

10. PERSONNEL ADMINISTRATION

10.1 APPLICATION

A. General. This ordinance shall apply to all employees of the County except as provided in Section 5 hereof.

B. Represented Employees. This ordinance shall not be construed to abrogate any rights guaranteed to County employees by ORS 243.650 – 243.782 or regulations adopted under the Public Employees Collective Bargaining Act.

C. Conflicts. In the event of any conflict between this ordinance and any contract with a recognized bargaining unit, or between this ordinance and any state and federal law, then the terms of the state or federal law or collective bargaining agreement shall prevail.

D. Modifications The Board of Commissioners has the right at any time to amend or to modify this ordinance or to repeal it, so long as consistent with the County Charter. No provision of this ordinance shall be deemed to have created any contractual or vested right in any employee or to limit the power of the Board of Commissioners to amend, modify or to repeal this ordinance.

10.2 DEFINITIONS

Unless a different meaning is shown to be clearly intended, the terms below shall have the following meanings as used in this ordinance:

A. Employee: A person employed by the County; provided, the term “employee”, as used herein, does not include and does not apply to any of the following:

1. Elective officers (members of the Board of Commissioners, the Sheriff, and District Attorney).
2. The County Administrator and those persons who report directly to the County Administrator.
3. The County Counsel.
4. Department Heads.
5. Members of appointive County Boards, Commissions and County Committees.
5. Persons engaged under a personal service contract or as an independent contractor to provide any service to the County.
6. Volunteer personnel.

7. Persons hired from time-to-time to perform casual work, including but not limited to, those employed to perform seasonal work or to meet the immediate requirements of an emergency condition.

B. County Administrator: The person appointed by the Board of Commissioners under County Charter as the head of the administrative branch of the County government or a person acting as County Administrator pro tem.

C. Department Head:

1. A County employee who has been appointed by the County Administrator to be the head of a department established by the Board of Commissioners.
2. Department Heads are not employees covered by those provisions of this ordinance or personnel policies established under its terms which provide for probationary periods, grievance procedures, layoff procedures or discipline procedures for employees. Department Heads may be covered by other personnel policies and procedures adopted by the County Administrator.
3. A Department Head may be discharged from County employment at any time, with or without cause. A Department Head has no property right nor right to continued employment with the County.

D. Disciplinary Action An action such as a written reprimand, a suspension, a demotion or a discharge from employment for reasons which relate to the recipient's employment or conduct, and which has been or may be imposed on an employee by the County Administrator or by the County Administrator's designee. Verbal warnings, counseling, written statements of performance expectations, including related notes and performance appraisals shall not be considered disciplinary actions, although any of these may be considered subsequently in determining whether to take any disciplinary action and in determining the type and extent of disciplinary action to be taken.

E. Personnel Policies Those policies, guidelines and procedures adopted by the County Administrator pursuant to County Charter and this ordinance.

10.3 ADMINISTRATION

A. County Administrator The County Administrator's powers under the County Charter Section 14(1)c shall include, but shall not be limited to the following:

1. To prepare and to adopt and establish written Personnel Policies and to revise and amend such Personnel Policies as he/she finds necessary.
2. To prepare and adopt a position classification plan, including class specifications, and to revise and amend such plan as he/she finds necessary.
3. To discipline employees as he/she determines is necessary in accordance with this ordinance.
4. To provide for recruitment and for any examination of candidates for county employment and for certification of persons eligible for appointment to County employment.
5. To delegate any of his/her powers and duties to any department head or other subordinate. Such delegation may include authorization to any Department Head, or to any other employee reporting directly to the Administrator, to appoint, promote, transfer, layoff, reduce or to discipline employees.
6. To perform any other duty necessary or appropriate to administer this ordinance or the County's personnel system and Personnel Policies.

B. An employee or employees, under the supervision of the County Administrator, may be assigned to administer the provisions of this ordinance, the County's personnel system and the Personnel Policies implemented in accordance with this ordinance.

C. No one has authority to grant or to offer to any employee any job security or job protection, which is not provided for that employee by County ordinance.

10.4 FAIR EMPLOYMENT PRACTICES

All employment actions, including recruitment and selection of employees, shall be in accordance with the County's Equal Employment Opportunity Ordinance, and shall be according to merit and fitness based upon job-related qualifications. No employee or prospective employee shall be discriminated against on the basis of political affiliation or preference, race, color, national origin, religion, disability, age, gender, sexual orientation or on any basis prohibited by state or federal law.

10.5 DRUG FREE WORKPLACE

A. The County is committed to maintaining a safe, healthful and productive work environment for all employees. The County will work to eliminate misuse of alcohol, drugs and any other substances that impair an employee's ability to safely and effectively perform the functions of the particular job; increase the potential for accidents, absenteeism, or substandard performance; or damage the County's reputation. The County's commitment includes providing assistance to employees to overcome drug or alcohol related problems through appropriate treatment and if necessary, disciplinary action.

B. The use, sale, possession, manufacture, distribution and/or dispensing by an employee of an intoxicating liquor, controlled or illegal substance, drug not medically authorized, or any other substance which damages ability to perform assigned duties, impairs job performance or poses a hazard to the safety and welfare of the employee, other employees or the public is strictly prohibited. This policy does not control the legal possession or the off-duty use and distribution of alcohol and medically prescribed controlled substances.

C. The County Administrator will implement specific Drug Free Work Place policies and procedures, consistent with this ordinance and the Federal Drug Free Work Place Act. The policies shall include provisions for education of employees, assistance to employees with substance abuse problems, and discipline for those who violate this policy.

10.6 ADOPTION OF PERSONNEL POLICIES

A. The Board of County Commissioners recognizes that the management of the County and the administration of the personnel affairs of the County are administrative matters and are not legislative functions. For that reason, and also because there are complex and constantly changing state and federal regulations affecting County employees, it would be unwise, inefficient and impractical to attempt to incorporate details of Personnel Policies in an ordinance. The Board of County Commissioners thus hereby expressly authorizes and directs the County Administrator to adopt Personnel Policies by administrative actions. Such policies shall be in accordance with this ordinance and shall be to carry out the goals and policies of this ordinance. Such Personnel Policies as adopted shall be deemed to be not the making of new law but instead to be the execution and implementation of the personnel system and policies provided for in this and other applicable ordinances.

B. The County Administrator by administrative action shall adopt such Personnel Policies as shall carry out and effectuate this ordinance. Such policies shall implement, administer, maintain and deal with the following subjects:

1. A position classification plan.

2. A compensation plan.
3. Recruitment, selection, certification and appointment procedures for employees.
4. Definitions of the status of employees.
5. Performance appraisal systems for probationary employees and for employees who have completed probation.
6. The transfer, promotion, reduction, layoff, demotion, suspension, discharge from employment and reinstatement of employees.
7. The separation of employees from employment.
8. Personnel forms and records.
9. Grievance and appeals procedures.
10. Other standards and other specific policies or procedures, which the County Administrator finds necessary or appropriate to carry out this ordinance.

C. Administration Personnel Policies adopted by the County Administrator under this ordinance shall be administered by County Administrator and his/her designee. Subject to the supervision of the County Administrator, an employee may be assigned to develop and adopt written procedures, forms, directives and interpretive memoranda consistent with the personnel Policies and this ordinance.

D. Modification of Classifications and Compensation
Compensation and position classifications shall be subject to periodic review by the County Administrator. After any such review, the classification to which a position is assigned, and the salary range and/or other compensation for a classification may be changed subject to approval of the Board of Commissioners by adoption of an appropriate resolution.

10.7 APPOINTMENTS

All appointments to County employment shall be in accordance with this ordinance and with all applicable Personnel Policies.

10.8 PROBATION PERIOD

All new employees and all promoted employees shall be appointed or promoted subject to a probation period. The length of the probation period shall be established at time of appointment or promotion consistent with Personnel Policies but shall be a period no shorter than six months nor longer than two years; provided, in any case the County Administrator may extend the probationary period for not to exceed an additional six months if the department head finds it is necessary to fully evaluate the employee's suitability for the position.

Any employee serving a probationary period, excluding a probationary period being served by a promoted employee, is an at-will employee and such employee may be discharged or removed at any time with or without cause. A promoted employee who fails his/her probationary period may be returned to his/her former position or to a position in his/her former classification if such a position is available.

10.9 STANDARDS OF CONDUCT

A. Employees must be courteous and must be efficient and effective in the performance of their duties, and employees must establish and maintain effective working relationships with the public, subordinates, supervisors and co-workers. Employees shall conduct themselves for the good of the County service.

B. The Personnel Policies may list examples of conduct that would be specific cause for disciplinary action. Such conduct would be any which would or could have the effect either of bringing discredit to the County or of interfering with employees' ability to perform job responsibilities, or which is contrary to the good of the County service. Nothing in this ordinance shall be deemed to limit the authority of the County Administrator or of his/her designee to remove from any employment any County employee.

10.10 TRANSITION OF EMPLOYEES

The adoption of this ordinance shall not change the probationary status of current probationary employees and they each shall remain probationary without loss of service time accrued toward regular employee status. All employees who elect to continue County employment after the effective date of this ordinance shall be subject to all terms and conditions of this ordinance. Except as may be specifically provided for by statute or by contract with a recognized labor union, Department Heads (except elected officials and the County Counsel), other employees reporting directly to the County Administrator, personnel service contract employees, independent contractors, persons hired to perform casual work, and volunteers who continue to provide services to or for the County after the effective date of this ordinance shall serve at the will of the County

Administrator or his/her designee and shall have no right to continued employment by the County.

10.11 GRIEVANCE PROCEDURES

A. The Personnel Policies shall provide review procedures that may be initiated by an employee to resolve disputes that he/she sees to exist and to arise out of an application (1) of this ordinance; (2) of the Personnel Policies or (3) of the County's compensation plan.

The grievance procedure here provided for specifically does not apply to disputes arising out of disciplinary action (see Section 12) or to claims of discrimination or harassment on the basis of race, color, religion, national origin, disability, age, gender, marital status, sexual orientation, or such protected class as defined by state and federal law. Such disputes shall be reviewed either informally or through alternative dispute resolutions process established by the County Administrator.

B. The Personnel Policies may provide for one or more steps or appeals in such review procedure, and may provide for instances in which steps or appeals may be omitted. The policies may provide time limitations and require that any request for review be made by the employee within a reasonable time and may otherwise provide for prompt and efficient management of such appeals.

C. No matter may be reviewed under the procedure provided for in this ordinance if the matter may be grieved under a procedure provided for in a collective bargaining agreement.

D. The Personnel Policies may provide for resolution of the grievance by the department head of any matter appealed under this section, but such resolution by the department head shall be subject to review and written confirmation by the County Administrator.

10.12 DISCIPLINARY ACTIONS AND APPEALS

A. An employee is subject to disciplinary action when, in the opinion of the County Administrator or the County Administrator's designee, disciplinary action is necessary for the good of the County service

B. The County may impose upon any employee any disciplinary action or form of discipline that the County Administrator (or the County Administrator's designee) finds is appropriate to given conduct of the employee. In determining

such discipline, he/she shall consider the employee behavior involved, the employee's past record, length of service and surrounding circumstances as well as the good of the service. Weight shall be given to each of such factors as he/she finds in his/her discretion is appropriate. Generally employees are to be given time to correct problems of conduct before the employee is discharged; however, regardless of the circumstances the County may discharge any employee at any time, consistent with the provisions of this ordinance. There shall be no requirement that any specific number or sequence of disciplinary actions or warnings be imposed prior to suspension, demotion or discharge.

C. The Personnel Policies shall provide for appeals procedures from disciplinary actions.

D. Prior to final decision to dismiss or suspend any employee the County Administrator or the designee making such decision shall offer to meet with the employee and to listen to his/her point of view as to the reasons why such action should not be taken.

E. The County Administrator may also discipline a Department Head up to and including discharge.

10.13 LAYOFF AND REINSTATEMENT

Layoff and reinstatement of non-union represented employees shall be governed by County Personnel Policy.

10.14 OUTSIDE EMPLOYMENT

Outside employment and outside, business activity by County employees is discouraged. Any employment or business activity which may interfere or which does interfere with the employee's ability to perform his/her assigned County job is prohibited. An employee may be required to terminate outside employment or business activity if it has been found that it does so interfere or that it gives a reasonable appearance of such interference or of a conflict of interest with his/her position as a County employee. Personnel Policies may establish more-specific standards to determine whether any given outside employment or type of outside employment is prohibited.

10.15 CASUAL WORKERS

A. Purpose Some County work is indefinite and/or irregular with regard to schedule and duration. As a result, the County recognizes the need to employ casual workers at all levels of responsibility from time to time on an as

needed basis or to work for limited periods at the discretion of the County. Casual workers may include, but are not limited to those employed to perform seasonal work and those employed to work on grant-funded programs.

B. Applicable Policies The County Administrator shall establish administrative policies and procedures for the hiring of or contracting with persons to perform casual work. The County Administrator shall establish rates of pay for casual work that are equitable with rates approved by the Board of Commissioners for regular employees. Casual workers are not employees under the provisions of this ordinance or personnel policies established under the terms of the ordinance, which provides for hiring procedures, probationary periods, grievance procedures, layoff procedures or discipline procedures.

C. Duration of Casual Employment A casual hire has no right to continued employment or property right regarding employment. A casual hire may be terminated at any time with or without cause and shall have no right to appeal except when the action is alleged to violate the County's policies regarding prevention of sexual harassment and equal employment opportunity.