

**CHAPTER 1            GENERAL PROVISIONS**

**SECTION 1.1 Short Title**

A. This document shall be known and may be cited as the “Clark County Administrative Code”.

**SECTION 1.2 Definitions**

A. As used in this Code, unless the context otherwise requires:

- (1) *County Judge/Executive* is the County Judge.
- (2) *County* is Clark County, Kentucky, a governmental entity.
- (3) *Fiscal Court* is the County body vested with the legislative powers of Clark County.
- (4) *Elected Official* means elected county officials other than the County Judge.

**SECTION 1.3 Amendments**

A. The Fiscal Court shall review the Clark County Administrative Code annually during the month of June and may, by two-thirds (2/3) majority of the entire Fiscal Court, amend the Clark County Administrative Code at that time. The County Judge may at other times prepare and submit amendments to the Clark County Administrative Code for approval by the majority of the Fiscal Court.

**CHAPTER 2            GENERAL ADMINISTRATION**

**SECTION 2.1 County Judge/Executive**

A. The Clark County Judge shall be the Chief Executive and Administrative Officer of the County and shall have all the powers and perform all the duties of an executive and administrative nature consistent with the Kentucky Constitution, Kentucky Revised Statutes and Fiscal Court Orders.

B. The responsibilities and/or duties of the Clark County Judge, as defined by KRS 67.710, are as follows:

- (1) Provide for the execution of all ordinances and resolutions of the Fiscal Court, execute all contracts entered into by the Fiscal Court, and provide for the execution of all laws by the state subject to enforcement by him or by officers who are under his direction and supervision;
- (2) Prepare and submit to the Fiscal Court for approval an administrative code incorporating the details of administrative procedure for the operation of the County and review such code and suggest revisions periodically or at the request of the Fiscal Court;
- (3) Furnish the Fiscal Court with information concerning the operations of the County departments, boards, or commissions, necessary for the Fiscal Court to exercise its powers or as requested by the Fiscal Court;
- (4) Require all officials, elected or appointed, whose offices utilize County funds, and all boards, special districts, and commissions exclusive of city governments and their agencies located within the County to make a detailed annual financial report to the Fiscal Court concerning the business and condition of their office, department, board,

commission, or special districts;

- (5) Consistent with procedures set forth in KRS Chapter 68, prepare and submit to the Fiscal Court an annual budget and administer the provisions of the budget when adopted by the Fiscal Court;
- (6) Keep the Fiscal Court fully advised as to the financial condition and needs of the County and make such other reports from time to time as required by the Fiscal Court or as he deems necessary;
- (7) Exercise with the approval of the Fiscal Court the authority to appoint, supervise, suspend, and remove County personnel (unless otherwise provided by state law); and
- (8) With the approval of the Fiscal Court, make appointments to or remove members from such boards, commissions, and designated administrative positions as the Fiscal Court, charter, law or ordinance may create. The requirement of Fiscal Court approval must be designated as such in the County administrative code or the County charter.

## **SECTION 2.2 Procedures for Organization/Reorganization of County Departments and Agencies**

A. The County Judge may create, abolish or combine any County department or agency or transfer a function from one department or agency to another, provided that the County Judge submits a written plan for the reorganization to the Fiscal Court and same is approved by 2/3 vote of the full voting members of the Court.

B. The reorganization plan shall state the need, how the reorganization will meet the need, the services and functions to be expanded, abolished, or reduced as a result of the plan, the long and short term costs, and the plan's impact on existing and/or proposed personnel and services.

C. The plan shall be submitted to the Fiscal Court for approval at a meeting of the Fiscal Court. If not disapproved within sixty (60) days, the plan shall become effective. The plan shall be subject to public inspection at least 60 days prior to its effective date.

D. The County Judge or the Fiscal Court may cause the records and accounts of any administrative agency to be examined at any time.

## **SECTION 2.3 Special Districts**

The County Judge may, with approval of the Fiscal Court, create any special district; or abolish or combine any special districts, provided such district was created solely by the County.

## **SECTION 2.4 County Representation on Boards and Commissions**

A. The County Judge shall assure the representation of the County on all boards, commissions, special districts, and joint City-County programs in which County participation is required.

B. Every independent board, commission, agency or special district which requires participation

by County government shall submit a copy of its by-laws and a list of its governing body members to the County Judge and the Fiscal Court within thirty (30) days of the start of the county government term of office. The independent board, commission, agency or special district shall submit a revised copy of its by-laws within 30 days of their approval when amended. When a vacancy exists, the list of governing body members should be submitted to the County Judge no later than thirty (30) days before the County Judge nominates a candidate for the vacancy.

## **SECTION 2.5 Appointed Positions**

- A. Pursuant to KRS 67.711, the County Judge may appoint a deputy county judge/executive, and a reasonable number of other assistants, secretaries, and clerical workers within the office. The fiscal court, pursuant to KRS 64.530(4) shall fix reasonable compensation for the deputy county judge/executive and other such employees of the county judge/executive as determined by the fiscal court, who shall serve at his pleasure.
- B. The County Judge may appoint a Deputy County Judge/Executive. The Deputy County Judge/Executive may serve as proxy for the County Judge when authorized by the same.
- C. The County Judge may appoint a budget officer to assist with the County fiscal affairs.
- D. The County Judge may appoint other personnel to assist with the County administrative and fiscal duties.
- E. A member of the Fiscal Court may be appointed by a majority of the Fiscal Court to temporarily assume the duties of the County Judge, where both the County Judge and the Deputy County Judge/Executive, if a Deputy County Judge/Executive has been appointed, are absent from the County during an Emergency, or where both are incapacitated due to sickness, injury, or mental incompetence.

## **SECTION 2.6 Procedures for Appointment/Removal of Administrative Personnel and Members of Boards and Commissions**

- A. The County Judge shall inform the Fiscal Court of any open position on County Boards or Commissions, or in designated administrative positions and as directed by statute or an ordinance of the county to make an appointment and fill a vacancy, nominate a person to fill the vacancy within sixty (60) days of the date of the vacancy.
- B. The fiscal court shall approve or disapprove the nomination within forty-five (45) days of the receipt of the nomination. If the County Judge fails to nominate a person within sixty (60) days of the date of the vacancy, the fiscal court may fill the vacancy. If the fiscal court fails to approve or disapprove a nomination within forty-five (45) days of the nomination, the County Judge's nominee is deemed to have been approved. If the fiscal court disapproves a nomination, the County Judge shall nominate another person to fill the vacancy within forty-five (45) days of the disapproval.
- C. If the County Judge fails to nominate another person within forty-five (45) days, a majority of the fiscal court may fill the vacancy.
- D. The appointment shall be filed and entered into by index into the Clark County Executive Order Book which shall be maintained in the Office of the County Judge.
- E. The Clark County Fiscal Court may require an appointee to appear at a public hearing for the

purpose of questioning the nominee about matters relating to the appointed position. The nominee shall be notified by mail if this is the intention of the Fiscal Court. The Fiscal Court shall provide the nominee with an opportunity to make a statement to the Fiscal Court concerning his nomination and qualifications.

F. No person shall be selected as a member of a board or commission or for an administrative position if the person holds or is employed in an incompatible position.

## **SECTION 2.7 Clark County Procedures for Administrative Agencies**

A. Each Clark County Agency shall maintain the following records:

- (1) A financial record of the agency's activities.
- (2) Within thirty (30) days after the close of each fiscal year, each administrative agency shall make a full report to the County Judge and to the Fiscal Court. The report shall include a financial statement and the general scope of the operation of the agency during the preceding year.
- (3) Each administrative agency requesting Clark County budget funds shall submit a detailed annual budget request to the County Judge by April 1st of each year.
- (4) Each administrative agency of Clark County shall keep minutes of its meetings to reflect on record its official actions.

## **CHAPTER 3 OPERATION OF FISCAL COURT**

### **SECTION 3.1 Procedures for Meetings of Fiscal Court**

A. The annual dates and times for all regular Fiscal Court meetings have been set by ordinance to occur on the second Wednesday at 9:30 a.m. and the fourth Thursday at 6:30 p.m. each month.

B. All meetings of members of Fiscal Court at which any public business is discussed or any action taken shall be open to the public in accordance with the Kentucky Open Meetings Act (KRS Chp. 61). The members of the public may enter their name and address upon the record of the Fiscal Court meeting and thereby address the Fiscal Court during "Public Comment". The remainder of the meeting may be attended for observation only.

C. The County Judge may call a Special Meeting of the Fiscal Court for the purpose of transacting any business over which the Fiscal Court has jurisdiction.

D. Whenever the County Judge is unable, or refuses to call a Special Meeting, a majority of the Fiscal Court may call a Special Meeting.

#### **NOTE**

*The County Judge must refuse a request to call a Special Meeting, with the request made by a Fiscal Court member, prior to the majority of the Fiscal Court being able to call a Special Meeting.*

E. Special meetings shall be called and conducted in accordance with the Kentucky Open Meetings Act (KRS Chp. 61).

**SECTION 3.2 Presiding Officer**

- A. The County Judge shall be the presiding officer of the Fiscal Court at all regular and special meetings.
- B. If the County Judge is unable to preside, the fiscal court shall elect a chair from their membership by majority vote.

**If the County Judge is not present or able to preside, a majority of the magistrates shall elect one of their members to preside.**

**SECTION 3.3 Quorum**

- A. Not less than a majority of the members of the Fiscal Court shall constitute a quorum for the transaction of business.
- B. No proposition shall be adopted except with the concurrence of at least a majority of the members present; with the exception that passage of an ordinance requires a majority of the entire Fiscal Court.

**SECTION 3.4 Disturbing Meetings**

- A. It shall be unlawful to disturb any meeting of the Fiscal Court or to behave in a disorderly manner at any such meeting.
- B. Any person violating any provision of this section may be prosecuted under the appropriate provisions of the Kentucky Penal Code.

**SECTION 3.5 Order of Business**

- A. At each regular meeting of the Fiscal Court an agenda will be presented prior to the meeting. This agenda shall be followed unless dispensed with by a majority vote of the members presented.

**NOTE**

*At a regular meeting the agenda does not restrict the content of what can be discussed as long as the matter is discussed in the appropriate portion of the agenda (i.e. Magistrates Comments...).*

- B. At each Special or Emergency Meeting of the Fiscal Court, the agenda shall be followed with no other topics presented or discussed during the Special or Emergency Meeting.
- C. The County Judge shall prepare an itemized list of all valid bills requiring Fiscal Court approval.
- D. No bill shall be approved for payment unless contained in the itemized list for the meeting.
- E. A majority of the Fiscal Court members may vote to forgo Section 3.5(D) and approve payment of bills not included on the itemized list as long as the bill is presented to Fiscal Court.
- F. The Fiscal Court may approve payment of the list of valid bills as a whole unless there is an

objection voiced to any specific item.

### **SECTION 3.6 Fiscal Court Minutes**

- A. The clerk of the Fiscal Court shall attend all meetings of the Fiscal Court and keep a full and complete record of its proceedings.
- B. The clerk of the Fiscal Court shall keep an index of all Fiscal Court records and make such index of all Fiscal Court records available for public inspection in accordance with the Kentucky Open Records Act (KRS Chp. 61).

### **SECTION 3.7 Rules of Order**

- A. Except when in conflict with the foregoing provisions, Robert's Rules of Order shall govern the deliberations of the Fiscal Court.
- B. The rules of order, other than those prescribed by statute, may be suspended at any time by consent of a majority of the members present at the meeting.

### **SECTION 3.8 Ordinances, Orders and Resolutions**

- A. An "ordinance" means an official written act of the Fiscal Court, the effect of which is general and lasting in nature, which is enforceable within the jurisdiction of the County; or a lawful appropriation of money.
- B. All ordinances shall be introduced in writing; relate to one subject only; and contain a title which expresses the subject; such as, "An Ordinance relating to"
- C. There shall be inserted between the title and the body of each County ordinance an enacting clause written in the following manner: "Be It Ordained by the Fiscal Court of the County of Clark Commonwealth of Kentucky;"
- D. County ordinances shall be amended by ordinance and only by setting out in full each amended section;
- E. No County ordinance shall be passed until it has been read on two separate days, unless an emergency is properly declared, but ordinances may be read by title and a summary only.
- F. No County ordinance shall be passed until it has been published pursuant to KRS Chapter 424. Prior to passage, ordinances may be published by summary. Publication shall include the time, date and place at which the County ordinance will be considered, and the place within the County where a copy of the full text of the proposed ordinance is available for public inspection. If consideration for passage is continued from the initial meeting to a subsequent date, no further publication shall be necessary if at each meeting the time, date, and place of the next meeting are announced.
- G. All County ordinances and amendments shall be published after passage and may be published in full or in summary form at the discretion of the Fiscal Court.

H. An order or resolution may be utilized for action by the Fiscal Court where the action is specific in nature, not for an uncertain time period, and which is enforceable within county boundaries.

## **CHAPTER 4 FINANCIAL MANAGEMENT**

### **SECTION 4.1 Budget Preparation Procedures**

A. By April 1st of each fiscal year, the County Judge shall obtain budget proposals prepared by each County office or agency receiving funds from the Fiscal Court, including the Jailer.

#### **NOTE**

*The County Clerk and Sheriff operate on a January 1-December 31 fiscal year with a mandatory budget approval date for the County Clerk of January 15. Therefore, the County will already have the County Clerk's and Sheriff's budget.*

B. The County Judge shall prepare a report of anticipated revenue from general fund taxes and intergovernmental transfers from city, state, and federal government.

C. The County Judge shall review the expenditures in each classification of each fund for the preceding year and for the current year.

D. The County Judge may obtain from the Clark County Treasurer receipts for actual expenditures made during the current fiscal year.

E. An estimate shall be made of expenditures for the remainder of the current year and of any surplus, by fund, which will remain.

F. The County Judge shall obtain from the sheriff an annual settlement showing County taxes collected, not later than October 1 of the current year and by April 1 of each year of the Clark County Property Assessment levels from the Clark County Property Valuation Administrator.

G. The County Judge shall submit the completed proposed budget to the Fiscal Court not later than May 1 of each fiscal year.

H. Immediately upon receiving a proposed budget for the County, the Clark County Fiscal Court shall make comments, amendments, and tentatively adopt the proposed budget prior to the County Judge submitting the budget to the Kentucky State Local Finance Officer.

I. Following action by the Fiscal Court, but not later than June 10, the budget shall be submitted to the Kentucky State Local Finance Officer for approval as to form and classification.

J. The Clark County budget approved by the State Local Finance Officer shall be submitted to Fiscal Court for adoption in the form of an ordinance not later than July 1.

K. The County Judge shall cause a copy of the proposed budget to be posted in a conspicuous place in the courthouse near the front door not less than seven (7) days before final adoption.

(1) A summary of the County budget shall be published in accordance with KRS Chapter.

424 before final adoption by Fiscal Court.

- (2) A summary of the County budget shall be published in accordance with KRS Chapter. 424 within 30 days after adoption by Fiscal Court.
- (3) The County Judge shall maintain a copy of the budget as adopted, together with any amendments adopted thereafter, for public inspection.

#### **SECTION 4.2 County Budget Hearing Procedures and Requirements**

A. County Road Aid Fund (CRA):

- (1) Notice of the proposed use hearing on the CRA fund shall be published not less than seven (7) days in advance of the scheduled hearing.
- (2) The County Judge shall conduct the proposed use hearing.
- (3) Copies of the published notice and written minutes of the hearing shall be maintained by the County Judge as public record.

B. Prior to adoption of the County budget and submittal to the State Local Finance Officer, the Fiscal Court shall conduct a budget hearing on the entire County budget to show the relationship of LGEA fund uses to other funds and uses. The date of the final budget hearing may be immediately prior to the first reading of the budget ordinance.

C. Notice of the budget hearing shall be published in at least one (1) newspaper of general circulation and other news media in the community shall be advised. The preceding shall be as follows:

- (1) Published notice of budget hearing not less than ten (10) days prior to the scheduled hearing;
- (2) The Fiscal Court shall conduct the budget hearing;
- (3) Copies of the published notice and written minutes of the hearing shall be maintained by the County Judge as public record.

#### **SECTION 4.3 County Procedures for County Treasurer**

- A. The Treasurer shall receive and deposit all funds due the County.
- B. County funds shall be paid out only on order of Fiscal Court.
- C. No expenditures may be made in excess of revenues or for purposes other than appropriated.
- D. No appropriations may be made which exceed adopted budget amounts.
- E. The Treasurer shall keep an Appropriation Expenditure Ledger. The ledger shall be a record of each budget appropriation, all expenditures from the appropriation and each budget fund.
- F. The Treasurer shall maintain a general ledger in which all transactions are entered, either in

detail or in summary. Each fund (General Fund, Road Fund, Local Government Economic Aid, etc.) shall have a complete balancing set of general ledger accounts. Control accounts shall be established for the Cash Receipts Register and the Appropriation Expenditure Ledger.

G. The Treasurer shall maintain a Cash Receipt Register containing columns for total cash received, source of revenue and miscellaneous revenue for each fund

H. The Treasurer and Finance Officer shall maintain an Appropriation Expenditure Ledger. This ledger is a group of accounts supporting in detail the appropriation and expenditure accounts of the General Ledger. An account must be provided for each appropriation made in the budget. The original appropriation and all amendments and transfers authorized by order of the Fiscal Court shall be entered. All expenditures shall be charged to an appropriation account.

I. The Treasurer and Finance Officer shall maintain a record of all warrants paid (except payroll) in chronological order in a Warrant Distribution Register. Columns shall provide for date, payee, warrant number, appropriation expenditure account number and amount. Separate columns shall provide for each fund so that one register serves all funds.

J. The Treasurer or Finance Officer shall maintain a Payroll Authorization Book, designed to facilitate convenient preparation and certification of the payroll. One order of the Fiscal Court may be made to authorize payment for all employees for more than one payroll period.

#### **NOTE**

*While the Finance Officer may maintain the Payroll Authorization Book, the Finance Officer is not authorized to execute checks.*

K. The Treasurer or Finance Officer shall maintain an Individual Earnings Record for each employee, including time records, gross earnings, deductions and net pay at the time computed.

L. The Treasurer shall maintain a Notes Payable Register which provides information on notes for temporary loans in anticipation of the current year's revenue, indicating the principal amount, interest rate, due date, fund and other necessary details.

M. The Treasurer shall maintain a Bond Register which records the history and authorization of each bond issue, whether general obligation bonds, revenue bonds or special levy bonds. A separate sheet shall be prepared for each issue.

N. The Treasurer and Finance Officer shall maintain as confidential all matters pertaining to County Finance except matters produced pursuant to Ch. 61, et.seq., or other lawful order. No matter may be disclosed to third parties without the written approval of the County Judge.

#### **SECTION 4.4 Account Balance—Expenditures--Records**

A. At the beginning of each fiscal year, the total amount of the appropriation represents the free balance, or unused appropriation amount, for each account.

B. As expenditures are made during the year, the amount of the expenditure is subtracted from the free balance to keep an accurate record of the exact amount of the unused appropriation at any time.

C. When any item is ordered, the free balance is encumbered in that amount, although it may be considerable time before the actual expenditure occurs.

D. The County Judge shall write and sign all warrants directing the Treasurer to make payments authorized by Fiscal Court. The County Judge shall maintain a record of all warrants.

E. At the close of each fiscal year the County Judge will be responsible for the preparation of records necessitated by the annual County audit and audit of the County Judge's office. The annual audits of the books, accounts, and papers of the County and the County Judge shall be conducted by the State Auditor of Public Accounts or a Certified Public Accountant.

#### **SECTION 4.5 Claims against Clark County**

A. The County Judge shall account for all claims against the County.

B. All claims for payment from the County shall be filed in writing with the County Judge.

C. Each claim shall be recorded by date, receipt and purchase order number and presented to the Fiscal Court at its next meeting.

D. Each order of Fiscal Court approving a claim shall designate the budget fund and classification from which the claim will be paid and each warrant shall specify the budget fund and classification.

E. The payroll for County officials and regular County employees and recurring utility expenses are hereby preapproved. Other recurring expenses may be preapproved by the Fiscal Court upon authorization of the State Local Finance Officer.

F. The depositor of Clark County funds shall not honor any warrant on the County unless it is signed by both the County Judge and the County Treasurer. In the absence of the County Judge, the Deputy County Judge may sign.

G. All offices collecting County or state monies shall utilize a daily deposit in an interest drawing account until settlement is made to the Commonwealth and County. County fees shall be remitted to the County no later than the 10th day of each month following the month of collection unless a written waiver is given by Fiscal Court.

#### **CHAPTER 5 PERSONNEL ADMINISTRATION**

It shall be the policy of the County to maintain equal employment opportunities for its labor force which will be in compliance with applicable federal and state laws. The County is an at-will employer and is not subject to merit system governance or regulations.

As an Equal Opportunity Employer, the County is committed to nondiscrimination in hiring, promotion, discharge, pay, fringe benefits and other aspects of employment.

Should you have any questions regarding this, please contact your Supervisor or the County Judge.

#### **SECTION 5.1 Job Classification**

- A. The County Judge will be responsible for the preparation of a descriptive job classification plan for all non-elected positions.
- B. Each job classification shall be in writing and include:
  - (1) A concise, descriptive title;
  - (2) Description of the duties and responsibilities of each position in each classification; and
  - (3) Minimum and preferred qualifications for each position.
- C. All positions in a single class shall be sufficiently alike to permit use of a single title, description, qualifications, and pay range.

### **SECTION 5.2 Personnel Policy of Constitutional Officers**

- A. Each Elected Official shall be responsible for the supervision of all employees working within their particular office.
- B. Each Elected Official may develop a personnel policy for the operation of their respective office.
- C. In the alternative, each Elected Official may choose to adopt the personnel policies approved by Fiscal Court for the operation of their office (Chp. 5). Should the Elected Official elect to utilize the personnel policies of the Fiscal Court, the Elected Official shall designate same, in writing, and deliver same to the County Judge.

### **SECTION 5.3 Applicants**

- A. Each applicant shall fill out and sign a standard written job application form, and each application shall be kept on file for at least two (2) years. All applicants shall sign a release authorizing the County to download and review the applicant's Kentucky Driving History Record or the Driving History Record for the state in which the applicant is licensed.

#### **NOTE:**

*Counties should review the Kentucky Department for Libraries & Archives Records Retention Schedule periodically. For applications, where the applicant becomes a county employee, the application, plus certain other employment records must be kept on file for sixty (60) years.*

- B. An applicant may be required to interview with the position's immediate supervisor prior to being hired.
- C. The County Judge shall make the selection, subject to approval of Fiscal Court, and notify the applicant and supervisor in writing of the selection.
- D. Equal Employment Opportunity (EEO) information may be obtained from the applicant but shall not be used to exclude any person from employment.

E. All part-time and temporary employees, funded through state or federal programs, shall be recruited and selected in accordance with the appropriate program guidelines.

F. The County Judge may, at his discretion, order a criminal background check at the expense of the County.

#### **SECTION 5.4 Supervision**

The County Judge is responsible for the supervision of County employees. This responsibility may be delegated to supervisory employees.

#### **SECTION 5.5 Nepotism and Non-Fraternization**

##### **A. Employment of Relatives**

No officer or employee of the County or government agency shall advocate, recommend or cause the employment, appointment, promotion, transfer or advancement of a family member to an office or position of employment with the County or government agency.

##### **B. Supervision of Relatives**

1. No officer or employee of the County or government agency shall supervise or manage the work of a family member or anyone close enough relation to incur bias.
2. Family member is meant to include, but is not limited to: father, mother, son, daughter, sibling, grandparent, step-parent, step-child or step-grandparent.

##### **C. Non-Fraternization**

Managerial and supervisory employees are not permitted to date or become romantically involved with and/or engage in any fraternization or similar conduct, attempted or otherwise, with any County employee with whom they have a supervisor/superior subordinate relationship.

NOTE: if any part or portion of this nepotism and non-fraternization policy should become less restrictive than the county's Ethics Ordinance, in such event the county Ethics Ordinance shall control.

#### **SECTION 5.6 Discipline Procedures**

A. The County Judge shall discipline County employees by written reprimand, suspension or discharge. All disciplinary actions require Fiscal Court approval. Approval may come after the imposition of the discipline.

#### **SECTION 5.7 Affirmative Action**

A. The County Judge shall develop and maintain an Affirmative Action Plan consisting of

- (1) A Statement of Policy
  - (2) Methods of Dissemination of the Policy
  - (3) Workforce Analysis, and
  - (4) Goals and Timelines
- B. The County Judge is responsible for the implementation of the affirmative action policy for the County

**SECTION 5.8 Scope of Coverage**

- A. The following County employees are expressly exempted from coverage:
- (1) The County Judge, Fiscal Court members, Constables and all Elected Officials.
  - (2) All members of boards and commissions of the County.
  - (3) Consultants, advisors and counsel rendering temporary professional advice.
  - (4) Independent contractors.
  - (5) Employees that fall under a different Administrative Code.
  - (6) Employees made available to County by other agencies.
- B. All County employment positions not expressly exempted from coverage by this section shall be subject to the provisions herein.

**SECTION 5.9 Definitions**

Where used within these personnel rules, the following works and terms shall have the meaning indicated below:

Allocation: The assignment of an individual position to specific class of work based on the kind, difficulty, skill and responsibility of the work performed.

Appointing Authority: That person or body having authority under the laws of the Commonwealth of Kentucky to make appointments to positions. Unless otherwise specified, the Appointing Authority shall be construed to mean the County Judge.

Appointment: The act of appointing authority by which a position is filled.

County Employees: Those employees supervised by the County Judge and the Treasurer.

Demotion: Changing one employee from one class of work to a different class of at a lower pay grade.

Elected Official: Any elected official holding one of the county constitutional offices other than the County Judge.

Performance Rating: An appraisal or evaluation of an employee's work performance. Position: An individual job within the County's personnel system.

Position Description: A detailed written description of the specified duties assigned to and performed by a particular employee.

Termination: The separation of an employee from the County personnel system by resignation, retirement, layoff, dismissal or death.

Dismissal: The termination of an employee.

Layoffs: The involuntary separation of an employee from his position and class due to a reduction in work force.

Resignation: The voluntary termination of employment by an employee.

Retirement: The termination of employment and transfer to retired status of an employee

#### **SECTION 5.10 Classification of Employees**

- A. All employees of the County workforce shall be classified as full-time, part-time, seasonal or temporary.
  - (1) Full-Time Employee: An employee who works 37.5 or more hours per week on a regular scheduled basis.
  - (2) Part-Time Employee: An employee who works less than 37.5 hours per week.
  - (3) Seasonal Employee: Temporary positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event.
  - (4) Temporary Employee: are positions of employment with a participating agency for a period of time not to exceed twelve (12) months (full or part-time).

#### **SECTION 5.11 Hours of Work**

- A. An employee's work hours shall be assigned by the Department Head or Direct Supervisor.
- B. Overtime work shall be approved in advance by the County Judge or the supervisor. In exceptional circumstances, as determined by the County Judge, the County Judge may approve overtime work after the overtime work has occurred. Failure to abide by this overtime policy may result in disciplinary action to the employee.

#### **SECTION 5.12 Personnel Records**

Beginning the first day of employment, all new employees shall report to an office designated by the

County Judge to supply any information needed to complete personnel records, execute payroll withholding authorization and enroll in the employee benefit program.

### **SECTION 5.13 Employee Records**

It shall be the obligation of the employee to maintain current information by notifying the *Treasurer or Finance Officer* of all changes in personal or family status, home address, telephone number, or any other changes which would affect payroll withholding or employee benefits.

### **SECTION 5.14 Personal Conduct**

Images presented and statements made by all employees of the County can affect the entire organization; therefore, employees are expected to be courteous and appropriately dressed at all times.

### **SECTION 5.15 Safety**

The health and safety of all County employees is of major importance. All employees shall report all hazardous conditions in their work area at once to their immediate supervisor. The supervisor shall document in writing the hazardous condition. All injuries should be reported immediately to the supervisor and within 24 hours to the County Judge's office or as soon as practicably possible...

### **SECTION 5.16 Credentials**

If it should come to the attention of the County Judge that an employee was hired on the basis of false credentials, said employee will be subject to immediate demotion or dismissal. All employees shall be a high school graduate or GED recipient, unless otherwise approved by the Fiscal Court.

### **SECTION 5.17 Selection and Appointment**

A. The County Judge shall select job candidates to be submitted to Fiscal Court for approval. Fiscal Court shall approve all salaries or appropriate salary schedules.

B. All employees whose positions are funded through state or federal programs shall be recruited and selected in accordance with the appropriate program guidelines.

### **SECTION 5.18 Methods of Filling Vacancies**

If it is determined by the County Judge that no current County employee meets the education, experience and skill requirements set forth in the classification description, the positions shall be filled through applications on file. If no applicant on file meets the requirements, open public recruitment will be used to fill the position.

### **SECTION 5.19 Recruitment, Evaluation, and Certification**

The County Judge's office shall be responsible for:

- (1) Accepting complete application forms/submissions from the applicants.
- (2) Conducting interviews, reference checks, and evaluating training, experience and credentials.

**SECTION 5.20 Announcements of Vacancies**

A. Notice of employment opportunity and necessary examinations, if any, may be publicized at the County Judge’s discretion.

B. Such notices shall:

- (1) List the vacant position(s).
- (2) Specify for each position its position title, nature of work to be performed, and qualifications for employment in the position.
- (3) Tell when and where to file applications/submissions for employment in the position.

**SECTION 5.21 Application Form**

A. All applicants shall utilize the Clark County Application form or submission, adopted by the County. The applicant shall provide:

- (1) Information about the applicant's training, experience and character.
- (2) Whatever additional information the County Judge deems pertinent to an evaluation of the applicant's fitness for the position for which he applies.

B. The County Judge shall review each application or submission to ascertain the applicant's qualifications for the position.

**SECTION 5.22 Appointments**

A. The qualifications of an applicant for a position shall be ascertained on the basis of one or more of the following:

- (1) Job related performance (internal candidates);
- (2) Information provided on the Application;
- (3) Interview(s);
- (4) References; and
- (5) Other appropriate means.

Where a declaration of emergency has been declared in accordance with KRS Chp. 39B, the County Judge may hire employees on a temporary basis for emergency purposes without Fiscal Court approval.

**SECTION 5.23 Transfer**

Any full-time employee may request a transfer from one position to another position provided that position is vacant and one for which the employee possesses the qualifications.

## **SECTION 5.24 Promotion**

A. An employee may be promoted from one position to another if the employee has the qualifications for the higher position. These qualifications shall be ascertained on the basis of job-related information, interview, and evaluations of performance, training and experience. The same procedures as those authorized for ascertaining his qualifications for initial appointment to a position shall be followed.

B. In the filling of a vacancy in a position above the entrance level, preference may be given to promotion of present employees. If the County Judge deems it in the best interest of the County, the County Judge may fill the position by appointment of a person from outside the current workforce.

## **SECTION 5.25 Attendance / Pay**

A. The standard work week for County employees shall be forty (40) hours per week, unless otherwise prescribed by the Fiscal Court. Specific departmental work schedules shall be prescribed by department heads, with the approval of the County Judge. Work schedules for seasonal, temporary and part-time employees shall be specified by the County Judge according to the needs of the County and the rules and schedule stipulated for regular employees.

B. Employees shall be at their places of work in accordance with prescribed schedules. The supervisor shall maintain daily attendance records of employees under the supervisor's direction.

C. All non-elected county employees upon beginning their hours of work shall begin the time for which they are paid by use of a time clock located in each department according to the following provisions:

(1) It is a job requirement that all exempt and non-exempt employees must "clock in" at the beginning of their shift and "clock out" at the end of work each day.

Non-exempt employees are to "clock out" at the beginning of lunch breaks or when they leave the job site and "clock back in" when they return from lunch or when they return after being away from the job site.

(2) Employees will not be able to "clock in" at the beginning of their shift earlier than seven (7) minutes prior to their scheduled start time. Although employees are able to clock in up to seven (7) minutes prior to their shift; they are expected to "clock in" as close to their start time as possible.

A similar process occurs at quitting time. Employees can only clock out within seven (7) minutes following quitting time. Although employees are able to clock out up to seven (7) minutes prior to their shift; they are expected to clock out as soon as their shift ends.

(3) All "clock in" and "clock out" punches will be rounded according to a seven- minute grace period with a fifteen-minute round. For example, if an employee clocks in at 7:07 am, the employee will be paid starting at 7:00 am. If the employee clocks in at 7:08 am; they will be paid beginning at 7:15 am. The policy applies to early as well as late punches. For example, if an employee clocks in at 6:53 am; they will be paid beginning at 7:00 am. The same rule holds at the end of the day. If an employee's

shift normally ends at 5:30 pm; they clock out at 5:37, their stop time will round to 5:30 pm. If an employee clocks out at 5:38, their stop time will round to 5:45 pm.

**D. The Compensation Plan is attached as Exhibit A.**

**SECTION 5.26 Holidays**

- A. The Fiscal Court shall adopt a holiday schedule. The current holiday schedule is:
- (1) The first day of January (New Year's Day), plus one extra day
  - (2) Martin Luther King, Jr. Day
  - (3) ½ Good Friday
  - (4) Memorial Day
  - (5) Independence Day
  - (6) Labor Day
  - (7) Veteran's Day
  - (8) Thanksgiving Day plus the following day
  - (9) Christmas Eve and Christmas Day
- B. Each Elected Official shall follow the same holiday schedule for its employees as adopted by the Fiscal Court.
- C. If a department wishes to deviate from the above holiday schedule, a request must be submitted to the Fiscal Court by the Director or Supervisor prior to the specific holiday(s) that is to be observed stating the dates and reasons for the deviation.
- D. Employees that have the holiday off will be paid for 8 hours of time. Employees that are required to work on a holiday will be paid at their normal pay rate plus 8 additional hours for holiday pay. All hours paid for holiday pay will be paid at a straight time rate.

Example: An employee working 42 hours of actual work and 8 hours of holiday pay will be paid at a rate of 48 hours of straight time and 2 hours of overtime at a rate of time and a half.

**SECTION 5.27 Vacation**

- A. Full-time employees may apply for vacation leave after six months of service.
- B. Vacation time accumulated prior to the adoption of this Administrative Code shall remain available to the employee subject to Section I & J below.
- C. Part-time, Seasonal and Temporary employees shall not be eligible to earn vacation leave.
- D. No employee shall be permitted to take vacation leave that has not been earned. Vacation pay shall be at the current rate of salary.
- E. Vacation days should be scheduled on anticipated "slack" time in a manner that does not interfere with the functions and services of the office. The supervisor shall review all vacation leave requests and shall forward the request and the supervisor's recommendation to the County Judge if the request is greater than one (1) week... Approval by the County Judge is mandatory for all vacation requests greater than one (1) week.
- F. The County Judge's office or its designee shall keep records of vacation leave for each individual employee.

- G. All employees may take leave without pay if the leave is approved by the County Judge.
- H. Absences on account of sickness, injury, or disability in excess of that authorized for such purposes may, at the request of the employee and with the approval of the County Judge, be charged to vacation leave credit.
- I. All regular full-time employees shall be entitled to twelve (12) days of vacation leave for years 1-4, years 5-9 fourteen (14), years 10-14 sixteen (16), years 15+ 18 days of vacation. Employees shall be entitled to accumulate vacation leave up to 288 hours. Any leave accrued in excess of 288 hours shall be paid out to the employee on the first payroll of the month in December. Upon separation of employment through retirement or properly notified resignation all accumulated vacation leave shall be paid to the employee.
- J. All regular full-time fire department employees shall be entitled to 12 hours per month vacation leave for years 1-4, years 5-9 13.92 hours, years 10-14 15.96, and years 15+ 18 hours per month vacation leave. Fire department employees shall be entitled to accumulate vacation leave up to 480 hours. Any leave accrued in excess of 480 hours shall be paid out to the employee on the first payroll of the month of December. Upon separation of employment through retirement or properly notified resignation all accumulated vacation leave shall be paid to the employee.

**SECTION 5.28 Sick Leave**

- A. Accumulation of Sick Leave:
  - (1) Paid sick leave entitles employees to time off to recuperate from illness or accident, while retaining their employment rights and pay for the time off. Its main purpose is to provide income for employees absent a relatively short time because of personal illness or injury.
  - (2) Regular Full-time employees shall be eligible to accrue sick leave at the rate of 4 hours per month, after their third full month, accruing on the first day of each month thereafter. Fire Department employees regularly working a 24-hour shift schedule shall be eligible to accrue sick leave at the rate of 12 hours per month, after their third full month, accruing on the first day of each month thereafter. Part-time, Seasonal and Temporary employees are not eligible for sick leave.
  - (3) Employees in their first three full calendar months of service shall not be credited with sick leave. As an example, a regular employee hired on January 15 shall not be credited with sick leave during the months of January, February, March or April. The employee will be credited with 4 hours sick leave time on May 1. A fire department employee regularly working a 24-hour schedule would accrue 12 hours sick leave on May 1 under this scenario.
  - (4) Upon enactment of this code, sick leave may be accumulated up to 480 hours for new regular employees and 720 hours for new fire fighters. Current regular employees may accrue 480 hours in addition to what they currently have accumulated, while fire fighters may accrue 720 hours in addition to what they have accumulated as of the date this code is adopted.

- (5) All sick leave time will be paid at regular time rate. Sick leave will not be used toward overtime hours except as outlined in #8. An employee working 37 hours of straight time and 8 hours of sick time will be paid 45 hours straight time for the week.
- (6) All sick leave time will be forfeited upon resignation or termination for any reason.
- (7) Up to six months of sick leave time may be used toward retirement for current employees. Persons employed after this policy is adopted will be capped at 480 hours sick time towards retirement.
- (8) Firefighters that use sick time shall be paid at the normal hours including scheduled overtime. Example: If a firefighter is scheduled to work two 24-hour shifts in a pay period and calls in sick for a 24-hour shift, the fire fighter should be paid 40 hours regular time and 8 hours overtime. Sick time only counts towards scheduled overtime. For example: If a firefighter works an additional unscheduled 24-hour shift as outlined above he shall be paid 64 hours regular time and 8 hours overtime.

B. Use of Sick Leave:

- (1) Personal illness, injury, or visits to medical provider.
- (2) Illness or injury in the immediate family (spouse, children, parents, or relatives living in the employee's home).

C. A County official may allow three (3) consecutive days of sick leave without a medical provider's excuse, but any days over a three (3) day period must be accompanied by a medical provider's 'Return-to-Work' note unless otherwise authorized by the Department Head.

D. Upon retirement, an employee may transfer accumulated sick leave up to six (6) month to the County for retirement credit only. Upon said election, the County shall purchase retirement service credit in an amount equal to the unused sick leave of said employee.

E. Upon termination of employment with the County, the employee will be paid twenty-five (25%) percent of accrued unused sick leave hours up to the maximum of 240 hours.

**NOTE:**

*No employee will lose any of his/her already accumulated sick time. Once the County has adopted a sick leave conversion to retirement policy, there is no opt out provision. The policy is universal to all employees unless the constitutional officer has their own account with retirement.*

F. Reporting Sick Leave:

- (1) To be paid sick leave, the employee has the responsibility to report their inability to be on the job. Failure to notify the supervisor no less than 1 hour prior to the established work time may result in loss of pay for that day and may result in disciplinary action against the employee. In emergency situations when the 1-hour notification timeframe is not possible prior to the start of the established work time, the employee shall notify the supervisor as soon as is possible.
- (2) Sick leave time used will be subtracted on an hour-for-hour basis.

- (3) Upon return to work the employee shall file a Notice of Leave form stating the reasons for the absence, unless the employee filed the form prior to taking sick leave. The form must be approved by the supervisor before being charged to sick leave. Individual records of all sick leave credit shall be maintained by the County.
- (4) Clark County may require the employee to submit a 'Return to Work' note from a medical provider when the absence occurs before or after a holiday or other scheduled day off or when an employee has a record of repetitious usage of short amounts of sick leave over an extended time period. The employee may be required to take a medical examination on returning from sick leave or on such occasions that it is in the best interest of the County. The medical examination shall be given by a physician designated by the County.
- (5) False or fraudulent use of sick leave shall be cause for disciplinary action, up to, and including, dismissal.

#### G. Sick Leave Donation Program

##### Eligibility

- (1) Both recipients and donors must be current employees of the County.
- (2) A donor may not donate an amount of sick leave which would cause his/her sick leave balance to go below 75 hours.
- (3) An employee becomes eligible to receive donated sick leave at the point in time when all four of the criteria below are met:
  - The employee or member of his/her immediate family suffers from a "medically certified" illness, injury, impairment, or physical or mental condition which has caused, or is likely to cause, the employee to go on leave for at least ten consecutive working days;
  - The employee's need for absence is certified by a licensed practicing physician;
  - The employee has exhausted all of his/her available paid leave: and
  - The employee has complied with administrative regulations governing the use of sick leave.

Participation in the Sick Leave Sharing Program is at the discretion of the employee and requires approval of the County Judge or Elected Official.

##### Guidelines on Sick Leave Sharing

In the event of a prolonged or catastrophic illness or injury, or an extended absence due to illness of a family member, eligible employees who accrue sick leave and who have exhausted their leave balances may have sick leave donated to them by other eligible County employees. The forms needed to receive or donate leave may be obtained from the County Judge's or the Elected Official's office. Listed below is the chronological flow of actions and documents.

- A. Recipient completes application and submits it along with the physician's certification to the Supervisor. The Supervisor collects all information and transmits the appropriate documents to the County Judge or Elected Official.
- B. The application is reviewed to ensure that the certification of the physician is complete, and the form is correctly filled out. The supervisor shall verify that the employee will exhaust his leave during the projected absence. The employee does not have to have exhausted his leave before he submits the application. The
  - a. Employee also does not have to have been off for 10 days in order to apply but must have a situation where it is likely to cause an absence for at least 10 consecutive days. A file will be created for the recipient by the supervisor. All medical information must be kept in a locked file separate from the personnel files.
- C. Donor(s) completes donation form and submits to the County Judge or the Elected Official's designee. The donor's supervisor verifies the donor's leave balance for eligibility. After the form is signed by the appointing authority, a copy is sent to the recipient's supervisor. The donor's supervisor must reduce the donor's sick leave balance upon receipt of the memo from the recipient's supervisor.
- D. Receive and file forms. As the donation forms are received by the recipient's supervisor, they are stamped with a received date, and the time of receipt is recorded on the form. The recipient's supervisor will file the donor forms in the file for the appropriate recipient.
- E. Sequence of leave usage. Transfer all leave donated to the recipient at the time of donation, not on a pay period basis, up to the amount requested. As the recipient accrues leave, the recipient's leave time must be used first. The recipient can then use time donated to him. The recipient uses donated leave in the order in which it is received.
- F. Recipient can retain leave after return to work. The recipient may retain the donated leave upon return to work only if the recipient documents that leave will be needed for continuing treatment relating to the condition which caused the individual's absence. For example, if the employee was absent due to surgery to remove a malignant tumor and returns to work, but will require periodic absences for radiation therapy, the excess leave may be retained for that purpose. However, the employee may not retain the excess leave to be used for any unrelated condition.
- G. Sequence of restoring unused leave to donors. When the recipient returns to work and the donated leave is no longer needed for the qualifying condition, excess leave shall be returned to donors in reverse order of donation (last donor's leave is returned first). If the donor has left employment, the returned hours should be credited to the inactive record for restoration if the employee is rehired.

**SECTION 5.29 Family and Medical Leave Act (FMLA)**

- A. FMLA provides entitlement for up to 12 weeks of job protected, unpaid leave, during any twelve-month period for the following reasons:
  - (1) The birth of a son/daughter or care for newborn child;
  - (2) The placement of a son/daughter for adoption or foster care;

- (3) Care for the employee's spouse, son/daughter, or parent with a serious health condition;
- (4) The employee's own serious health condition.

B. **Qualifying Exigency Leave.** The FMLA requires that employers provide employees up to 12 weeks of leave in a 12-month period to tend to any "exigency" resulting from a service member's call to duty. The new FMLA regulations clarify that exigency leave may be taken by eligible employees (consisting of not only a spouse, son, daughter, or parent, but also "next of kin" — the next nearest blood relative) while their spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves, or if the family member is a retired member of the Regular Armed Forces or the Reserves. An employee whose family member is on active duty or call to active duty for the Regular Armed Forces does not qualify for this leave. Qualifying exigencies include short-notice deployment, military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities.

C. **Military Caregiver Leave.** An eligible employee is entitled to 26 work weeks of leave in a 12-month period to care for a covered service member in the Armed Forces (including the National Guard and Reserves) who becomes ill or injured as a result of his or her military service. The 12-month period begins when the employee starts using her or his leave. This leave may only be taken once per injury, but may be taken again if there are additional injuries. More than one family member may qualify for the leave.

D. If the employee was qualified for health insurance benefits when leave begins, the employer shall maintain health benefits for the employee in the same manner during periods of FMLA leave as if the employee continued to work.

E. However, the employee must exhaust all accumulated sick leave and annual leave time prior to receiving unpaid FMLA leave.

F. Upon employee being granted FMLA leave, the employee must continue to pay his/her own employee contribution to the health insurance plan ordinarily required of an employee. The employer will continue to pay the contribution ordinarily paid by the employer under the current health insurance plan. If the employee contribution payment is not paid by the employee, in such event, the employer may terminate the health insurance benefits of the employee during FMLA leave. However, the employee may exercise their rights for COBRA benefits.

G. In order to qualify for FMLA benefits, the employee must have worked for the employer for at least 12 months prior to the commencement of benefits and worked at least 1,250 hours in the prior year. The 12-month period need not be consecutive. Employment prior to a break in service of more than 7 years need not be counted unless the break in service was occasioned by the fulfillment of National Guard or Reserve Military Service Obligations.

H. Upon the employer granting FMLA leave, the employee receives an entitlement of up to 12 weeks of job protected unpaid leave during any 12-month period. The fixed 12 month "leave year" shall commence January 1 of each year and conclude on December 31 of each year.

I. When the need for leave is foreseeable, the employee must give the employer at least 30 days written notice of his/her intent to receive FMLA leave benefits. If the leave is not foreseeable,

the employee must provide written notice as soon as possible. The employer reserves the right to require medical certification of a serious health condition for the employee's health or a member of his/her family as defined herein. The employer may also require periodic written medical reports during the leave of the employee's health status, health status of family member herein defined, as well as "fitness-for-duty" certification upon return to work from a medical doctor.

J. "Serious health condition" means an illness, impairment, injury, or physical/mental condition that involves either:

i) any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or

ii) Continuing treatment by a health care provider which includes any period of incapacity that prevents the employee or family member from working, attending school, or any other regular daily activity.

K. Any employee desiring to benefit from "donated sick leave" must be granted same and utilize same prior to applying for leave without pay under FMLA. Upon FMLA leave being granted to the employee, the employee may not participate in the donated sick leave plan until the employee has returned to work on a regular paid basis with a letter from a medical doctor stating that the employee is fit for duty.

L. Upon the employer granting leave without pay under FMLA, as provided for herein, the County Judge or Elected Official shall authorize same in writing and provide the employee and the county treasurer a copy of the written approval. All applications for leave without pay and all approvals of same, not in writing, shall disqualify the employee from health benefits otherwise provided herein.

### **SECTION 5.30 Bereavement Leave**

A. All full-time employees may receive bereavement leave in the event of a death in the immediate family. Immediate family for this purpose shall be deemed to include the parents, grandparents, grandchildren, spouse, children, immediate in-laws, step-family, foster family, brothers, sisters, and household dependents. Leave may be limited to the day of the death until the day after the burial.

B. Leave due to death of other relatives may be limited to the day of burial only without pay.

C. Bereavement leave must be approved by the County Judge or Elected Official and is not charged against any leave accumulated. Leave is granted only for the actual time needed and be paid for now more than 24 hours at the employee's regular rate. If additional time is needed, unpaid leave may be granted upon request.

D. An employee who is unable to work because of death in the immediate family should notify the employee's supervisor by telephone or email prior to the scheduled time to report for duty.

### **SECTION 5.31 Leave without Pay**

A. In addition to authorized leave referenced above, the County Judge or Elected

Official may authorize an employee to be absent, without pay, for personal reasons.

B. Leave of absence without pay will not be granted until all vacation leave has been exhausted. Request for leave for personal reasons shall be submitted in writing to the County Judge or Elected Official, stating reasons for the request, the date the leave shall begin and the probable date of return.

C. Leave without pay may be revoked at any time upon 48 hours' notice to the employee.

### **SECTION 5.32 Maternity Leave**

A. The County Judge or Elected Official may grant maternity leave for full-time permanent employees with temporary disability due to pregnancy, childbirth, adoption, or any impairment thereof, and miscarriage for a period not to exceed six (6) weeks. Additional leave time may be granted.

B. An employee granted maternity leave shall use any accrued sick leave and vacation time with the remaining periods as time off without pay.

C. The employee must notify the County Judge or Elected Official as far as possible in advance of the employee's intention to request Maternity Leave, including approximate dates, in order to allow the County Judge or Elected Official time to prepare for any staff adjustments.

### **SECTION 5.33 Military Leave**

Pursuant to KRS 61.394 and 61.396, all employees of this county, or of any department or agency thereof, who are members of the National Guard or of any reserve component of the Armed Forces of the United States, or of the reserve corps of the United States Public Health Service, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits to which they are entitled, while in the performance of duty or training in the service of this state or of the United States under competent orders as specified in this section. In any one (1) federal fiscal year, officers or employees, while on military leave, shall be paid their salaries or compensations for a period or periods not exceeding twenty-one (21) calendar days. Any unused military leave in a federal fiscal year shall be carried over to the next year. Any unused military leave shall expire two (2) years after it has accrued.

The employee shall give the County two (2) weeks' notice prior to the scheduled leave if time permits.

### **SECTION 5.34 Civil and Voting Leave**

A. Jury Duty: Upon receipt of the order requiring the employee to report for jury duty, the employee must show the order to the supervisor. There will be no deduction from accumulated leave. The pay received for serving on a jury will be given to the Fiscal Court and no deduction from the employee's regular salary will incur.

B. Employees are encouraged to vote and Department Heads will allow ample time off to vote. Supervisors must be notified prior to election day if an accommodation is needed.

### **NOTE:**

*A county may compensate an employee while they are on jury duty or voting, but it is not required.*

### **SECTION 5.35 Court Appearance**

- A. Upon receipt of the order requiring the employee to make a court appearance, the employee shall make arrangements with the employee's supervisor to comply with the order.
- B. If appearing in an official capacity in connection with Clark County, the employee's court time is considered working time and no charge is made against leave time.
- C. If the employee is involved in a personal case, either as plaintiff, defendant or as a witness in a suit not resulting from his duties with the County, he may be granted leave, but the time off he takes must be charged to his accrued vacation time, to leave of absence without pay or the employee may be allowed to work alternative hours if approved by the supervisor and County Judge, and if the alternative hours are within the same week as the needed leave.

### **SECTION 5.36 Overtime/Compensation Time**

- A. Clark County's work week begins Wednesday and concludes on Tuesday.
- B. All Fiscal Court employees will be designated as either "exempt" or "non-exempt". Non-exempt employees will be paid at an hourly rate. Exempt employees' compensation will be by salary, set by the fiscal court upon recommendation of the County Judge.
- C. A non-exempt employee that works in excess of forty (40) hours in a work week shall be paid at one and half (1 ½) times his/her hourly rate per each excess hour. A non-exempt employee may choose comp-time under the limitations set forth in KRS 337.285. Exempt employees are not eligible for comp time.
- D. A County employee who has previously accrued compensatory time off, and who has requested the use of compensatory time, shall be permitted to use the compensatory time within a reasonable period of time after making the request if the use of the compensatory time does not unduly disrupt the operations of the County. Mere inconvenience to the County shall not constitute a sufficient basis for denial of a County employee's request for compensatory time off.
- E. If compensation is paid to a County employee for accrued compensatory time off, the compensation shall be paid at the regular rate earned by the County employee at the time the County employee receives the payment.
- F. Employees may be required to take comp hours during "slack-time" as recommended by their supervisor or the County Judge.
- G. Upon a County employee's termination of employment, all unused accrued compensatory time shall be paid at a rate of compensation not less than:
  - (a) The average regular rate received by the County employee during the last three (3) years of the County employee's employment, or
  - (b) The final regular rate, whichever is higher.

H. Regular employees who have accrued over 240 hours of comp-time and Fire Department employees who have accrued over 480 hours of comp-time at the time this Administrative Code is adopted shall be required, with the approval of the Judge/Executive, to starting using accrued comp-time until they reach the KRS mandated 240 or 480 hours of max accrued time. Comp-time is defined in KRS 337.285

### **SECTION 5.38 County Vehicles**

- A. Anyone driving a County vehicle will be responsible for that vehicle in case of an accident. A breathalyzer test, urinalysis, or other testing, or any combination of the three (3), will be required, with refusal resulting in automatic dismissal of the County employee. Anyone driving a County vehicle must maintain a valid operator's license. Any accident, traffic citation, or driving arrest of an employee in a County vehicle must be reported immediately to the supervisor or office holder.
- B. County employees will be held financially responsible for damage caused to county vehicles due to his/her negligence or recklessness.
- C. Any employee found to be under the influence of alcoholic beverages or unauthorized drugs or controlled substances while operating a County vehicle or equipment shall be the subject of immediate dismissal from employment.
- D. All County vehicles must be marked and must remain in the county unless on official business or absent upon written permission of the County Judge.

### **SECTION 5.39 Health Insurance**

All full-time employees of the County shall be provided with a single health insurance plan opportunity by the Fiscal Court. Employees can sign a waiver rejecting this benefit.

### **SECTION 5.40 Kentucky County Employees Retirement Program**

The County shall conduct the retirement program in accordance with the guidelines and directives of the County Employees Retirement System (CERS).

### **SECTION 5.41 Employee Relation Provisions Training and Career Development**

The County Judge may permit or direct the attendance of employees at meetings, conferences, workshops or seminars intended to improve the knowledge, abilities and skills of County employees. The County Judge may release an employee from his regular duties during work days to attend classes at a recognized institution of learning if, in the supervisor's judgment, such classes contribute favorably to the county's goals and objectives and the career development of the employees.

### **SECTION 5.42 Performance Evaluation**

The County Judge and each supervisor are responsible for appraising the performance and merit of personnel under their respective jurisdiction.

### **SECTION 5.43 Disciplinary Action**

A. Grounds for disciplinary action of County employees, ranging from warnings to immediate discharge, depending upon the seriousness of the offense, shall include, but not be limited to, the following:

- (1) Dishonesty or falsification of records;
- (2) Use of alcoholic beverages or drugs which affect job performance, including the consumption of alcoholic beverages or drugs during working hours as well as the abuse of alcoholic beverages or drugs during non-working hours which, as a result of said abuse, affect the job performance of the employee during actual working hours;
- (3) Unauthorized use or abuse of County equipment or property;
- (4) Theft or destruction of County equipment or property;
- (5) Habitual tardiness, unauthorized or excessive absence or abuse of sick leave;
- (6) Disregard or repeated violations of safety rules and regulations;
- (7) Unsatisfactory performance of duties;
- (8) Disobeying a supervisor;
- (9) Performing outside work during working hours established by the County;
- (10) Excessive use of personal phone for private purpose or social media during work hours;  
or
- (11) Displaying or distributing campaign material for a political campaign during normal working hours; the placement of any campaign or political material on a County vehicle; or participating in political activities while on the job site or during normal working hours.

B. The County Judge may place an employee on leave, with or without pay, pending investigation of any alleged activity. Fiscal Court shall be notified no later than the next regular meeting.

#### **SECTION 5.44 Demotion**

A. The County Judge may, with Fiscal Court approval, demote an employee provided the employee possesses the minimum qualifications for the position to which he is demoted. Reasons for demotion include, but are not limited to:

- (1) Inability to carry out duties in accordance with the standards prescribed for the position or these rules;
- (2) Disciplinary reasons;
- (3) In lieu of layoff.

B. Written notice shall be given to the employee prior to, or at the time of, the demotion.

#### **SECTION 5.45 Suspension**

A. The County Judge may suspend, with Fiscal Court approval, any County employee, with or without pay, for not more than thirty (30) calendar days for disciplinary reasons. Fiscal Court approval may come after the suspension.

B. Should an employee be suspended without pay prior to the suspension being presented to Fiscal Court, and should Fiscal Court not approve the suspension, the employee shall be compensated for lost wages during the suspension period.

C. Any suspended employee shall receive written notice of suspension. The notice shall state:

- (1) Reasons for the suspension;
- (2) Duration of the suspension.

#### **SECTION 5.46 Separation**

An employee may be separated by:

- (1) Dismissal;
- (2) Resignation;
- (3) Retirement; or
- (4) Lay off.

#### **SECTION 5.47 Dismissal**

A. The County Judge, with Fiscal Court approval, may dismiss an employee. Fiscal court approval is not required for employees whose hire was not approved by Fiscal Court.

B. Written notice shall be given to the employee prior to, or at the time of, dismissal.

C. All employees are "at-will" and may be dismissed with or without cause. Nothing in this Administrative Code shall be construed to form a contract term of employment except where otherwise required by law.

#### **SECTION 5.48 Resignation**

A. An employee shall, in order to resign in good standing, give the County Judge written notice at least two weeks before the date the resignation is to take effect. The County Judge may agree to a shorter notice because of extenuating circumstances.

B. A resignation made without two weeks written notice may be regarded as cause for denying the resigning employee future employment with the County.

C. An employee's resignation and the circumstances pertinent to it shall be recorded in his personnel file.

D. The employment date of an employee who resigns and is reinstated or is dismissed and is re-employed shall be the date of re-employment.

#### **SECTION 5.49      Layoff**

A. The County Judge shall submit in writing to the Fiscal Court whenever the County Judge thinks a layoff of County workers is needed. If the court does not act in any manner within thirty (30) days, the County Judge may proceed with the layoff procedures as prescribed herein:

- (1) The order of layoff shall be established by the Fiscal Court on the basis of the needs of the County.
- (2) Consideration shall be given to both the seniority and merit of the persons considered for layoff.
- (3) If time permits, the County Judge shall notify the employee(s) two weeks prior to the effective date of the layoff.
- (4) A copy of the notice shall be retained in the employee's personnel file.

B. An employee who has given satisfactory service, and is laid off, shall be eligible for re-employment in other positions for which the employee qualifies.

#### **SECTION 5.50      Reinstatement**

The County Judge, with Fiscal Court's approval:

- (1) May re-employ any former employee:
  - a. Who has resigned from County employment with a good record;
  - b. Who has been laid off because of lack of work or funds.
- (2) Shall reinstate any employee who has been demoted or dismissed for a reason prohibited by local, state or federal employment regulations.

#### **SECTION 5.51      Grievances**

A. A Grievance Committee will be set up on request of a complaining employee. The committee will consist of (2) randomly selected members of Fiscal Court, and the Deputy Judge- Executive and the County Judge.

B. Grievance Procedure. Any reasonable grievance or dispute which may arise from employment with the County shall be settled in the following manner:

- (1) The employee shall present the grievance to his/her supervisor within three (3)

working days of its occurrence or within three (3) working days of knowledge of the occurrence by the employee. The supervisor should attempt to respond to the employee within seven (7) days of the receipt of the complaint.

- (2) If the grievance remains unadjusted, it may then be presented by the employee to the County Judge for review by the Grievance Committee within a reasonable period of time. The Grievance Committee may make a recommendation to the County Judge after review.

## **SECTION 5.52 Grievance Procedure for Complaints Relating to Suspected or Alleged Discrimination on Basis of Handicapped Status**

A. Any person (employee or citizen) who believes that he or she has been subjected to discrimination as prohibited by Section 504 of the Rehabilitation Act of 1973, may personally or by representative, file a complaint with the Office of the County Judge. A person who has not personally been subjected to discrimination may also file a complaint.

B. When any person, (employee, citizen or applicant) who believes he or she has been adversely affected by an act or decision by the County and that such act or decision was based on handicapped status said person shall have the right to process a complaint or grievance in accordance with the following procedure:

Step One: An aggrieved person must submit a written statement to the County Judge setting forth the nature of the discrimination alleged and facts upon which the allegation is based.

Step Two: The County Judge shall contact the complainant no later than twenty (20) days after receiving the written statement to establish an informal meeting with the objective of resolving the matter informally. However, in no case shall the informal meeting be conducted sooner than five (5) days or more than forty-five (45) days after receiving the written statement. The County Judge and the County Attorney or the County Attorney's designee shall represent the County during the informal meeting. There shall be prepared written documentation of the discussions at the informal meeting, which shall be preserved in the records of the County.

Step Three: Within fifteen (15) days of the informal meeting, the County Judge shall present to the Fiscal Court a proposed remedy.

Step Four: The Fiscal Court shall approve the proposed remedy, approve a different remedy or choose to take no action. The Fiscal Court shall issue a written decision on the matter within fifteen (15) days

In the discussion of the grievance, the complainant may designate any person of his choice to appear with him and participate in the discussion. The Fiscal Court shall require the County Judge and the County Attorney, or the County Attorney's designee, to participate in the discussion of the grievance, when it is brought before Fiscal Court. The decision shall be the final procedure for the complainant at the local level. However, should the complainant not be satisfied with the remedy, the complainant may offer an alternate remedy within fifteen (15) days of receipt of the Fiscal Court's written decision. The Fiscal Court has fifteen (15) days to act upon the complainant's alternate remedy or the earlier written decision shall be considered

final.

### **SECTION 5.53            Miscellaneous Provisions**

Personnel Records:

A.     For each County employee, a personnel file shall be maintained in the office of the Clark County Judge.

B.     The file shall include, but not be limited to:

- (1)    The employee's name;
- (2)    The title of his position;
- (3)    The department or office to which he is assigned;
- (4)    Salary;
- (5)    Past changes in his status as a County employee;
- (6)    Additional information deemed relevant or required by this Administrative Code; and
- (7)    Employee's application for employment.

### **SECTION 5.54            Political Activity**

Employees, while in the service of the County, are not required to contribute to any political fund or be denied the rights of political activity during non-service hours.

### **SECTION 5.55            Sexual Harassment**

A.     Purpose

- (1)    To advise employees that sexual harassment is a violation of law.
- (2)    To clearly state that employees or employee applicants should not be subjected to unwelcome sexual conduct, on or off the job, regardless of whether such action results from conduct of co-employees, supervisory staff, department heads, the public or others.
- (2)    To provide for disciplinary action in the event this policy is not followed.

B.     Policy

- (1)    Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
  - a.     Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

- b. Submission to or rejection of any such conduct by an individual is used as the basis for employment decisions; or
  - c. Such conduct has the result of unreasonably interfering with an individual's work performance or creating an intimidating or offensive work environment.
- (2) Examples of specific conduct include, but are not limited to:
- a. Visual displays of sexually explicit or suggestive materials;
  - b. Sexually explicit or suggestive comments or jokes;
  - c. Sexually explicit or suggestive gestures;
  - d. Sexually explicit or suggestive e-mail;
  - e. Using the internet to view sexually explicit or suggestive material; and
  - f. Touching co-workers in sexually suggestive or explicit manners.
- (3) The activities described above are prohibited on the part of all employees and elected county officials. It is not necessary that there be a supervisory relationship between the involved persons for the activity to be in violation of county policies.
- (4) Any employee or employee applicant who feels that he or she has been subjected to any prohibited activity described above, should report the incident immediately to his or her immediate supervisor or the County Judge. If the immediate supervisor is involved in the activity, the violation should be reported immediately to the County Judge. In the event the County Judge is the subject of the problem, the employees should notify the County Attorney. All resulting investigations shall be kept confidential to the extent possible.
- (5) Any employee violating this policy will be subjected immediately to disciplinary action ranging from a written warning to discharge, depending upon the nature and severity of the violation in this case.
- (6) In addition, capricious and unfounded charges of sexual harassment by an employee may be cause for disciplinary action. Refusal by a supervisor to act in legitimate cases of harassment may be cause for disciplinary action.

**SECTION 5.56            Expense Reimbursement**

A. Subject to budgetary limitations, any officer or employee of the County incurring expenses for approved travel on behalf of the County shall be reimbursed for allowable out-of-County travel expenses as follows:

- (1) Room Costs: Reimbursement for actual amount on receipt.

- (2) Meal Costs: Not to exceed \$40.00 per day (upon presentation of receipt(s)).
- (3) Mileage: Rate paid by the Commonwealth of Kentucky if travel by personal vehicle is required.
- (4) Air Fare: Lowest coach fare. County Judge approval required.
- (5) Other Expenses: Tolls, parking and similar expenses. Expenses shall be necessary and reasonable. No expenses shall be reimbursed which are not directly related to job related purposes or other County business purpose. Receipts or notarized statements are required.
- (6) Higher reimbursement rates may be authorized due to travel site (i.e. high rate areas). Commonwealth of Kentucky regulations shall be utilized for guidance.

**B. Authorization**

All travel by county employees must be approved in writing in advance by the employee's supervisor and the County Judge. Meeting notices supporting travel shall be submitted with the travel request, when available. The County Judge shall make all room and travel reservations.

**C. Reimbursement**

- (1) The Request for Reimbursement Form must be completed (including required receipts) and submitted to the County Judge within (30) thirty days after returning from travel.
- (2) The Request for Reimbursement Form must be signed by the employee requesting reimbursement, the supervisor, and the County Judge.

**SECTION 5.57 Drug Free Workplace**

**Drug and Alcohol-Free Workplace – Substance Abuse Policy**

A. Purpose and Goal: Clark County Fiscal Court (CFC) is committed to protecting the safety, health and well-being of all employees and other individuals in our workplace. CFC recognizes that alcohol abuse and drug use pose a significant threat to county goals. In the interest of assuring the safety of the general public by employing persons in safety sensitive positions that do not abuse illicit substances, illegal drugs, and alcohol, this drug-free workplace policy establishes the balance of respect for individuals with the need to maintain an alcohol and drug-free environment.

Likewise, it is CFC's additional purpose(s) and intent to accomplish the following with the establishment of this policy:

- To comply with all requirements of 803 KAR 25:280 regarding the establishment and maintenance of a Drug Free Workplace for the purposes of obtaining Certification from the Department of Worker's Claims.
- As a recipient of Federal funds, to comply with the Drug Free Workplace Act of 1988 (PL100-690. Title V, Schedule D).

- To comply with the Federal Department of Transportation regulations regarding employees holding Commercial Drivers Licenses (CDL).
- To reduce the number of accidents and injuries to employees, other persons, and property.
- To reduce absenteeism and tardiness, and to increase the productivity of all employees of the county.
- To help ensure that the reputation of CFC as a whole and of the employees throughout the community.
- In line with CFC's stated goals and objectives, to provide leadership in helping to stem the tide of the abuse of alcohol, illicit substances, and illegal drugs throughout Clark County and the Commonwealth of Kentucky as a whole.

It is with these stated goals in mind that the Clark County Fiscal Court issues this policy, declaring itself a *Drug and Alcohol-Free Workplace* and hereby issues these accompanying rules regarding drug and alcohol use in the workplace for Clark County Fiscal Court.

*The unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled or illicit substance is prohibited in the workplace.*

## B. DEFINITIONS

- (1) Accident: an unexpected and undesirable event resulting in damage or harm. For the purposes of this policy, the resulting damage or harm may constitute an injury which requires off-site medical attention be given to a person or damage to a vehicle or other property. Any such incident resulting in the need for a reasonable person to file a police report shall be considered cause for post-accident drug/alcohol testing of the involved employee.
- (2) Alcohol: any intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol. This includes over-the-counter and prescribed medications which contain more than one-half (1/2) of one percent (1%) of alcohol by volume.
- (3) Alcohol concentration: the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.
- (4) Commercial motor vehicle: a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
  - a. Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
  - b. Has a gross vehicle weight of 26,001 pounds or more; or
  - c. Is designed to transport 16 or more passengers, including the driver; or
  - d. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR 172(f)).
- (5) Controlled substance: has the meaning as assigned by 21 U.S.C. 802 and includes all substances listed on Schedule I through V as they may be revised from time to time (21

CFR 1308). See also *Drug*.

- (6) Driver: any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to any employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.
- (7) Drug: a controlled substance as defined in KRS 218A.010(5) and as established in 902 KAR Chapter 55, including:
  - a. Amphetamines
  - b. Cannabinoids (THS)
  - c. Cocaine
  - d. Opiates
  - e. Phencyclidine (PCP)
  - f. Benzodiazepines
  - g. Propoxyphene
  - h. Methaqualone
  - i. Methadone
  - j. Barbiturates
  - k. Synthetic Narcotics
  - l. Illicit Substances as defined in KRS 351.010
  - m. Volatile Substances as defined in KRS 217.900(1)
- (8) Drug or Alcohol Rehabilitation Program: a service provider that provides confidential, timely, and expert identification, assessment, treatment and resolution of employee drug or alcohol abuse.
- (9) Drug Test: a chemical, biological, or physical instrumental analysis administered by a qualified laboratory, for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to standards, procedures, and protocols established by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA).
- (10) Employee: an individual employed by the county.
- (11) Illicit Substance: those prescription drugs used illegally or in excess of therapeutic levels as well as illegal drugs.
- (12) Medical Review Officer (MRO): a licensed physician with knowledge of substance abuse disorders, laboratory testing, and chain of custody collection procedures, and who has the ability to verify positive, confirmed test results. The MRO shall possess the necessary medical training to interpret and evaluate a positive test result in relation to the person's medical history or any other relevant biomedical information.
- (13) Qualified Laboratory: a laboratory certified in accordance with the National Laboratory Certification Program (NLCP) by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA).
- (14) Random Selection Process: means that alcohol and drug tests are unannounced. Tests conducted annually for employees who are CDL drivers shall equal or exceed twenty-five percent (25%) for alcohol tests and fifty percent (50%) for drug tests of the total number of

drivers subject to testing.

- (15) Reasonable Suspicion: a belief that an employee is using or has used drugs or alcohol in violation of this policy, drawn from specific, objective, and articulable facts and reasonable inferences drawn from those facts in light of experience, training, or education. Reasonable Suspicion may be determined by two or more supervisory personnel who will attest to their observations. The Executive Authority will make the final determination.
- (16) Refusal to Submit: the failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing; refusal to take the required test(s) or the failure to provide adequate urine for controlled substances testing without a valid medical explanation after the employee receives notice of the requirement of urine testing; and/or engaging in conduct that clearly obstructs the testing process.
- (17) Safety Sensitive Position(s): those jobs that would involve exceptional care and due diligence in the area of Public Safety to the County's citizenry and to all employees of the County Fiscal Court. This includes any employee who performs a duty(s) that requires a CDL or any employee that holds a CDL or other classifications identified within the random selection section of this policy.
- (18) Substance Abuse Professional: a licensed or certified psychologist, social worker, employee assistance professional or addition counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.
- (19) Volatile Substance: any glue, cement, paint or other substance as described in KRS 217.900(1).
- (20) Workers: Supervisors, full-time employees, part-time employees, off-site employees, contractors and applicants, but not elected officials.

#### C. Covered Workers

Any individual who conducts business for CFC, is applying for a position or is conducting business on the CFC's property is covered by our drug-free workplace policy. This policy includes, but is not limited to supervisors, full-time employees, part-time employees, off-site employees, contractors and applicants.

#### D. Applicability

The drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for CFC. Therefore, this policy applies whenever conducting business or representing CFC. This policy applies during all working hours, while on call or paid standby and while performing work on behalf of CFC while on or off CFC property. Additionally, applicants for such county employment are subject to pre-employment drug testing. It also applies to all CFC employees with special provisions designated to those employees identified as holding Safety Sensitive positions. These positions are ones in which their performance requires an extra degree of care and diligence in the area of safety to the community.

Those positions identified as Safety Sensitive include, but not limited to:

- County Sheriff's Department Employees
- Employees of the County Jailer

- Heavy Equipment Operators
- Personnel driving CDL regulated vehicles
- Mechanics who work on these regulated vehicles
- Any personnel operating CFC owned vehicles

*NOTE: The positions identified above as being "Safety Sensitive" include, but are not limited to, those regulated under 49 CFR 40. While this program includes those federally mandated employees, this Drug and Alcohol-Free Workplace Policy is not intended to replace and shall be separate from any Drug and Alcohol Free Workplace Policy previously adopted and implemented by CFC which may have included only federally regulated employees.*

## E. Policy Requirements

### (1) Training

The County Fiscal Court shall conduct substance abuse awareness training for all employees. This substance abuse awareness training shall consist of the following minimum requirements:

- a. Upon a conditional offer of employment from the Court, each applicant shall be provided a copy of and will be asked to read the Court's Drug & Alcohol-Free Workplace policy. All current employees will also be asked to read and sign the *Certification of Acknowledgement -Drug&Alcohol-Free Workplace Policies and Procedures Form* (Appendix A)
- b. Initial training shall consist of at least 1-hour for all employees.
- c. Annual refresher training shall be conducted for all employees in substance abuse awareness and shall consist of no less than thirty (30) minutes.
- d. All alcohol and substance abuse awareness training shall include, at a minimum, information concerning:
  1. Alcohol and drug testing policy and procedures;
  2. The effects of alcohol and drug use on an Individual's health, work and personal life;
  3. The disease of alcohol or drug addiction;
  4. Signs and symptoms of an alcohol and drug problem;
  5. The role of co-workers and supervisors in addressing alcohol or substance abuse; and
  6. Referrals to an assistance program.

- e. In addition to all of the above training, all supervisory personnel shall receive an additional thirty (30) minutes each year of alcohol and substance abuse education and awareness training. This additional supervisory training will be documented using, the *Supervisory Training Certification Certificate*. This additional supervisory training shall consist of at least, all of the following:
  1. Recognizing the signs of alcohol and substance abuse in the workplace;
  2. How to document signs of employee alcohol or substance abuse;
  3. How to refer employees to an employee assistance program or other alcohol and substance abuse treatment program; and
  4. Legal and practical aspects of Reasonable Suspicion testing for the presence of drugs and alcohol.

*NOTE: County's Drug & Alcohol Free Workplace Policy shall include controlled-access maintenance in the Office of the County Judge Executive, of business records including the names and position titles of all employees and supervisory personnel trained under the program as described above, and the names of all persons who presented alcohol and substance abuse awareness training, for review by the Office of Worker's Claims.*

*NOTE: Should any portion of this policy dealing with the actual administration of this policy be amended, employees shall be provided with copies of any administrative change or modification and given an opportunity to ask questions and obtain answers regarding any administrative change(s) in this policy. However, changes may not be made to the policy that would circumvent any requirements associated with 803 KAR 25:280.*

## DRUG AND ALCOHOL TESTING

The County currently utilizes a third-party administrator as its drug testing service for the collection of urine samples in the case of testing for controlled substances, and for the administration of breathalyzer tests for alcohol concentration, and the random selection category of testing. Employees are selected by the third-party administrator using a statistically valid method of selection of specific employee codes. This random testing will be reasonably spaced over a twelve (12) month period.

Because of the random nature of the selection process, any employee may be tested more than once, or not at all. Once collected, all urine samples are managed by the third-party administrator's protocol which includes as needed is a laboratory approved by the National Laboratory Certification Program (NLCP) under the United States Department of Health and Mental Services Substance Abuse and Mental Health Services Administration (SAMHSA).

The County shall administer alcohol and drug tests in circumstances which include but may not be limited to the following:

## (2) Pre-Employment Testing

Breath alcohol and urine drug testing shall be required of all new hire applicants after their receipt of a conditional offer of employment. After receiving the conditional offer of employment, applicants will have twenty-four (24) hours in which to submit to testing at a testing facility of CFC's choosing. The CFC requires that every newly hired employee test free of controlled substances and have a breath alcohol concentration of not more than 0.00. Each offer of employment by CFC shall be conditional upon the passing of controlled substance and alcohol tests.

Refusal by any applicant for employment with CFC to take the controlled substance test will result in the conditional offer of employment being withdrawn. All testing under this policy will be in accordance with testing protocols described elsewhere in this policy.

- a) An applicant with a confirmed positive test for controlled substances and/or breath alcohol in a concentration of greater than 0.00 which is not legitimately explained to and accepted by a Medical Review Officer, will not be considered for employment.
- b) Any applicant who fails a controlled substance or breath alcohol test may not be considered for future employment with CFC.
- c) Any applicant who refuses to take a controlled substance or breath alcohol test will be disqualified from future consideration for employment.
- d) Any applicant who tampers with, or attempts to tamper with, a urine specimen in any manner shall be disqualified from current and future consideration of employment with the CFC.
- e) An applicant whose positive test is confirmed and upheld by the Medical Review Officer (MRO) may request that the same sample be retested at her/his own expense at a CFC approved laboratory.

Individuals undergoing pre-employment testing shall not begin official employment with the CFC until after all test results are received and shown to be negative. Upon receipt of the test result, positive or negative, the County Judge-Executive or his/her designee shall inform the appropriate department head of the results.

## (3) Random Testing

Employees in a Safety Sensitive position will be required to participate in a statistically valid, unannounced random selection process, which will subject them to mandatory drug and/or alcohol testing. This category of testing will conduct random tests for alcohol at a rate of no more than ten percent (10%) for non-federally regulated Safety Sensitive positions. Employees holding positions in which a Commercial Driver License (CDL) is required, must also be tested at a minimum rate of ten percent (10%) for alcohol annually to satisfy Department of Transportation (DOT) requirements. In the case of random testing for drug use, non-federally regulated Safety Sensitive positions will be tested at a rate of no more than ten percent (10%). Employees holding positions in which a CDL is required, must be tested for drugs at a rate fifty percent (50%) annually to satisfy DOT requirements. All employees in federally regulated Safety Sensitive positions shall be selected from a pool that is separate

from the random selection pool for other non-federally regulated Safety Sensitive positions. The County Judge- Executive shall utilize a third party to conduct the random selection of Safety Sensitive employees, including employees holding a CDL, to be tested. This random testing shall be unannounced and will take place throughout each calendar year. Safety Sensitive employees are selected by a third-party administrator using a statistically valid, random method of selection using specific employee codes. Because of the random nature of this testing process, Safety Sensitive employees may be selected for testing more than once or not at all. Once an employee is notified that he/she has been selected for testing, the employee must proceed immediately to the testing site of CFC's choosing.

NOTE: Employees in Non-Safety Sensitive positions will not be included in the random selection pool. However, Non-Safety Sensitive employees will be subject to testing for other reasons. Procedures and protocols for "Reasonable Suspicion", "Post Accident", "Return- to-Duty" and "Follow-up" testing all of which testing types are described elsewhere in this policy will apply in their case.

#### (4) Reasonable Suspicion Testing

A reasonable suspicion test shall be based on a belief that an employee is using or has used drugs or alcohol in violation of this policy, drawn from specific objective facts and reasonable inferences drawn from those facts in light of experience, training or education. The reasonable suspicion testing shall be based upon:

- a. While at work, direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol;
- b. While at work, abnormal conduct, erratic behavior, or a significant deterioration in work performance;
- c. A report of drug or alcohol use provided by a reliable and credible source;
- d. Evidence that an individual has tampered with a drug or alcohol test during employment with the CFC;
- e. Information that an employee has caused, contributed to, or been involved in an accident while at work;
- f. Evidence that an employee has used, possessed, sold, solicited, or transferred illegal or illicit drugs or used alcohol while on CFC's premises or while operating CFC's vehicle, machinery or equipment.

The County Judge-Executive or his/her designee shall be notified immediately of any indication of reasonable suspicion. Both the observing department supervisor and the County Judge-Executive or his/her representative will review the policies and procedures herein and if necessary make arrangements with a testing facility of CFC's choosing to conduct reasonable suspicion drug and/or alcohol testing as soon as possible. If a representative from the office of the County Judge Executive is not available, the observing supervisor shall obtain the assistance of another CFC supervisor or other credible and reliable source and together they shall complete the *Reasonable Suspicion Form*, and forward it to the County Judge-Executive. If after completing the form, it is determined that there is in fact, reasonable suspicion that the employee is under the influence of d rugs and/or alcohol, the observing supervisor or his/her designee will notify the employee and accompany him/her to the testing site.

When a reasonable suspicion test is ordered, the employee must submit to testing within 45 minutes of being notified that he/she will be tested. The observing supervisor and/or designee shall remain at the testing site with the employee being tested, until the collection process is completed. Any employee who is tested for reasonable suspicion shall be placed on leave with pay until the results of the test are known. After submitting to the drug/alcohol test, the employee may not return to work until the results of the test are known and only then if the results are negative. Only the County Judge-Executive or his/her authorized designee may order a reasonable suspicion test.

#### (5) Post-Accident Testing

Drug and alcohol testing will be conducted following an employee's involvement in an accident in which property damage occurs, on or off CFC's premises while on duty, or in the course of employment for CFC, or which requires off-site medical attention be administered to a person.

*Qualifying Event Exception:* Due to varying types of accident cause, all accidents categorized as a "qualifying event" may not require post-accident testing. Exceptions to the "qualifying event" for requiring post-accident drug and alcohol testing will include, but may not be limited to the following types of accidents:

- a. Injuries whose onset is cumulative or gradual – such as carpal tunnel syndrome, progressive hearing loss, mental disorders, dermatitis, respiratory diseases, skin disorders, etc.
- b. Injuries where the employee can be completely discounted as the contributing factor (i.e. injuries caused by a third party or some other uncontrollable force or event such as weather, insects, toxic plants, etc.)
- c. Injuries where the employee can be completely discounted as the major contributing factor or those injuries occurring during physical fitness or a training event, in which the employee did everything within reason to avoid the injury accident, (i.e. was performing training as instructed).

In each case, the County Judge-Executive or his/her designee shall determine the necessity of drug and alcohol testing and shall communicate such testing with the involved employee and the employee's respective department head. The County Judge-Executive or his/her designee shall coordinate all required tests with the appropriate medical facilities.

An employee involved in an accident while on an out-of-town assignment, shall notify their department director or the director's designee as soon as possible but no later than two (2) hours after the accident occurred. The department director shall notify the County Judge-Executive or her/his designee to discuss possible drug/alcohol testing requirements.

*Other Qualifying Event:* The department director or his/her designee shall request controlled substance/breath alcohol testing when an employee caused or cannot be completely discounted from causing a vehicular or any other type of accident in which death, serious bodily injury or major property damage did result or could have resulted. If a post-accident controlled substance/breath alcohol test is required, a confirmed positive test result will result in the employee's immediate termination.

#### (6) Return-To-Duty Testing

The Clark County Fiscal Court maintains a “No Tolerance” policy for drugs and/or alcohol. “No Tolerance” means that once you are selected for a drug or alcohol test, should your test be positive, without a valid medical or bio-medical reason as confirmed by a Medical Review Officer, you will be immediately terminated from your employment with CFC.

Only in circumstances in which the employee *voluntarily* elects to seek assistance for a substance abuse problem through the his own treatment program prior to being selected for a test, completes whatever form of treatment a Substance Abuse Professional (SAP) recommends and is willing to agree on conditions to return to work and follow his SAP program, will CFC consider allowing the employee to return to work after treatment is successfully completed as confirmed by a Substance Abuse Professional.

*In all cases, it shall be at the discretion of the CFC, subject to all applicable laws and regulations, as to whether to allow an employee to return to work.* In the event that an employee who has *voluntarily* sought assistance, prior to being selected for a controlled substance or breath alcohol test is allowed to enter a controlled substance/alcohol abuse rehabilitation program, the employee may be allowed to return to work only when cleared to do so by the SAP and upon successful completion of drug and substance abuse testing with an agreement to test when requested without cause.

#### (7) Follow-up Testing

Any employee returning to work from successful completion of the employee’s own treatment program for drug and/or alcohol• related problems, or a drug and/or alcohol rehabilitation program, shall be required to undergo one (1) year of quarterly drug and alcohol testing. The frequency of the follow-up testing shall consider recommendations of any involved Substance Abuse Professional (SAP) but shall be not less than once per quarter (every three months) for at least one (1) year. All follow-up testing may be requested at any time and shall be unannounced.

#### (8) Testing Protocol

The collection of samples and administration of drug and alcohol tests shall follow all standards, procedures and protocols set forth by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Administration (SAMHSA). Test results will be obtained by a qualified provider as defined elsewhere in this policy and positive results shall undergo a medical review as follows:

- a. All positive test results shall be submitted for medical review by a Medical Review Officer (MRO) of the County's choosing, who shall consider the medical history of the employee or applicant, as well as relevant biomedical information.
- b. The employee or applicant will be given an opportunity to report to the MRO the use of any prescription or over-the• counter medication.
- c. If the MRO determines that there is a legitimate medical explanation for a positive test result, the MRO may certify that the test results do not indicate the unauthorized use of alcohol or a controlled substance.
- d. If the MRO determines, after appropriate review, that there is not a medical explanation for the positive test result other than the unauthorized use of alcohol or a prohibited drug, the MRO shall refer the individual tested to the County

Judge-executive or his/her authorized representative for further proceedings in accordance with CFC's Drug Free Workplace Policy.

Note: MRO determinations concerning the use of alcohol or a controlled or illicit substance shall comply with all procedures outlined in the U. S. Department of Health and Human Services (SAMHSA) "Medical Review Officer Manual for Federal Drug Testing Programs".

#### (9) Testing Process

Employees shall report to the collection site of CFC's choosing immediately after being provided the notification to test. In the case of reasonable suspicion testing, a supervisor or designee shall escort the employee to the collection site. Drug testing will be conducted by urine sample while alcohol testing will be analyzed using a breath alcohol testing/screening device. Drug and alcohol analysis will be performed by a trained technician.

To ensure that the test specimen is actually that of the donor, collection site staff will require positive identification of the test subject.

To ensure the accuracy and fairness of our testing program, all testing will be conducted according to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines where applicable and will include a screening test; a confirmation test; the opportunity for a split sample; review by a Medical Review Officer, including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody.

All drug-testing information will be maintained in separate confidential records.

#### Alcohol

The Fiscal Court shall require any breath tests for alcohol to be performed by a Certified Breath Alcohol Technician (BAT).

#### Drugs

An eleven (11) panel urine test will be conducted and shall include analysis for the following substances:

- a. Amphetamines;
- b. Cannabinoids (THC);
- c. Cocaine;
- d. Opiates;
- e. Phencyclidine (PCP);
- f. Benzodiazepines;
- g. Propoxyphene;
- h. Methaqualone;
- i. Methadone;
- j. Barbiturates;
- k. Synthetic Narcotics

Each employee, as a condition of employment, will be required to participate in pre- employment, random, post-accident, reasonable suspicion, return-to-duty and follow-up testing upon selection or request of management.

Any employee who tests positive will be immediately removed from duty, referred to a substance abuse professional for assessment and recommendations, required to pass a Return-to-Duty test and be subject to ongoing, unannounced, follow-up testing for a period of five years and terminated immediately if he/she tests positive a second time or violates the conditions relating to their return to work.

An employee will be subject to the immediate termination of employment if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, fails or declines to take a second drug test when directed, will not sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test.

(10) Prohibited Behavior

It is a violation of the drug-free workplace policy to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs or intoxicants.

Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her job. If the use of a medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty, notify supervisor, notify company doctor) to avoid unsafe workplace practices.

The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of the CFC's Drug-Free Workplace Policy to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action will be taken if job performance deterioration and/or other accidents occur.

The Fiscal Court reserves the right to define and interpret prohibited activities that specifically include, but may not be limited to:

A. Alcohol

Prohibited conduct involving the use of alcohol includes (but is not limited to) activity resulting in the following:

1. Having a blood alcohol concentration greater than 0.00.
2. The consumption of any substance that would prevent the immediately availability to perform work responsibilities.
3. In the case of Safety Sensitive employees, consuming any substance containing alcohol during the performance of or being immediately able to perform Safety Sensitive work responsibilities. This includes the possession of medicines containing alcohol (prescription or over-the-counter) unless the seal is unbroken and/or the medication is prescribed by a licensed physician, and said physician has confirmed the necessity of the Safety Sensitive employees' said possession of the prescribed substance containing alcohol and has confirmed that the use of such substance will not deter from the employees ability to safely perform

assigned Safety Sensitive responsibilities. In the latter case, a *Prescription Drug Notification Form* must be on file with the County Judge- Executive.

4. Being unable to complete the performance of, or not being immediately available to perform those responsibilities designated as Safety Sensitive, within four hours after using alcohol.
5. The transportation and/or possession of alcoholic beverages (open or closed containers) within CFC owned vehicles or equipment. *Note: Law enforcement personnel functioning within the scope of their assigned duties shall be considered exempt from this prohibition as deemed necessary by their respective department head(s).*
6. The use of alcohol for eight hours immediately following an accident requiring a post-accident alcohol test or until a post-accident test is administered, whichever occurs first.
7. Refusal to submit or cooperate with any of the required testing types.
8. The operation of a CFC owned vehicle following consumption of alcoholic beverages shall be considered a violation of this policy and shall result in disciplinary action.

*NOTE: Employees attending training programs and/or conferences related to their employment with CFC may participate in social functions associated with the program or conference. If alcoholic beverages are present at the social function and the employee chooses to engage in consumption of said beverage(s), they shall do so at their own discretion. Employees who choose to engage in the consumption of alcoholic beverages as part of a work-related social function shall do so in a responsible manner, maintaining a conduct that would not reflect adversely upon the CFC. Any unbecoming conduct by an employee who has chosen to consume alcohol at such conference or training program that has an adverse effect upon the CFC will be subject to disciplinary action up to and including termination of employment.*

*NOTE: Alcohol includes any intoxicating agent in beverage alcohol, methyl, and isopropyl alcohol whether used for medicinal purposes or not. Many over-the-counter and prescription medications contain high percentages of alcohol.*

#### (11) Notification of Conviction

Employees are hereby notified that they shall inform the County Judge-Executive or his/her authorized designee, of any criminal charge or conviction within five (5) days of said charge or conviction. The County Judge-Executive shall take appropriate action within thirty (30) days.

#### Drugs or Controlled Substances

Prohibited conduct involving the use of drugs or controlled substances includes, but may not be limited to, the following:

9. *Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription.* However, any Safety Sensitive employee taking prescribed or over-the-counter medications will, in all cases, be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with the safe performance of his/her Safety Sensitive job duties. Prior to initiating usage after such medications are prescribed, the Safety Sensitive employee shall advise his supervisor in writing, covered by his own signature and date, who shall in turn, submit it to the County Judge-Executive or his/her

designee as soon as possible

After receiving such written notice, the County Judge-Executive or his/her authorized designee may request written medical authorization showing the Safety Sensitive employee may possess/use such medication, that it was used in the prescribed manner and showing the Safety Sensitive employee is fit to safely perform Safety Sensitive assigned duties. If the use of such medication could compromise the safety of the Safety Sensitive employee, fellow employees, or the public at large, it is the Safety Sensitive employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request change of duty and notify his/her supervisor) to avoid unsafe workplace practices. No prescription drugs shall be brought onto CFC property, or consumed on Court property by anyone other than the individual for whom the drugs have been prescribed by a licensed medical practitioner. The illegal or unauthorized use of prescription drugs is strictly prohibited. It is a violation of the CFC's Drug Free Workplace Policy to intentionally misuse and/or abuse prescription medications.

Appropriate disciplinary action will be taken if job performance deterioration and/or other accidents occur as the result of the intentional misuse and/or abuse of prescription medication.

CFC reserves the right to have a designated physician of its choosing to determine if a prescription drug or medication produces effects that would be considered unacceptable in the performance of assigned Safety Sensitive work duties. The designated physician has final determination on whether the medication will have or is having an unacceptable effect on the Safety Sensitive employee's performance of duties. In such instances of temporary impediment to safe performance of regular Safety Sensitive duties, the Safety Sensitive employee may be temporarily reassigned to duties requiring a lesser safety awareness level if such duties are available.

*(All doctor's statements and related medical information shall be confidential and maintained in a separate medical file in the office of the County Judge-Executive.)*

- a. Testing positive for any of the prohibited substances during the performance of or upon being immediately available to perform work responsibilities.
- b. The performance of or being immediately available to perform Safety Sensitive work responsibilities while using any controlled substance, except when the use is under the instructions of a physician who has advised that the use will not adversely affect the Safety Sensitive user's ability to safely perform Safety Sensitive responsibilities as assigned.
- c. In the case of Safety Sensitive employees, having in possession, drugs or controlled substances except when the use is under the instructions of a physician who has advised that the use will not adversely affect the Safety Sensitive user's ability to safely perform Safety Sensitive responsibilities as assigned during the performance of or being immediately available to perform Safety Sensitive work responsibilities.

*(NOTE: EMS and Law Enforcement personnel functioning within the scope of their assigned duties shall be considered exempt from this prohibition as deemed necessary by their respective department heads.)*

- d. Refusal (as defined elsewhere in this policy) to cooperate with any of the requested

testing types.

- e. Tampering with or attempting to alter, or actual altering of a test specimen is strictly prohibited and is grounds for immediate termination from employment with the CFC.

#### (12) Volatile Substances

The intentional misuse, manufacture, sale, distribution, dispensation, or possession of a volatile substance as defined in KRS 217.900 which includes any glue, cement, paint or other substance containing a solvent or chemical having the property of releasing toxic vapors or fumes which when intentionally inhaled may cause a condition of intoxication, inebriation, stupefaction, dulling of the brain or nervous system, or distortion or disturbance of auditory, visual, or mental processes while at work, while on CFC property, or while conducting CFC business while off CFC property, is strictly prohibited and is considered cause for immediate discipline, up to and including termination.

#### (13) Consequences

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

In the case of applicants, if he or she violates the drug-free workplace policy, the offer of employment can be withdrawn. The applicant may reapply after six months and must successfully pass a pre-employment drug test.

If an employee violates the policy, he or she will be subject to disciplinary action up to immediate termination of employment and may be required to enter rehabilitation. An employee required to enter rehabilitation who fails to successfully complete it and/or repeatedly violates the policy will be terminated from employment. Nothing in this policy prohibits the employee from being disciplined or discharged for other violations and/or performance problems.

#### (14) Return-to-Work Agreements

Following a violation of the drug-free workplace policy, an employee may be offered an opportunity to participate in rehabilitation. In such cases, the employee must sign and abide by the terms made a part of their return to work as a condition of continued employment. The conditions should be provided to the employee in writing.

#### (15) Assistance

Alcohol and drug abuse and addiction are recognized as diseases responsive to proper treatment. The CFC provides an opportunity for employees to seek out their own treatment at the employee's costs, provided that both parties agree in writing. It also realizes that early intervention and support improve the success of rehabilitation. To support the employees, CFC's Drug-Free Workplace Policy:

- Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.
- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the

employee.

Employees who voluntarily report a substance abuse problem *prior* to being required to take a controlled substance or alcohol test as defined in this policy, will not be subject to disciplinary action if they voluntarily and conscientiously seek substance abuse assistance and agree to a treatment plan. However, such an employee must understand that if the problem is not corrected and satisfactory job performance is not maintained, he or she will be subject to disciplinary action up to and including termination of employment. Failure to seek such assistance, or failure to abide by the terms of the treatment plan, shall be grounds for termination. Upon voluntarily reporting a substance abuse problem, the employee will be afforded an opportunity to seek his own treatment program at his costs. Upon his completion of the program and upon the recommendation of his SAP, the employee will be informed of conditions upon which he may return to work by agreement for continued employment.

(16) Confidentiality

All information received by CFC through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

CFC shall maintain records and documents of all alcohol and drug test results, schedules for follow-up tests and records relating to evaluation and referrals. These records shall be maintained for a period of at least five (5) years. CFC shall provide test result information or other pertinent information relating to an applicant or existing employee's alcohol or controlled substance tests upon the applicant or existing employee's written request, and shall do so within five (5) working days of being notified of the request.

(17) Policy Administration and Enforcement

It shall be the responsibility of the County Judge-Executive to administer and enforce this policy. This policy and its programs are not to be interpreted or modified by any other Court supervisor or director.

(18) Responsibility

While it is ultimately CFC's legal, ethical, and moral responsibility to create and maintain a safe and productive drug-free workplace for its employees, and the citizens of Clark County, such safety is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs.

In addition, employees are encouraged to:

- Be concerned about working in a safe environment.
- Report dangerous behavior to their supervisor.

It is the supervisor's responsibility to:

- Inform employees of the drug-free workplace policy.
- Observe employee performance.

- Investigate reports of dangerous practices.
- Document negative changes and problems in performance.
- Counsel employees as to expected performance improvement.
- Clearly state consequences of policy violations.

(19) Communication

Communicating the drug-free workplace policy to both supervisors and employees is critical to its success. To ensure all employees are aware of their role in supporting CFC’s drug-free workplace program:

- All employees will receive a written copy of the policy.
- The policy will be reviewed in orientation sessions with new employees.
- The policy and assistance programs will be reviewed at safety meetings.
- Every supervisor will receive training to help him/her recognize and manage employees with alcohol and other drug problems.

**NOTE:** *The Clark County Fiscal Court may change, modify, amend or rescind any part of this policy at any time that deals with the actual administration of the policy itself. However, changes may not be made to the policy that would circumvent any requirements associated with 803 KAR 25:280.*

**CHAPTER 6 COUNTY ROAD DEPARTMENT**

**SECTION 6.1 Establishment of Department**

A. There is hereby created and established a Clark County Road Department consisting of a County Road Engineer or County Road Supervisor and such other employees of said department as may from time to time be provided for by the County Judge and the Fiscal Court.

B. The County Road Engineer/Supervisor shall be appointed by the County Judge with the approval of Fiscal Court, and shall serve a period of two (2) or four (4) years.

**SECTION 6.2 Duties of Road Supervisor**

A. The County Road Engineer/Supervisor shall be the head of the road department subject to the order and direction of the County Judge.

B. The County Road Engineer/Supervisor shall be responsible for the performance of the road department and its functions, and all persons who are employees of the road department shall be subject to the supervision and direction of the County Road Engineer/Supervisor.

**SECTION 6.3 Road Department Property**

A. Employees of the department shall be responsible for the proper care of department equipment and property and shall promptly report to their supervisor the loss or damage to such property or the unserviceable condition of such property.

B. No departmental property or equipment shall be used for private purposes or on private property. School bus turnarounds and public cemetery work must be approved, in advance, by the

County Judge and only where the turnaround or cemetery road has been placed in the County road system.

C. Equipment and materials for the road department shall be acquired in accordance with the provisions of this code.

D. No departmental property or equipment shall be used on private property without the prior written authorization of the County Judge.

E. Uniforms are furnished to employees of the Road Department by the County. Road Department employees shall wear said uniforms at all times during regular working hours.

F. Each employee shall be responsible for the proper use of road department equipment. Any equipment problems or deficiencies should be reported immediately to the County Road Engineer/Supervisor. Trucks and equipment shall be cleaned at least once a week or more often as such need arises.

#### **SECTION 6.4 County Road Inventory/Condition**

A. The County Judge shall maintain a map(s) that clearly identifies all county roads.

B. The County Judge and County Road Engineer/Supervisor shall inventory and review all county roads for identification and condition at least annually.

C. The inventory shall identify all roads by name and/or number; list the number and location of all bridges; and any other information that may identify county roads and the condition thereof.

D. The County Road Engineer/Supervisor shall contact all area utilities relative to their planned activities prior to surfacing or resurfacing any county road.

#### **SECTION 6.5 Procedures for County Road Repairs and Maintenance**

A. Each magistrate shall inspect roads in his district periodically to determine needs.

B. Each magistrate shall file a road report with the County Judge, including, but not limited to, the following information:

- (1) Road name and number;
- (2) Description of work to be performed;
- (3) Any additional information, which shall be deemed necessary.

C. When the Fiscal Court approves County road work, the County Judge shall direct the Road Engineer/Supervisor to perform these activities subject to budgetary constraints.

#### **SECTION 6.6 Miscellaneous Requirements**

A. Any Road Department employee who notices any deficiencies in county roads shall report them to the County Road Engineer/Supervisor as soon as possible and no later than the end of the same

workday. Any problems noticed during off duty hours shall be reported to the County Road Engineer/Supervisor the following workday.

## **CHAPTER 7            COUNTY PROPERTY**

A.     Any employee found to have damaged county property may be subject to discipline, up to and including dismissal.

B.     The County Judge and Elected Officials are responsible for the equipment that is used in their office. A list of each office's equipment is to be kept current. A copy of the list shall be sent to the County Judge's office at least annually.

C.     It shall be the general policy that no County employee shall allow a "passenger" to ride in a County vehicle. Should an emergency, business purpose or extraordinary circumstance exist, it shall be permissible for a passenger to ride in a county vehicle. However, should such an event exist, the employee allowing the passenger to ride in the county vehicle shall report same to his/her supervisor.

## **CHAPTER 8            PURCHASES AND CONTRACTS**

### **SECTION 8.1           Authorization of County Contracts**

Every contract, change or amendment thereto, shall be authorized or approved by the Fiscal Court before being executed by the County Judge, except for small purchases. The County Attorney shall review every contract of the County, as to form and legality, except for contracts for small purchases.

### **SECTION 8.2           Selection of Vendors and Contractors (Procedures for Sealed Bidding)**

A.     The agency, department or person requiring supplies, services or construction shall submit to the County Judge a request containing specifications and quantities desired.

B.     The County Judge shall determine the need for each item requested, the approximate cost and whether or not the expenditure is provided for in the budget.

C.     Any expenditure or contract for materials, supplies (except perishable meat, fish, and vegetables), equipment, or for contractual services other than professional, involving an expenditure of more than thirty thousand dollars (\$30,000) shall be subject to competitive bidding.

D.     The County Judge shall place an advertisement in the newspaper of the largest circulation in the County at least once, not less than seven nor more than twenty-one days, before bid opening. The advertisement shall include the time and place where the specifications may be obtained. If the durability of the product, the quality of service or other factors are to be considered in bid selection, such factors shall be stated in the advertisement.

E.     The County Judge or his designee shall open all bids publicly at the time and place stated in the advertisements and shall select the lowest and/or best bid by qualified bidder to be recommended to the fiscal court for approval. If the lowest bid is not selected, the reasons for the selection shall be stated in writing.

F.     The County may opt to allow bidders to submit their bids electronically if specified in the

advertisement. The e-mail subject line shall acknowledge that the e-mail contains a sealed bid responsive to the particular advertisement. The e-mail shall be opened in accordance with Section 9.2(E). Any bid submitted via e-mail that does not include in the subject line information sufficient for the recipient to know that the e-mail contains a sealed bid shall not be considered by the County.

G. The County may utilize the reverse auction process in the selection of, vendors and contractors.

**NOTE**

*Clark County has adopted the Model Procurement Code and may not utilize the reverse auction process for:*

*...architectural, engineering, or engineering-related services as described in KRS 45A.730; underwriter, bond counsel, or financial advisors as described in KRS 45A.850; or contracts for construction as described in KRS 45A.030 which are required to be bonded as described in KRS 45A.185 and 45A.190 or those projects which would require the preparation of stamped drawings.*

*KRS 45A.187*

H. The County Judge shall submit the bids to Fiscal Court, noting the County Judge's recommended bid. Fiscal Court approval is required.

**SECTION 8.3 Procedures for Determination of Qualification of Bidders**

A. The County Judge may require all bidders to provide sufficient information to determine their qualification to provide the services or product that is the subject of the competitive bidding.

B. Contractors who have demonstrated, by past performance, the ability to perform satisfactory in accordance with the contracts on a timely basis and have shown a sound financial structure, may be determined to be qualified and responsible bidders without additional documentation otherwise required of other potential bidders.

**SECTION 8.4 Procedures Prerequisite to Use of Negotiated Process**

A. The negotiated process may be used instead of advertisement for bids if the amount exceeds \$30,000 in the following circumstances:

- (1) an emergency exists;
- (2) bids exceed available funds; or
- (3) the contract is for professional services.

B. Before an emergency is declared, the County Judge shall determine whether or not the delay in obtaining bids will result in danger to health, safety or property.

C. The County Judge shall certify the existence of any emergency and file a copy of such certificate with the chief financial officer of the County (the Treasurer).

D. In the event all bids submitted are in excess of funds available, the County Judge shall

prepare a written determination that there are no additional funds available as to permit an award to the responsible bidder with the lowest and best bid and that delay in advertising for additional bids is not in the best interest of the County.

E. The Fiscal Court must approve all circumstances in which the negotiation process is used.

**NOTE**

*Only use the negotiated process in this manner when time is truly of the essence as this method could lead to litigation. Should a County wish to use the negotiated process with greater protection from litigation, a County should consider adopting the local government portion of the Model Procurement Code (currently KRS 45A.343-45A.460).*

**SECTION 8.5 Procedures for Negotiated Process**

A. When the prerequisites have been met for use of the negotiated process, the County Judge shall proceed to negotiate with one or more suppliers in order to obtain the most advantageous terms for the County.

B. The County Judge shall prepare a record of all negotiated contracts, showing the items and quantities acquired, name of suppliers, costs and date of contract.

C. Professional services shall be negotiated with such persons as are properly licensed to perform such services.

D. Where more than one bid was received and all were in excess of the amount available, the lowest three bidders shall be notified that the County desires to negotiate a contract for a lesser amount based on revised quantities or specifications, and fix a time limit for submission of proposals.

E. The County Judge shall examine the proposals received and shall negotiate with the suppliers for the terms most advantageous to the County.

F. The best negotiated proposal shall be submitted to the Fiscal Court for approval and award.

**SECTION 8.6 Small Purchase Procedures**

A. All expenditures of less than \$30,000 shall be considered a “small purchase” and are not subject to competitive bidding.

B. The County Judge determines the need for any item requested, and whether the contract is for less than \$30,000 and the expenditure is provided for in the budget.

C. For all “small purchases” exceeding \$1,000, the County Judge shall obtain two or more quotes from prospective suppliers or vendors, prior to the purchase and then select a purchase most advantageous to the County, in the judgment and discretion of the County Judge.

**SECTION 8.7 Hold Harmless Clause**

All contracts executed on behalf of the County concerning the purchase of services or products may contain a "hold harmless clause," whereby the vendor, provider of services, or seller agrees to hold the County harmless from any liability concerning the use of their product or the receipt of their service.

**SECTION 8.8 Storage and Inventory Control (Procedures for Receiving, Storing and Disbursing Repetitive use Items) (new)**

The inventory file shall contain an item inventory number, item description, date purchased, condition, purchase amount and office assigned for use.

**SECTION 8.9 Disposition of County Surplus Property**

- A. (1) The county may sell or otherwise dispose of any of its real or personal property.
- (2) Before selling or otherwise disposing of any real or personal property, the county shall make a written determination setting forth and fully describing:
- (a) The real or personal property;
  - (b) Its intended use at the time of acquisition;
  - (c) The reasons why it is in the public interest to dispose of it; and
  - (d) The method of disposition to be used.
- (3) Real or personal property may be:
- (a) Transferred, with or without compensation, to another governmental agency;
  - (b) Sold at public auction following publication of the auction in accordance with KRS 424.130(1)(b) ;
  - (c) Sold by electronic auction following publication of the auction, including the uniform resource link (URL) for the site of the electronic auction, in accordance with KRS 424.130(1)(b) ; or
  - (d) Sold by sealed bids in accordance with the procedure for sealed bids under KRS 45A.365(3) and (4).
- (4) If a county receives no bids for the real or personal property, either at public or electronic auction or by sealed bid, the property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the county. In those instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made.
- (5) Except as provided in this subsection, any compensation resulting from the disposal of this real or personal property shall be transferred to the general fund of the county. Any compensation resulting from the disposal of real or personal property that was acquired by forfeiture under KRS Chapter 218A or purchased using funds restricted under KRS 218A.420(4)(a) shall be transferred to the account used for such forfeiture proceeds and upon transfer shall remain subject to the restrictions of KRS 218A.420(4)(a).

**CHAPTER 9 BOARDS AND COMMISSIONS**

**SECTION 9.1 Maintenance of Records of Administrative Agencies and County Departments**

A. All agencies which receive county funding shall file a copy of the agency's annual budget with the County Judge, except those agencies for which no itemized budget is provided for within the County Budget. Such agencies shall also file a copy of each audit required by law with the County Judge and the Clark County Clerk.

B. All agencies which receive an itemized budget within the County Budget shall maintain a financial record of the agency activities containing the amount budgeted for the year, the amount expended to date and the balance available. By the fifth business day of each month, the head of each county agency and each county department shall provide the County Judge with the following information:

- (1) A statement which describes the agency's or department's activities during the month;
- (2) A financial statement containing the total amount of appropriations for the agency, the amount spent and encumbered by the agency during the preceding month, the total amount encumbered during the fiscal year, and the amount of the total appropriation, which is still available for spending; and
- (3) A list of citizen complaints, written or deemed to be serious in nature, made to the agency or department during the preceding month and the steps taken to correct the situation.

**CHAPTER 10 COUNTY SERVICES**

**SECTION 10.1 Road Department**

The Road Department shall be responsible for the maintenance, construction, and upkeep of all roads and bridges in the County Road System, and the construction, maintenance, and upkeep of the County parks and recreational areas. The County Road Engineer/Supervisor shall head this Department.

**SECTION 10.2 County Road System**

The Fiscal Court shall maintain a list of which roads in the County will be on the County Road System and maintained by the Road Department. Those roads so designated shall include for County maintenance all appurtenant bridges, side ditches, headwalls, culverts, guard rail systems, and traffic control devices unless specifically excluded by an agreement.

**SECTION 10.3 Parks and Recreation**

To provide an adequate amount and variety of recreational opportunities to satisfy the full range of needs of the population. The provision of recreation services by the Fiscal Court shall be through joint efforts of the City of Winchester and the County through the formation of the Winchester-Clark County Parks and Recreation Board.

**CHAPTER 13 INTERNET & E-MAIL POLICY**

### **Section 11.1            Acceptable Uses of the Internet and County E-mail**

The County-provided internet and e-mail access is intended for business purposes only. The County encourages the use of the internet and e-mail because it makes communication more efficient and effective. However, internet service and e-mail are County property, and their purpose is to facilitate County business. Every staff member has a responsibility to maintain and enhance the county's public image and to use County e-mail and access to the Internet in a productive manner. To ensure that all employees are responsible, the following guidelines have been established for using e-mail and the internet. Any improper use of the internet or e-mail is not acceptable and will result in appropriate disciplinary action, up to and including dismissal.

### **Section 11.2            Unacceptable uses of the Internet and County E-mail**

The County internet and e-mail access may not be used for transmitting, retrieving or storage of any communications of a discriminatory or harassing nature or materials that are obscene or X- rated. Harassment of any kind is prohibited. No messages with derogatory or inflammatory remarks about race, age, disability, religion, national origin, physical attributes or sexual preference shall be transmitted. No abusive, profane or offensive language is allowed to be transmitted through the County's e-mail or Internet system. Electronic media may not be used for any purpose which is illegal, deceptive or against County policy or contrary to the County's best interest. Solicitation of non-county e-mail or Internet for personal gain is prohibited. Employees are prohibited from chat room interchange unless established by government agencies.

### **Section 11.3            Communications**

Each employee is personally responsible for the content of all text, audio or images that they place or send over the county's e-mail/internet system. No e-mail or other electronic communications may be sent which hides the identity of the sender or represents the sender as someone else or someone from another entity. All messages communicated on the County's e-mail/internet system should contain the employee's name. Excessive personal communications are prohibited.

Any messages or information sent by an employee to another individual outside the County via an electronic network (e.g., bulletin board, online service or Internet) are statements that reflect on the County. While some users include personal "disclaimers" in electronic messages, there is still a connection to the County and the statements may be tied to the County.

All communications sent by employees via the County's e-mail/internet system must comply with this and other County policies and may not disclose any confidential or proprietary information.

### **Section 11.4            Software**

To prevent computer viruses from being transmitted through the County's e-mail/internet system, there will be no unauthorized downloading of any unauthorized software. All software downloaded must be registered to the County. Employees should contact the County Judge/Executive if they have any questions.

### **Section 11.5            Copyright Issues**

Copyrighted material belonging to entities other than Clark County may not be transmitted by

employees on the County's e-mail/internet system. All employees obtaining access to other companies' or individuals' materials must respect all copyrights and shall not copy, retrieve, modify or forward copyrighted materials, except with permission, or as a single copy, to reference only. Failure to observe copyright or license agreements may result in disciplinary action up to and including termination.

#### **Section 11.6 Security**

The County routinely monitors usage patterns for its e-mail/internet communications. The reasons for this monitoring are many, including cost analysis/allocation and the management of the County's gateway to the internet. All messages created, sent or retrieved over the county's e-mail/internet are the property of the County and should be considered public information. The County reserves the right to access and monitor all messages and files on the County's e-mail/internet system. Employees should not assume electronic communications are totally private and should transmit highly confidential data in other ways. Passwords and sign-on access codes shall not be shared with anyone including co-workers, family members, or other unauthorized personnel. A county employee will be designated as system administrator for e-mail/internet purposes.

The County shall abide by KRS Chp. 61 Personal Information Security Procedures; and the Kentucky Department for Local Government guidelines on reasonable security and breach investigation procedures and practices for personal information whether in electronic or paper formats.

#### **Section 11.7 Violations**

Any employee who abuses the privilege of County-facilitated access to email or the internet will be subject to corrective action up to and including termination. If Necessary, the County reserves the right to advise appropriate officials of a suspected legal violation.

CLARK COUNTY ADMINISTRATIVE CODE  
EMPLOYEE AGREEMENT

I have received a copy of Clark County Fiscal Court's Administrative Code, Ordinance # \_\_\_\_\_, dated \_\_\_\_\_.

I understand that it is my obligation to read the Clark County Administrative Code and agree to follow all policies and procedures that are set forth therein. I agree to abide by the standards outlined in the document for the duration of my employment with Clark County Fiscal Court. I understand that this Administrative Code, and my signature below, does not constitute an employment contract and that the County is an at-will employer. Should I have any questions related to the Clark County Administrative Code, it is my obligation to seek assistance from my supervisor, director or Department Head.

Furthermore, I understand that this Ordinance may be amended at any time.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Printed Name

RECEIVED BY:

\_\_\_\_\_

\_\_\_\_\_

County Judge/Executive Signature

Date

#### **EMPLOYEE AGREEMENT**

**I have received a copy of Clark County Fiscal Court's Policy Guidelines on e-mail/internet acceptable use (Ch. 11). I recognize that the County's e-mail/Internet is to be used for conducting the County's business only. I understand that use of this equipment for private purposes is strictly prohibited.**

**As part of Clark County and user of Clark County's gateway to the internet and e-mail system, I understand that this e-mail/internet County guideline applies to me.**

**I understand that it is my obligation to read the aforementioned document and agree to follow all policies and procedures that are set forth therein. I further agree to abide by the standards set in the document for the duration of my employment with Clark County Fiscal Court. Should I have any questions related to the Clark County Administrative Code, it is my obligation to seek assistance from my supervisor, director or Department Head.**

**I am aware that violations of this County guideline on acceptable e-mail/internet use may subject me to disciplinary action, up to and including dismissal from employment.**

**I further understand that my communications on the internet and e-mail reflect on Clark County Fiscal Court. Furthermore, I understand that this policy can be amended at any time or that I may receive further direction from my superiors related to proper e-mail/internet usage.**

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Printed Name

Received by:

\_\_\_\_\_  
County Judge/Executive Signature

\_\_\_\_\_  
Date

CLARK COUNTY INFORMATION SECURITY POLICY AGREEMENT FOR  
EMPLOYEES WITH ACCESS TO PERSONAL or FINANCIAL INFORMATION WITHIN  
COUNTY GOVERNMENT POSSESSION

I have received a copy of the KY Department for Local Government '*Protection of Personal Information Security and Incident Investigation Procedures and Practices for Local Governmental Units*' policy.

I understand that it is my obligation to read the aforementioned document and agree to follow all policies and procedures that are set forth therein. I further agree to abide by the standards set in the document and my obligation to keep all financial information of the County confidential for the duration of my employment with Clark County Fiscal Court. Should I have any questions related to this policy, it is my obligation to seek assistance from County Judge or his designee (Point of Contact).

I am aware that violations of this policy may subject me to disciplinary action, up to and including dismissal from employment.

I understand that this policy can be amended at any time or that I may receive further direction from my superiors regarding this policy.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Printed Name

Received by:

\_\_\_\_\_  
County Judge/Executive Signature

\_\_\_\_\_  
Date

### SICK LEAVE DONATION FORM

Name of Donor: \_\_\_\_\_

Department: \_\_\_\_\_

Soc. Sec. #: \_\_\_\_\_

Amount of Donation to be credited to Recipient: \_\_\_\_\_

(Employee must have 40 hours remaining after donation. Minimum amount employee may donate is 8.0 hours.)

Recipient: \_\_\_\_\_

Department: \_\_\_\_\_

I hereby certify that this donation is given without expectation or promise for any purpose other than that authorized by the sick leave sharing policy.

\_\_\_\_\_, 20\_\_  
Donor

\_\_\_\_\_, 20\_\_  
Appointing Authority

\*The original should remain with the Donor's\_\_\_\_\_. A copy should be transmitted to the Recipient's\_\_\_\_\_so that Sick Leave balances may be adjusted.

RETURN OF UNUSED DONATED SICK LEAVE

This is to certify that \_\_\_\_\_ hours of sick leave donated by:

\_\_\_\_\_  
Donor

\_\_\_\_\_  
Soc. Sec. #

\_\_\_\_\_  
Department

were unused by:

\_\_\_\_\_  
Recipient

\_\_\_\_\_  
Soc. Sec. #

\_\_\_\_\_  
Department

Credit the Donor's sick leave balance accordingly.

\_\_\_\_\_  
Recipient (Treasurer/Fin Officer

\_\_\_\_\_  
Date

\*The original should be sent to Donor's \_\_\_\_\_.