideration of a Department Head's comments;
 - (3) May create new classes of work;
 - (4) May abolish classes of work to which no encumbered positions are assigned;
 - (5) May modify class specifications as necessary to accurately reflect the work being performed and the job requirements;
 - (6) Shall establish procedures to review reclassification requests;
 - (7) Shall maintain classification records reflecting the title of each position, class specifications which set forth the duties, tasks and responsibilities of each class of work, the minimum qualification requirements, and the grade and salary range of each class of work.
- B. Department and Agency Heads and Supervisors are responsible for:
- (1) Establishing procedures they deem necessary to permit the orderly and timely preparation of reclassification requests;
 - (2) Ensuring that officially and permanently delegated duties are appropriate for the position and do not constitute an unreasonable selection of one position from several others to receive the additional duties with the potential for reclassification;
 - (3) Ensuring that they have supervisory approval to assign new duties to the extent that they may prompt a reclassification request;
 - (4) Reviewing positions as they become vacant in order to insure proper classification;
 - (5) Considering the impact of departmental reorganizations on position classifications.

§ 86-2-102. Reclassification.

- A. Applicability. This section applies to nonprobationary merit, grant, contract, and appointed employees who are full time, have completed one year of continuous service in their current position, and are assigned a grade and paid in accordance with the Board of County Commissioners' pay scale. Probationary employees may not submit individual reclassification requests; they may be reclassified as a result of a request submitted by another employee in their class of work or as a result of a County-wide classification study.

- B. Policy. Eligible employees who believe their duties and responsibilities have changed to the extent that their positions should be reclassified may prepare a reclassification request and request that their department or Agency Head submit it for consideration. Reclassification requests must be based on additional higher level duties, responsibilities, and tasks which have been officially and permanently delegated for at least three months prior to submission. These duties must represent a substantial part of the job. Reclassifications shall not be based on salary, projected duties, volume of work, performance, length of service, financial need, threat of resignation for a higher level position, qualifications of the incumbent beyond those required for the position or completion of a period of training which has resulted in performing the full range of duties contemplated for the class of work or with less supervision. Changes in job requirements are necessary to keep pace with improvements/advancements in technology. These changes are expected to occur within the classification of the job and should not be the basis for requesting a reclassification. However, new technology, not just updated technology, that adds additional responsibility, may be a basis for requesting a reclassification. Requests applicable to the same position may not be submitted until two years after the last submission unless the grade of the position was not changed. If the grade of the position was not changed, a request may be submitted during the next cycle. The department or Agency Head may decline to submit a reclassification request which does not comply with the conditions described in this policy.
- C. Timing. Reclassification requests may be submitted once per year at a time designated by the Office of Personnel. Approved reclassifications shall normally be effective at the beginning of the next fiscal year when pay adjustments are effective, or as designated by the Board of County Commissioners.
- D. Content of requests. Reclassification requests shall contain the information required by and in the form prescribed by the Office of Personnel.
- E. Processing requests. Upon receipt of a properly executed timely request, the Office of Personnel or its designee shall conduct a review of the position to determine its proper classification within the County system. Such review may include an evaluation of the materials submitted, discussions with the incumbents and Supervisors, site visits, review of similar positions, or organizational comparisons with other employers. The Office of Personnel shall render a preliminary report (which shall set forth the findings, conclusions and recommendations) to the requesting Department Head. Upon receipt of the preliminary report, Department Heads and/or incumbents may submit written statements of disagreement to the Director of Personnel. The Director of Personnel shall consider any such comments, make a final determination, forward it to the County Administrator and notify requesting Department Heads. Board of County Commissioner approval is required for all reclassifications of encumbered positions.
- F. Exceptions. Reclassification and related salary provisions may be superseded by the terms of implementation of a special study at the discretion of the Board of County Commissioners.

§ 86-2-103. Reorganizations.

The Board of County Commissioners has the right to reorganize the County Government. A reorganization is the movement, abolishment or creation of a County Government function approved by the Board of County Commissioners. When a reorganization is under consideration, the proposal approved by the Board of County Commissioners must be reviewed by the Office of Personnel to the extent that it may affect the classification of positions. Departments shall provide a statement of how the reorganization shall change the duties and responsibilities of affected positions along with any other information requested. The Office of Personnel shall determine the appropriate classification of these

positions and render a report which shall be considered in determining whether to proceed with the reorganization. If the reorganization is implemented, any reclassifications shall be effective on the date determined by the Board of County Commissioners. If an emergency situation prevents review by the Office of Personnel prior to reorganization, the review shall occur as soon as possible thereafter.

ARTICLE II
Personnel Files

§ 86-2-201. Records.

- A. Official personnel records are maintained by the Office of Personnel. These files are confidential and are the property of the Board of County Commissioners.
- B. Except as provided in the Records Review provision of this chapter, no information from an employee file shall be released to other employees, outside individuals, and agencies. The Director of Personnel may, however, verify general information the employee has provided to another party (e.g., employment dates, job title, and salary). Confidential employee information shall not be released, unless required by law, without a written notice from the employee to the Office of Personnel specifying what information may be released and to whom.
- C. Employment references may be provided discreetly by those Supervisors receiving requests. The Office of Personnel shall assist in responding to reference inquiries.

§ 86-2-202. Records review.

- A. Personnel records may be reviewed in the normal course of duty by:
 - (1) The Director and authorized staff of the Office of Personnel; and
 - (2) The County Attorney.
- B. Personnel records may be reviewed in the presence of an Office of Personnel representative by the following individuals:
 - (1) The employee in interest;
 - (2) Any person to whom the employee has given written authorization;
 - (3) Present or prospective Supervisors;
 - (4) The County Auditor as necessary for performance of duties and responsibilities of the position;
 - (5) The Director of Finance & Budget as necessary for performance of duties and responsibilities of the position;
 - (6) A Calvert County Sheriff law official who is conducting an investigation; or
 - (7) Any other person who has specifically been authorized by law.

- C. Copies of information contained in the personnel record shall not be made unless authorized by the Director of Personnel. The Office of Personnel may exclude from review by an employee recommendations secured at the time of employment and any confidential material which the Board of County Commissioners may exclude from review pursuant to Maryland law. Personnel files may not be removed from the Office of Personnel.

ARTICLE III

Personnel Selection Procedures

[Amended 12-2-2014 by Ord. No. 49-14]

§ 86-2-301. Nondiscrimination policy.

It is the policy of the Board of County Commissioners that the recruitment and selection of applicants shall provide open competition, equal employment opportunity, and shall prohibit discrimination with regard to age, sex (including pregnancy) (except where age or sex are essential bona fide occupational requirements), sexual orientation, marital status, ancestry or national origin, religion, race, color, genetic information, actual or perceived disability, gender-related identity or expression or other nonmerit factors.

§ 86-2-302. Applicability of selection procedures.

The following procedures apply to selections for merit positions. The Director of Personnel reserves the right to apply these procedures to selections for other types of positions as well.

§ 86-2-303. Employment eligibility list.

The County may establish eligibility lists with the names of applicants who are found to be qualified for employment in positions allocated to a specific class of work. Eligibility lists shall normally continue in force for six months from the date of posting but may be extended, combined, or canceled at the discretion of the Director of Personnel.

§ 86-2-304. References.

Reference verification is required for all potential employees. An applicant's employer may be excluded (at applicant's request) until such time as it is necessary for final consideration of suitability for a position.

§ 86-2-305. Examination.

Applicants may be tested by the Office of Personnel or designees. Such examinations may be written, oral, or in the form of a demonstration of skill, physical ability, or any combination of these. The examination shall be of a character to test and determine the job-related fitness and ability of the applicant. Applicants selected may be required to take a physical examination prior to employment, transfer, promotion, or demotion. An investigation of training and experience and any test of technical knowledge, manual skill, or fitness may be administered. Law enforcement officers, employees of law enforcement agencies, correctional officers, employees of the Calvert County Detention Center who have direct personal contact with inmates, communications officers, any other employees so required by law, or applicants for the above positions may be required to submit to polygraph tests and/or background investigations. Employees or applicants for positions in programs for children or special populations, or as otherwise determined by the Office of Personnel may be required to submit to criminal background investigations.

§ 86-2-306. Test scores.

It shall be the responsibility of the Director of Personnel to notify the applicants of their test scores.

§ 86-2-307. Rejection.

The County may reject any applicant for the following causes:

- A. The applicant lacks the established requirements that are included in the minimum qualifications for the position;
- B. The applicant made erroneous, false, or misleading statements within the selection process;
- C. A complete application was not filed within the period specified in the official notice of the examination or position;
- D. The applicant has been refused a place on the eligibility list because of irregular conduct. (Defined as, but not limited to, such conduct as would result in disciplinary action or dismissal if applicant had been a County employee at time of incident.); or
- E. The applicant on the eligibility list has declined two or more interviews or two or more job offers.

§ 86-2-308. Recruitment.

- A. When a position is to be filled (excluding appointed, contract or temporary vacancies or positions), the Department Head shall request that the Director of Personnel provide the names of applicants on the eligibility list or announce the position. The position may be announced to County employees, without the necessity for public advertising, as determined by the Director of Personnel. County employees may be given priority of selection over equally qualified non-County employees. When two employees are equally qualified, the one with longer continuous County service having a satisfactory performance evaluation shall be chosen.
- B. If a position is to be announced to the public, it shall be announced as necessary to ensure public notification and receipt of applications from qualified applicants.

§ 86-2-309. Recall list.

A recall list is composed of individuals who formerly occupied nonprobationary merit County positions and who were separated through a layoff action. This list shall be maintained by the Office of Personnel. An individual may be recalled in a position of the same or of a lower graded class of work in the class series than they previously occupied for which they are qualified. An individual may remain on the recall list for 12 months from the date of the layoff.

§ 86-2-310. Selection for the position.

The Director of Personnel and Department Head shall determine who shall conduct interviews for each position. The Department Head shall prepare a recommendation for selection and forward it to the Director of Personnel. Each selection shall be based solely on the principles of merit, fair methods, and fitness for the position. The eligibility list and a list of interviewed applicants, ranked subsequent to interviewing, shall be retained. The Department Head shall forward the hiring recommendation to the Director of Personnel for review and approval/disapproval. Only the Director of Personnel is authorized to notify the applicant of employment, which is done by telephone and in writing, directing the applicant

to report to the Office of Personnel to complete the necessary employment forms. No payroll action shall take place until this procedure has been completed.

§ 86-2-311. Rejection of recommendation.

If the Director of Personnel rejects the applicant, the Department Head must make another recommendation.

ARTICLE IV
Probationary Status

§ 86-2-401. Orientation.

At the time of employment, each person shall report to the Office of Personnel to complete necessary paperwork for employment and receive an orientation as appropriate to the position.

§ 86-2-402. Probationary period upon initial employment.

- A. Each applicant hired to fill a merit position is automatically placed in a probationary status for six months, unless a longer probationary period in that class of work, not to exceed one year, has been established except that the County Sheriff may establish a longer probationary period for deputy sheriffs. Probationary employees shall be assessed on or before the expiration date of the probationary period. The employee's performance during the probationary period shall be considered in determining whether the employee shall be retained, given an extension of probation or dismissed. An employee who has received a satisfactory performance evaluation and a favorable recommendation from the Department Head, shall be given merit status upon completion of the probationary period.
- B. If the employee has been absent from work during the probationary period, the Department Head may extend the probationary period.
- C. Individuals hired to fill full-time grant-funded positions shall also be required to serve a probationary period as described in this Section. The employee's performance during the probationary period shall be considered in determining whether the employee shall be retained subject to the availability of funds, shall be given an extension of probation, or dismissed.
- D. Individuals hired to fill part-time and part-time grant positions do not serve a probationary period, but shall be required to complete six months of service prior to requesting the use of annual and personal leave.
- E. Except for restrictions upon use of annual and personal leave, inability to use the grievance procedures, step increases and as otherwise expressly limited or excluded by this chapter, a probationary employee shall enjoy all other fringe benefits of an employee in the County's service. Employees may request the use of accrued sick leave while in a probationary status.
- F. While in a probationary period upon initial employment, no employee shall be entitled to a salary raise other than an increase resulting from adjustments to the pay plan, a promotion, reclassification (as noted in § 86-2-102.) or a detail.
- G. If an employee misses a step increase due to an extended probation, upon successful completion of the probation the employee shall be granted a step increase in accordance with § 86-3-103.

- H. Employees serving an initial probationary period and temporary, seasonal, hourly, part-time and part-time grant employees may be dismissed at any time for nondiscriminatory reasons.

§ 86-2-403. Probationary period upon status change. [Amended 4-5-2017 by Ord. No. 11-17]

Each applicant appointed to fill a merit position is automatically placed in a probationary status for six months, unless a longer probationary period in that class of work, not to exceed one year, has been established, except that the County Sheriff may establish a longer probationary period for deputy sheriffs. Probationary employees shall be assessed on or before the expiration date of the probationary period. The employee's performance during the probationary period shall be considered in determining whether the employee shall be retained, given an extension of probation or dismissed. An employee who has received a satisfactory performance evaluation and a favorable recommendation from the Department Head, shall be given merit status, and shall be eligible to request the use of annual leave if they have successfully completed an initial probationary period. Employees may request the use of accrued sick leave while in a probationary status.

- A. Under the following conditions, employees shall be required to serve a probationary period in accordance with § 86-2-402, Probationary period upon initial employment:
- (1) Competitive promotion;
 - (2) Noncompetitive promotion from a classification designated as probationary or trainee to the next higher level in the classification series, unless waived by the Department Head and Director of Personnel based on insubstantial changes in duties and responsibility;
 - (3) Voluntary demotion, unless waived by the receiving Department Head and Director of Personnel based upon either the circumstances surrounding the action or an insubstantial change in duties and responsibility level;
 - (4) Involuntary demotion; or
 - (5) Voluntary transfer to a different class specification, unless waived by the receiving Department Head and Director of Personnel based upon an insubstantial change in duties and responsibility level.
- B. Under the following conditions, employees shall not be required to serve an additional probationary period:
- (1) Reclassification;
 - (2) Involuntary transfer; or
 - (3) Transfer to the same class specification in the same department.
- C. Part-time County employees selected for full-time positions shall generally be required to serve a probationary period. This may be waived by the receiving Department Head and Director of Personnel when the employee is selected for a position of the same title or when the hours of the position are expanded to full-time. Employees shall not be granted a step increase until successful completion of the probationary period. A step increase shall then be granted in accordance with § 86-3-103. The employee may request the use of accrued leave during the

probationary period once the employee completes six months of service with the County as an employee eligible to receive leave.

- D. An employee serving a new probationary period upon status change shall be assigned a new evaluation date for pay and evaluation purposes and shall not be granted a step increase until successful completion of the probationary period. A step increase shall then be granted in accordance with § 86-3-103.

§ 86-2-404. Discipline and dismissal.

- A. Employees serving an initial probationary period and temporary, seasonal, hourly, part-time and part-time grant employees may be disciplined up to and including immediate dismissal at the discretion of their Department Heads. This determination shall be final and not subject to grievance or review except for part-time and part-time grant employees regularly scheduled to work 50% or more of the normal pay period who have completed six months of service.
- B. The Department Head shall have sole discretion to determine whether a probationary employee dismissed from the service of the County shall receive any prior notice, but in no event shall any such prior notice exceed two weeks.

ARTICLE V
Changes in Employee Status

§ 86-2-501. Demotion.

- A. Voluntary demotion. A voluntary demotion without prejudice may be approved by the Director of Personnel upon the recommendation of the Department Head together with the employee's written consent to the action and concurrence with the established salary. For the voluntary demotion to occur, there must be an appropriate position vacant in a lower pay range or the Department Head and Director of Personnel must agree to convert the employee's position to a lower grade and different title. The action may not cause an impairment of County services. A voluntary demotion may also be effectuated if an employee applies and is selected for a vacant position of a lower grade level through the normal recruitment process.
- B. Involuntary demotion within a rank structure. An involuntary demotion may be approved by the Director of Personnel upon the recommendation of the Department Head, and shall be limited to those employees within the rank structure within that employee's division. Involuntary demotion may be imposed at any time as a means of discipline (in lieu of dismissal) or as a result of a less than satisfactory follow-up performance evaluation.

§ 86-2-502. Transfer.

- A. Upon written approval of the Director of Personnel, a Department Head may, at any time, transfer an employee to a position of the same grade in the same department.
- B. An employee may request a transfer to any position of the same grade through the normal recruitment process.

§ 86-2-503. Detail.

Upon written approval of the Director of Personnel, a Department Head may detail an employee in accordance with § 86-3-104. If two Department Heads are involved, both must concur. Employee consent is required for details in excess of 30 calendar days. This is not to be construed to prohibit the normal assignment of other duties, without additional compensation, in the absence of an official detail in order to meet the County's needs.

§ 86-2-504. Disability.

- A. Whenever a Department Head has reason to believe that an employee's health is impeding the employee's ability to perform the essential functions of their job, the Department Head may require the employee to undergo a medical examination by a licensed physician employed or retained by the Board of County Commissioners and produce related medical records.
- B. Where such employee refuses to undergo a medical examination or produce related medical records when directed to do so by the employee's Department Head, disciplinary action, up to and including dismissal, may be instituted.
- C. Where any such employee undergoes a medical examination and the results thereof indicate that the employee has a correctable impairment which is temporary in nature, the employee's Department Head shall attempt to detail other duties, tasks, and responsibilities to said employee during the period of the employee's temporary impairment; provided that any such detail shall be for a maximum period of 180 calendar days and shall constitute the duties, tasks, and responsibilities which the employee is capable of performing during the period of temporary impairment, as determined by the examining physician. Should no detail be available, the employee may request and be granted leave for a period not to exceed 180 calendar days in accordance with § 86-3-205 Compensatory leave and Part 4 Leave Administration Articles I, II, VIII, X, XI, and XIII.
- D. In the event the employee claims that their temporary impairment is not corrected at the end of the 180 calendar day detail period, the employee shall undergo another medical examination by a licensed physician employed or retained by the Board of County Commissioners. If the examining physician determines that the employee is able to return to work and capable of performing the essential functions of their job with or without reasonable accommodation and the employee fails to return to work, the Department Head may initiate a dismissal action against the employee. If the examining physician determines that although the temporary impairment has not yet been corrected, he/she expects that it shall be corrected by a specified date, no later than 30 calendar days from the date of their examination, an extension of the detail period to that date shall be given or an extension of leave to that date may be granted. However, if the examining physician determines that the impairment has become permanent and the employee is permanently disabled and unable to perform the essential functions of their job with or without reasonable accommodation, the procedures set forth below for employees with permanent disabilities shall apply.
- E. Where the employee undergoes a medical examination and the results indicate the employee is permanently disabled and is unable to perform the essential functions of their job with or without reasonable accommodation, the Department Head shall attempt to transfer the employee to a vacant position with comparable pay for which he/she is qualified and for which he/she can perform the essential functions of the job with or without reasonable accommodation. If there is no such position available, the employee may be transferred to a vacant position with lesser pay for which he/she can perform the essential functions of the job with or without reasonable

accommodation. If no such position is available, the Department Head may then initiate a dismissal of the employee.

- F. This section is not intended to displace any rights or obligations of the employee or employer as set forth elsewhere in this chapter.

ARTICLE VI Separation of Employees

§ 86-2-601. Resignation.

Any employee wishing to resign in good standing is required to inform the Department Head (through the Supervisor and/or Division Chief). Intention to resign is required to be declared on the applicable form at least two weeks prior to the anticipated date. Any employee who leaves County employment, unless otherwise specified in an employment contract, without giving the required notice, shall have the fact entered upon their record. The Department Head shall immediately report the resignation and known attending circumstances to the Office of Personnel. Division Chiefs and above are expected to give four weeks notice of their resignation.

§ 86-2-602. Abandonment of position.

Any employee who is absent from duty without leave for three consecutive business days and without notifying the Department Head (through the Supervisor and/or Division Chief) of the reasons for absence shall be considered to have constructively resigned by abandonment of position. An employee who requests restoration within two weeks after being considered to have resigned shall provide the Department Head a written explanation of the absence. If the explanation is determined to be valid, the Department Head may request the Director of Personnel's authorization to restore the employee to original position.

§ 86-2-603. Disciplinary separations.

Employees who violate work rules or fail to meet standards shall be subject to disciplinary action up to and including dismissal in accordance with Part 9, Disciplinary Action, of this chapter.

§ 86-2-604. Layoff.

- A. Whenever a position is to be abolished, discontinued, or vacated because of a change in departmental organization, funding, stoppage, lack of work, or material changes in duties, the Department Head shall notify the Board of County Commissioners and Director of Personnel in writing of the number of positions to be abolished, discontinued, or vacated. The Department Head shall submit a list of employees to be laid off to the Board of County Commissioners and Director of Personnel in accordance with the provisions listed below. The Director of Personnel shall certify to the Board of County Commissioners that the order of layoff was based on the following criteria:

- (1) Temporary. The Department Head shall give fair and equal treatment in determining the order of temporary employee layoffs;
- (2) Hourly. The Department Head shall give fair and equal treatment in determining the order of hourly employee layoffs;

- (3) Probationary. The Department Head shall give fair and equal treatment in determining the order of probationary employee layoff;
 - (4) Merit. The Department Head shall determine layoffs on the basis of seniority, i.e., the employee last appointed to the class in the Division shall be laid off first. If two or more employees were appointed to a position in that class and have the same performance evaluation status, the employee with the shortest service is to be laid off first. Otherwise, the employee having the less satisfactory performance is to be laid off first. Every reasonable effort shall be made to continue employment of any merit County staff prior to any layoff.
- B. Nonprobationary merit employees laid off may request to be placed on the recall list for a period of 12 months following an employee's layoff. Employees are entitled to fill an existing vacancy in the same or a lower graded class of work in the class series from which the employee was laid off. An employee's recall rights are not limited to the department from which the employee was laid off. Employees who are recalled to work within 12 months from the date of layoff shall be reinstated with no loss of previously accrued seniority. No probationary period shall be required for any merit County employee reinstated to the same class of work.
- C. Grant. If the source of funding which supports a specific grant employee's position is reduced or eliminated, that employee's position shall be affected. If the source of funding which supports more than one grant employee's position in a class of work is reduced or eliminated, the Department Head shall give fair and equal treatment in determining which positions are affected.
- D. When a position becomes available in the same class or for a lower graded position within the class series, employees on the recall list within that class of work or class series shall be notified. The employee must accept or decline the position within five working days of the recall notice. In order to be considered for the position, the employee must meet the minimum qualifications of the position.

§ 86-2-605. Retirement.

Any employee planning to retire shall contact the Director of Finance and Budget well in advance of the planned retirement date.

§ 86-2-606. Exit interview.

The Office of Personnel shall request an employee (excluding temporary, hourly, and seasonal employees) who is separating from employment to provide an exit interview.

§ 86-2-607. Employee checkout.

Each employee, regardless of how termination occurs, must ensure that any Board of County Commissioners' property is returned, and money owed the Board of County Commissioners is paid or the value of any unreturned property or money owed shall be deducted from the final pay or otherwise recovered. Termination pay shall be affected if this requirement is not met satisfactorily. Employee must make arrangements for the final paycheck.

ARTICLE VII **Employment of Relatives**

§ 86-2-701. Statement of policy.

- A. It is the policy of the Board of County Commissioners to prevent family relationships from influencing employment, job assignment, promotion, performance evaluation, and other personnel actions, to make County employment available to as many different families as possible in view of the public service nature of Government, and to prevent problems which inherently arise from the employment of relatives.
- B. For purposes of this article, relatives are defined as follows:
- (1) Employee's spouse, parent, child, grandparent, grandchild, brother, sister, spouse of brother or sister, or child's spouse; and
 - (2) Employee's spouse's parent, child, grandparent, grandchild, brother, or sister. Step relationships and legal adoptions are included in the above definitions.

§ 86-2-702. Hiring of new personnel.

Individuals employed on or after October 1, 1989, shall not be hired for or later moved to positions where one relative may impact upon the supervision or advancement of the other.

§ 86-2-703. Effect on current employees and future assignments.

Except as noted below, individuals employed prior to October 1, 1989, shall not be affected by this policy for purposes of transfer, promotion, or demotion. If, however, these individuals have relatives who wish to work for the Board of County Commissioners on or after October 1, 1989, those relatives must comply with the policy on hiring of new personnel stated above.

§ 86-2-704. Marriage.

The marriage of two employees must be reported in writing to the affected Department Head(s) and Director of Personnel within 30 days of the date of marriage. If both of the individuals were employed prior to October 1, 1989, no further action is necessary. If one or both of the individuals was employed on or after October 1, 1989, and if the employees work in the same department, the Department Head and Director of Personnel shall determine if the relationship may result in an employee influencing the supervision or advancement of a relative, or an employee inhibiting or interfering with a relative's effective performance. If so, the couple has the option of deciding if one shall voluntarily transfer to another division or department or resign. Transfers are subject to availability of positions and Department Head and Director of Personnel's approval. If neither employee voluntarily transfers or resigns, the Department Head and Director of Personnel may transfer or dismiss one of the employees. A finding of impact upon the supervision or advancement of a relative as a result of marriage may be appealed through the normal grievance process.

§ 86-2-705. Return to County service.

Employees who leave County service and later return are considered new employees and must comply with this article.

§ 86-2-706. Complaints.

Complaints by employees that they are being negatively affected by nepotism (favoritism by an official to a relative) among County employees may be reported directly to the Department Head or Director of Personnel.

ARTICLE VIII
Department Heads

§ 86-2-801. Employment status.

Any person that is employed in the position of Department Head shall be a contractual employee and serve at the pleasure of the Board of County Commissioners.

Part 3
Pay Plan and Adjustments

ARTICLE I
Pay and Adjustments
[Amended 3-12-2013 by Ord. No. 07-13]

§ 86-3-101. Entrance level.

It shall be the policy of the Board of County Commissioners to administer a pay plan on the basis of job classification and years of service. Employees shall, as a general rule, begin employment with the County at the base rate of the grade in which the position is classified. Employees may be employed at higher rates within the respective grades, based on previous experience and/or qualifications.

§ 86-3-102. Pay scale increases.

The Board of County Commissioners annually determine whether to make an adjustment to the pay scales. In the event of an increase in the approved pay scale, the increased pay rates shall apply to all merit employees, including those in the probationary period, part-time, and grant employees, subject to the availability of funds, and any other class of employees designated by the Board of County Commissioners.

§ 86-3-103. Step increases. [Amended 4-5-2017 by Ord. No. 11-17]

Subject to the availability of funds and the terms of the pay scale, the Board of County Commissioners grants step increases once per fiscal year as described below

- A. The following employees shall be eligible for step increases:
- (1) Merit employees that have received a satisfactory or better performance evaluation shall be granted a step increase at the beginning of the fiscal year.
 - (2) Merit employees serving a new probationary period upon status change.
 - (3) Full-time grant funded employees that have received a satisfactory or better performance evaluation shall be granted a step increase at the beginning of the fiscal year.
 - (4) Full-time grant funded employees serving a new probationary upon status change.

- (5) Part-time and part-time grant funded employees that have: (a) received a satisfactory recommendation from the Department Head; and (b) completed six months of service shall be granted a step increase at the beginning of the fiscal year.
 - (6) Hourly employees that have received a satisfactory recommendation from the Department Head, shall be granted a step increase at the beginning of the fiscal year provided they have completed one year of continuous service as an hourly employee.
 - (7) Returning seasonal employees shall be granted a step increase at the beginning of the fiscal year provided they are returning to the same position held previously as a seasonal employee.
- B. If a part-time or part-time grant funded employee moves to a job with a different title, they must complete six months of service in the new title prior to receiving the increase.
- C. Employees serving their initial probationary period are not eligible to receive step increases. If an employee is on initial probation and ineligible for the step increase at the time it is granted, that employee shall be eligible for a step increase upon completion of the initial probationary period if they have received a satisfactory performance evaluation and a favorable recommendation from the Department Head and if they began their probation prior to the first day of the pay period that the increase was granted.
- D. If the County Sheriff has established a probationary period in excess of one year, deputy sheriffs shall be eligible for a step increase upon completion of one year of service, and each July thereafter if they have received a satisfactory performance evaluation and a favorable recommendation from the Sheriff and if their probationary period began prior to the first day of the pay period that the increase was granted. The granting of such a step increase shall not be construed as successful completion of the probation.
- E. All step increases shall be effective at the beginning of the pay period that is closest to July 1. If July 1 falls exactly in the middle of a pay period, the step increase shall be effective at the beginning of that pay period.

§ 86-3-104. Other salary adjustments. [Amended 8-6-2019 by Ord. No. 23-19]

- A. Demotion. The salary rate upon demotion shall be established at the step within the new range which shall provide a six percent decrease, in the regular straight time hourly rate. In the event the salary rate falls between two steps, the employee shall be granted the lower of the two. The salary rate upon demotion for the rank of Deputy Sheriff Lieutenant being demoted to a lower rank in the Sheriff's Office shall be established at the step within the new range which shall provide a twelve percent decrease in the regular straight time hourly rate. In the event the salary rate falls between two steps, the employee shall be granted the lower of the two.
- B. Detail. During an approved official detail to a higher graded position, an employee's salary shall be computed as if the action were a promotion. This shall be effective commencing with the 31st consecutive calendar day of performing the majority of duties and responsibilities of any other position that is vacant or where the incumbent is on extended leave and shall be retroactive to the first day of the approved official detail. Upon expiration of the detail the former salary rate shall resume. In the case of a detail to a position of an equal or lower grade, the employee's salary shall not be affected.

C. Promotion.

- (1) The salary rate upon promotion shall be established at the step within the new range that shall provide a six percent increase, or the minimum of the higher grade, whichever is greater, in the regular straight time hourly rate. In the event the salary rate falls between two steps, the employee shall be granted the higher of the two.
- (2) Promotions by the Sheriff of sworn law enforcement and correctional officers (Correctional Deputies after September 30, 2019) shall be in accordance with Full Time Equivalents and budget approved by the Board of County Commissioners annually.

D. Recall. When a nonprobationary merit employee is recalled within 12 months from the date of layoff to a position of the same pay grade as that from which the employee was laid off, the rate of pay shall be the same hourly rate as the employee was earning at the time of layoff. When an employee is recalled within 12 months from the date of layoff to a position of a lower pay grade with a lower maximum rate than that from which laid off, the hourly rate shall be the step providing the pay rate closest to, but not higher than, the hourly rate the employee was earning at the time of layoff.

E. Reclassification.

- (1) The salary rate upon reclassification to a higher grade shall be computed as if the action were a promotion.
- (2) The salary rate upon reclassification to the same grade shall be computed as if the action were a transfer.
- (3) The salary rate upon reclassification to a lower grade shall be computed by first providing any step increase due and then placing the employee at the step within the new range that provides no decrease in the hourly rate. If the rate after step increase exceeds the maximum of the new range, the rate shall be frozen until the maximum exceeds it. At such time the employee shall be placed at the step rate that provides no decrease in the hourly rate.
- (4) These provisions may be superseded by the terms of implementation of special study at the discretion of the Board of County Commissioners.

F. Transfer.

- (1) For employees who are transferring to a position on the same salary schedule, their step shall remain the same.
- (2) For employees who are transferring to a position on a different salary schedule, their salary rate shall be established at the lowest step that provides the same regular straight time hourly rate within the new range as the employee received immediately prior to transfer. In the event the salary rate falls between steps, the employee shall be granted the higher of the two. If steps have the same salary rate, they shall be placed at the step that shall not delay a salary rate increase when next eligible.

- G. Movement from one salary schedule to another. In order to determine if a movement from one salary schedule to another constitutes an upgrade, downgrade or no change in grade, the classification system shall be utilized.
- H. In accordance with the Fair Labor Standards Act, the Board of County Commissioners may make deductions in the amount of compensation paid to an exempt employee from the exempt employees' salary to the extent that it is warranted and permitted by federal and state wage and hour laws and regulations. If an employee believes that such a deduction has been made and that the deduction is inconsistent with his or her exempt status, the employee shall immediately report the matter to his or her supervisor, department head or the Office of Personnel. The Board of County Commissioners shall investigate any alleged improper deductions, shall reimburse the employee if it is deemed that the deduction was in violation of and federal or state wage and hour laws and regulations, and shall take whatever action it deems necessary to ensure compliance in the future. The Board of County Commissioners is committed to investigating and resolving all complaints promptly and accurately.

§ 86-3-105. Workweek.

The regularly scheduled workweek for County service shall consist of five workdays of not fewer than 35 hours nor more than 40 hours per week, at the direction of the Board of County Commissioners. The normal workweek commences on Monday 12:00 midnight and terminates on the following Sunday at midnight. Special provisions apply to shift work. The Board of County Commissioners may adopt a variety of shift work schedules. The Board of County Commissioners may also adopt a variety of nonshift, nontraditional work schedules for groups of employees as prescribed by County Government needs. These work schedules shall relate to a specific class of County employees whose nature of work is best suited to a nontraditional workweek. The adoption of nontraditional work schedules shall be to accommodate the needs of the County and the public, not the desires of individual employees.

§ 86-3-106. Shift differential pay. [Amended 3-27-2013 by Ord. No. 44-13]

Shift differential is paid to those eligible employees working qualifying shifts as set forth below:

- A. Eligible employees are employees that receive and dispatch emergency and non-emergency calls from the public regarding public safety and law enforcement issues and sworn members of the Sheriff's Office and the Detention Center.
- B. Qualifying shifts are shifts that begin before 6:00 a.m. or after 9:00 a.m.
- C. Shift differential will be paid for hours worked between 4:00 p.m. and 8:00 a.m. by an eligible employee working a qualifying shift.
- D. Shift differential is not paid for hours on paid or unpaid leave.
- E. The shift differential rate is established in each approved annual budget for the County.
- F. The Director of Personnel and the Director of Finance and Budget or their designee must review all requested shifts to ensure compliance with policy.

§ 86-3-107. Field Training Officer pay. [Amended 1-26-2018 by Ord. No. 02-18]

- A. Qualified Deputy Sheriffs, Correctional Officers, and non-supervisory Public Safety Call-Takers, Dispatcher Trainees, and Dispatcher I's are entitled to receive an additional One Dollar (\$1.00) for each hour they directly instruct and supervise a probationary deputy or employee during the initial field training period for a probationary deputy or employee. The One Dollar (\$1.00) per hour shall not be paid for hours when the Field Training Officer ("FTO") or probationary deputy or employee is on leave or not working the same schedule.
- B. In order to qualify, a FTO must be formally trained and designated by the Sheriff or Department Head as a FTO and assigned a probationary deputy or employee within the guidelines of the Sheriff's Office's or department's FTO program. No FTO shall receive FTO pay after the assigned probationary deputy or employee is released to perform independent duties. Only one (1) FTO shall receive the FTO pay per trainee per hour.

ARTICLE II

Overtime and Compensatory Leave Policy

§ 86-3-201. Overview.

The Board of County Commissioners pays overtime in accordance with the requirements of state and federal law. In some instances, the Board of County Commissioners pays overtime not required by state or federal law as specified herein. Either overtime pay or compensatory leave may be provided by the Department Head.

§ 86-3-202. Exemptions.

Employees defined as Executive, Administrative, or Professional in accordance with federal law are ineligible for the payment or receipt of overtime and compensatory leave, except as noted in § 86-3-204. D.

§ 86-3-203. Overtime policy.

It is the policy of the Board of County Commissioners to restrict authorization of work that would result in overtime pay or compensatory leave to emergency situations or situations involving a temporary increase in the quantity of work such that the work cannot be performed during regularly scheduled work hours. A Department Head must preauthorize all work that would result in the Board of County Commissioners' obligation to pay overtime or compensatory leave. Department Heads are required to give notice to the County Administrator of all such authorizations before the work is performed. The supervisor may adjust the regular work schedule of any employee such that an employee does not actually work in excess of their regularly scheduled number of hours in any one workday or workweek. The County Administrator may implement policies and procedures to manage the accrual of overtime pay and/or compensatory leave and the reduction of overtime pay and/or compensatory leave in accordance with this Article II.

§ 86-3-204. Overtime compensation/Compensatory leave.

- A. Nonexempt Full-time Employees shall receive overtime compensation or compensatory leave at the rate of 1½ times their regular hourly rate, including shift premiums if applicable, for all hours worked in excess of their regular daily schedule, unless another schedule is elected.

- B. Nonexempt Part-time, Hourly, Seasonal and Temporary Employees shall receive overtime compensation or compensatory leave at the rate of 1 time their regular hourly rate for each hour worked in excess of their regular schedule for that day up to 40 hours in any one workweek, unless another schedule is elected.
- C. Nonexempt Part-time, Hourly, Seasonal and Temporary Employees shall receive overtime compensation or compensatory leave at the rate of 1½ times their regular hourly rate, including shift premiums if applicable, for all hours worked in excess of the statutory maximum of 40 hours in any one workweek, unless another schedule is elected.
- D. Exempt Full-time, Part-time, Seasonal and Temporary Employees may earn compensatory leave at the rate of 1 hour for each hour worked in excess of their regular schedule for that day, for emergency situations as determined in accordance with § 86-3-203, unless another schedule is elected by the Department Head.
- E. For partially exempt Public Safety Employees, the Department Head may establish an extended work period not to exceed 171 hours in any twenty-eight-day period. If so established, such employees may receive overtime compensation or compensatory leave at the rate of 1½ times their regular hourly rate, including shift premiums if applicable, for hours worked in excess of 171 in the extended work period.
- F. Paid leave time shall be counted as hours worked for purposes of calculating entitlement to paid overtime or compensatory leave.

§ 86-3-205. Compensatory leave. [Amended 10-20-2020 by Ord. No. 43-20]

- A. According to federal law, other than partially exempt Public Safety and Seasonal Employees, Nonexempt Employees may accrue up to 240 hours of compensatory leave for hours worked. Partially exempt Public Safety and Seasonal Employees may accrue up to 480 hours of compensatory leave for hours worked.
- B. Exempt Employees may accrue up to 240 hours of compensatory leave for hours worked. The County Administrator may limit this accrual to less than 240 hours.
- C. Employees shall be permitted to use accrued compensatory leave after making a request provided the requested use shall not unduly disrupt the operations of the County and the affected departmental unit(s). Compensatory leave must be used within 12 months. Employees may be required to use compensatory leave before other leave or may be scheduled off to reduce compensatory leave balances.
- D. Upon termination, an employee shall be paid for unused compensatory leave at the average regular rate during the last three years of employment, or the employee's final rate, whichever is higher.

§ 86-3-206. Volunteers.

County employees may not perform volunteer services for the County (including any of its constituent agencies) of the same type they are regularly employed to perform.

§ 86-3-207. Multiple County jobs. [Amended 8-25-2015 by Ord. No. 35-15]

Full-time County employees shall be ineligible for selection to work a second County job. Part-time, Hourly, and Seasonal County employees may be eligible for selection to work additional County jobs, provided the totals hours worked do not normally exceed 40 per week. They shall be compensated for the additional job in accordance with the applicable wage rates for that job. Hours worked in additional jobs within County employment shall be counted for purposes of calculating overtime payable to the employee in the designated work week. Overtime, if any, shall be paid at 1½ times the regular rate of the job where overtime is worked. Hours from each job shall not be combined to establish eligibility for leave or benefits, except as noted in this Section, or to increase leave and/or benefit accrual rates. Effective January 1, 2015, hours from each job shall be combined as required by the Affordable Care Act (ACA) to establish eligibility for health insurance.

§ 86-3-208. Emergency call-in.

Nonexempt Employees who are called in to work from off-duty to respond to an emergency (as determined by the department and approved by the County Administrator) shall be compensated for a minimum of two hours, inclusive of travel time to and from the emergency site. Except as specified below, Nonexempt Employees shall be paid at the rate of 1½ times their regular hourly rate, and Exempt Employees shall receive straight time compensatory leave. When the difference between the time of commencement of the call-in and the beginning of their next scheduled work hours is less than two hours, the employee shall be paid only for the difference. At the beginning of the scheduled hours, the regular hourly rate shall apply. Employees shall be eligible to receive call-in pay only once during a 24 hour period.

§ 86-3-209. Compounding prohibited.

There shall be no compounding of overtime, leave, holiday and other payments unless otherwise specified. Only one rate, the highest, shall apply.

§ 86-3-210. Future amendment/conflicts.

The Board of County Commissioners may, from time to time, amend this policy in any manner not inconsistent with law. County documents or resolutions which conflict with this policy are hereby repealed to the extent of such conflict.

ARTICLE III
Compensation

§ 86-3-301. Unemployment compensation.

All employees are covered by the Maryland Unemployment Compensation Law. When the County receives claim forms from the State of Maryland Department of Employment Security, they shall be completed in accordance with state procedure for unemployment compensation claims. Payment depends upon the reason for unemployment.

§ 86-3-302. Workers' compensation and occupational leave.

- A. All employees absent from duty because of a job-related illness or accident incurred on the job which qualifies for workers' compensation shall be covered by the County's workers' compensation policy. Workers' compensation payments shall accrue to the employee after the employee has been out of work for more than 72 hours. For those employees who require more than 72 hours absence from work and are placed under the County's workers' compensation

policy, they shall be required to make direct payments to the County to continue their benefits that are normally covered through payroll deduction. The cost for continuation of health insurance benefits shall be the employee's share only. Those employees who require less than 72 hours absence from work may be placed under occupational leave, and normal employment benefits shall continue to accrue. Employees on workers' compensation shall not accrue retirement benefits but shall continue to accrue leave for a maximum of 180 calendar days. The 180 calendar days shall commence with the first day compensated by the workers' compensation carrier. If, on the 181st day, the employee is still out on workers' compensation, leave accrual shall cease, regardless of whether or not the employee returned to work during the one-hundred-eighty-day period. Only in the event of different injuries or incidents shall the employee be entitled to another 180 calendar day period of leave earning eligibility.

- B. Pending a decision on whether the illness or accident qualifies under the County's workers' compensation policy, the employee must request to use leave. If the illness or accident qualifies under the County's workers' compensation policy, leave assessed during the review period shall be reimbursed and the first 72 hours shall then be charged to occupational leave, during which normal employment benefits shall continue to accrue.
- C. Once approved, workers' compensation covers subsequent absences and qualifying related payments for procedures on a case-by-case basis.

ARTICLE IV
(Reserved)

ARTICLE V
(Reserved)

ARTICLE V
(Reserved)

ARTICLE VI
Holiday Compensation
[Amended 3-12-2013 by Ord. No. 07-13]

§ 86-3-601. Holidays.

The Board of County Commissioners shall observe the following holidays: New Year's Day, Martin Luther King Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, General Election Day, Veterans' Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day. These shall be observed on the same day as the State unless otherwise authorized by the Board of County Commissioners. General Election Day will be as designated by the State. The Board of County Commissioners may designate additional holidays by majority vote on an ad hoc basis from time to time.

§ 86-3-602. Eligibility for Holiday Compensation.

- A. Merit employees and part-time and grant-funded employees regularly scheduled to work 50% or more of the normal pay period are eligible for holiday compensation up to the number of hours of a regularly scheduled day in accordance with the terms of this article. Any hours worked over a regularly scheduled day shall be paid at the appropriate overtime rate.

- B. Contractual and appointed employees are eligible for holiday compensation only if such compensation is granted by an express term of their employment contract or appointment, respectively.

§ 86-3-603. Application.

- A. Eligible employees that are regularly scheduled to work Monday through Friday and are required to work on a holiday shall be compensated as follows:
- (1) Observed Holidays – Employees who are required to work on observed holidays shall receive their normal compensation for the number of hours worked and holiday compensation. Holiday compensation shall consist of either (1) additional pay at the employee’s regular hourly rate for the number of hours worked up to the number of hours they would have normally worked or (2) time off equal to the number of hours worked up to the number of hours they would have normally worked. The employee’s Department Head shall determine which type of holiday compensation shall be granted.
 - (2) Actual Holidays – Employees who are required to work on actual holidays shall receive 1½ times their normal compensation for the number of hours worked and holiday compensation. Holiday compensation shall consist of either (1) additional pay at the employee’s regular hourly rate for the number of hours worked up to the number of hours they would have normally worked or (2) time off equal to the number of hours worked up to the number of hours they would have normally worked. The employee’s Department Head shall determine which type of holiday compensation shall be granted.
- B. Eligible employees scheduled to work rotating shifts in order to provide twenty-four-hour coverage receive holiday compensation only for actual holidays they are required to work. Such employees shall be paid for hours worked at 1½ times their regular hourly rate and shall also receive holiday compensation. Holiday compensation shall consist of either (1) additional pay at the employee’s regular hourly rate for the number of hours worked up to the numbers of hours they would have normally worked or (2) time off equal to the number of hours worked up to the number of hours they would have normally worked. The employee’s Department Head shall determine which type of holiday compensation shall be granted.
- C. Other eligible employees that are scheduled to work nonstandard work schedules (not the County’s Monday through Friday business schedule or not rotating shifts) and are required to work on a holiday shall be compensated as follows:
- (1) If the employee works on the observed holiday and the actual holiday falls on a weekday, but the County observes the holiday on a different weekday, employees are compensated according to § 86-3-603 A.1.
 - (2) If the employee works on the actual holiday where the actual holiday falls on a Saturday or Sunday or the actual and observed holiday are the same, they are compensated according to § 86-3-603-A.2.
- D. Eligible employees may only receive holiday compensation for one day for each holiday as chosen by the County.

Part 4
Leave Administration

ARTICLE I
Annual Leave

§ 86-4-101. Eligibility.

Annual leave is paid leave granted to eligible employees for their personal use. Merit employees and part-time and grant-funded employees regularly scheduled to work 50% or more of the normal pay period are eligible for annual leave in accordance with the terms of this article. Contractual and appointed employees are eligible for annual leave only if such leave is granted by an express term of their employment contract or appointment, respectively. Annual leave is accrued while serving an initial probationary period, but it may not be used until satisfactorily completing the probationary period.

§ 86-4-102. Accrual.

- A. Eligible full-time employees shall earn annual leave in proportion to hours paid, exclusive of overtime at the following rates:
- (1) Zero through two years of service: 10 leave days per year.
 - (2) Three through five years of service: 12 leave days per year.
 - (3) Six through ten years of service: 15 leave days per year.
 - (4) 11 through 19 years of service: 20 leave days per year.
 - (5) 20 or more years of service: 25 leave days per year.
- B. Years of service must be continuous with no break in service.
- C. For purposes of this article, the number of hours in an earned annual leave day for full-time employees shall be determined by dividing the number of hours in the standard equivalent full-time pay period by 10.
- D. Eligible part-time employees earn annual leave in proportion to hours paid up to 100% of an equivalent full-time position.

§ 86-4-103. Carryover, payout and use to purchase service credits. [Amended 4-5-2017 by Ord. No. 11-17]

- A. Employees who became eligible for annual leave prior to September 7, 2015 may carry over into a new year, a maximum of thirty (30) Leave Days, defined below, of annual leave during the first five years of employment. Starting with the sixth year of employment, an additional five (5) Leave Days per year may be carried over, not to exceed one hundred (100) Leave Days. This carryover shall be accomplished effective the beginning of the first full pay period in January. Any excess annual leave over these amounts is automatically converted to sick leave. Employees may elect to accept compensation for up to ten (10) Leave Days of annual leave each calendar year with no restrictions. Employees may elect to accept compensation for an additional five (5)

Leave Days of annual leave each calendar year with the following restriction: at the time of any request that includes days eleven (11) through fifteen (15) of that calendar year, the employee's balance of accrued annual leave minus the amount of annual leave sold must be equal to or greater than five (5) Leave Days of annual leave. Under this provision, an employee may not elect to accept compensation for more than fifteen (15) Leave Days of annual leave each calendar year. Employees are not eligible to sell annual leave which would be paid during a period of suspension.

- B. Employees who became eligible for annual leave on or after September 7, 2015 may carry over into a new year, a maximum of fifty (50) Leave Days, defined below, of annual leave. This carryover shall be accomplished effective the beginning of the first full pay period in January. Any excess annual leave over this amount is automatically converted to sick leave. Employees may elect to accept compensation for up to ten (10) Leave Days of annual leave each calendar year with no restrictions. Employees may elect to accept compensation for an additional five (5) Leave Days of annual leave each calendar year with the following restriction: at the time of any request that includes days eleven (11) through fifteen (15) of that calendar year, the employee's balance of accrued annual leave minus the amount of annual leave sold must be equal to or greater than five (5) Leave Days of annual leave. Under this provision, an employee may not elect to accept compensation for more than fifteen (15) Leave Days of annual leave each calendar year. Employees are not eligible to sell annual leave which would be paid during a period of suspension.
- C. For the purposes of this Article, the number of hours in a "Leave Day" for full-time employees shall be determined by dividing the number of hours in the standard equivalent full-time pay period by ten (10). For the purposes of this Article, the number of hours in a "Leave Day" for eligible part-time employees shall be determined by dividing the number of regularly scheduled hours in a pay period by ten (10).
- D. Upon separation from County service for disability or nondisciplinary reasons employees who are eligible to request the use of accrued annual leave or their beneficiaries shall be paid for all of their unused accrued annual leave. If the County Sheriff establishes a probationary period in excess of one year, upon separation deputy sheriffs shall be paid for all of their unused accrued annual leave upon completion of one year of service if they have received a satisfactory performance evaluation and a favorable recommendation from the Sheriff. In lieu of payment, employees may elect to donate all or part of their annual leave to an employee with a known sick leave need, in accordance with Article X, Sick Leave, § 86-4-1008, Sick leave donations. Any unused accrued annual leave hours not donated shall be paid. Employees who donate annual leave hours forfeit any leave payout of those donated hours. This payment may be withheld at the request of the Department Head for employees who do not give proper notice in accordance with § 86-2-601.
- E. Notwithstanding any provision to the contrary, members of the Calvert County Sheriff's Department Pension Plan (the "Plan") subject to this Part 4, Article I, and eligible to purchase service credit(s) in accordance with Section 1.30(e) of the Plan, as amended from time to time, may surrender any number of hours of unused, accrued annual leave, not to exceed the number of hours available to the member at time of surrender, as a means of payment, in whole or in part, of the purchase price for Years of Service. In so doing, the value of the credit against the purchase price for Years of Service is the result of multiplying the number of hours of unused, accrued annual leave surrendered times the member's straight time hourly rate of pay at the time of surrender. Nothing in this Subpart E authorizes more hours of annual leave be carried forward

from one pay year to the next than prescribed in Subparts A or B, above, whichever applies to the member.

§ 86-4-104. Procedures.

Employees must receive prior approval from their Supervisor or designee, as appropriate, before using their leave. Leave is not a right but a privilege, and shall be approved or disapproved, based upon the operations and work load of the department, employee's leave record, and in consideration of the leave requests from other employees. If the County has not acted on a request in advance of the date the leave is to begin, it does not constitute approval. The employee must use other approved leave, change his plans, or be placed in an absent without leave status and subject to disciplinary action.

**ARTICLE II
Personal Leave**

§ 86-4-201. Eligibility.

Personal leave is paid leave granted to eligible employees that may be used for any purpose. Merit employees and part-time and grant-funded employees regularly scheduled to work 50% or more of the normal pay period are eligible for personal leave in accordance with the terms of this article. Contractual and appointed employees are eligible for personal leave only if such leave is granted by an express term of their employment contract or appointment, respectively.

§ 86-4-202. Conditions. [Amended 4-5-2017 by Ord. No. 11-17]

- A. Full-time and part-time employees that have received personal leave from the County the prior year shall be granted personal leave hours equivalent to five (5) "Personal Leave Days", as defined below, the first full pay period of the pay year.
- B. For the purposes of this Article, the number of hours in a "Personal Leave Day" granted to full-time employees shall be determined by dividing the number of hours in the standard equivalent full-time pay period by ten (10).
- C. For the purposes of this Article, the number of hours in a "Personal Leave Day" granted to eligible part-time employees shall be determined by dividing the number of regularly scheduled hours in a pay period by ten (10).
- D. An employee eligible for and receiving personal leave for the first time shall receive five (5) personal leave days the first full pay period following:
 - (1) Successful completion of a prescribed six (6) month probationary period;
 - (2) Six (6) months of service if the probationary period established for the employee's position is longer than six (6) months; or
 - (3) Six (6) months of service for part-time employees.

§ 86-4-203. Carryover, payout and use for purchasing service credits. [Amended 01-10-2017 by Ord. No. 01-17]

- A. Personal leave may not be carried over from one pay year to the next. It must be used prior to the beginning of the first full pay period following January 1.
- A. Upon separation from County service for disability or nondisciplinary reasons employees who are eligible to request the use of personal leave or their beneficiaries shall be paid for all of their unused personal leave. This payment may be withheld at the request of the Department Head for employees who do not give proper notice in accordance with § 86-2-601.
- C. Members of the Calvert County Sheriff's Department Pension Plan (the "Plan") subject to this Part 4, Article I, and eligible to purchase service credit(s) in accordance with Section 1.30(e) of the Plan, as amended from time to time, may surrender any number of hours of unused personal leave, not to exceed the number of hours available to the member at time of surrender, as a means of payment, in whole or in part, of the purchase price for Years of Service. In so doing, the value of the credit against the purchase price for Years of Service is the result of multiplying the number of hours of unused, accrued personal leave surrendered times the member's straight time hourly rate of pay at the time of surrender. Nothing in this subpart C authorizes personal leave to be carried over from one pay year to the next.

§ 86-4-204. Procedures.

Employees must receive prior approval from their Supervisor or designee, as appropriate, before using their leave. Leave is not a right but a privilege, and shall be approved or disapproved, based upon the operations and work load of the department, employee's leave record, and in consideration of the leave requests from other employees. If the County has not acted on a request in advance of the date the leave is to begin, it does not constitute approval. The employee must use other approved leave, change his plans, or be placed in an absent without leave status and subject to disciplinary action.

**ARTICLE III
Holiday Leave**

§ 86-4-301. Eligibility for Holiday Leave.

- A. Merit employees and part-time and grant-funded employees regularly scheduled to work 50% or more of the normal pay period are eligible for holiday leave in accordance with the terms of this article.
- B. Contractual and appointed employees are eligible for holiday leave only if such leave is granted by an express term of their employment contract or agreement, respectively.
- C. Employees must be in a pay status their regularly scheduled workday before and after the holiday in order to receive holiday leave.

§ 86-4-302. Application.

- A. Eligible employees are granted holiday leave equal to the number of hours the employee would normally have been scheduled to work on the holiday.
- B. Eligible employees who are regularly scheduled to work Monday through Friday shall receive holiday leave on the date observed by the County.

- C. Eligible employees who work rotating shifts in order to provide twenty-four-hour coverage shall be granted holiday leave for the actual calendar date. If a holiday has been included elsewhere in the employee's work schedule and the employee is on approved paid leave when a holiday falls, the paid leave shall be charged against the employee's leave balance in accordance §§ 86-3-603B and 86-3-105.
- D. Other eligible employees who work nonstandard work schedules shall receive holiday leave on the actual calendar date when they fall on a Saturday or Sunday and on the date observed by the County when the actual calendar date falls on a weekday. An employee may observe only one day for each holiday.
- E. When a holiday occurs on a full-time employee's normally scheduled day off, they shall be granted another day off, at a time chosen by the County.

ARTICLE IV
(Reserved)

ARTICLE V
Jury Leave
[Amended 3-12-2013 by Ord. No. 07-13]

§86-4-501. Eligibility.

Merit employees and part-time and grant-funded employees regularly scheduled to work 50% or more of the normal pay period are eligible for jury leave in accordance with the terms of this article. Contractual and appointed employees are eligible for jury leave only if such leave is granted by an express term of their employment contract or appointment, respectively. Employees not eligible for jury leave shall be entitled to an unpaid leave of absence in accordance with §86-4-1101.

§86-4-502. Application.

- A. An eligible employee who is summoned and appears for jury service:
 - (1) Shall present their orders to their supervisor upon receipt.
 - (2) Shall be permitted to be absent from work without loss of pay and without charge against leave.
 - (3) Shall retain compensation received for jury service.
 - (4) Shall report to their supervisor for duty if the employee's service is not required as a jury member or upon completion of service for the day, unless the employee serves four (4) or more hours, including travel time, and is scheduled to work a shift that begins on or after 5:00 pm on the day of jury service or before 3:00 am on the day following jury service.

ARTICLE VI
Court Appearance Leave

§ 86-4-601. Eligibility.

Merit employees and part-time and grant-funded employees regularly scheduled to work 50% or more of the normal pay period are eligible for court appearance leave in accordance with the terms of this article. Contractual and appointed employees are eligible for court appearance leave only if such leave is granted by an express term of their employment contract or appointment, respectively. Employees not eligible for court appearance leave may be entitled to an unpaid leave of absence in accordance with § 86-4-1101. An employee summonsed to appear in court as a witness shall be excused from duty without loss of pay and without charge against leave, except that this leave provision is not extended to an employee initiating or defending against legal action. Any employee summonsed to appear in court as a witness must notify the Supervisor in advance. Any time during the court appearance leave on which it is determined that the employee's service is no longer required or upon completion of service for the day, the employee shall immediately report to their Supervisor for duty.

ARTICLE VII

Military/Deployment Leave **[Amended 12-2-2014 by Ord. No. 49-14]**

§ 86-4-701. Eligibility.

- A. An employee who is a member of the National Guard, the Army, Navy, Air Force, Coast Guard, or Marine Reserve shall be entitled to military leave for military training. Merit employees and part-time and grant-funded employees regularly scheduled to work 50% or more of the normal pay period are eligible for military leave in accordance with the terms of this article. Contractual and appointed employees are eligible for military leave only if such leave is granted by an express term of their employment contract or appointment, respectively. Employees who are called for military training and who are not eligible for paid military leave are entitled to leave without pay as required by federal law and in accordance with § 86-4-1101. Where eligible, but no more than once per calendar year, approved military leave shall be paid at that employee's Salary Rate for the lesser of: (1) the duration of approved military leave; or (2) the number of hours in a single Pay Period for that employee as set forth upon the Pay Scale applicable to that employee's position. Any employee required to report for military service must give the Supervisor as much advance notice as possible.
- B. An employee who has worked for the last 12 months and at least 1,250 hours in that same period of time is eligible for leave equal to the lesser of: (1) eight hours; or (2) one-tenth the number of hours in a single Pay Period for that employee, as set forth upon the Pay Scale applicable to that employee's position on the day an immediate family member (parent, step parent, spouse, child or step child) is leaving for or returning from active duty outside of the United States as a member of the Armed Forces of the United States. The employee may not be required to use paid leave; however, unless the employee elects to use paid leave, the one day will be leave without pay. The employer may require documentation verifying that the leave is taken for this qualifying reason.

ARTICLE VIII

Administrative Leave **[Amended 3-12-2013 by Ord. No. 07-13]**

§ 86-4-801. Eligibility.

Merit employees and part-time and grant-funded employees are eligible for administrative leave in accordance with the terms of this article. Contractual and appointed employees are eligible for

administrative leave only if such leave is granted by an express term of their employment contract or appointment, respectively.

§ 86-4-802. Definition.

A. Paid administrative leave may be granted to eligible employees for regularly scheduled hours during which they are not required to work under the following conditions:

(1) Leave which may be granted by the Board of County Commissioners:

(a) To relieve an employee of duty for an indeterminate time pending the resolution of any issue involving such employee if, in the judgment of the Board of County Commissioners, the effectiveness of Government would be best served by granting such leave.

(b) When the County Government closes or opens late due to an unforeseen event which prevents employees from reaching their work place or which may affect their safety and welfare during the course of the normal workday.

(c) For other reasons at the discretion of the Board of County Commissioners.

(2) Leave which may be granted by the County Administrator:

To relieve an employee of duty if an unsafe or unhealthy working condition arises in any County facility.

For other reasons at the discretion of the County Administrator.

(3) Leave which may be granted by Department Heads:

(a) To relieve an employee of duty for an indeterminate time pending the resolution of any issue involving such employee if, in the judgment of the Department Head, the effectiveness of Government would be best served by granting such leave. Department Heads shall inform the Board of County Commissioners of this action.

B. The Board of County Commissioners, for purposes of continuation of health insurance coverage, may grant unpaid administrative leave to eligible employees who are unable to work and who have a pending claim for disability retirement. The following conditions shall apply:

(1) The employee must have exhausted all annual, personal, sick, compensatory and family and medical leave;

(2) The employee shall pay his or her portion of the premium for health insurance benefits;

(3) The grant of unpaid administrative leave shall expire in 180 days or until a determination is made on the pending disability retirement application, whichever occurs first. Every 30 calendar days, the employee shall file a status report with the Department of Finance & Budget and the employee's supervisor outlining the status of the employee's disability claim. The Director of Finance & Budget, Director of Personnel, and the employee's

Department Head shall review the status report and make any recommendations to the Board of County Commissioners concerning the continuance of the employee on unpaid administrative leave. Failure to submit the reports may be grounds for revocation of the grant of administrative leave and/or termination.

- (4) The employee's former position may be filled. The employee relinquishes any right to return to their former position.
- C. An employee desiring unpaid administrative leave should address their request to the Board of County Commissioners through the Department Head, Director of Finance & Budget, and Director of Personnel.

§ 86-4-803. Essential employees.

- A. A workday is a twenty-four-hour period commencing at 12:01 a.m. and ending at 12:00 midnight.
- B. Some employees may be designated as essential (as determined by the Department Head) and required to report for work or remain on duty when the County Government is closed during normal business hours in accordance with the above.
- C. Non-exempt employees who work on that workday shall be paid the applicable regular, overtime, compensatory leave, or other rate for the greater of the hours worked or the normally scheduled hours and shall receive straight time pay or compensatory leave as chosen by the County equal to the number of normal business hours during which the County is closed, not to exceed normally scheduled work hours. The remainder of hours worked shall be paid at the applicable regular, overtime, or compensatory leave rate.
- D. Exempt employees who work on that workday shall be paid at the applicable regular or compensatory time rate for the greater of the hours worked or the normally scheduled hours and shall receive compensatory leave for the number of hours equal to the length of the County closing, not to exceed normally scheduled work hours. The remainder of hours worked shall be paid at the applicable regular, overtime, or compensatory leave rate.
- E. Essential Pay for one workday shall never be for more than eight hours which is the maximum number of hours the County can close in one workday.
- F. Part-time employees can receive essential pay for hours worked up to the number of hours they are normally scheduled for that workday.

§ 86-4-804. Effect on scheduled paid leave.

Those employees scheduled to be on paid leave during a workday in which the County closes shall be credited with leave hours equal to the length of the County closing.

§ 86-4-805. Liberal use of leave.

In cases where the Board of County Commissioners decide to open County Government instead of granting administrative leave, they may declare a liberal leave policy to be in effect. Department Heads may grant requests for use of accrued annual or personal leave or leave without pay on an individual basis. Employees must contact their Supervisors to request such leave. Essential employees required to report for work shall be paid at their regular rate.

ARTICLE IX
(Reserved)

ARTICLE X
Sick Leave
[Amended 3-12-2013 by Ord. No. 07-13]

§ 86-4-1001. Eligibility.

Sick leave is paid leave granted to eligible employees for their personal use. Merit employees and part-time and grant-funded employees regularly scheduled to work 50% or more of the normal pay period are eligible for sick leave in accordance with the terms of this article. Contractual and appointed employees are eligible for sick leave only if such leave is granted by an express term of their employment contract or appointment, respectively.

§ 86-4-1002. Accrual and carryover.

- A. Eligible full-time employees accrue sick leave in proportion to hours paid, exclusive of overtime, at the rate of 15 leave days per year. All accrued sick leave may be carried over from year to year.
- B. Eligible part-time employees shall earn sick leave in proportion to hours paid up to 100% of an equivalent full-time position.
- C. For purposes of this section, the number of hours in an accrued sick-leave day for full-time employees shall equal the number of hours in the standard equivalent full-time pay period divided by 10.

§ 86-4-1003. Authorized uses. [Amended 4-5-2017 by Ord. No. 11-17]

- A. Sick leave may be used for:
 - (1) Incapacitating sickness or disability including maternity when medically necessary on the part of the mother or the infant;
 - (2) Quarantine confinement;
 - (3) Child care responsibilities associated with adoption or placement of the child with the employee is not to exceed five days. This may be used only once per child for either the adoption or the placement;
 - (4) Parental responsibilities associated with birth, not to exceed ten (10) days per birth;
 - (5) Illness of an employee's family member as defined in subpart C;
 - (6) Necessary medical or dental appointments of the employee or family member as defined in subpart C when unable to attend the appointment alone and when no other responsible adult is available; or
 - (7) Death of an employee's family member as defined in subpart C, not to exceed five days per death.

- (8) Members of the Calvert County Sheriff's Department Pension Plan (the "Plan") subject to this Part 4, Article I, and eligible to purchase service credit(s) in accordance with Section 1.30(e) of the Plan, as amended from time to time, may surrender any number of hours of unused, accrued sick leave, not to exceed the number of hours available to the member at time of surrender, as a means of payment, in whole or in part, of the purchase price for Years of Service. In so doing, the value of the credit against the purchase price for Years of Service shall be calculated in accordance with the payout provisions in § 86-4-1006(A) or (B), below, whichever would apply to the member if the member were separating from County service.
 - (9) Individualized Education Program (IEP) or 504 Plan meetings for an employee that is the parent of a child requiring special education services.
- B. If an employee becomes ill or injured while on annual, personal, compensatory, or other paid leave, the period of such incapacity may be changed to sick leave if the employee so requests. A supervisor may request medical documentation from a physician.
- C. For the purposes of this article, "Family Member" is defined as an individual with any one or more of the following relationships to the employee:
- (1) Spouse or domestic partner, and parents, children, or siblings thereof;
 - (2) Sons and daughters, and spouses thereof;
 - (3) Parents, and spouses thereof;
 - (4) Brothers and sisters, and spouses thereof;
 - (5) Grandparents and grandchildren, and spouses thereof;
 - (6) Aunts and uncles, and spouses thereof;
 - (7) Any individual related by blood or affinity whose close relationship with the employee is the equivalent of a parent/child relationship; or
 - (8) Any individual living in the home of the employee.

§ 86-4-1004. Incentive. [Amended 8-25-2015 by Ord. No. 35-15]

Any eligible full-time employee who: (1) became eligible for sick leave prior to September 7, 2015; (2) is employed on the first workday in a pay year; and (3) uses two or fewer sick leave days during a pay year is eligible for the incentive bonus which is equivalent to one day's pay. Eligible part-time employees who became eligible for sick leave prior to September 7, 2015 and use the equivalent of a full-time employee's standard workday or less of sick leave shall be credited with half of the pay granted to the full-time employee. An employee who donates leave shall not be penalized for such donation for the purpose of computing eligibility for the extra pay. For purposes of this section, the number of hours in a day for full-time employees shall equal the number of hours in the standard equivalent full-time pay period divided by 10.

§ 86-4-1005. Procedures.

- A. An employee who intends to use sick leave must notify the supervisor not more than one hour after the employee's normal reporting time each day unless the employee is under a physician's care for an extended period with the supervisor's knowledge or there is a medical emergency. If an employee fails to provide proper notification, the employee may be charged unpaid absence without leave up to the time of notification and may be subject to disciplinary action. Upon returning to work, the employee must submit a leave request form.
- B. When an employee knows in advance of a need to use sick leave, the employee must request the leave in advance.
- C. An employee who uses sick leave for more than three consecutive days may be required to submit proof of the reason for the leave (i.e., a physician's certificate). Proof may also be required in cases of frequent but nonconsecutive absences or when circumstances indicate potential abuse of sick leave. Sick leave can be denied if a supervisor requests medical documentation and it is not produced or is insufficient to justify the amount of sick leave taken.

§ 86-4-1006. Separation and Payout. [Amended 8-25-2015 by Ord. No. 35-15]

- A. Upon separation from County service for disability or nondisciplinary reasons after successfully completing the initial probationary period, employees who became eligible for sick leave prior to September 7, 2015, or their beneficiaries, shall be paid for their unused accrued sick leave as follows: $\frac{1}{4}$ of the Employee's current hourly rate multiplied by the number of sick leave days up to and including 100, plus $\frac{1}{2}$ of the Employee's current hourly rate multiplied by the number of sick leave days in excess of 100. This payment may be withheld at the request of the Department Head for employees who do not give proper notice in accordance with § 86-2-601.
- B. Upon separation from County service for disability or nondisciplinary reasons after successfully completing the initial probationary period, employees who became eligible for sick leave on or after September 7, 2015, or their beneficiaries, shall be paid for their unused accrued sick leave as follows: $\frac{1}{4}$ of the Employee's current hourly rate multiplied by the number of sick leave days. This payment may be withheld at the request of the Department Head for employees who do not give proper notice in accordance with § 86-2-601.
- C. In lieu of payment:
 - (1) Employees may elect to have their sick leave balance credited toward computation of retirement benefits as may be provided under each plan, if eligible to retire at time of separation; or
 - (2) Eligible employees may elect to donate all or part of their sick leave to an employee with a known sick leave need, in accordance with Article X Sick Leave § 86-4-1008 Sick leave donations. Any unused accrued sick leave hours not donated shall be paid out in accordance with this section. Employees who donate sick leave hours forfeit any leave payout of those donated hours. For purposes of this section, the number of hours in a workday shall equal the number of hours in the equivalent full-time pay period divided by 10.

§ 86-4-1007. Advance of sick leave.

Sick leave ordinarily may not be used before it is accrued; however, with appropriate certification of need and upon consideration of the Department Head's recommendation, sick leave may be advanced by the

Board of County Commissioners. The receiving employee may request an advance of sick leave, but it may not be used until leave balances of any type (annual, personal, and sick) and compensatory time are exhausted. Future accruals of annual leave, sick leave, and compensatory time, equal to the sick leave advance, shall be applied to eliminate the deficit sick leave balance. An employee who terminates with a deficit sick leave balance shall have this amount deducted from paychecks, or be required to reimburse the County.

§ 86-4-1008. Sick leave donations.

- A. An employee may donate accrued sick or annual leave for a known sick leave need on an hour-for-hour basis to another employee. The receiving employee may solicit donations while still having a leave balance, but the Department Head may only approve the use of donated leave when all leave balances of any type (annual, personal, and sick) and compensatory time are exhausted, with the exception in B. below. An employee may accrue leave (annual, personal, and sick) and compensatory time while using a sick leave donation; however, the accrued leave must be exhausted prior to the use of donated sick leave. Donated leave may be used for authorized incapacitating illness or disability of the employee or a family member in accordance with § 86-4-1003A(5).
- B. If future accruals of leave, as identified in § 86-4-1007, are to be applied due to an advance of sick leave, donated leave may be solicited and used upon Department Head approval. Donated leave shall be used first when an employee has been granted an advance of sick leave and has also received donated leave.
- C. Donations must be voluntary and made from accrued, not advanced leave. An employee who has received a donation or an advance may not in turn donate this amount to another employee. An employee who has a negative leave balance may not use donated leave to reduce the negative balance.
- D. Donated sick leave is to be used only for the illness or disability originally designated. Donations for a different, unrelated illness or disability must be submitted on another Leave Donation Form. Unused leave shall be returned to the donating employee.
- E. Once donated and used, the leave may not be recovered except as described in Subsection F. below. Any annual leave donated shall be converted to sick leave. Leave may not be donated retroactively. It must be donated in advance of or coinciding with its use. A Department Head who believes that the use of donated leave is jeopardizing the County's best interests may curtail the donation of leave to the employee.
- F. If workers' compensation reimburses the County for an employee's leave, the donating employee shall have their leave reinstated.

ARTICLE XI

Unpaid Leave of Absence Leave Without Pay (LWOP)

§ 86-4-1101. Policy and eligibility.

- A. It is the policy of Calvert County to grant unpaid leaves of absence for justifiable reasons to eligible employees. Leave of absence is a privilege and shall be considered on an individual basis. Merit employees and part-time and grant-funded employees are eligible for an unpaid leave of absence in accordance with the terms of this article. Contractual and appointed employees are

eligible for an unpaid leave of absence only if such leave is granted by an express term of their employment contract or appointment, respectively.

- B. Employees not eligible for military, court appearance, or jury leave may be entitled to an unpaid leave of absence under this article.

§ 86-4-1102. Leave which may be granted by department head.

- A. A Department Head may grant an employee an unpaid leave of absence not to exceed 30 calendar days per occurrence, if the leave shall not jeopardize the County's best interests.
- B. Requests exceeding 30 calendar days must be approved by the County Administrator.

§ 86-4-1103. Leave which may be granted by County Administrator.

- A. The County Administrator, upon recommendation of the Department Head and Director of Personnel, may grant an employee an unpaid leave of absence not to exceed 90 calendar days per occurrence.
- B. Requests for extensions which would bring the total length of the leave of absence above the above-stated amounts must be approved by the Board of County Commissioners.

§ 86-4-1104. Leave which may be granted by the Board of County Commissioners (long-term LWOP).

The Board of County Commissioners, upon recommendation of the Department Head, Director of Personnel, and County Administrator may grant an employee an unpaid leave of absence not to exceed 12 calendar months.

§ 86-4-1105. Reasons for granting an unpaid leave of absence.

LWOP may be granted at the sole discretion of the employer for the following reasons:

- A. To retain an employee whose accumulated sick, annual, or personal leave balance, as appropriate, has been exhausted;
- B. For educational purposes which shall contribute to the individual's effectiveness as a County employee;
- C. Active-duty military service;
- D. Maternity, paternity, or adoption; or
- E. Other reasons, personal to an employee.

§ 86-4-1106. Procedures and conditions.

- A. An employee must submit a request to the Department Head at least two weeks in advance of the date requested leave is to begin, indicating the dates the leave is to begin and end and the reason. Requests for LWOP for medical reasons in excess of one workweek must be accompanied by a medical certificate. This may also be required for shorter periods of LWOP. If the leave is to be

of a duration that further approval is necessary, the Department Head shall forward this recommendation to the Director of Personnel, who shall in turn forward it to the County Administrator or the Board of County Commissioners.

- B. An employee on approved LWOP must remain in an LWOP status for the entire approved period unless otherwise approved by the Department Head. An employee cannot return to work or take paid leave before or after a holiday in order to receive holiday leave. An employee must be in a pay status the regularly scheduled workday before and after a holiday in order to receive holiday leave. An employee on LWOP is in a nonpay status and does not earn annual, sick, or holiday leave.
- C. An employee is not required to use accrued leave before being granted LWOP.

§ 86-4-1107. Return to work.

- A. In the case of long-term LWOP, the Department Head must consider whether he shall be able to make the employee's position available to him upon return and must so indicate during the approval process. Unless otherwise stated, it is assumed that the position shall be guaranteed. Upon return from LWOP, the employee shall be restored to the position as agreed during the approval process. If the Department Head is not able to make a position available, the employee may request to receive vacancy announcements of all available positions for a period of 12 months following an employee's separation which shall allow employees to apply for positions on an in-house basis for a period of 12 months. Employees must meet minimum qualifications for the position and must complete an employment application by the closing date of the announcement. Employees shall be subject to § 86-2-402.
- B. Upon return from LWOP for medical reasons in excess of one workweek, or a shorter period at the discretion of the Department Head, the employee must provide a doctor's release. No employee shall be allowed to return without a release.
- C. An employee who does not return to work upon expiration of the approved period of LWOP is assumed to have resigned unless the employee provides proof of extenuating circumstances to the satisfaction of the Department Head. Extensions of LWOP must be requested in advance.
- D. Upon return from LWOP an employee shall be granted any salary increases that would normally have occurred during the absence. If, however, the absence was of a duration that the Department Head cannot fairly evaluate the employee's performance, a step increase which should have occurred or is forthcoming, may be withheld for the period of time equal to the length of the absence. In the case of a probationary employee, the probationary period may be extended for a period of time equal to the leave of absence.

§ 86-4-1108. Continuation of insurance and retirement benefits.

An employee on LWOP, for a duration such that a paycheck is missed, is required to pay the full cost (both the employee's and the County's share) of insurance. The employee must make payment arrangements in order to continue coverage. If the coverage is dropped, the employee may not reenroll until the next open enrollment period. In requesting an unpaid leave of absence, employees are responsible for considering the impact it may have on retirement benefits. Only certain reasons for leave and only certain durations of leave are allowable under various retirement plans. Others may constitute a break in service. Employees may be required by their retirement plans to apply in advance for the leave of absence or service credit before taking the leave. This may also affect the death benefit.

ARTICLE XII
Absence Without Leave (AWOL)

§ 86-4-1201. Policy and eligibility.

Absence without leave is a nonpay, nonapproved status. An employee who is absent without a specific grant of leave for any period of time is subject to disciplinary action or may be considered to have abandoned their position as specified in accordance with § 86-2-602. A Department Head may approve conversion of AWOL to other leave provided the employee furnishes a prompt request and acceptable explanation of the absence and reason for not following proper procedures.

ARTICLE XIII
Family and Medical Leave
[Amended 1-28-2014 by Ord. No. 06-14]

§ 86-4-1301. General statement.

The County is committed to complying with applicable federal regulations concerning the Family and Medical Leave Act (FMLA). This article provides information in regard to the subject matter covered and shall be interpreted by the Director of Personnel. In the event of any inconsistencies between this article and the federal law or adopted regulations, the federal law or adopted regulations shall govern.

§ 86-4-1302. Definitions.

For purposes of this article only, the following terms have the following meanings:

CHRONIC SERIOUS HEALTH CONDITION – A period of incapacity or treatment that requires periodic visits (at least twice a year) for treatment by a Health Care Provider or by a nurse under direct supervision of a Health Care Provider; continues over an extended period of time, including recurring episodes of a single underlying condition; and may cause episodic rather than continuing periods of incapacity.

CONTINUING TREATMENT - A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:

- A. Treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a Health Care Provider, by a nurse under direct supervision of a Health Care Provider (e.g., physical therapist), or by a provider of health care services under orders, or on referral by, a Health Care Provider. For treatment from a Health Care Provider, it must be in-person visits the first of which must take place within seven days of the first day of incapacity;
- B. Treatment by a Health Care Provider on at least one occasion, which results in a regimen of Continuing Treatment under the supervision of the Health Care Provider. For treatment from a Health Care Provider, it must be an in-person visit which must take place within seven days of the first day of incapacity;
- C. A period of incapacity because of pregnancy; or for prenatal care;

- D. A period of incapacity or treatment for a Chronic Serious Health Condition;
- E. A period of incapacity for permanent or long-term conditions for which treatment may not be effective; or
- F. Any period of incapacity to receive multiple treatments (including recovery from those treatments) for restorative surgery, or for a condition which would likely result in an incapacity of more than three consecutive, full calendar days absent medical treatment.

COVERED ACTIVE DUTY/CALL TO COVERED ACTIVE DUTY – A current member of the Armed Forces, National Guard, or Reserves who is called or under a call or order to active duty (or has been notified of an impending call or order to active duty) to a foreign country in support of a contingency operation.

COVERED MILITARY MEMBER – A Covered Military Member for Military Caregiver Leave is the employee's Spouse, Son, Daughter, Parent, or Next of Kin of a Covered Servicemember.

COVERED SERVICEMEMBER – A current member of the Armed Forces, including the National Guard or Reserves, who is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty. A Covered Servicemember also includes a Covered Veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness incurred in the line of duty.

COVERED VETERAN – A veteran who was a member of the Armed Forces, National Guard, or Reserves and who was discharged or released under conditions other than dishonorable at any time during the five year period prior to the first date the eligible employee takes FMLA leave to care for the Covered Veteran.

HEALTH CARE PROVIDER – Includes licensed doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State of Maryland, nurse practitioners, physicians assistants, nurse midwives, and clinical social workers authorized under state law, and Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts, any Health Care Provider that is recognized by the employer or accepted by the group health plan of the employer as authorized to provide certification for purposes of claim and a Health Care Provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country.

INTERMITTENT LEAVE – Leave taken in separate blocks of time due to a single qualifying reason.

MILITARY CAREGIVER LEAVE – Leave taken by an employee who is a Covered Military Member to care for a Covered Servicemember who is a current member or veteran of the Armed Forces, National Guard, or Reserves who has incurred a Servicemember Serious Injury or Illness or a Veteran Serious Injury or Illness.

MILITARY QUALIFYING EXIGENCY – A non-medical activity that is directly related to the active duty or call to active duty status to a foreign country of a family member. Covered family members are limited to a Spouse, Son, Daughter, or Parent of the employee and must be a current

member of the Armed Forces, National Guard or Reserves, in support of contingency operation. For an activity to qualify as an exigency, it must fall within the categories below:

- A. Short-notice deployment to address any issue that arises from the military member being notified of a call to active duty or order to covered active duty seven or less calendar days prior to the date of deployment;
- B. Military events such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs, and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross;
- C. Childcare/school activities (temporary childcare, not on-going childcare) arising from the active duty or call to active duty status of a Covered Military Member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at school or a day care facility;
- D. Financial/legal arrangements to address a Covered Military Member's absence;
- E. Counseling provided by someone other than a Health Care Provider for oneself, the Covered Military Member, or the child of the Covered Military Member, the need for which arises from the active duty or call to active duty status of the Covered Military Member;
- F. Rest and recuperation (maximum of 15 calendar days);
- G. Post-deployment activities including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the Covered Military Member's active duty status, and addressing issues arising from the death of a Covered Military Member;
- H. Parental care; and
- I. Any other event that the employee and employer agree is a qualifying exigency.

NEXT OF KIN – A Covered Servicemember's nearest blood relative other than the Covered Servicemember's Spouse, Parent, Son, or Daughter, in the following order of priority, unless the Covered Servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of Military Caregiver Leave under FMLA, in which case the designated individual shall be deemed to be the Covered Servicemember's Next of Kin:

- A. Blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions;
- B. Brothers and sisters;
- C. Grandparents;
- D. Aunts and uncles;
- E. First cousins.

PARENT -- A biological, adopted, step or foster father or mother, or any other individual who stood in loco parentis (in place of a parent) to an employee when the employee was a child.

REDUCED SCHEDULE LEAVE – A leave schedule that reduces an employee’s usual number of working hours per workweek or workday based upon a Health Care Provider’s certification.

SERIOUS HEALTH CONDITION -- An illness, injury, impairment, or physical or mental condition that involves inpatient care or Continuing Treatment by a Health Care Provider.

SERVICEMEMBER SERIOUS INJURY OR ILLNESS – An injury or illness that was incurred by the Covered Servicemember in the line of active duty in the Armed Forces or that existed before the beginning of the member’s active duty and was aggravated by service in the line of active duty in the Armed Forces, and that may render the servicemember medically unfit to perform the duties of the office, grade, rank, or rating.

SON OR DAUGHTER -- A biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis (in place of a parent). The child must be under 18 years of age, or 18 years of age or older and incapable of self-care because of mental or physical disability. For Son or Daughter of a Covered Servicemember, there is no age limitation.

SPOUSE – A husband or wife as defined or recognized under Maryland law for purposes of marriage.

VETERAN SERIOUS INJURY OR ILLNESS – An injury or illness that was incurred by the member in the line of active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of active duty in the Armed Forces) and manifested itself before or after the member became a veteran and is:

- A. a continuation of a serious injury or illness and inability to perform the duties of the office, grade, rank, or rating;
- B. a physical or mental condition where the veteran has received a VA Service Related Disability Rating (VASRD) of 50% or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave;
- C. a physical or mental condition that substantially impairs the veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; or
- D. an injury, including a psychological injury, on the basis of which the Covered Veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

WORKWEEK -- Standard number of hours an employee is regularly scheduled to work in seven consecutive calendar days. If a part-time employee's schedule varies from week to week, a weekly average of the hours in the previous 12 months shall be used for calculating the employee's normal workweek.

§ 86-4-1303. Eligibility.

- A. Family and medical leave (FML) is the equivalent of 12 workweeks (or 26 workweeks for Military Caregiver Leave) of job-protected leave granted to eligible employees who have been employed with Calvert County Government for at least 12 months and who have worked 1,250 hours during the previous 12 month period. Hours worked does not include time spent on paid or unpaid leave or worker's compensation. For the purpose of satisfying that 12 month period of employment, employment prior to a continuous break in service of seven years or more shall not be counted unless the break in service is: (1) due to an employee's fulfillment of military obligations; or (2) governed by a collective bargaining agreement or other written agreement. Absences from work due to or necessitated by USERRA-covered service is counted in determining an employee's eligibility.
- B. For birth, placement, employee family member's Serious Health Condition, employee's own Serious Health Condition, or Military Qualifying Exigency, an employee shall be entitled to a combined total of 12 workweeks of FML during a calendar year, regardless of the various reasons for FML.
- C. An eligible employee is entitled to a combined total of 26 workweeks of Military Caregiver Leave and leave for any other FMLA-qualifying reason in a single 12 month period, provided that the employee may not take more than 12 workweeks of leave for any FMLA-qualifying reason during this period.

§ 86-4-1304. Authorized uses.

FML may be used for:

- A. Birth of a Son or Daughter of the employee and in order to care for such Son or Daughter;
- B. Placement of a Son or Daughter with the employee for adoption or foster care;
- C. Care of the Spouse, Son, Daughter, or Parent of the employee, if such Spouse, Son or Daughter or Parent has a Serious Health Condition, hereinafter referred to as illness of a family member;
- D. A Serious Health Condition that makes the employee unable to perform the essential functions of their position, hereinafter referred to as illness of an employee;
- E. A Military Qualifying Exigency;
- F. Care for a Covered Servicemember.

§ 86-4-1305. Procedures and conditions.

- A. The entitlement to leave for birth or placement of a child for adoption or foster care shall expire at the end of the 12 month period beginning on the date of birth or placement and shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer agree otherwise.
- B. If an employee requests Intermittent Leave or leave on a reduced schedule for illness of a family member or an illness of the employee that is foreseeable based on planned medical treatment, the employer may require the employee to transfer temporarily, to accommodate recurring periods of leave, to an available alternative position for which the employee is qualified and that has

equivalent pay and benefits. Intermittent Leave or leave on a reduced schedule should be limited solely to treatment, recovery from treatment or recovery from illness.

- C. The employee may choose to substitute any available accrued paid leave to which they may be entitled, i.e.; (annual, sick, personal, compensatory leave), etc. in accordance with the authorized uses of such leave as prescribed in the corresponding articles of this Chapter. All paid leave taken shall be subtracted from the applicable workweeks of FML entitlement so that an employee shall have a cumulative total of 12 or 26 workweeks, whichever is applicable, of paid and/or unpaid FML.
- D. If Spouses are employed by the same employer, they are entitled, in aggregate, to a total of 12 workweeks of FML within a calendar year if the leave is because of the birth or placement of a child for adoption or foster care, or if they are needed to care for a Parent with a Serious Health Condition. Otherwise, married employees are entitled to the same individual leave usage as other employees and may take FML at the same time.
- E. If Spouses are employed by the same employer, they are entitled, in aggregate, to a total of 26 workweeks of Military Caregiver Leave during a 12 month period.
- F. If an employee on FML takes off a full workweek during which a paid holiday falls, the holiday hours count against the employee's FML entitlement. If the employee takes FML leave increments of less than a full workweek during which a paid holiday falls, the holiday hours do not count against the employee's FML entitlement.
- G. Sick leave incentive pay shall be paid in accordance with §86-4-1004. Incentive.

§ 86-4-1306. Employee responsibilities.

- A. An employee shall provide at least verbal notice to make the employer aware that the employee needs FML qualifying leave and must follow up with a Request for Family and Medical Leave Form. The completed form must state the reason for the leave, the type of leave (paid or unpaid), duration of the leave, the starting and ending dates of the leave, and other pertinent facts.
- B. An employee must provide the employer at least 30 days advance notice before FML is to begin if the need for the leave is foreseeable based on expected birth, placement or adoption or foster care, planned medical treatment for a Serious Health Condition of the employee or of a family member, or the planned medical treatment for a serious injury or illness of a Covered Servicemember.
- C. If 30 days notice is not practicable despite the employee's diligent, good faith efforts because of a lack of knowledge of approximately when the leave will begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.
- D. If FML is requested for planned medical treatment, the employee must consult with the employer to make a reasonable effort to schedule leave so as not to disrupt unduly the employer's operations.

§ 86-4-1307. Employer's Responsibilities.

- A. It is the employer's obligation, whenever possible, to designate leave as FML, and the designation of FML may be made only on the basis of information provided by the employee or the employee's spokesperson, such as a Spouse, adult child, Parent or doctor.
- B. Upon receipt of the Employee Request Form for FML, the employer is required to give the employee notice of their eligibility for leave by completing the Notice of Eligibility and Rights and Responsibilities Form within five business days and to promptly tell the employee whether they are eligible. If not eligible for leave, the employer must tell the employee the reason for ineligibility.
- C. The Employer may retroactively designate leave as FML qualifying if appropriate notice is given to the employee, provided the retroactive designation does not cause the employee harm.

§ 86-4-1308. Medical certification of leave.

- A. A request for FML must be supported by the applicable, fully completed Medical Certification Form within 15 calendar days.
- B. For Military Qualifying Exigency, the employee shall provide a copy of the Covered Military Member's active duty orders or other documentation issued by the military. If the qualifying exigency involves Rest and Recuperation leave, a copy of the military member's Rest and Recuperation orders, or other documentation issued by the military setting forth the dates of the military member's leave shall be provided.
- C. In lieu of a Medical Certification Form for Military Caregiver Leave, if an invitational travel order (ITO) or an invitational travel authorization (ITA) is issued, this documentation will suffice. The employer may seek authentication and clarification of the ITO or ITA, but cannot seek a second or third opinion during the period of time in which leave is supported by an ITO or ITA.
- D. Failure to provide requested medical certification within 15 calendar days, or as soon as practicable, may result in denial of leave until it is provided.
- E. Where the employer has reason to doubt the validity of the initial medical certification provided, except for Military Caregiver Leave, the employer may require a second doctor's opinion (not regularly employed by the County) designated by and at the expense of the County within five business days after the leave begins. Notwithstanding the foregoing, the employer may request certification at a later date and in accordance with Section 86-4-1309, below, if it has reason to question the appropriateness or duration of the leave.
- F. In any case where the second opinion differs from the original opinion, the employer may require a third opinion from a mutually agreed upon doctor at the employer's expense. The third opinion shall be considered to be final and shall be binding on the employer and the employee.

§86-4-1309. Recertifications.

- A. Employer generally may not request a recertification more frequently than every 30 days and only for an employee's Serious Health Condition.
- B. If the original certification indicates that the minimum duration of the incapacity will be for more than 30 days, the employer must wait until that time has passed before requesting a recertification.

- C. If the employee requests an extension of leave, or circumstances have changed significantly, such as the nature of the illness or duration or frequency of the absences, the employer may request recertification in less than 30 days.
- D. Employer may ask for a recertification at any time if it has reason to doubt the validity of the most recent certification.
- E. Recertification is at the employee's expense.
- F. Employee must provide the requested certification within the time requested by the employer, which must be at least 15 calendar days after the request is made, unless doing so is not practicable. If the employee fails to provide the recertification, the employer can delay FML until it has been provided.
- G. For Military Caregiver Leave, the employer cannot seek recertification.

§ 86-4-1310. Designation Notice.

When the employer has enough information to determine whether leave qualifies for FML coverage, the employer must notify the employee in writing by completing the Designation Notice Form within five business days (absent extenuating circumstances).

§ 86-4-1311. Maintenance of benefits during absence.

- A. During an approved period of FML, the employer must maintain coverage under its group health plan at the level and under the conditions coverage would have been provided if the employee had continued to work for the duration of such leave.
- B. If paid leave is substituted for unpaid FML, the employer shall deduct the employee's portion of the health plan premium as a regular payroll deduction.
- C. If the employee's leave is unpaid, the employee must contact the Department of Finance and Budget to make arrangements to pay the employee's portion of the health plan premium as well as any other payroll deductions.
- D. Any employee who is in a non-pay status is not entitled to retirement credit or to earn annual, sick, personal, or holiday leave. If an extension is needed beyond the 12 or 26 workweeks of FML, paid leave or an unpaid leave of absence may be approved.

§ 86-4-1312. Return to work.

- A. Upon completion of FML and return to work, the employee shall be reinstated in the position held by the employee or be restored to an equivalent position with employment benefits, pay, and other terms and conditions of employment as when the leave commenced. An employee who returns to work after the employee's serious illness must submit a Return to Work Medical Certification Form, if designated by the supervisor. If it is not practicable under the circumstances to obtain and/or complete the above form, a doctor's certificate is required stating the following:

- (1) Date of planned return to work; and

- (2) Statement and signature from the Health Care Provider that employee is able to resume performing the essential functions of the position with or without a reasonable accommodation.
- B. An employee who does not return to work or obtain approved paid leave or an unpaid leave of absence is considered absent without leave (AWOL).
- C. An employee who does not return to work may be required to reimburse the employer for all premiums paid to maintain their health coverage during the unpaid FML period provided their failure to return to work is for a reason other than the continuance, recurrence or onset of an illness of a family member or employee, or other circumstances beyond the employee's control. An employee who is unable to return to work for continuance, recurrence, or onset of an illness of a family member or employee shall provide a medical certification from the appropriate Health Care Provider in accordance with § 86-4-1308. If the employee fails to furnish the requested certification within 15 calendar days of the employer's request, the employer may recover the health insurance premiums if paid during the period of unpaid leave.

§ 86-4-1313. Posting requirement.

It is the responsibility of Calvert County Government to post and keep posted on its premises, in conspicuous places where employees are employed, a notice explaining the Act's provisions and providing information concerning the procedures for filing complaints of violations of the Act with the Wage and Hour Division.

**Part 5
Work Rules**

**ARTICLE I
Purpose and Rules**

§ 86-5-101. Policy.

In order to conduct an orderly and efficient operation of the County Government, it is necessary that certain work rules be established. Work rules covering standards of conduct as well as standard operating procedures are necessary to protect the health and safety of all employees, maintain uninterrupted service, and protect the County's good will and property. The following work rules shall be applicable to all County employees. These rules are not intended to be all inclusive.

§ 86-5-102. Rules.

- A. Employees may be subject to discipline for other actions not specifically addressed by the work rules but which adversely affect the quality of County service or the integrity of local government.
- B. Employees must be at their designated work area at the time appointed by the employer and ready to work. Employees shall remain at their work area, at work, until the scheduled quitting time unless permission to leave is granted by their Supervisor.
- C. Where operations are continuous, an employee shall not leave his post until replaced by the next shift employee or until he is relieved by his Supervisor.

- D. Employees shall not gather on County premises to conduct any business of a private or personal nature without authorization from the County Administrator.
- E. Employees shall follow all safety regulations to include the wearing of safety articles and the use of protective equipment. Employees shall immediately report accidents or injury to their Supervisor.
- F. Employees shall report for and remain at work only in a fit physical condition.
- G. Employees who are unable to work shall immediately contact their Supervisor and indicate the reason.
- H. Employees shall be responsible for and shall not misuse the property of a fellow employee or employees, County property, records, or other materials in their care, custody, and control. County property, records, or other material shall not be removed from the premises without written permission from the Department Head. The County reserves the right to search its own property or premises, including but not limited to an employee's desk, locker, file cabinet.
- I. Employees shall be appropriately attired for the workplace. Office staff are to avoid wearing jeans at work. Nonuniformed outdoor staff are to wear clothing suited to job duties.
- J. Employees are required to report to the Department Head other employment. Employees shall not wear County uniforms to work at other job sites. The Department Head has the right to reject any request for other employment if it conflicts with the employee's work or the best interest of the County.
- K. Employees shall avoid littering work areas.
- L. Employees shall deal with the public and other employees in a courteous and professional manner.
- M. Employees shall immediately report the loss of their badges or identification cards to their Supervisor. Employees shall not allow other persons to use their badges or identification cards at any time.
- N. Employees shall not park on County premises in prohibited areas.
- O. Employees shall notify their Supervisors and the Director of Personnel whenever there is a change in personnel information including but not limited to, address, telephone number, marital status, and beneficiaries.
- P. Employees shall not restrict or interrupt work or interfere with the work of others.
- Q. Employees shall not neglect their duties and responsibilities or refuse to perform or unreasonably delay assigned work.
- R. Employees shall not engage in unapproved soliciting, use their positions for personal gain, or use their positions to coerce others.

- S. Employees shall not work in the interest of any political candidate while on duty, direct other employees to do such work while those employees are on duty, conduct any political candidate on a partisan tour of any County work area or distribute materials of a political nature through any County Government system.
- T. Employees shall not post notices on the County premises without prior written approval from the appropriate authority.
- U. Employees shall not falsify records, reports, or claims of illness or injury.
- V. Employees shall observe safety precautions and shall not willfully jeopardize the safety of fellow employees or the public.
- W. Employees shall comply with the Code of Ethics provisions as recommended by the Ethics Commission and adopted by the Board of County Commissioners.
- X. Employees who are involved in an accident while driving a County vehicle or operating heavy equipment shall inform their Supervisor immediately or as soon as practicable and submit to drug and alcohol testing if required by the County's policy.
- Y. Employees who drive a County vehicle must report any on or off the job driving under the influence (DUI) or driving while impaired (DWI) citations or convictions or any probation before judgment (PBJ) for any substance impairment charges related to motor vehicle operation, any moving violations, any suspension notices, failures to undergo breath analysis or drug testing, or random breath test and/or drug analysis testing failures, to their Supervisors, Department Heads, and the Director Personnel no later than five working days after such citation, conviction or PBJ or may be subject to disciplinary action for failure to report the citation, conviction or PBJ or inability to fulfill job requirements.
- Z. Employees of a recreation center or recreation program who primarily serve minors and employees who are funded by the Developmental Disabilities Administration (DDA) grant, and any others required by law, and who have been convicted of or have pending charges for the commission of or attempt to commit/or assault with intent to commit murder, child abuse, rape, child pornography, child abduction, kidnapping of a child, or a sexual offense, defined under Title III, Subtitle III of the Criminal Law Article of the State of Maryland or an equivalent offense, must notify their Supervisors, Department Heads, and the Director of Personnel immediately. Failure to do so may be grounds for dismissal.
- AA. Employees shall not report to work under the influence of alcohol, intoxicants, or illegally use drugs or possess (except under a physician's direction), sell, transfer, or purchase same, on County premises or work sites while on duty. Employees who are off duty are subject to any departmental order, oath or code of conduct which may address or prohibit these activities.
- BB. Employees shall not engage in any illegal off-the-job activity, which may be related to the safe and efficient execution of their duties, or any illegal activity while on the job which may be related to the safe and efficient execution of their duties.
- CC. Employees shall not engage in fighting or gambling (except authorized fund-raisers for nonprofit purposes) on County property.

- DD. Employees shall not be insubordinate, such as failing or refusing to carry out any work order or assignment by an immediate Supervisor or Department Head, or other individual authorized to issue such an order.
- EE. Employees shall not disclose confidential County information obtained in the course of employment by the County to a person or persons not authorized to receive such information.
- FF. Employees shall not sexually harass (as defined by County policy) another employee or employees.

Part 6

Substance Abuse

[Amended 6-13-14 by Ord. No. 22-14]

ARTICLE I

Drug-Free Workplace Policy

§ 86-6-101. General statement.

- A. The use of illegal drugs and misuse of legal substances by a significant segment of the American workforce has major adverse effects on the welfare of all citizens and results in billions of dollars of lost productivity each year. Because the safety of its employees and the delivery of services to its citizens are adversely affected by alcohol and substance abuse, the County cannot afford to ignore this critical problem.
- B. The County is committed to providing a healthy and safe work environment for all employees; to providing the best possible services to County citizens; to maintaining the public's confidence in its government's employees; and to protecting the County from the economic losses that can occur due to alcohol and drug abuse. There is no reason to believe that illegal drug use or substance abuse in the County's workforce is greater than in other workplaces in the private or public sectors. However, because of the nature of public service, the health and safety of County residents demand that the County take the actions necessary to eliminate substance abuse and illegal drugs from the workplace.
- C. While it is inappropriate for the County as an employer to intrude into the private lives of its employees, County employees are expected and required to be in a condition to perform their duties throughout the workday. The County also recognizes that its employees' off-the-job, as well as on-the-job, involvement with drugs and alcohol can have an impact on work productivity and on its ability to provide a work environment free from the effects of alcohol and drug abuse.

§ 86-6-102. Policy.

It is the policy of the Board of County Commissioners that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace. This policy applies to all County employees; however, the Drug-Free Workplace Act of 1988 created requirements for employees working on federal grants. Those additional requirements for grant employees are specified herein.

§ 86-6-103. Fitness for duty.

Employees are expected and required to report to work fit for duty and remain able to perform their job duties throughout the day. Employees who are impaired by the use of a substance or who are in possession of a controlled dangerous substance without a prescription, on the job, have the potential for interfering with their own, as well as their coworkers', safe and efficient job performance.

§ 86-6-104. Notification of conviction.

As a condition of employment, employees must:

- A. Notify their Supervisors, Department Heads, and the Director of Personnel of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- B. Abide by the above-stated policy and notification process.

§ 86-6-105. County responsibilities.

- A. If an employee violates this policy, any drug-related work rule, or commits any drug-related offense which would subject them to any disciplinary action, the County must take the appropriate personnel action against an employee up to and including termination. In addition, the employee may be required to satisfactorily participate in a drug or alcohol-abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
- B. If an employee who is convicted of a drug statute violation is engaged in the performance of a federal grant, the County must:
 - (1) Notify the granting agency within 10 workdays after receiving notice of a conviction from an employee or otherwise receiving actual notice of such conviction; and
 - (2) Make a good faith effort to maintain a drug-free workplace.

ARTICLE II

Substance Abuse Program for positions covered by the Federal Highway Administration (hereinafter, "FHWA") in accordance with 49 CFR Part 40, Procedure for Transportation Workplace Drug and Alcohol Testing Programs; and 49 CFR Parts 382, et al., Controlled Substances and Alcohol Use and Testing and 49 CFR Part 392, Driving of Commercial Motor Vehicles, as Amended from Time to Time.

§ 86-6-201. General statement.

Any provisions set forth in this policy that are included under the sole authority of the County and are not provided under the authority of the above named federal regulations are *italicized* indicating it is a requirement of Calvert County Government for employment and not required by the Department of Transportation (hereinafter, "DOT"). Any tests performed outside DOT authority shall not use DOT forms. Language not italicized is required by FHWA.

§ 86-6-202. Persons subject to testing.

- A. All persons who continue employment after the provisions of this Article II are effective or hereafter, tentatively selected for employment performing the following FHWA Safety Sensitive

Functions (hereinafter, "Safety Sensitive Functions), and occupy FHWA Safety Sensitive Positions (hereinafter, "Safety Sensitive Positions"), are referred to in this Article as "Safety Sensitive Employees" and shall be required to have urine drug tests and breath/saliva alcohol tests pursuant to policies and procedures adopted by the Office of Personnel to ensure compliance with FHWA as found in the Substance Abuse Testing Procedure Manual for Employees with Commercial Driver's Licenses under Federal Highway Policy:

- (1) Operating a vehicle which has a gross combination weight rating (hereinafter, "GCWR") of 26,001 or more pounds inclusive of a towed unit with a GVWR of more than 10,000 pounds;
 - (2) Operating a vehicle which has a GVWR of 26,001 or more pounds;
 - (3) Operating a vehicle which is of any size and is used in the transportation of hazardous materials requiring placards.
- B. Job titles and class specifications for the Safety Sensitive Positions are listed in the Substance Abuse Testing Procedure Manual for Employees with Commercial Driver's License under the Federal Highway Policy.

§ 86-6-203. Purpose of Safety Sensitive Employee drug testing.

- A. In addition to regulations outlined in § 86-6-101, the County is committed to complying with all applicable federal regulations concerning substance abuse including, without limitation, 49 CFR Part 40, Procedure for Transportation Workplace Drug and Alcohol Testing Programs; and 49 CFR Parts 382 et al., Controlled Substances and Alcohol Use and Testing and 49 CFR Part 392, Driving of Commercial Motor Vehicles, as amended.
- B. The use of any drug, including alcohol, can interfere with the safe and efficient functioning of the Calvert County Government. Since the County goal is to provide a safe workplace and have Safety Sensitive Employees function in the most efficient manner, drug or alcohol abuse is a matter of County concern and shall be dealt with in an appropriate manner.
- C. Questions regarding the substance abuse testing policy shall be referred to the Director of Personnel, 150 Main Street, Prince Frederick, Maryland 20678.

§ 86-6-204. Statement of policy for affected Safety Sensitive Employees.

- A. Disciplinary action. A Safety Sensitive Employee that refuses to cooperate with this Article shall be immediately removed from performing Safety Sensitive Functions, and shall be subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- B. Consistent with the Drug-Free Workplace Act of 1988, it is illegal to manufacture, use, sell, distribute, or possess controlled dangerous substances in the workplace and would be a violation of this Article and proper cause for administrative or disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.

- C. A County Safety Sensitive Employee reasonably suspected of violating procedures outlined in the Substance Abuse Manual for Employees with Commercial Driver's Licenses under the Federal Highway Policy may be requested to submit to a medical test to determine fitness for duty. Refusal to submit to a medical test is an act contrary to this policy and shall subject a Safety Sensitive Employee to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- D. Required hours of compliance. Off-the-job alcohol or drug use may adversely affect a Safety Sensitive Employee's job performance and could jeopardize the safety of other employees, the public, and property.
- (1) For those Safety Sensitive Employees on-duty or on-call to perform Safety Sensitive Functions, no alcohol or alcohol containing substance may be consumed four (4) hours prior to being scheduled to perform a Safety Sensitive Function; while performing a Safety Sensitive Function; immediately after performing a Safety Sensitive Function; and up to eight (8) hours following an accident or until the Safety Sensitive Employee undergoes a post-accident test, whichever occurs first. Each Safety Sensitive Employee is prohibited from reporting to work or remaining on-duty requiring the performance of Safety Sensitive Functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
 - (2) A Safety Sensitive Employee is prohibited from the use of controlled dangerous substances at any time on or off-the-job although testing shall only be conducted while on-duty. A Safety Sensitive Employee shall not report for duty or remain on-duty requiring the performance of Safety Sensitive Functions when the Safety Sensitive Employee uses any drugs, except when the use is pursuant to the instructions of a physician who has advised the Safety Sensitive Employee that the substance does not adversely affect the Safety Sensitive Employee's ability to perform Safety Sensitive Functions. This policy also applies to off-site lunch periods or breaks when the Safety Sensitive Employee is scheduled to return to work.
- E. *Prescription drugs. Safety Sensitive Employees undergoing medical treatment with a prescribed drug or controlled substance which may alter their physical or mental ability must report this fact to their supervisor. The supervisor shall require doctor's certification that the Safety Sensitive Employee can continue his regular job, be reassigned to another non-Safety Sensitive Function, or be placed on leave if there is no available job which the employee can safely perform*
- F. Notification.
- (1) A Safety Sensitive Employee shall report the following:
 - (a) *receipt of any citation, regardless when cited, alleging a violation of Section 21-902 of the Transportation Article of the Annotated Code of Maryland, as amended from time to time (driving while under the influence or impaired by drugs and/or alcohol);*
 - (b) *disposition of Probation Before Judgment for any alleged violation of Section 21-902 of the Transportation Article of the Annotated Code of Maryland, as amended from time to time (driving while under the influence or impaired by drugs and/or alcohol);*

- (c) *receipt of any citation alleging a moving traffic violation, regardless when cited;*
 - (d) *notice of intended or actual suspension or revocation of the Safety Sensitive Employee's driver's license;*
 - (e) *receipt of any citation alleging a failure to submit to a test as required by Section 16-205.1 of the Transportation Article of the Annotated Code of Maryland, as amended from time to time, regardless when cited;*
 - (f) *failure of the Safety Sensitive Employee to submit to random drug or alcohol testing as prescribed by this Chapter;*
 - (g) *any positive results for drug and/or alcohol tests administered on the Safety Sensitive Employee; and*
 - (h) *any of the above actions occurring in other states must be reported as if the event occurred in Maryland.*
- (2) *The notification required by Paragraph (F.1)) above shall be given in writing by the Safety Sensitive Employee to the Safety Sensitive Employee's supervisor, department head, and Director of Personnel.*
- (3) *The notification of failure to submit to testing as prescribed by Paragraph F.1(f) above or of positive test result by Paragraph F.1(g) above shall be given within five (5) days after the failure to submit to a drug and/or alcohol test or of the Safety Sensitive Employee's receipt of the test results, citation, notice, or disposition.*
- (4) *Failure to comply with the requirements of this section shall subject the Safety Sensitive Employee to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.*
- G. *Off-the-job convictions. Safety Sensitive Employees who are arrested for off-the-job illegal alcohol or drug activity may be reassigned or suspended without pay in appropriate cases pending disposition of the criminal prosecution. Safety Sensitive Employees who are convicted of off-the-job illegal alcohol or drug activity may be considered in violation of this policy punishable in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code. In deciding what action to take, supervisors shall take into consideration the nature of the conviction, the relationship of the offense to the Safety Sensitive Employee's job responsibilities; the Safety Sensitive Employee's record with the County, and other factors relative to the impact of the Safety Sensitive Employee's conviction upon the conduct of County business.*

§ 86-6-205. Implementation and training.

- A. The Director of Personnel is the primary Designated Employer Representative (hereinafter, "DER") for implementation of this Article II and has the responsibility to promulgate regulations and procedures to ensure that the program is in compliance with 49 CFR Parts 40, 382 and 392, as amended.
- B. Test administration.

- (1) Analytical urine drug testing and breath/saliva testing for alcohol will be conducted as required by 49 CFR Part 40, as amended. All Safety Sensitive Employees shall be subject to testing prior to employment, for reasonable suspicion, following an accident, or randomly as defined in this Article and regulations and procedures set forth by the DER. All Safety Sensitive Employees who have voluntarily sought assistance for problems with drugs or alcohol will be tested prior to returning to duty after completion of the Substance Abuse Professional's (hereinafter, "SAP") recommended treatment program and subsequent release to duty. In addition to other permissible testing, follow-up testing will be conducted for a period of one to five (5) years, with at least six (6) tests performed during the first year. The duration and frequency of the follow-up testing above the minimum requirements will be as prescribed by the SAP.
- (2) A drug test can be performed any time a Safety Sensitive Employee is on-duty and an alcohol test can be performed just before, during, or after the performance of a Safety Sensitive Function.
- (3) All Safety Sensitive Employees will be subject to urine drug testing and breath/saliva alcohol testing as a condition of on-going employment with Calvert County Government. Any Safety Sensitive Employee who refuses to comply with a request for testing shall be removed from duty and subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code. Any Safety Sensitive Employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through any method, including, without limitation, tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of falsifying test results through any method, including, without limitation, tampering, contamination, adulteration, or substitution will be considered a test refusal and will result in the Safety Sensitive Employee's removal from duty and the safety sensitive employee shall be subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.

C. Pre-employment testing procedures.

- (1) All offers of employment for Safety Sensitive Positions are extended conditionally upon the applicant passing a pre-employment drug test. An applicant shall not be hired into a Safety Sensitive Position unless the applicant takes a drug test and receives a verified negative result.
- (2) No employee shall be placed, transferred, detailed, or promoted into a Safety Sensitive Position until the employee takes a drug test and receives a verified negative result. If the employee that is being considered for placement, transfer, or promotion into a Safety Sensitive Position receives a verified positive drug test result, the employee shall be subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- (3) Any applicant or Safety Sensitive Employee that fails or refuses a pre-employment drug test, the conditional offer of employment is automatically rescinded. Failure or refusal of a pre-employment drug test shall disqualify an applicant for employment. An applicant

or Safety Sensitive Employee may be considered for as Safety Sensitive Position in the future if documentation has been received evidencing that they have successfully completed a SAP referral, evaluation, and treatment plan and a negative pre-employment drug test has been conducted.

- (4) When a Safety Sensitive Employee is on extended leave for a period of 90 days or more, regardless of the reason, the Safety Sensitive Employee shall be required to take a pre-employment drug test under 49 CFR Part 655, as amended, and receive a negative test result prior to performing Safety Sensitive Functions. Positive test results will require following procedures set forth in the Substance Abuse Program Procedure Manual for Employees with Commercial Driver's Licenses under Federal Highway Policy.

§ 86-6-206. Compliance with policy as condition of employment.

Compliance with the County's substance abuse policy is a condition of employment. Safety Sensitive Employees shall be required to sign an acknowledgment that they have received a copy of this policy. Applicants that refuse to consent to this policy shall not be considered for employment.

§ 86-6-207. Voluntary rehabilitation.

- A. In an effort to meet the purpose of this substance abuse policy, the County provides a program that is helpful to Safety Sensitive Employees who would like to end their substance abuse but who have not tested positive in a drug or alcohol test. The County shall not take adverse action against such a Safety Sensitive Employee for voluntarily requesting assistance in dealing with a personal substance abuse problem but cannot perform Safety Sensitive Functions until the Safety Sensitive Employee has completed an approved rehabilitation or treatment program. The Safety Sensitive Employee may request leave to participate in a rehabilitation or treatment program. Assistance in contacting an approved rehabilitation or treatment program shall be provided by the Employee Assistance Program. At the conclusion of treatment, arrangements for drug and alcohol testing follow-up shall be made. Before returning to work in a Safety Sensitive Function, the Safety Sensitive Employee must have a verified negative test result.
- B. Voluntary participation in treatment programs may not prevent disciplinary action for violations of work rules that have already occurred.

§ 86-6-208. Changes or modifications.

DOT regulations change from time to time, and the County reserves the right to change the provisions of these policies and procedures relative to this testing program in the future to implement the new requirements as they become effective. All personnel shall be notified in writing at least 30 days prior to any changes becoming effective.

§ 86-6-209. Proper application of the policy.

Calvert County Government is dedicated to ensuring 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 disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.

§ 86-6-210. Information disclosure.

Drug and alcohol testing records shall be maintained by the DER and, except as provided by law or as necessary for safety and disciplinary action, the results of any drug or alcohol test shall not be disclosed without express written consent of the tested Safety Sensitive Employee.

ARTICLE III

Substance Abuse Program for positions covered by the Department of Transportation (hereinafter, "DOT"), Federal Transit Administration (hereinafter, "FTA") in Accordance with 49 CFR Parts 655 and 40, as Amended from Time to Time.

§ 86-6-301. General statement.

Any provisions set forth in this policy that are included under the sole authority of the County and are not provided under the authority of the above named federal regulations are *italicized* indicating it is a requirement of Calvert County Government for employment, and not required by the DOT. Any tests performed outside DOT authority shall not use DOT forms. Language not italicized is required by FTA.

§ 86-6-302. Persons subject to testing.

- A. All persons who continue employment after the provisions of this Article III are effective or hereafter, tentatively selected for employment performing the following FTA Safety Sensitive Functions (hereinafter, "Safety Sensitive Functions"), and occupy FTA Safety Sensitive Positions (hereinafter, "Safety Sensitive Positions"), are referred to in this Article as "Safety Sensitive Employees" and shall be required to have urine drug tests and breath/saliva alcohol tests pursuant to policies and procedures adopted by the Office of Personnel to ensure compliance with FTA as found in the Substance Abuse Testing Procedure Manual for Employees of Transit Systems:
- (1) Operating a revenue service vehicle for any purpose, including when not in revenue service;
 - (2) Operating a non-revenue service vehicle when it is required to be operated by a holder of a Commercial Driver's License (hereinafter, "CDL");
 - (3) Controlling dispatch or movement of a revenue service vehicle or equipment used in revenue service;
 - (4) Maintaining a revenue service vehicle, including such acts as repairs, upkeep, overhaul, rebuilding or any other process which keeps the vehicle operational.
- B. Job titles and class specifications for the Safety Sensitive Positions are listed in the Substance Abuse Testing Procedure Manual for Employees of Transit Systems.

§ 86-6-303. Purpose of Safety Sensitive Employee drug testing.

- A. In addition to regulations outlined in § 86-6-101, the County is committed to complying with all applicable federal regulations concerning substance abuse including, without limitation, 49 CFR Parts 655 and 40, as amended.
- B. The use of any drug, including alcohol, can interfere with the safe and efficient functioning of the Calvert County Government. Since the County goal is to provide a safe workplace and have

Safety Sensitive Employees function in the most efficient manner, drug or alcohol abuse is a matter of County concern and shall be dealt with in an appropriate manner.

- C. Questions regarding the substance abuse testing policy shall be referred to the Director of Personnel, 150 Main Street, Prince Frederick, Maryland 20678.

§ 86-6-304. Statement of policy for affected Safety Sensitive Employees.

- A. Disciplinary action. A Safety Sensitive Employee that refuses to cooperate with this Article shall be immediately removed from performing Safety Sensitive Functions, and shall be subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- B. Consistent with the Drug-Free Workplace Act of 1988, it is illegal to manufacture, use, sell, distribute, or possess controlled dangerous substances in the workplace and would be a violation of this Article and proper cause for administrative or disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- C. A County Safety Sensitive Employee reasonably suspected of violating procedures outlined in the Substance Abuse Testing Procedure Manual for Employees of Transit Systems may be requested to submit to a medical test to determine fitness for duty. Refusal to submit to a medical test is an act contrary to this policy and shall subject an Safety Sensitive Employee to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- D. Required hours of compliance. Off-the-job alcohol or drug use may adversely affect a Safety Sensitive Employee's job performance and could jeopardize the safety of other employees, the public, and property.
- (1) For those Safety Sensitive Employees on-duty or on-call to perform Safety Sensitive Functions no alcohol or alcohol containing substance may be consumed four (4) hours prior to being scheduled to perform a Safety Sensitive Function; while performing a Safety Sensitive Function; immediately after performing a Safety Sensitive Function; and up to eight (8) hours following an accident or until the Safety Sensitive Employee undergoes a post-accident test, whichever occurs first. Each Safety Sensitive Employee is prohibited from reporting to work or remaining on-duty requiring the performance of Safety Sensitive Functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
- (2) A Safety Sensitive Employee is prohibited from the use of controlled dangerous substances at any time on or off-the-job although testing shall only be conducted while on-duty. A Safety Sensitive Employee shall not report for duty or remain on-duty requiring the performance of Safety Sensitive Functions when the Safety Sensitive Employee uses any drugs, except when the use is pursuant to the instructions of a physician who has advised the Safety Sensitive Employee that the substance does not adversely affect the Safety Sensitive Employee's ability to perform Safety Sensitive Functions. This policy also applies to off-site lunch periods or breaks when the Safety Sensitive Employee is scheduled to return to work.

- E. *Prescription drugs. Safety Sensitive Employees undergoing medical treatment with a prescribed drug or controlled substance which may alter their physical or mental ability must report this fact to their supervisor. The supervisor shall require doctor's certification that the Safety Sensitive Employee can continue his regular job, be reassigned to another non-Safety Sensitive Function, or be placed on leave if there is no available job which the employee can safely perform.*
- F. Notification.
- (1) A Safety Sensitive Employee shall report the following:
 - (a) *receipt of any citation, regardless when cited, alleging a violation of Section 21-902 of the Transportation Article of the Annotated Code of Maryland, as amended from time to time (driving while under the influence or impaired by drugs and/or alcohol);*
 - (b) *disposition of Probation Before Judgment for any alleged violation of Section 21-902 of the Transportation Article of the Annotated Code of Maryland, as amended from time to time (driving while under the influence or impaired by drugs and/or alcohol);*
 - (c) *receipt of any citation alleging a moving traffic violation, regardless when cited;*
 - (d) *notice of intended or actual suspension or revocation of the Safety Sensitive Employee's driver's license;*
 - (e) *receipt of any citation alleging a failure to submit to a test as required by Section 16-205.1 of the Transportation Article of the Annotated Code of Maryland, as amended from time to time, regardless when cited;*
 - (f) *failure of the Safety Sensitive Employee to submit to random drug or alcohol testing as prescribed by this Chapter;*
 - (g) *any positive results for drug and/or alcohol tests administered on the Safety Sensitive Employee; and*
 - (h) *any of the above actions occurring in other states must be reported as if the event occurred in Maryland.*
 - (2) *The notification required by Paragraph F-(1) above shall be given in writing by the Safety Sensitive Employee to the Safety Sensitive Employee's supervisor, department head, and Director of Personnel.*
 - (3) *The notification of failure to submit to testing as prescribed by Paragraph F.1(f) above or of positive test result by Paragraph F.1(g) above shall be given within five (5) days after the failure to submit to drug and/or alcohol test or of the Safety Sensitive Employee's receipt of the test results, citation, notice or disposition.*
 - (4) *Failure to comply with the requirements of this section shall subject the Safety Sensitive Employee to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.*

- G. *Off-the-job convictions. Safety Sensitive Employees who are arrested for off-the-job illegal alcohol or drug activity may be reassigned or suspended without pay in appropriate cases pending disposition of the criminal prosecution. Safety Sensitive Employees who are convicted of off-the-job illegal alcohol or drug activity may be considered in violation of this policy punishable in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code. In deciding what action to take, supervisors shall take into consideration the nature of the conviction, the relationship of the offense to the Safety Sensitive Employee's job responsibilities, the Safety Sensitive Employee's record with the County, and other factors relative to the impact of the Safety Sensitive Employee's conviction upon the conduct of County business.*

§ 86-6-305. Implementation and training.

- A. The Director of Personnel is the primary Designated Employer Representative (hereinafter, "DER") for implementation of this Article and has the responsibility to promulgate regulations and procedures to ensure that the program is in compliance with 49 CFR Parts 655 and 40, as amended.
- B. Test administration.
- (1) Analytical urine drug testing and breath/saliva testing for alcohol will be conducted as required by 49 CFR Part 40, as amended. All Safety Sensitive Employees shall be subject to testing prior to employment, for reasonable suspicion, following an accident, or randomly as defined in this Article and regulations and procedures set forth by the DER. All Safety Sensitive Employees who have voluntarily sought assistance for problems with drugs or alcohol will be tested prior to returning to duty after completion of the Substance Abuse Professional's (hereinafter, "SAP") recommended treatment program and subsequent release to duty. In addition to other permissible testing, follow-up testing will be conducted for a period of one to five (5) years, with at least six (6) tests performed during the first year. The duration and frequency of the follow-up testing above the minimum requirements will be as prescribed by the SAP.
 - (2) A drug test can be performed any time a Safety Sensitive Employee is on-duty, and an alcohol test can be performed just before, during, or after the performance of a Safety Sensitive Function.
 - (3) All Safety Sensitive Employees will be subject to urine drug testing and breath/saliva alcohol testing as a condition of on-going employment with Calvert County Government. Any Safety Sensitive Employee who refuses to comply with a request for testing shall be removed from duty and subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code. Any Safety Sensitive Employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through any method, including, without limitation, tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of falsifying test results through any method, including, without limitation, tampering, contamination, adulteration, or substitution will be considered a test refusal and will result in the Safety Sensitive Employee's removal from duty and the Safety Sensitive Employee shall be subject to disciplinary action up to and including termination

of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.

C. Pre-employment testing procedures.

- (1) All offers of employment for Safety Sensitive Positions are extended conditionally upon the applicant passing a pre-employment drug test. An applicant shall not be hired into a Safety Sensitive Position unless the applicant takes a drug test and receives a verified negative result.
- (2) No employee shall be placed, transferred, detailed, or promoted into a Safety Sensitive Position until the employee takes a drug test and receives a verified negative result. If the employee that is being considered for placement, transfer, or promotion into a Safety Sensitive Position receives a verified positive drug test result, the employee shall be subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- (3) Any applicant or Safety Sensitive Employee that fails or refuses a pre-employment drug test, the conditional offer of employment is automatically rescinded. Failure or refusal of a pre-employment drug test shall disqualify an applicant for employment. An applicant or Safety Sensitive Employee may be considered for a Safety Sensitive Position in the future if documentation has been received evidencing that they have successfully completed an SAP referral, evaluation, and treatment plan and a negative pre-employment drug test has been conducted.
- (4) When a Safety Sensitive Employee is on extended leave for a period of 90 days or more, regardless of the reason, the Safety Sensitive Employee shall be required to take a pre-employment drug test under 49 CFR Part 655, as amended, and receive a negative test result prior to performing Safety Sensitive Functions. Positive test results will require following procedures set forth in the Substance Abuse Program Procedure Manual for FTA.

§ 86-6-306. Compliance with policy as condition of employment.

Compliance with the County's substance abuse policy is a condition of employment. Safety Sensitive Employees shall be required to sign an acknowledgment that they have received a copy of this policy. Applicants that refuse to consent to this policy shall not be considered for employment.

§ 86-6-307. Voluntary rehabilitation.

- A. In an effort to meet the purpose of this substance abuse policy, the County provides a program that is helpful to Safety Sensitive Employees who would like to end their substance abuse but who have not tested positive in a drug or alcohol test. The County shall not take adverse action against such a Safety Sensitive Employee for voluntarily requesting assistance in dealing with a personal substance abuse problem but cannot perform Safety Sensitive Functions until the Safety Sensitive Employee has completed an approved rehabilitation or treatment program. The Safety Sensitive Employee may request leave to participate in a rehabilitation or treatment program. Assistance in contacting an approved rehabilitation or treatment program shall be provided by the Employee Assistance Program. At the conclusion of treatment, arrangements for drug and alcohol

testing follow-up shall be made. Before returning to work in a Safety Sensitive Function, the Safety Sensitive Employee must have a verified negative test result.

- B. Voluntary participation in treatment programs may not prevent disciplinary action for violations of work rules that have already occurred.

§ 86-6-308. Changes or modifications.

DOT regulations change from time to time, and the County reserves the right to change the provisions of these policies and procedures relative to this testing program in the future to implement the new requirements as they become effective. All personnel shall be notified in writing at least 30 days prior to any changes becoming effective.

§ 86-6-309. Proper application of the policy.

Calvert County Government is dedicated to ensuring 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 disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.

§ 86-6-310. Information disclosure.

Drug and alcohol testing records shall be maintained by the DER and, except as provided by law or as necessary for safety and disciplinary action, the results of any drug or alcohol test shall not be disclosed without express written consent of the tested Safety Sensitive Employee.

ARTICLE IV

Substance Abuse Program for positions covered by the United States Coast Guard Testing Program in Accordance with 46 CFR Subpart 4.06, Marine Casualties and Investigations, 46 CFR Part 16, Chemical Testing and 33 CFR Part 95, Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug, and 49 CFR 40 Department of Transportation (hereinafter, "DOT") Workplace Drug Testing Program as Amended from Time to Time.

§ 86-6-401. General statement.

Any provisions set forth in this policy that are included under the sole authority of the County and are not provided under the authority of the above named federal regulations are *italicized* indicating it is a requirement of Calvert County Government for employment, and not required by the DOT. Any tests performed outside DOT authority shall not use DOT forms. Language not italicized is required by DOT and the Coast Guard.

§ 86-6-402. Persons subject to testing.

- A. All persons who continue employment after the provisions of this Article are effective or, hereafter, tentatively selected for employment performing the following United States Coast Guard Safety Sensitive Functions (hereinafter, "Safety Sensitive Functions"), and occupy United States Coast Guard Safety Sensitive Positions (hereinafter, "Safety Sensitive Positions") are referred to in this Article IV as "Safety Sensitive Employees" and shall be required to have urine drug tests and breath/saliva alcohol tests pursuant to policies and procedures adopted by the

Office of Personnel to ensure compliance with the Coast Guard and DOT as found in the Substance Abuse Testing Procedure Manual for Marine Vessel Employees:

Work involving control, operation, lifesaving, mooring, or cargo on a vessel on either a routine or emergency only basis.

- B. Job titles and class specifications for these Safety Sensitive Positions are listed in the Substance Abuse Testing Procedure Manual for Marine Vessel Employees.

§ 86-6-403. Purpose of employee drug testing.

- A. In addition to regulations outlined in § 86-6-101, the County is committed to complying with all applicable federal regulations concerning substance abuse including, without limitation, 49 CFR Parts 40 and 46 CFR Subpart 4.06, Marine Casualties and Investigations, 46 CFR Part 16, Chemical Testing and 33 CFR Part 95, Operating a Vessel While Intoxicated, and 49 CFR 40 DOT Workplace Drug Testing Program, as amended.
- B. The use of any drug, including alcohol, can interfere with the safe and efficient functioning of the Calvert County Government. Since the County goal is to provide a safe workplace and have Safety Sensitive Employees function in the most efficient manner, drug or alcohol abuse is a matter of County concern and shall be dealt with in an appropriate manner.
- C. Questions regarding the substance abuse testing policy shall be referred to the Director of Personnel, 150 Main Street, Prince Frederick, Maryland 20678.

§ 86-6-404. Statement of policy for affected Safety Sensitive Employees.

- A. Disciplinary action. A Safety Sensitive Employee that refuses to cooperate with this Article IV shall be immediately removed from performing Safety Sensitive Functions, and shall be subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- B. Consistent with the Drug-Free Workplace Act of 1988, it is illegal to manufacture, use, sell, distribute, or possess controlled dangerous substances (substances controlled by federal or state government) in the workplace and would be a violation of this Article and proper cause for administrative or disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- C. A County Safety Sensitive Employee reasonably suspected of violating procedures outlined in the Substance Abuse Testing Procedure Manual for Marine Vessel Employees may be requested to submit to a medical test to determine fitness for duty. Refusal to submit to a medical test is an act contrary to this policy and shall subject a Safety Sensitive Employee to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- D. Required hours of compliance. Off-the-job alcohol or drug use may adversely affect a Safety Sensitive Employee's job performance and could jeopardize the safety of other employees, the public, and property.
 - (1) For those Safety Sensitive Employees on-duty or on-call to perform Safety Sensitive Functions, no alcohol or alcohol containing substance may be consumed four (4) hours

prior to being scheduled to perform a Safety Sensitive Function; while performing a Safety Sensitive Function; immediately after performing a Safety Sensitive Function; and up to eight (8) hours following an accident or until the Safety Sensitive Employee undergoes a post-accident test, whichever occurs first. Each Safety Sensitive Employee is prohibited from reporting to work or remaining on-duty requiring the performance of Safety Sensitive Functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.

- (2) A Safety Sensitive Employee is prohibited from the use of controlled dangerous substances at any time on or off-the-job although testing shall only be conducted while on-duty. A Safety Sensitive Employee shall not report for duty or remain on-duty requiring the performance of Safety Sensitive Functions when the Safety Sensitive Employee uses any drugs, except when the use is pursuant to the instructions of a physician who has advised the Safety Sensitive Employee that the substance does not adversely affect the Safety Sensitive Employee's ability to perform Safety Sensitive Functions. This policy also applies to off-site lunch periods or breaks when the Safety Sensitive Employee is scheduled to return to work.
- E. *Prescription drugs. Safety Sensitive Employees undergoing medical treatment with a prescribed drug or controlled substance which may alter their physical or mental ability must report this fact to their supervisor. The supervisor shall require doctor's certification that the Safety Sensitive Employee can continue his regular job, be reassigned to another non-Safety Sensitive Function, or be placed on leave if there is no available job which the employee can safely perform.*
- F. Notification.
- (1) A Safety Sensitive Employee shall report the following:
 - (a) *receipt of any citation, regardless when cited, alleging a violation of Section 21-902 of the Transportation Article of the Annotated Code of Maryland, as amended from time to time (driving while under the influence or impaired by drugs and/or alcohol);*
 - (b) *disposition of Probation Before Judgment for any alleged violation of Section 21-902 of the Transportation Article of the Annotated Code of Maryland, as amended from time to time (driving while under the influence or impaired by drugs and/or alcohol);*
 - (c) *receipt of any alleging a moving traffic violation, regardless when cited;*
 - (d) *notice of intended or actual suspension or revocation of the Safety Sensitive Employee's driver's license;*
 - (e) *receipt of any citation alleging a failure to submit to a test as required by Section 16-205.1 of the Transportation Article of the Annotated Code of Maryland, as amended from time to time, regardless when cited;*
 - (f) *failure of the Safety Sensitive Employee to submit to random drug or alcohol testing as prescribed by this Chapter;*

- (g) *any positive results for drug and/or alcohol tests administered on the Safety Sensitive Employee; and*
 - (h) *any of the above actions occurring in other states must be reported as if the event occurred in Maryland.*
- (2) *The notification required by Paragraph (F. (1)) above shall be in writing given by the Safety Sensitive Employee to the Safety Sensitive Employee's supervisor, department head, and Director of Personnel.*
 - (3) *The notification of failure to submit to testing as prescribed by Paragraph F.1(f) above or of positive test results by Paragraph F.1(g) above shall be given within five (5) days after the failure to submit to a drug and/or alcohol test or of the Safety Sensitive Employee's receipt of the test results, citation, notice, or disposition.*
 - (4) *Failure to comply with the requirements of this section shall subject the Safety Sensitive Employee to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.*
- G. *Off-the-job convictions. Safety Sensitive Employees who are arrested for off- the-job illegal alcohol or drug activity may be reassigned or suspended without pay in appropriate cases pending disposition of the criminal prosecution. Safety Sensitive Employees who are convicted of off-the-job illegal alcohol or drug activity may be considered in violation of this policy punishable in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code. In deciding what action to take, supervisors shall take into consideration the nature of the conviction, the relationship of the offense to the Safety Sensitive Employee's job responsibilities, the Safety Sensitive Employee's record with the County, and other factors relative to the impact of the Safety Sensitive Employee's conviction upon the conduct of County business.*

§ 86-6-405. Implementation and training.

The Director of Personnel is the primary Designated Employer Representative (hereinafter, "DER") for implementation of this Article IV and has the responsibility to promulgate regulations and procedures to ensure that the program is in compliance with 33 CFR Part 95, 46 CFR Subparts 4.06 and 16, 49 CFR Part 40, as amended.

B. Test administration.

- (1) Analytical urine drug testing and breath/saliva testing for alcohol will be conducted as required by 49 CFR Part 40, as amended. All Safety Sensitive Employees shall be subject to testing prior to employment, for reasonable suspicion, following an accident, and randomly as defined in this Article and regulations and procedures set forth by the DER. All Safety Sensitive Employees who have voluntarily sought assistance for problems with drugs or alcohol will be tested prior to returning to duty after completion of the Substance Abuse Professional's (hereinafter, "SAP") recommended treatment program and subsequent release to duty. In addition to other permissible testing, follow-up testing will be conducted for a period of one to five (5) years, with at least six (6) tests performed during the first year. The duration and frequency of the follow-up testing above the minimum requirements will be as prescribed by the SAP.

- (2) A drug test can be performed any time a Safety Sensitive Employee is on-duty and an alcohol test can be performed just before, during, or after the performance of a Safety Sensitive Function.
- (3) All Safety Sensitive Employees will be subject to urine drug testing and breath/saliva alcohol testing as a condition of on-going employment with Calvert County Government. Any Safety Sensitive Employee who refuses to comply with a request for testing shall be removed from duty and subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code. Any Safety Sensitive Employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through any method, including, without limitation, tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of falsifying test results through any method, including, without limitation, tampering, contamination, adulteration, or substitution will be considered a test refusal and will result in the Safety Sensitive Employee's removal from duty and the Safety Sensitive Employee shall be subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.

C. Pre-employment testing procedures.

- (1) All offers of employment for Safety Sensitive Positions are extended conditionally upon the applicant passing a pre-employment drug test. An applicant shall not be hired into a Safety Sensitive Position unless the applicant takes a drug test and receives a verified negative result.
- (2) No employee shall be placed, transferred, detailed, or promoted into a Safety Sensitive Position until the employee takes a drug test and receives a verified negative result. If the employee that is being considered for placement, transfer, or promotion into a Safety Sensitive Position receives a verified positive drug test result, the employee shall be subject to disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.
- (3) Any applicant or Safety Sensitive Employee that fails or refuses a pre-employment drug test; the conditional offer of employment is automatically rescinded. Failure or refusal of a pre-employment drug test shall disqualify an applicant for employment. An applicant or Safety Sensitive Employee may be considered for a Safety Sensitive Position in the future if documentation has been received evidencing that they have successfully completed a SAP referral, evaluation, and treatment plan and a negative pre-employment drug test has been conducted.
- (4) When a Safety Sensitive Employee is on extended leave or no longer employed the employee shall be required to take a pre-employment drug test under 46 CFR Part 16, as amended, and receive a negative test result prior to performing Safety Sensitive Functions. Positive test results will require following procedures set forth in the Substance Abuse Program Procedure Manual for Marine Vessel Employees. Pre-employment drug testing may be waived by the County if within the six months prior to returning to the Safety Sensitive Position a drug test has been passed and no subsequent

positive tests have occurred or the applicant has been subject to a random drug testing program in accordance with Coast Guard regulations for at least 60 days of the preceding 185 days to returning to work and did not have a positive drug test or refuse a drug test. A waiver requires Medical Review Officer documentation.

§ 86-6-406. Compliance with policy as condition of employment.

Compliance with the County's substance abuse policy is a condition of employment. Safety Sensitive Employees shall be required to sign an acknowledgment that they have received a copy of this policy. Applicants that refuse to consent to this policy shall not be considered for employment.

§ 86-6-407. Voluntary rehabilitation.

- A. In an effort to meet the purpose of this substance abuse policy, the County provides a program that is helpful to Safety Sensitive Employees who would like to end their substance abuse but who have not tested positive in a drug or alcohol test. The County shall not take adverse action against such a Safety Sensitive Employee for voluntarily requesting assistance in dealing with a personal substance abuse problem but cannot perform Safety Sensitive Functions until the Safety Sensitive Employee has completed an approved rehabilitation or treatment program. The Safety Sensitive Employee may request leave to participate in a rehabilitation program or other treatment. Assistance in contacting an approved rehabilitation or treatment program shall be provided by the Employment Assistance Program. At the conclusion of treatment, arrangements for drug and alcohol testing follow-up shall be made. Before returning to work in a Safety Sensitive Function, the Safety Sensitive Employee must have a verified negative test result.

Voluntary participation in treatment programs may not prevent disciplinary action for violations of work rules that have already occurred.

§ 86-6-408. Changes or modifications.

DOT regulations change from time to time, and the County reserves the right to change the provisions of these policies and procedures relative to this testing program in the future to implement the new requirements as they become effective. All personnel shall be notified in writing at least 30 days prior to instituting any changes becoming effective.

§ 86-6-409. Proper application of the policy.

Calvert County Government is dedicated to ensuring 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 disciplinary action up to and including termination of employment, in accordance with the procedures set forth in Part 9 of Chapter 86 of the Calvert County Code.

§ 86-6-410. Information disclosure.

Drug and alcohol testing records shall be maintained by the DER and, except as provided by law or as necessary for safety and disciplinary action, the results of any drug or alcohol test shall not be disclosed without express written consent of the tested Safety Sensitive Employee.

Part 7

Sexual Harassment

ARTICLE I

Purpose and Policy**§ 86-7-101. Definition.**

- A. For purposes of this Part, the term “employee” shall include any class of employee defined in this Chapter and any federal, state, or private employee who works in the same office or in close proximity to a County employee on a regular basis.
- B. For the purpose of this Part, the term "sexual harassment" means the unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature by a County employee when:
- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment;
 - (2) Submission to or rejection of such conduct is used as the basis for employment decisions; or
 - (3) Such conduct has the purpose or effect of unreasonably interfering with an employee’s work performance or creating an intimidating, hostile, or offensive working environment.
- C. Sexual harassment refers to behavior that is unwelcome, that is personally offensive, and that lowers morale and therefore interferes with work effectiveness. Sexual harassment may take different forms.
- D. Examples of sexual harassment, include but are not limited to:
- (1) Verbal: sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, threats.
 - (2) Nonverbal: sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures, treating an employee differently than other employees when they have refused an offer of sexual relations.
 - (3) Physical: Unwanted physical contact, including touching, pinching, brushing the body, coerced sexual intercourse, assault.

§ 86-7-102. Purpose.

The purpose of this policy is to provide a work environment free from all forms of sexual harassment.

§ 86-7-103. Statement of policy.

- A. Federal and state law prohibits sexual harassment. It is the policy of the Board of County Commissioners to regard sexual harassment of its employees as a very serious matter and to have zero tolerance for sexually harassing behavior, defined above, in the workplace by any employee.

- B. It is the policy of the Board of County Commissioners to encourage employees who feel they have been subjected to sexual harassment to bring these problems immediately to the direct attention of management. There is no need for any employee to file a complaint with an outside third party to receive fair treatment.

ARTICLE II
Rules and Definitions

§ 86-7-201. Supervisor responsibility.

Each Supervisor has an affirmative duty to maintain a workplace free from sexual harassment and to assure all employees that they are not required to endure insulting, degrading, or exploitative sexual harassment.

§ 86-7-202. Prohibited conduct.

All employees shall be expected to comply with this policy and shall take appropriate measures to ensure that such behavior does not occur.

§ 86-7-203. Disciplinary action.

Any employee who is found, after appropriate investigation, to have engaged in sexual harassment of another employee; or filed a complaint of sexual harassment containing false factual allegations; or abused the complaint process by filing repeated unfounded sexual harassment complaints; or filed a sexual harassment complaint with the intent to retaliate against another employee, shall be subject to appropriate disciplinary action depending on the circumstances, up to and including dismissal. No disciplinary action more severe than a written warning shall be taken without consulting the County Administrator and the Director of Personnel. The County Administrator shall have the right to overrule a department's decision regarding discipline at any level. Disciplined employees shall have grievance rights in accordance with this Chapter.

§ 86-7-204. Retaliation prohibited.

There shall be no retaliation on the part of the County against the complainant or any witness for making a report of sexual harassment.

ARTICLE III
Complaint Procedure

§ 86-7-301. Purpose.

The purpose of this policy is to establish a complaint procedure to fairly address employee claims of sexual harassment.

§ 86-7-302. Procedure.

- A. All employees are encouraged to express displeasure at any behavior which might be sexually harassing, to tell the individual engaging in the behavior that it is unwelcome, to report that behavior, and to use the complaint resolution process set forth in this policy.

- B. Any employee who believes they have been subjected to sexual harassment of any kind may file a complaint with the Director of Personnel. The complaint must be in writing on the resolution process form and set forth all of the material facts. All such complaints and any internal investigation resulting from the complaints shall be held in the strictest of confidence.
- C. Upon receipt of a written complaint, the Director of Personnel (unless the accused harasser is the Director of Personnel – if so, the complaint shall be submitted to the County Administrator) shall immediately conduct a complete and thorough investigation. It may be necessary in the course of investigating the complaint to disclose the substance of the complaint to principal and third parties. All principal parties shall be advised of the findings and conclusion.

Part 8
Performance Evaluation

ARTICLE I
Purpose and Policy

§ 86-8-101. Statement of policy. [Amended 4-5-2017 by Ord. No. 11-17]

- A. All full-time employees shall receive performance evaluations. The primary purpose of the employee performance evaluation is to inform employees of their performance and offer constructive criticism for improving that performance. The three types of performance evaluations are probationary, annual, and follow-up.
- (1) Probationary performance evaluations are based on service within the probationary period. Upon receipt of a satisfactory performance evaluation and a favorable recommendation from the Department Head, a probationary employee shall be retained. An employee serving a new probationary period upon status change shall be assigned a new evaluation date for pay and evaluation purposes.
 - (2) Annual performance evaluations are based on service within the past year and shall also be considered for purposes of establishing eligibility for step increases, determining the need for performance related disciplinary actions, selection decisions, and order of layoff. Upon receipt of a satisfactory or better rating, the employee shall be granted a step increase in accordance with § 86-3-103.
 - (3) Follow-up performance evaluations are conducted, after six months, in the case of an unsatisfactory or needs improvement performance rating in an annual evaluation and shall not be considered for purposes of establishing eligibility for step increases.
- B. If a nonprobationary employee is absent from work for more than ½ of the evaluation period, the Department Head shall extend the evaluation period equivalent to the length of time absent from work. Upon successful completion of the extended evaluation period, the employee shall be granted a step increase effective the beginning of the next pay period, if they missed a step increase due to the extension, if applicable.

§ 86-8-102. Performance standards.

The Director of Personnel shall be responsible for the overall administration of the Employee Performance Evaluation system. The Director of Personnel may establish standards for the evaluation of

attendance, work quality, work quantity, and any other pertinent factors of employee performance and may amend or revoke such standards as may be necessary.

ARTICLE II
Procedures

§ 86-8-201. Evaluation procedures.

- A. Each Department Head shall complete a performance evaluation on all full-time employees working under their authority to be made not less than once each year, using the County Employee Performance Evaluation Form.
- B. These shall be reviewed and signed by the respective Department Head. Department Heads are to be evaluated by the County Administrator. All evaluations shall be discussed with the respective employee, regardless of the rating.
- C. All employees shall sign their evaluations and shall be subject to discipline for failure to sign. Such signature shall be construed as review only and not necessarily concurrence. Employees are entitled to record their comments on the Evaluation Form. All Supervisors shall ensure that evaluations are submitted in a timely manner and may be subject to discipline for late evaluation submissions or failure to perform evaluations. An employee whose step increase is delayed due to a late evaluation shall receive a retroactive increase when the evaluation is forwarded to the Office of Personnel.

§ 86-8-202. Timing of evaluations.

- A. Probationary period. Employees shall be subject to a probationary evaluation on or before the expiration date of the probationary period. The probationary evaluation shall be made as the basis for the determination of retention, extended probation, involuntary demotion, or dismissal of the employee.
- B. Annual performance evaluation. The annual evaluation shall be conducted on or before the anniversary date.
- C. Follow-up evaluation. Unsatisfactory or needs improvement performance is grounds for disciplinary action at any time. If, however, an employee who receives an unsatisfactory or needs improvement performance rating in an annual evaluation is not dismissed, the Supervisor shall conduct a follow-up evaluation of the employee after six months. If after that six-month period the employee's performance is rated as unsatisfactory or needs improvement, the employee may be subject to involuntary demotion or dismissed.

§ 86-8-203. Actions based on performance evaluations.

- A. Probationary status employees.
 - (1) Upon receipt of a satisfactory performance evaluation and a favorable recommendation from the Department Head, a probationary employee shall be retained and shall be granted a step increase, (subject to the availability of funds), in accordance with § 86-3-103.

- (2) Upon receipt of an unfavorable recommendation from the Department Head, an employee may be extended on probation, involuntarily demoted, or terminated.
- B. Nonprobationary status employees.
- (1) Upon receipt of a satisfactory or better performance rating in an annual evaluation, the employee shall be granted a step increase at the beginning of the fiscal year following the anniversary date, (subject to the availability of funds), in accordance with § 86-3-103. This performance evaluation is final and not subject to the grievance procedure.
 - (2) Upon receipt of an unsatisfactory or needs improvement performance rating in an annual evaluation, the employee shall be denied a step increase and may be involuntarily demoted or terminated. This performance evaluation is subject to the grievance procedure.

Part 9 Disciplinary Action

ARTICLE I Provisions

§ 86-9-101. Purpose and authority.

- A. Initial failure to meet established performance standards or comply with work rules or the Board of County Commissioners' guidelines shall normally warrant disciplinary counseling intended to correct the situation and curtail further occurrences. Repeated infractions or violations of work rules or policies that can or do adversely affect the person or property of fellow employees or the efficient operation of County Government shall be sufficient grounds for disciplinary action up to and including immediate dismissal, depending upon the nature and severity of the offense in accordance with §§ 86-9-105 and 86-9-106.
- B. The immediate Supervisor is responsible for identifying performance problems, discussing corrective action with the employee, and documenting discussions and warnings pertaining to disciplinary problems. The Department Head is responsible for determining whether an employee's misconduct or continued poor performance warrants suspension without pay or termination.
- C. The Director of Personnel is responsible for overall administration of this disciplinary action policy. No full-time merit or full-time grant employee shall be suspended or terminated without review of the Department Head's proposed action by the Director of Personnel and County Administrator.

§ 86-9-102. Coverage and employee rights.

All employees may be subject to disciplinary action in accordance with this policy; however, it must be followed only in the case of merit or full-time grant employees who are nonprobationary. Other categories may be subject to dismissal without prior disciplinary action. Some employees have the right to file grievances about written warnings and more severe forms of disciplinary action in accordance with Part 10.

§ 86-9-103. Verbal counseling.

- A. When an employee is excessively late or absent, abuses leave or demonstrates unacceptable or poor work performance, their Supervisor shall attempt to meet and counsel with the employee as soon as the problem becomes apparent. Counseling should include the specific action the employee must take to correct or eliminate the problem, the possible consequences of the employee's failure to take such action, and a follow-up review date. Verbal counseling by the Supervisor shall be documented, acknowledged by employee signature, and forwarded to the Office of Personnel for inclusion in the employee's personnel file. The employee shall be so advised and shall have the right to enter into their file comments regarding the counseling.
- B. Upon employee request, verbal counseling (or verbal warnings issued prior to the effective date of this amendment) may be removed from an employee's personnel file after two years if there have been no further offenses of the same nature.

§ 86-9-104. Written warnings and progressive discipline.

- A. Disciplinary action must be initiated within five working days of the time a Supervisor gains knowledge of a problem. If additional time is necessary in order to investigate to determine if discipline is appropriate, the Supervisor must inform the Director of Personnel.
- B. No written warning or more severe form of discipline shall be entered into the personnel record of a full-time merit or full-time grant employee without notice to that employee.
- C. A written warning is appropriate for failure to improve performance or correct a problem for which an employee has been verbally counseled. During a follow-up review after verbal counseling, the Supervisor determines whether the employee's conduct or performance has improved. If there has been no improvement, the Supervisor and employee are required to review causes for the deficiency and develop a second action plan, including a follow-up date and possible consequences for continued lack of improvement. The Supervisor shall document this action in the form of a written warning on a Disciplinary Action Form. A copy of this form shall be given to the employee and the Department Head. The original shall be forwarded to the Office of Personnel to be included in the employee's personnel file.
- D. The Supervisor shall contact the Department Head and Director of Personnel one week prior to the review date to advise them about the progress of the employee. If during the second follow-up review meeting, the Supervisor determines that the cause for discipline has not been corrected because of failure by the employee to comply with the second action plan, the Supervisor may recommend suspension without pay to the Department Head, who shall consult with the Director of Personnel and the County Administrator before determining whether or not to suspend the offending employee, who shall then be advised of the Department Head's determination.
- E. Only Department Heads may suspend employees. The Department Head must document the cause for suspension and submit a statement of expected performance and further consequences on a Disciplinary Action Form to the Office of Personnel which shall be included in the employee's personnel file and given to the employee who shall acknowledge receipt for same.
- F. Unless otherwise stated in this chapter, a disciplinary suspension may not exceed 30 calendar days, and the vacancy created by the suspension shall be filled only temporarily pending the return to work of the suspended employee.

- G. If an employee is charged with a felony, the nature of which has a bearing on the employee's fitness and/or ability to perform his or her duties without compromising the public trust, the employee may be suspended without pay until a final disposition of the charges by a court of competent jurisdiction. The employee shall be entitled to a hearing prior to such suspension. A reduction of the charges to a misdemeanor between the initial charging and final disposition shall not preclude application of this section. Final disposition shall mean (1) a finding of not guilty, (2) a finding of guilt and sentencing, (3) suspension of a finding of guilt and the entry of a probation before judgment, (4) placement of the case on the stet docket, (5) an election by the State's Attorney not to prosecute the charges, and (6) any other action which terminates the criminal proceeding. Upon final disposition of the criminal charges, the employee may be reinstated or a hearing may be held to determine the employee's continued employment with the Board of County Commissioners. Upon reinstatement, an employee shall be entitled to restoration of back pay and leave benefits for a period not to exceed six months minus any portion of the suspension which remains in effect.
- H. Dismissal may be appropriate for failure to improve conduct or performance after progressive discipline. The Department Head shall consult with the Director of Personnel and the County Administrator before determining whether or not to dismiss the offending employee. The employee shall be advised of the Department Head's recommendation.
- I. A written warning shall also be appropriate for initial unsatisfactory work performance or inappropriate behavior of such a serious nature that it could result in suspension or termination, if repeated. In such case, a written warning noting the offense, the corrective action expected and the consequences for not taking such action and performing in the manner expected shall be given to the offending employee, with a copy to the Department Head and the original to the Office of Personnel. The written warning shall be included in the offending employee's personnel file and acknowledged by the employee during a private meeting with their Supervisor. Where the written warning includes a review date for determination of whether the employee has ceased or corrected their unsatisfactory performance and/or behavior, the Supervisor shall contact the Department Head and the Director of Personnel at least one week prior to that review date to advise them whether the employee has corrected the problem(s), or is showing progress in that regard, or has demonstrated no progress in correcting their deficiencies and/or behavior.

§ 86-9-105. Immediate suspension without pay.

- A. Department Heads may suspend employees immediately, without consultation with the Director of Personnel and the County Administrator, pending investigation and determination of appropriate discipline for reasons including, but not limited to:
- (1) Fighting;
 - (2) Sleeping on the job;
 - (3) Being at work when impaired by the use of alcohol, other intoxicants, or illegal controlled substances;
 - (4) Failing to observe safety precautions;
 - (5) Horseplay or other misconduct endangering their own safety or the safety of others;

- (6) Repeated violation of work rules and procedures for which an employee has previously been warned; or
 - (7) Other acts, activities, or omissions which impair the Board of County Commissioners' or Department's performance of its mission.
- B. Employees shall be notified promptly of their suspension by their Department Head, who shall also advise the Office of Personnel and the County Administrator of the reason for the suspension.
- C. Supervisors may temporarily remove an employee from duty pending consultation with the Department Head who shall determine if disciplinary action is warranted.
- D. Final disciplinary action up to and including dismissal shall be taken by the Department Head following consultation with the Director of Personnel and the County Administrator.

§ 86-9-106. Status during suspensions.

Annual and sick leave shall be earned by suspended employees on a pro-rata basis in proportion to the number of hours worked during the pay period(s) in which the suspension occurs. Health plan coverage shall be continued while an employee is on suspension, and the suspended employee's premium contribution shall continue to be deducted as a regular payroll deduction. Where no hours are worked and the suspended employee receives no pay for a pay period during their suspension, the employee shall be billed by the Department of Finance and Budget for their portion of the health plan premium. Suspended employees shall not be entitled to reimbursement for unused health plan credits.

§ 86-9-107. Immediate dismissal.

- A. Employee misconduct including but not limited to the following examples may result in immediate dismissal by a Department Head, following consultation with the Director of Personnel and the County Administrator:
- (1) Dishonesty, including willful falsification of employment application information, falsifying any time card, report, record, or misrepresenting business expenses paid by the Board of County Commissioners;
 - (2) Theft, misappropriation of the Board of County Commissioners' property, records, or other materials, or the property of fellow employee or employees;
 - (3) Unauthorized possession of a firearm or other deadly weapon on the Board of County Commissioners' property;
 - (4) Willful or negligent destruction of the Board of County Commissioners' property or another employee's property;
 - (5) Gambling on the Board of County Commissioners' property (except authorized fund raisers for nonprofit purposes);
 - (6) Insubordination, such as failure or refusal to carry out any work order or assignment by an immediate Supervisor or Department Head, or other individual authorized to issue such order;

- (7) Conviction of a crime involving moral turpitude or of a nature that would expose the Board of County Commissioners and its employees to potential liability, danger or disrespect through continued employment;
- (8) Disclosure of confidential Board of County Commissioners' information obtained in the course of County employment to a person or persons not authorized to receive such information;
- (9) Negligence and/or other acts, activities, or omissions which impair the Board of County Commissioners' or Department's performance of its mission;
- (10) Using, possessing, selling, transferring, or purchasing illegal controlled substances, alcohol or other intoxicants on the Board of County Commissioners' premises or work sites while on duty. Employees who are off duty are subject to any departmental order, oath or code of conduct which may address or prohibit these activities;
- (11) Sexual harassment of another employee or employees in violation of the Board of County Commissioners' policy.

B. Employees shall be notified promptly of their dismissal by their Department Head.

§ 86-9-108. Selection of discipline.

Notwithstanding the above, a Department Head has the right to select the type of discipline appropriate to the offense and considering the employee's work record.

§ 86-9-109. Contractual employees.

Contractual employees may be subject to discipline in accordance with this article. The Board of County Commissioners may specify which contractual employees may be dismissed by their Department Head.

Part 10
Grievance Procedure
[Amended 3-12-2013 by Ord. No. 07-13]

ARTICLE I
Overview

§ 86-10-101. Definition.

- A. For the purpose of this Part, the word "grievance" means a complaint by an employee alleging that their wages, benefits or conditions of employment have been adversely affected by an act or acts of a Supervisor or Department Head contrary to the terms of this Chapter. A grievance may not be filed by anyone other than the allegedly affected employee.
- B. The grievance process and all related materials are confidential and are the property of the Board of County Commissioners, except that an employee who has filed a grievance may have access to his or her file concerning that grievance.

§ 86-10-102. Policy.

The means of redress afforded by this Part 10 shall be available only to full-time merit and full-time grant employees, and part-time and part-time grant employees regularly scheduled to work 50% or more of the normal pay period who have completed six months of service. It may not be utilized by any employees in their initial probationary period or any temporary, hourly, seasonal, appointed or contract employees, or part-time or part-time grant employees regularly scheduled to work less than 50% of the normal pay period. The Director of Personnel shall be responsible for overseeing the processing of all employee grievances to ensure they are filed and processed in accordance with this Chapter. Supervisors and Department Heads shall keep the Director of Personnel informed of all grievances in progress.

All grievance proceedings shall be closed to the public.

§ 86-10-103. Nongrievable issues.

The following are not grievable issues and are not subject to the grievance procedure:

- A. Performance ratings, unless the overall rating is unsatisfactory or needs improvement. If the rating of unsatisfactory or needs improvement results in denial of a merit increase, such denial may be included in the grievance protesting an overall rating of unsatisfactory or needs improvement;
- B. Position classifications;
- C. Any adverse action taken against an employee during that employee's initial probationary period;
- D. Nonselection for a position or promotion;
- E. Action terminating a temporary promotion and returning the employee to position previously held;
- F. Job descriptions, including objectives and critical elements of performance standards;
- G. A separation due to reduction in force from a group of employees on a retention register and due to lack of funds or abolishment of position;
- H. The content of a policy of the Board of County Commissioners, although the application of a policy may be grievable.
- I. A decision made or action taken by the Board of County Commissioners or County Administrator; however, disciplinary actions by the County Administrator other than verbal counseling may be grievable.
- J. Action taken by the Director of Personnel in the course of administering the grievance procedure;
- K. Personal conduct of another employee, unless it involves alleged sexual harassment or workplace violence in which case, a complaint may be filed in accordance with the Board of County Commissioners' stated policies and procedures where alleged sexual harassment or workplace violence is alleged;
- L. Verbal counseling;

- M. Lack of a pay increase due to a Board of County Commissioners' decision not to fund or provide same.

ARTICLE II
Procedures

§ 86-10-201. Eligibility for seeking redress.

Any full-time merit or full-time grant employee, and part-time and part-time grant employee regularly scheduled to work 50% or more of the normal pay period who has successfully completed their initial probationary period and thereafter believes that their wages, benefits, working conditions or employment have been improperly affected by an act or acts of a Supervisor or Department Head contrary to the terms of this Chapter have the right to seek redress of their grievance in the following manner.

§ 86-10-202. Invoking the grievance procedure for a written warning or for other events (excluding involuntary demotion, suspension, or termination).

- A. Within ten working days following receipt of written notice or the occurrence of the event or events grievable pursuant to this Section, the employee must file a written grievance on a Grievance Report Form with their immediate Supervisor setting forth in succinct terms all grounds for the grievance, and a copy of the grievance must be filed that same day by the employee with the Director of Personnel. Failure to file a timely grievance shall constitute a waiver of the employee's right to grieve the adverse action complained of.
- (1) Step 1. Within five working days of the date on which a timely grievance is filed, the aggrieved employee and their immediate Supervisor shall meet to discuss the grievance. Within five working days following the date of that meeting, the Supervisor shall advise the aggrieved employee in writing of the Supervisor's position on the grievance.
 - (2) Step 2. If the grievance is not resolved or explained to the satisfaction of the aggrieved employee at Step 1, then within five working days following receipt of the Supervisor's written response, the aggrieved employee may request a meeting with their Department Head to discuss the matter. The employee and their Department Head shall meet within five working days after the employee's request is received by the Department Head, and the Department Head shall advise the aggrieved employee of the Department Head's position in writing within five working days following their meeting.
 - (3) Step 3. If the grievance is still unresolved to the employee's satisfaction, following receipt of the Department Head's written position, then the employee, within five working days of receipt of the Department Head's written position, may request the Director of Personnel to meet with them and the Department Head for further discussion of the matter. That meeting shall be held within ten working days following receipt by the Director of Personnel of the aggrieved employee's request. The Department Head shall advise the aggrieved employee of their position in writing within five working days following their meeting. The decision of the Department Head shall be final and binding on the parties.

§ 86-10-203. Invoking the grievance procedure for involuntary demotion, suspension, or termination.

- A. To invoke the grievance proceedings for an involuntary demotion, suspension or termination, the aggrieved employee must file a written grievance on a Grievance Report Form setting forth in succinct terms all grounds for the grievance and submit the original form to the Director of Personnel within ten days of the grievable event or events. The Personnel Director shall appoint a Grievance Board. The Grievance Board shall consist of four employees not from the aggrieved employee's department. Two shall be supervisory, and two shall be nonsupervisory selected at random by the Director of Personnel or her/his designee. No more than one Department Head, if any, may serve. All shall be full-time merit employees unless a Department Head is selected, who may also be a contract employee. The Grievance Board shall meet to hear the unresolved grievance within 20 working days following its appointment. The hearing shall be conducted in accordance with procedures established by the Director of Personnel. The grievant and any witnesses they may wish to testify on their behalf shall have the right to appear before the Grievance Board and present evidence in support of the grievant's position. The aggrieved employee's Department Head or designee shall have the same right to appear before the Board and present their position, including witnesses in support thereof. Failure to file a timely grievance shall constitute a waiver of the aggrieved employee's right to grieve the adverse action complained of.
- B. The Director of Personnel shall assist the Grievance Board and the parties to the grievance hearing in making sure that all of the evidence relevant and material to the issue is presented to the Grievance Board for its consideration. The Director of Personnel, however, shall not be a member of or have a vote on the Grievance Board. Within 30 calendar days following the conclusion of the hearing, the Grievance Board shall prepare and submit to the Board of County Commissioners a written report containing its findings, conclusions and recommendations. Copies of the Grievance Board's report shall be given to the Grievant, the aggrieved employee's Department Head and the Director of Personnel at the time of transmission to the Board of County Commissioners.
- C. The Board of County Commissioners shall review the findings, conclusions and recommendations of the Grievance Board and advise the parties to the dispute of their determination at the next scheduled meeting of the Board of County Commissioners, or no later than 30 calendar days following receipt of the Grievance Board report and recommendation.
- D. The Board of County Commissioners shall have full discretion to adopt or reject the recommendation of the Grievance Board in whole or in part or to remand the matter to the Grievance Board for further consideration and resubmission. The determination by the Board of County Commissioners, or the Board of County Commissioners' final decision following remand or resubmission, shall be final and binding on the parties.

§ 86-10-204. Recusal of Director of Personnel.

Where a timely grievance is filed by an employee of the Office of Personnel, the Director of Personnel shall recuse him or herself from participation in the grievance procedure except as the interested Department Head, and the Director's role in the orderly operation of the grievance procedure shall be assumed and performed by the County Administrator.

§ 86-10-205. Grievance Report Form.

All grievances shall be submitted in writing on the standard Grievance Report Form available in the Office of Personnel and shall include the following information:

- A. Employee name;
- B. Employee class title;
- C. A succinct statement of the reason for the grievance and the section(s) of this Chapter allegedly violated;
- D. The date on which the grievance arose;
- E. The relief sought;
- F. Names of witnesses the grievant plans to ask to testify, if applicable (§ 86-10-203A.only); and
- G. Name of attorney, if grievant intends to be represented (§ 86-10-203A. only).

§ 86-10-206. Filing timely grievances.

- A. Grievances must be timely filed in accordance with the grievance procedure provisions of this Chapter in order to invoke the grievance procedure. Once a timely grievance has been filed, it should be processed without delay by all parties, unless there is mutual agreement between the party seeking to extend a time limit and the Director of Personnel on the need for an extension of time to comply with any step of the grievance procedure.
- B. In the event a grievant fails to adhere to any of the time limits set forth in this article, the grievance shall be considered satisfied and resolved on the basis of the last statement of position received by the grievant.
- C. Where a Supervisor or Department Head fails to adhere to any of the time limits set forth herein, the grievance shall automatically proceed to the next step in the grievance procedure.
- D. For the purposes of the time limits specified in Part 10, a working day shall mean any day Monday through Friday, excluding County holidays and administrative leave days granted by the Board of County Commissioners.

§ 86-10-207. Employee rights.

An aggrieved employee shall have the right to have a fellow employee present during any step of the grievance procedure or to be represented by an attorney at a Grievance Board hearing regarding an involuntary demotion, suspension or termination. The presentation of any grievance without fear of reprisal shall be considered the right of each employee.

**Part 11
Workplace Violence**

ARTICLE I
Purpose and Policy

§ 86-11-101. Definition.

- A. For purposes of this Part, the term “employee” shall include any class of employee defined in this Chapter and any federal, state, or private employee who works in the same office or in close proximity to a County employee on a regular basis.
- B. For purposes of this Part, the term “workplace violence” means any act or behavior, or threat thereof, intending to cause physical, mental or psychological harm to a person or property in the workplace. This shall include acts or threats via telecommunications devices and shall include violent illegal acts such as disorderly conduct, assault and reckless endangerment.

§ 86-11-102. Purpose.

The purpose of this policy is to provide a work environment free from all forms of workplace violence and to establish a complaint procedure to fairly address employee claims of workplace violence.

§ 86-11-103. Statement of policy.

- A. It is the policy of the Board of County Commissioners to have zero tolerance for workplace violence, and to regard it as a very serious matter and prohibit violence in the workplace by any person and in any form.
- B. It is the policy of the Board of County Commissioners to encourage employees who feel they have been subjected to workplace violence to bring these problems immediately to the direct attention of management. Every attempt shall be made to resolve these issues fairly and expeditiously.
- C. It is the policy of the Board of County Commissioners to encourage any employee who believes there is immediate danger to call 9-1-1.

§ 86-11-104. Responsibility.

Department heads and supervisors at all levels are responsible for implementing and administering this policy and assuring employees that they do not have to endure such behavior. All employees, supervisors and department heads are responsible for following this policy, promptly reporting incidents, cooperating in investigations and assisting in maintaining a violence-free workplace.

§ 86-11-105. Prohibited conduct.

No employee shall engage in workplace violence.

**ARTICLE II
Rules**

§ 86-11-201. Disciplinary action.

Any employee who is found, after appropriate investigation, to have engaged in workplace violence; or filed a complaint of workplace violence containing false factual allegations; or abused the complaint process by filing repeated unfounded workplace violence complaints; or filed a workplace violence complaint with the intent to retaliate against another employee, shall be subject to appropriate disciplinary action depending on the circumstances, up to and including dismissal. No disciplinary action more severe than a written warning shall be taken without consulting the County Administrator and the Director of

Personnel. The County Administrator shall have the right to overrule a department's decision regarding discipline at any level. Disciplined employees shall have grievance rights in accordance with this chapter.

§ 86-11-202. Recrimination prohibited.

There shall be no discrimination or recrimination against any employee for making a report of workplace violence.

ARTICLE III
Complaint Procedure

§ 86-11-301. Procedure.

- A. When the accused is known to be a County employee, the following procedures shall apply:
- (1) Any employee who believes they are the victim of workplace violence is encouraged to report the incident. If they believe there is immediate danger, they should contact 9-1-1. If there is no immediate danger, and after assuring their safety, they should report the situation to their department head, providing their department head is not the accused, so the situation may be diffused and investigated immediately. If the department head is the accused, the employee should report the situation directly to the County Administrator. All complaints should also be reported to the Director of Personnel for monitoring, advisory, and documentation purposes, and to ensure consistency of disciplinary actions across departments.
 - (2) The department head(s) (or County Administrator if the offender is the department head) shall promptly take any steps necessary to diffuse the situation, and shall investigate and take disciplinary action, if appropriate. The employee who filed the complaint, as well as the alleged offender, shall be advised of the findings in writing.
 - (3) Employees are encouraged to complete a Workplace Violence Complaint Form to report violence endured; however, all complaints of violence shall be investigated regardless of whether the Workplace Violence Complaint Form has been completed. Accused employees shall have the right to submit a statement which shall become a part of the record of investigation. All complaints and internal investigation results shall be held in confidence except to the extent necessary to diffuse, investigate and take appropriate action.
- B. When the accused is not believed to be a County employee, any employee who believes they are the victim of workplace violence is encouraged to contact 9-1-1 and report the incident to the police.