



# Personnel Policy Manual

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*The purpose of this policy is to provide for the requirements of the employer/employee relationships.  
The personnel policy manual contains general employment rules and information.*

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## Article 1 – Introduction

Josephine County strives to create and maintain a work environment that utilizes the full intellectual capabilities of all its employees, foster open and continuing communication, and develop teamwork through an environment that encourages learning and challenges all to perform to the best of their abilities.

Employees should carefully review updates to this Personnel Policy Manual that they receive. Current copies of the Personnel policies are available on the County website. If you have any questions about any of the provisions in the handbook, or any policies that are issued after the handbook, please ask Human Resources.

### A. CORE VALUES

**People.** We value people. They are the reason for our mission, and it is people who will help us fulfill our mission. Our employees are our greatest resource for achieving our mission of service.

**Community.** Josephine County is a special community with unique opportunities which make it a favored place to live. We work proactively to be a positive influence in our community.

**Partnership.** We work cooperatively to build partnerships which broaden our base of planning and action. We provide and promote leadership to develop solutions to issues challenging our community.

**Service.** Our purpose is to provide important and valuable services, of high quality, that build and strengthen our community. Our positive, professional service is central to our purpose and is our cornerstone value.

**Integrity.** The foundation of our mission is our commitment to honest, open, and reliable government. We must remain open to challenge, differences, and change, while being committed to our shared values. Our integrity comes from our dedication to our pursuit of excellence.

### B. GUIDING PRINCIPLES

- Flexibility, teamwork, partnership, creativity, and continuous improvement are essential to our continued success. We shall organize our departments to encourage these principles.
- Our community gains value when we make investments in our employees which promote personal growth, ethics, productivity, and commitment. We shall invest in training, encourage learning, and develop empowerment to maximize individual contributions to our mission.
- We shall work to enhance the health and safety of our community. Above all, we shall give priority to prevention.

Josephine County government is most effective as a unified organization. The

citizens select Commissioners to manage the operations of the County, and Department Heads and other employees support the direction of the governing body. Coordination, cooperation, and collaboration shall be the norm.

- County employees are valued and recognized for their contributions. Mutual respect and striving for excellence enable us to achieve our full potential.
- Trust is essential to our team. To build trust, we shall strive to be trustworthy, honest, and transparent in all matters.

C. MISSION STATEMENT

- We shall provide services in an open, honest, and efficient manner on behalf of the citizens.
- We will encourage public involvement and cooperation to identify needs and solutions for the present and the future.
- We are dedicated to providing positive leadership and quality service.

## **ARTICLE 2 – GENERAL POLICIES AND ADMINISTRATION**

### **SECTION 1 – GENERAL POLICY APPLICATION**

#### **A. GENERAL POLICY**

All County employees are required to read, understand and follow these policies as adopted by the Board of County Commissioners. These policies apply to all employees, unless explicitly stated as applicable to a subset only, including all union represented employees when not in conflict with a collective bargaining agreement. In the event of any conflict between these policies and an employee’s collective bargaining agreement, the specific provision of the collective bargaining agreement shall prevail. Some subjects described in these policies, such as benefit plan and insurance information, are covered in detail in those official policy documents. Employees should refer to these documents for specific information. The specific terms of any official policy documents are controlling.

#### **B. CONFLICTING LAWS**

These policies apply unless they are in conflict with federal law, state law, the Josephine County Charter, or Josephine County Code.

#### **C. PURPOSE OF POLICIES**

The purpose of these policies is to serve as a guide for the employer/employee relationship. This Personnel Policy Manual contains general employment requirements and information; it is not intended to be comprehensive or to address all the possible applications of, or exceptions to, the general Administrative Policies and procedures of the County. Questions concerning these policies should be directed to your supervisor or Human Resources. These Personnel policies are established pursuant to the following objectives:

1. To set expectations and hold employees accountable.
2. To establish a system of Personnel Administration based on merit, with systematic and equitable principles governing appointment, compensation, tenure, promotion, demotion, transfer, layoff, training, evaluation, dismissal, discipline, and other aspects of County employment.
3. To establish and maintain a uniform plan for the provision and administration of employee compensation and benefits.
4. To develop a program for recruitment, training, and advancement that will contribute to attracting and retaining qualified personnel for County service.
5. To provide a method of assuring that County management and employees are properly informed as to their respective mutual employment obligations.  
To provide requirements for proper conduct on the job and satisfactory

performance of work.

6. To ensure every employee is treated consistently as to training, opportunities, leave, time management including hours worked, equipment, and resources to perform their work.

D. VARIANCES

The Board of Commissioners alone has the authority to vary or modify the application of these policies when such modification is in the best interest of the County. No elected official, department head, or any other employee or agent of Josephine County has the authority to change, alter, or vary the terms or conditions of employment set out in these personnel policies. No oral or written statements or representations can change or alter the provisions of these policies. All previously issued personnel rules, policies, memos, and representations are superseded as of the adoption date of this Policy Manual.

E. REVISION

Revisions to this Personnel Policy Manual shall be conducted in accordance with the County Administrative Policy and Procedure A-1.

F. POLICY COMPLIANCE

All employees are required, as a condition of employment, to comply with these policies. If an employee violates these policies, the employee shall be subject to discipline, up to and including termination of employment. If any provision of this Policy Manual violates any state or federal law, such state or federal law shall control.

## **SECTION 2 – POLICIES INCORPORATED BY REFERENCE**

A. OTHER COUNTY POLICIES

In addition to the policies included in this Personnel Policy Manual, County employees are required, as a condition of employment, to comply with all other County policies, including but not limited to those found in the Josephine County Administrative Policy Manual, Josephine County Safety Manual, Josephine County Fleet Safety Handbook, and Josephine County Information Security policies.

B. DEPARTMENTAL WORK RULES

All County employees are also governed by department work rules, as well as these policies. County departments may develop and maintain work rules, standards, policies, and procedures which are appropriate for the operations of that department. Department work rules shall be in writing and shall be made known to the employees of the department. Such work rules, policies, and procedures shall not conflict with these policies. In the event of any conflict between a department work rule and these policies, these personnel policies

shall prevail.

### **SECTION 3 - DISCLAIMER**

This Policy Manual is not an employment contract. These policies do not confer any contractual right, either express or implied, to remain employed by Josephine County. These policies do not guarantee any fixed terms, benefits, promises, or conditions of employment. Employees not covered by a collective bargaining agreement or an express individual and written employment contract are considered “at-will” employees and subject to termination with the principles of “at-will” employment. No supervisor, manager, or representative of the County other than the Human Resources Office, with the approval of the Board of County Commissioners, has the authority to enter into any agreement with you regarding the terms of your employment that changes our at-will relationship or deviates from the provisions in this Policy Manual, unless the change or deviation is put in writing and signed by Human Resources or Board Chair (or that is included in a collective bargaining agreement/contract of employment.) Benefits provided for and contained herein are not guaranteed or intended to provide any promise of future or permanent benefits. This policy manual is subject to change by discretion of the Board of County Commissioners, absent any obligations to bargain implementation of subjects as defined under the Public Employee Collective Bargaining Act, ORS 243.650 et seq. If this manual is in direct conflict with any collective bargaining agreement, the collective bargaining agreement shall supersede.

### **SECTION 4 – EMPLOYEE EXPECTATIONS & PARTICIPATION**

#### **A. EXPECTATIONS.**

The purpose of the County Government is to serve the public. Employees are expected to give this service to the best of their ability, and to perform their job competently and with a sense of courtesy, cooperation and ownership of their responsibilities.

Because employees have been given the public's trust, they must maintain the highest standards of conduct in carrying out their job duties and the will of the citizens. Employees must also impartially uphold and carry out all applicable laws and policies. Each citizen must be treated fairly and equally with dignity and consideration. Employees are expected to conduct themselves in a manner that will foster respect and trust in the organization. The public's interest must always be the primary interest.

Any conflict of interest between an employee’s personal concerns and the public's interest must be fully disclosed to an employee’s supervisor and/or County Legal Counsel before any transaction occurs. An actual conflict of interest should be documented in writing and copied to Human Resources, to be maintained in the employee’s personnel file. Any questions regarding any conflict of interest should be directed to a supervisor and/or Legal Counsel.

An employee is prohibited from engaging in any conduct that could reflect unfavorably upon County service, or which is contradictory to the Board of County Commissioners. This provision does not apply to elected officials.

Employees must avoid any action that might result in or create the impression of using public employment for private gain, giving preferential treatment to any person, or losing impartiality in conducting County business. Employees shall not use County time, equipment, supplies, or facilities for private purposes. All County employees are subject to the requirements of the Government Standards and Practices Act, which prohibits using County employment for personal gain.

Lastly, employees are expected to adhere to the County's Personnel Policies, Administrative Policies and Procedures, and any other applicable County policies, and to carry out their supervisor's directives. In the absence of such direction, employees are expected to use good common sense and sensitivity for public concerns. Employees are expected to be loyal to our organization's objectives and to create and maintain effective working relationships. Reliable and regular attendance is expected and is an essential function of any job.

If an employee has a suggestion or idea on a work improvement or public concern, they are strongly encouraged to share their ideas with their supervisor.

The Board of County Commissioners encourages communication and the improvement of relationships between the Board and all County employees. As such, the Board is always an avenue for any employee who has questions or concerns about matters of employment or need guidance in the absence of a supervisor.

#### B. NON-UNION EMPLOYEE COMMITTEE

The Board recognizes the role of the department heads and all non-union employees, and the need for employees to have input in matters concerning their employment. Therefore, the Non-Union Employee Committee was formed as a leadership group which discusses and communicates nonunion employees' ideas and concerns in employment matters to the Board of County Commissioners. The Non-Union Employee Committee consists of seven (7) employees, who are not represented by employee unions, and who are freely elected by the non-union employees. The Non-Union Employee Committee shall keep the Board of Commissioners updated at least annually as to the membership of the committee, and as to any changes in its bylaws.

The Committee may deliberate and make recommendations to the Board of Commissioners to consider such matters as: Annual review and recommendations regarding salaries and benefits; methods to improve communications between employees and the Board of County Commissioners; maintenance of these personnel policies, including receiving input from employees and recommending amendments; employee morale and concerns;



and any other employment-related policies, rules, or concerns.

## SECTION 5 – DEFINITIONS

Unless otherwise specified in this Policy Manual, the following terms shall have the following meanings:

**“At-Will Employees”** are all employees not represented by a collective bargaining unit.

**"Board of County Commissioners"** or **"Board of Commissioners"** is the governing body of the County, consisting of three persons elected to serve as the executive body of the County.

**"Calendar Year"** is the twelve (12) month period beginning January 1 and ending December 31.

**"Classification"** is a group of positions sufficiently alike in minimum skills, abilities, knowledge, duties, authority and responsibilities that carry similar market value, and therefore the same salary pay grade is applied to all positions in the group.

**"Compensatory Time"** is time earned by an employee for working overtime which is granted as time off from work with pay.

**"Complaint"** is a statement that a situation is unsatisfactory or unacceptable. A written complaint will be required to meet the standards for a “formal complaint.”

**"County"** means Josephine County, its elected officials, department heads and employees.

**“County Motor Vehicle”** means any motor vehicle owned or leased by the County. Motor vehicles include, but are not limited to, automobiles (cars and trucks), heavy machinery (non-passenger vehicles), and UTVs (such as golf carts, side-by-sides, and ATVs).

**"Demotion"** is the movement of an employee in accordance with current county policies from a position in one classification to a position in a lower classification.

**"Department"** is an operational subset of the County made up of programs, offices, and/or divisions.

**“Department Head”** or **“Director”** is an employee elected by the citizens or appointed by the Board of County Commissioners to manage a County Department.

**"Elected Official"** is a person elected to County office, who is principally responsible for the discharge of duties provided by law or County charter, or a person appointed to fill the balance of an elected official's term.

**"Emergency"** is an occurrence or circumstance that may greatly impair operations, that could not reasonably be anticipated, and that demands immediate action. Examples include the occurrence of a threat to public health or safety, a natural disaster, being temporarily below minimum staffing requirements for juvenile

detention facility, or a temporary unexpected staff absence that would materially impair operations.

**“Employee”** means any person who is serving the County in a paid capacity, including but not limited to full-time employees, part-time employees, temporary employees, elected officials, and contract employees; but not including independent contractors.

**“Essential Duties”** are the duties that an applicant or employee must be able to perform in order to be qualified for a position or to properly complete their work.

**“Essential Employee”** is an employee performing duties that fulfill essential functions required of county government during emergency situations. These functions help ensure the health, safety and well-being of Josephine County citizens, and are required to maintain County operations.

**“Exempt Employee”** is an executive, administrative or professional employee who is exempt from the overtime pay requirements under the Fair Labor Standards Act.

**“Full-time Employee”** is an employee assigned to a regular work schedule consisting of forty (40) hours per week in a duly created, budgeted and authorized position.

**“Full-time Equivalent”** or **“FTE”** is the ratio in which an employee's normal work schedule bears to full-time (40 hours per week or 2,080 hours per year) employment.

**“Human Resources Director”** means the Director of Finance & Human Resources Josephine County, or their designee.

**“Independent Contractor”** is an individual who is performing services or work on behalf of the County under a written contract, and who is not an "employee" of the County.

**“Meal”** is food more than pastries or other snacks, and which includes a meat or vegetarian alternative option.

**“Nonexempt Employee”** is an employee who is required to be paid overtime pay for hours worked in excess of 40 hours per week under the Fair Labor Standards Act.

**“Non-Union Employee”** is an employee who is not represented by any union.

**“Paid Time Off”** is time away from work with pay, including but not limited to sick/personal leave, vacation leave, leave from time management leave bank, and compensatory time off.

**“Part-time Employee”** is an employee who is regularly scheduled to work less than forty (40) hours per week in a duly created, budgeted and authorized position.

**“Pay Grade”** is the pay range from the entry pay rate through the maximum pay rate assigned to a position as designated on the salary table.

"**Pay Step**" is a specific level within a pay grade.

"**Payroll Anniversary Date**" is an employee's most recent date of hire or position change. If an employee is hired or has a position change on or before the 15th of the month, the payroll anniversary date is adjusted back to the first day of the month in which the employee is hired. If the employee is hired or has a position change after the 15th of the month, the payroll anniversary date is adjusted forward to the first day of the following month.

"**PERS**" is the Oregon Public Employees Retirement System.

"**Personnel Action**" is any action taken by the County that affects the status of employment, such as appointment, classification, compensation, promotion, transfer, increase or decrease in assigned hours, layoff, or other action.

"**Personnel Manual**" or "**Personnel Policies**" means this Josephine County Personnel Policy Manual.

"**Position**" is a classified and County adopted job to which an employee may be assigned within a department.

"**Position Series**" is a group of positions with similar skills, abilities, knowledge, duties, and responsibilities. Such positions typically carry the same position title with "I," "II," "III" or "Senior" utilized to denote varying minimum requirements or duties.

"**Probationary Employee**" is an employee who is in the first twelve (12) continuous months of employment with the County.

"**Probationary Period**" or "**Probation**" is the first twelve (12) continuous months of employment by an employee with the County.

"**Promotion**" is a selection decision by the County to move an employee to a position with a higher pay grade than the employee's current position

"**Protected Activity**" means reporting unsafe or unhealthy working conditions, using the Workers' Compensation system, taking medical leave under the Oregon Family Leave Act, whistleblowing, such as reporting criminal activity or filing a civil complaint, opposing unlawful employment practices.

"**Protected Class**" means race, color, National origin, religion, disability, sex (includes pregnancy), sexual orientation, gender identity, age, marital status

"**Public Record**" means any writing containing information relating to the conduct of County business, regardless of physical form or characteristics, and includes records which are confidential or restricted in use or disclosure. "Public Records" shall have the same meaning as that defined in ORS 192.005(5) or 192.410(4), as may be amended.

**“Race”** is defined to include physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type, and protected hairstyles. **“Protected Hairstyles”** is defined as hairstyle, hair color, or manner of wearing hair, including braids (regardless of whether the braids are created with extensions or styled with adornments, locs, and twists), and/or head coverings.

**“Reclassification”** is a change in a position by raising it to a higher pay grade, reducing it to a lower pay grade, moving it to another classification at the same level, or significantly changing the job duties or responsibility of the position.

**“Sick Leave”** is paid time off for employees who are absent due to personal illness, a death in the immediate family, or emergency needs due to illness of an immediate family member. Under PTO banks, sick leave is the first 40 hours of PTO accrual used per calendar year.

**“Supervisor”** refers to a department head, program manager, program supervisor, or their designee.

**“Temporary Employee”** is an employee hired only for intermittent, casual-seasonal, temporary on-call, special grant, special project or other temporary work which lasts less than six (6) months in a twelve-month period.

**“Transfer”** is the movement of an employee from one position to another position of equal or lower pay grade or the movement of an employee to the same position in a different department.

**“Trial Service Period”** is the first six (6) months of employment following promotion, demotion, transfer or recall after removal.

**“Volunteer”** is a citizen who performs tasks in service to the community in an unpaid role, who is not performing the same or similar tasks as an employee, and who has not been employed by the County in the last six (6) months in the same department or program.

**“Workday”** is a period of time beginning at 12:00 a.m. and ending at 11:59 p.m.

**“Working Hours”** is the shift the employee normally works but is generally Monday through Friday between 8:00 a.m. and 5:00 p.m., excluding holidays and other time off .

**“Workweek”** is a seven-day period beginning at 12:00 a.m. Sunday and ending at 11:59 p.m. on Saturday.

## SECTION 6 – EMPLOYMENT RECORDS

### A. RECORD MAINTENANCE

All official employee personnel records shall be maintained by Human Resources or Finance, as appropriate, in accordance with state and federal records retention requirements. An employee's personnel file shall consist of the following records, maintained separately and securely:

- A confidential file containing records involving protected status and personal medical information.
- Confidential I-9 verification information.
- Payroll file containing records relating to an employee's tax withholdings and other payroll deductions.
- Digital timekeeping and payroll system records.
- Physical application and interview materials.
- Digital application system records.
- The general personnel file shall include all other records not described above, such as: personnel actions, training records, performance evaluations, certifications or licenses required for the employee's position, letters of commendation, and disciplinary actions.

Supervisors may maintain a supervisory file regarding an employee in a secure and confidential matter, but a copy of all documentation should be maintained in the employee's official personnel file. Supervisory files are subject to the same Record Access provisions in 2.6(C), below. Supervisory records that have a confidentiality breach could be subject to disciplinary action of the Supervisor.

All files containing records for terminated employees shall be promptly forwarded to Human Resources.

### B. REPORTING CHANGES TO AN EMPLOYEE'S PERSONAL DATA

Employees are responsible for keeping information current regarding changes in name, address, phone number, exemptions, dependents, beneficiaries, etc. If there are any changes to the following items, employees must contact Human Resources as soon as possible to ensure that the proper updates are completed:

- Name;
- Marital Status/Domestic Partnership (for purposes of benefit eligibility determination only);
- Address or telephone number;
- Dependents;

- Emergency Contact;
- Other information having a bearing on your employment; and
- Tax withholding.

Employees may not intentionally withhold information from County about the items listed above in order to continue to receive benefits or anything of value for themselves or anyone else. Upon request, County may require employees to provide proof of marital status/domestic partnership status. Employees who violate this policy may be subject to discipline, up to and including termination.

#### C. RECORD ACCESS

Unless otherwise provided by law, employment records are protected and shall not be viewed or distributed other than as required for record maintenance, except as described herein:

##### 1. Subpoena or Notarized Authorization

Except as otherwise provided below, a search warrant, subpoena, or notarized authorization from the employee shall be required to release any record(s) from an employee's personnel file.

##### 2. Employee Access

Employees and designated union members representing an employee on grievance or contract matters shall have reasonable access to that employee's personnel records during business hours.

Supervisor, County Legal Representation, and County Commissioner Access Supervisors, legal representation for Josephine County, and County Commissioner may access an employee's personnel records in Human Resources in the course of performing their job functions.

##### 3. Public Records Request

Other requests for personnel records made pursuant to a Public Records Request may be released only as allowed by law and subject to review and redaction by Legal Counsel.

##### 4. Copy Costs

Copies of requested records may be obtained at the expense of the requesting party, with the exception of one (1) free copy to each employee or their exclusive bargaining representative per calendar year.

##### 5. Access Log

Except for record maintenance, all employee record access shall be logged, including the date, time, who accessed the file, the file accessed, and the basis for the access.

## **ARTICLE 3 – EMPLOYMENT PRACTICES**

### **SECTION 1 – EQUAL EMPLOYMENT OPPORTUNITY**

The following Equal Employment Opportunity (EEO) Policies apply to all employees. Members of management, elected officials, and employees alike are expected to adhere to and enforce the following EEO Policies. Any employee’s failure to do so may result in discipline, up to and including termination. All employees are encouraged to discuss these EEO Policies with Human Resources at any time if they have questions relating to the issues of harassment, discrimination or bullying, or what it means to work in a respectful workplace.

Josephine County prohibits retaliation in any way against an employee because the employee has made a good-faith complaint pursuant to this policy or the law, has reported (in good faith) sexual assault, harassing or discriminatory conduct, or has participated in an investigation of such conduct. Employees who believe they have been retaliated against in violation of this policy should immediately report it to their supervisor, Human Resources, or the Risk Manager. Any employee who is found to have retaliated against another employee in violation of this policy will be subject to disciplinary action up to and including termination of employment.

#### **A. DISCRIMINATION**

The County provides equal employment opportunity to all qualified employees and applicants without unlawful regard to race, color, religion, sex, gender identity, pregnancy (including childbirth and related medical conditions), sexual orientation, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other status protected by applicable federal, Oregon, or local law. The County also recognizes an employee’s right to engage in protected activity under Oregon and federal law, as discussed in various policies below, and will not retaliate against an employee for engaging in protected activity.

The County’s commitment to equal opportunity applies to all aspects of the employment relationship — including, but not limited to, recruitment, hiring, compensation, promotion, demotion, transfer, disciplinary action, layoff, recall, and termination of employment.

#### **B. HARASSMENT**

The County prohibits harassment and sexual assault in the workplace, or harassment and sexual assault outside of the workplace that violates its employees, volunteers and interns’ right to work in a harassment-free workplace. Specifically, County prohibits harassment or conduct related to an individual’s race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status,

domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

Each member of management is responsible for creating an atmosphere free of discrimination, harassment, and sexual assault. Further, all employees are responsible for respecting the rights of other employees and refraining from engaging in conduct prohibited by this policy, regardless of the circumstances, and regardless of whether others participate in the conduct or did not appear to be offended. All employees are encouraged to discuss this policy with their immediate supervisor, any member of the management team, or with Human Resources, at any time if they have questions relating to the issues of discrimination or harassment.

This policy applies to and prohibits sexual or other forms of harassment that occur during working hours, during County-related or -sponsored trips (such as conferences or work-related travel), and during non-working hours when that off-duty conduct creates an unlawful hostile work environment for any of County's employees. Such harassment is prohibited whether committed by County employees or by non-employees.

#### C. SEXUAL HARASSMENT

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature (regardless of whether such conduct is "welcome"), when:

- a. Submission to such conduct is made either implicitly or explicitly a term or condition of employment;
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c. Such conduct interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment; or
- d. Such conduct constitutes a criminal offense.

Some examples of conduct that could give rise to sexual harassment are unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; sexual jokes; flirtations; advances or propositions; verbal abuse of a sexual nature; comments about an individual's body, sexual prowess, or deficiency; talking about a person's sex life or asking others questions about theirs; leering or whistling; unwelcome touching or assault; sexually suggestive, insulting, or obscene comments or gestures; displays of sexually suggestive objects or pictures; making derogatory remarks about individuals who are gay, lesbian, bisexual or transgender; or discriminatory treatment based on sex. This is not a complete list.



D. OTHER FORMS OF PROHIBITED HARASSMENT

County policy also prohibits harassment against an individual based on the individual's race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

County policy also prohibits harassment such as verbal, written or physical conduct that denigrates, makes fun of, or shows hostility towards an individual because of that individual's protected class or protected activity, and can include:

- Jokes, pictures (including drawings), epithets, or slurs;
- Negative stereotyping;
- Displaying racist symbols anywhere on their person, belongings, or otherwise on County property;
- "Teasing" or mimicking the characteristics of someone with a physical or mental impairment or disability;
- Criticizing or making fun of another person's religious beliefs, or "pushing" a person's religious beliefs on someone else;
- Threatening, intimidating, or hostile acts that relate to a protected class or protected activity; or
- Written or graphic material that speaks badly of or shows hatred toward an individual or group because of one or more protected statuses;
- Negative comments or teasing a person about their natural hair, hair texture, hair type or hair style (see definition of "race" on page 1). Employees may not touch another employee's hair without permission to do so, even if the touch is extended out of curiosity or as a compliment.

This is not a complete list. All employees are expected to exercise common sense and demonstrate professional conduct in the workplace at all times.

E. COMPLAINT PROCEDURE

Employees, volunteers, or interns who have experienced a sexual assault, any harassment or discrimination in violation of this policy, who have witnessed such behavior, or who have information about such behavior occurring, are expected and should bring the matter to the attention of their supervisor or Human Resources, as soon as possible. The complaint procedure is described more fully in Article 11. Employees are strongly encouraged to document the information or incident in any written or electronic form, or with a voice mail

message (or phone call). An employee who experiences or witnesses harassment is encouraged, but not required, to tell the harasser that the behavior is offensive and unwanted, and that they want it to stop.

Employees who have been subjected to harassment, sexual assault, or discrimination are encouraged to use the County's complaint-reporting procedure to ensure a timely, thorough investigation and handling of the situation. Employees may, however, seek redress from the Oregon Bureau of Labor and Industries (BOLI) pursuant to ORS 659A.820 to 659A.865, or in a court under any other applicable law, whether criminal or civil.

#### F. OTHER EMPLOYEE RIGHTS

Nothing in this policy is intended to diminish or discourage an employee who has experienced workplace harassment or discrimination, or sexual assault, from talking about or disclosing their experience.

The County is committed to creating and maintaining a workplace free of sexual assault, harassment, discrimination, and retaliation and it has confidence in the process it has developed for addressing good-faith complaints. However, Oregon law requires the County to inform employees that if they have been aggrieved by workplace harassment, discrimination or sexual assault and want to enter into an agreement with the County regarding their experience and/or employment status, the employee should contact Human Resources. The employee's request to enter into such an agreement must be in writing (email or text is acceptable). Requests of this nature will be considered on a case- by-case basis; such agreements are not appropriate for every situation. If the County and employee do reach an agreement, the County will not require an employee to enter into a nondisclosure agreement (which would prohibit the employee from discussing or communicating about their experiences in the workplace or the terms of the agreement) or a non-disparagement agreement (which would prohibit the employee from speaking slightly about the County or making comments that would lower the County in rank or reputation). If, however, the employee makes a request for an agreement under this paragraph, nondisclosure and non-disparagement are terms that the County and the employee may agree to. The employee will have seven days to revoke the agreement after signing it.

## SECTION 2 - ACCOMMODATIONS

### A. DISABILITY ACCOMMODATIONS

#### 1. General Policy

Josephine County is committed to complying fully with the Americans with Disabilities Act (ADA) and Oregon's disability accommodation and anti-discrimination laws. The County is also committed to ensuring equal opportunity in employment for qualified persons with disabilities. The

County will make reasonable efforts to accommodate a qualified applicant or employee with a known disability unless such accommodation creates an undue hardship on the operations of the County.

## 2. Requesting an Accommodation

A reasonable accommodation is any change or adjustment to a job or work environment that does not cause an undue hardship on the department or County and that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, a reasonable accommodation may include providing or modifying equipment or devices, job restructuring, allowing part-time or modified work schedules,

reassigning an individual, adjusting or modifying examinations or training materials provided by the County, providing readers and interpreters, or making the workplace readily accessible to and usable by people with disabilities.

Employees should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to perform the essential duties of a position. All requests for accommodation should be made with Human Resources and should specify which essential functions of the employee's job cannot be performed without reasonable accommodation. In most cases, an employee will need to secure medical verification of their need for a reasonable accommodation. Both the County and employee must monitor the employees' accommodation situation and make adjustments as needed.

## 3. Confidentiality

Any information obtained concerning the medical condition or history of an applicant or employee shall be maintained in separate medical files, and shall be treated as confidential information that shall only be disclosed as necessary and in accordance with law.

## B. RELIGIOUS ACCOMMODATIONS

Josephine County respects the religious beliefs and practices of all employees and shall make, upon request, an accommodation for such observances when a reasonable accommodation is available that does not create undue hardship for the County. An employee whose religious beliefs or practices conflict with their job, work schedule, or with the County's policy or practice on dress and appearance, or with other aspects of employment, and who seeks a religious accommodation, must submit a written request for the accommodation to Human Resources. The written request shall include the type of religious

conflict that exists and the employees' suggested accommodation. The County shall provide religious accommodation on a case-by-case basis, depending on the nature and extent of the accommodation requested and the requirements of the job.

C. SAFETY ACCOMMODATIONS

1. Requests for Reasonable Accommodation

Josephine County offers reasonable safety accommodation to employees who are victims of domestic violence, sexual assault, or stalking. When an employee requests a reasonable safety accommodation, the county will engage in discussions with the employee about the nature and scope of a reasonable safety accommodation that will best address the particular safety concern affecting the individual employee. Requests for reasonable safety accommodation may only be limited or denied when the employees' accommodation would create an undue hardship on county operations. Reasonable safety accommodations may include, but are not limited to, a transfer, reassignment, modified schedule, changed workstation, telephone number, workplace facility or work requirement in response to actual or threatened domestic violence, sexual assault or stalking.

2. Records and Confidentiality

All records and information kept by the County regarding an employee's request for, or use of, a reasonable safety accommodation under this rule will be kept confidential and may not be released without the express written permission of the individual, unless otherwise required by law. Documents provided to the County regarding the accommodation shall be maintained in a confidential, locked file separate from employee personnel files.

3. Prohibited Conduct

No person may refuse to hire an otherwise qualified individual because the individual is a victim of domestic violence, sexual assault or stalking. No person may discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation, or other terms, conditions or privileges of employment because the employee is a victim of domestic violence, sexual assault, or stalking, or because the employee requests reasonable safety accommodations under the provisions of this rule.

D. PREGNANCY ACCOMMODATIONS

Employees who are concerned that their pregnancy, childbirth, or a related medical condition (including lactation) will impact their ability to work should contact Human Resources to discuss their options for continuing to

work and, if necessary, leave of absence options. The County will provide one or more reasonable accommodations for employees with known limitations unless such accommodations impose an undue hardship on the County's operations.

Although this policy refers to "employees," the County will apply this policy equally to an applicant with known limitations caused by pregnancy, childbirth or a related medical condition.

1. Requesting Pregnancy-Related Accommodation

Employees who are concerned that their pregnancy, childbirth or a related medical condition will limit their ability to perform their duties should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to work. All requests for accommodation should be made in writing to the Human Resources Director and should specify which essential functions of the employee's job cannot be performed without a reasonable accommodation. In most cases, information from the employee's doctor may be needed to assist the County and the employee find an effective accommodation, or to verify the employee's need for an accommodation. Both the County and employee must monitor the employees' accommodation situation and make adjustments as needed.

2. No Discrimination, No Retaliation

The County prohibits retaliation or discrimination against any employee who, under this policy: (1) asked for information about or requested accommodations; (2) used accommodations provided by the County; or (3) needed an accommodation.

Employees who ask about, request or use accommodations under this policy and applicable law have the right to refuse an accommodation that is unnecessary for the employee to perform the essential functions of the job.

3. Leave of Absence Options for Pregnant Employees

Employees who are pregnant or experiencing pregnancy-related medical conditions should also be aware of their leave of absence options under Paid Leave Oregon, Oregon's sick leave law, the Oregon Family Leave Act, and the Family Medical Leave Act.

E. REST BREAKS FOR EXPRESSION OF BREAST MILK

The County will provide reasonable rest periods to accommodate an employee who needs to express milk for their child eighteen (18) months of age or younger. If possible, the employee will take the rest periods to express milk at the same time as the rest breaks or meal periods that are otherwise

provided to the employee. If not possible, the employee is entitled to take a reasonable period each time the employee needs to express milk.

Rest breaks needed to express milk for children one (1) year or younger will be considered paid time if the employee is also working. The County will treat the rest breaks used by the employee for expressing milk for children over one (1) year of age to eighteen (18) months as paid rest breaks up to the amount of time the County is required to provide as paid rest breaks and/or meal periods under applicable personnel rules or collective bargaining agreements. Additional time needed during an employee's scheduled working hours beyond the paid rest breaks and/or meal periods for children one (1) year to eighteen (18) months will be unpaid, or an employee may use accrued paid time off or comp time.

The County will make a reasonable effort to provide the employee with a private location within close proximity to the employee's work area to express milk. For purposes of this policy, "close proximity" means within walking distance from the employee's work area that does not appreciably shorten the rest or meal period. A "private location" is a place, other than a public restroom or toilet stall, in close proximity to the employee's work area for the employee to express milk concealed from view and without intrusion by other employees or the public.

If a private location is not within close proximity to the employee's work area, the County will identify a private location the employee can travel to. The travel time to and from the private location will not be counted as a part of the employee's break period.

1. Notice

An employee who intends to express milk during work hours must give their supervisor or County reasonable oral or written notice of her intention to do so in order to allow the County time to make any preparations necessary for compliance with this rule.

2. Storage

Employees are responsible for storing expressed milk. Employees may bring a cooler or other insulated food container to work for storing the expressed milk. If an office provides access to refrigeration for personal use, an employee who expresses milk during work hours may use the available refrigeration.

## **SECTION 3 – EMPLOYEE CONDUCT**

### **A. GENERAL CONDUCT POLICY**

Josephine County employees shall conduct themselves in a professional manner and shall not conduct themselves in a manner that may discredit the County,

or in a manner that hinders the effective performance of County functions. The expected standard of conduct for all County employees shall be of the highest standards in both their official conduct and their private conduct insofar as it affects job performance.

Cause for disciplinary action shall include, but is not limited to the following:

1. *Falsification or Misuse of Records.* Falsification, unauthorized removal, or misuse of employment or other County records, including submitting false information in an employment application, use of confidential records for personal gain, or unauthorized disclosure of confidential records. County records include, but are not limited to, timekeeping records and work product.
2. *Use of Intoxicants or Controlled Substances.* Partaking of, or being under the influence of, intoxicants or illegal substances while on duty.
3. *Insubordination.* Unwillingness or failure to follow the directive of one's supervisor or other authority.
4. *Abusive Conduct.* Offensive or abusive conduct or language, including bullying, abuse of power, and sexual harassment, toward the public or toward fellow employees or officers.
5. *Retaliation.* Retaliation against the public or toward fellow employees or officers as a result of a complaint being raised.
6. *Fighting.* Provoking a fight or fighting during work hours or at any time on County property.
7. *Misuse of Public Property.* Using, permitting the use of, or unauthorized use of County owned or leased vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or employees in the conduct of official business; or willful damage to or negligence in the care and handling of County property.
8. *Abuse of Sick Leave Benefit.* Claim of sick leave, as defined in Section 2.5, under false pretenses or misuse of such leave.
9. *Failure to Report to Work.* Failure to notify a supervisor when unable to report to work or leaving work during normal working hours without permission from a supervisor to do so.
10. *Failure to Observe Work Schedule.* Failure to observe work schedules including rest breaks and meal periods.
11. *Inability to Perform the Job.* Inattention to duty, tardiness, indolence, carelessness or not doing the work for any other reason.

12. *Dishonesty*. Willfully or intentionally providing false information to the County or otherwise failing to perform or act in an honest manner.
13. *Conviction of Crime*. Conviction of a crime, which in the County's judgment would render the person unfit to perform in the particular position.
14. *Unauthorized Absence*. Absence from duty without leave, failure to report after leave of absence has expired or taking such leave after a request has been denied by proper administrative authority.
15. *Violation of Policy*. Willful, or continued violation of any of these Rules, or any other County rules or regulations.
16. *Acceptance of Gifts and Favors*. Acceptance of any remuneration in addition to regular compensation of an employee, whether in the form of service, loan, thing or promise, from any person who to their knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the County; or granting the discharge of duties in exchange for any improper favor, service or thing of value except as allowed under the Conflict of Interest section of this Personnel Policy Manual.
17. *Solicitation of the Public for Money, Goods or Services*. Solicitation, in an official capacity as an employee of the County, of the public for money, goods, or services for personal gain or when not specifically authorized by the Board of Commissioners.
18. *Violation of Safety Procedures*. Failure to observe the safety related rules and procedures of the County and to report circumstances that may endanger employees, citizens, or County property.
19. *Waste of Resources*. Waste (the act of using or expending County resources carelessly, extravagantly, or to no purpose), Abuse (behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances) or Fraud (wrongful or criminal deception intended to result in financial or personal gain).
20. *Excessive Absenteeism/Tardiness*. Frequent unscheduled absences or tardiness that affect the employee's performance of duties or the County's operations, or tardiness that does not conform to the employee's scheduled work hours. This does not include absences/tardiness covered by protected leave provisions.
21. *Incompetence*. Failure to meet the minimum performance requirements for the position.
22. *Moral Turpitude*. Verified acts on or off the job that are egregious, such that the local community would consider them as highly offensive and gross violations of normal human norms of conduct. This includes acts of



depravity and certain criminal offenses, which in the judgment of the County would render the employee unfit to perform County employment.

23. *Horseplay*. Goofing around, playing around, play fighting, or careless or reckless conduct. Employees are expected to conduct themselves in a professional manner throughout the duration of their shift. Horseplay shall not be tolerated at any time.

B. CRIMINAL ARRESTS AND CONVICTIONS

Employees must promptly and fully disclose to their supervisor on the next working day:

1. All drug- or alcohol-related arrests, citations, convictions, guilty pleas, no contest pleas or diversions that result from conduct which occurred while on duty, on County property, or in a County vehicle (see “Alcohol/Drug Use, Abuse and Testing” policy);
2. All arrests, citations, convictions, guilty pleas or no contest pleas that result from crimes involving the theft or misappropriation of property, including money;
3. All arrests, citations, convictions, guilty pleas, or no contest pleas that result from crimes involving dishonesty or forgery; or
4. If you are arrested, cited, or convicted of a violation of any law that will prevent you from performing the essential functions of your position.

Reporting an arrest or conviction will not automatically result in termination of employment. In some instances, involving drugs or alcohol, employees may be eligible for certain types of assistance. Situations will be evaluated on a case-by-case basis to determine whether disciplinary action, up to and including termination, is appropriate under the circumstances.

Employees who are unavailable to report for work because they have been sent to jail or prison may use up to two days of paid time off to cover the absence.

C. BULLYING

Josephine County strives to promote a positive, professional work environment free of physical or verbal harassment, “bullying,” or discriminatory conduct of any kind. Josephine County, therefore, prohibits employees from bullying one another or engaging in any conduct that is disrespectful, insubordinate, or that creates a hostile intolerable work environment for another employee for any reason. For purposes of this policy, “bullying” refers to repeated, unreasonable actions of individuals (or a group) directed towards an individual or a group of employees, which is intended to intimidate or harass (or would be perceived as intimidation or harassment by a reasonable person), or that creates a risk to the health or safety of the

employee(s) or otherwise impacts their ability to perform their duties. Examples of bullying include, but are not limited to:

1. *Verbal Bullying*: Slandering, ridiculing, or maligning a person or their family; persistent name calling that is hurtful, insulting or humiliating; using a person as a part of a joke; abusive and offensive remarks.
2. *Physical Bullying*: Pushing; shoving; kicking; poking; tripping; hitting; assault, or threat of physical injury; damage to a person's work area or property.
3. *Gesture Bullying*: Non-verbal threatening gestures.
4. *Exclusion Bullying*: Socially or physically excluding or disregarding a person in work-related activities. In some cases, failing to be cooperative and working well with coworkers may be viewed as bullying.
5. *Cyber Bullying*: Bullying that takes place using electronic technology, which includes devices and equipment such as cell phones, computers, and tablets as well as communication tools including social media sites, text messages, chat, and websites. Examples of cyberbullying include transmitting or showing embarrassing or mean-spirited text messages, emails, pictures, videos or graphics, rumors sent by email or posted on social networking sites, or creating fake profiles on websites for coworkers, managers or supervisors or department heads.
6. Using one's position to intentionally intimidate coworkers, subordinates, or members of the public.

Employees who have experienced bullying in violation of this policy, who have witnessed an incident of bullying, or who have credible information about an incident, are expected and should bring the matter to the attention of their supervisor or a member of management, or Human Resources, as soon as possible. If, following an investigation by a non-involved party, conduct in violation of this policy is found to have occurred the County will take prompt, appropriate action, and any employee found to have violated this policy will be subject to disciplinary action, up to and including termination of employment.

#### D. WORKPLACE VIOLENCE

Threats and acts of violence made by an employee against another employee, volunteer, or member of the public with respect to that person's life, health, well-being, family, or property will be dealt with in a zero-tolerance manner by the County.

All employees have an obligation to report any incidents that pose a real or potential risk of harm to employees or others associated with the County, or that threaten the safety, security or financial interests of the County.

Employees are also strongly encouraged to report threats or acts of violence by non-employees, such as vendors or citizens, against any employee or volunteer. Employees should make such reports directly to their supervisor or the Human Resources Director.

Josephine County also may conduct an investigation of a current employee where the employee's behavior raises concern about work performance, reliability, honesty, or potentially threatens the safety of coworkers or others.

## **SECTION 4—ETHICS**

### **A. CONFIDENTIALITY**

All County employees and volunteers are required to maintain confidentiality of information gained during the course of their duties. Individuals may, during the course of employment or volunteer services for Josephine County, obtain or be exposed to information, which is not available to the general public, which is not public information under the Oregon Public Records laws, or which is confidential under local, state, or federal law. Employees and volunteers are prohibited from divulging or disclosing any confidential information to any person or entity, either directly or indirectly, without first obtaining specific written permission from the Public Information Officer. An exception is when personnel are responding to inquiries pursuant to an investigation initiated by Josephine County. Confidentiality is propriety to Josephine County as an organization, and not to any individual employee or official thereof.

In addition to this policy, departments may require employees and volunteers to sign a Confidentiality Agreement further detailing specific requirements pertaining to departmental functions. Departments subject to HIPAA shall develop specific written procedures in compliance with statutes to safeguard confidential medical information.

### **B. CONFLICTS OF INTEREST/GIFTS**

#### **1. General Policy**

Service as a public official is a public trust. Public officials, including County employees, volunteers, and members of advisory boards, shall conduct themselves in an ethical manner, in compliance with Oregon's Government Ethics Laws (ORS Chapter 244). Public Officials shall not use their official position, or the knowledge gained from their position, in such a manner that will create a conflict of interest between that person and the County. Public officials shall conduct their personal affairs so as to avoid conflicts between their personal interests and the interests of the County, as well as to avoid conduct which might adversely affect the exercise of their official judgment.

2. Definitions.

**“Actual conflict of interest”** means any action, decision, or recommendation by a public official, the effect of which would be to the private pecuniary benefit or detriment of the public official, the public official’s relative, or any business with which the public official or relative is associated.

**“Gift”** means something of economic value given to a public official, or a relative or member of the household of the public official, which is not extended to others who are not public officials, or the relatives or members of the household of public officials, on the same terms and conditions.

**“Honorarium”** means a payment or something of economic value given to a public official in exchange for services including, but not limited to, speeches or other

services rendered in connection with an event.

**“Legislative or administrative interest”** means an economic interest, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the action or vote of a public official.

**“Member of the household”** means any person who resides with the public official.

**“Potential conflict of interest”** means any action or any decision or recommendation by a public official, the effect of which could be to the private pecuniary benefit or detriment of the public official or public official’s relative, or a business with which the public official or public official’s relative is associated.

**“Public official”** means any person who is serving the County, including by not limited to an elected official, appointed official, employee, temporary employee, volunteer, board member, advisory board member, or contractor, irrespective of whether the person is compensated for the services.

**“Relative”** means:

- a. The spouse of the public official;
- b. The domestic partner of the public official;
- c. Any children of the public official or of the public official’s spouse;
- d. Siblings, spouses of siblings, or parents of the public official or of the public official’s spouse;

- e. Any individual for whom the public official has a legal support obligation; or
- f. Any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment.

3. Gifts

During a calendar year, a public official or a relative or member of the household of a public official may not receive any gifts in excess of limits identified by law from any single source that could reasonably be known to have a legislative or administrative interest in County government.

**Exceptions:** The following are not considered "gifts:"

- a. Campaign contributions as defined in ORS 260.005;
- b. Gifts from relatives or members of the public official's household;
- c. An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than the amount identified by law;
- d. Informational material, publications or subscriptions related to the recipient's performance of official duties;
- e. Admission fees, or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization before whom the public official appears to speak or to answer questions as part of a scheduled program;
- f. Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official;
- g. Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official, or a staff member of the public official accompanying the public official, when the public official is representing the County:
  - i. On an officially sanctioned trade-promotion or fact-finding mission; or
  - ii. In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance;
- h. Food or beverage consumed by a public official acting in an official capacity in association with the review, approval, execution of documents or closing of a borrowing, investment or other financial

transaction, including any business agreement between the County and a private entity or other public body as defined in ORS 174.109;

- i. Waiver or discount of registration expenses or materials provided to a public official at a continuing education event that the public official may attend to satisfy a professional licensing requirement;
  - j. Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official's office and at which the official participates in an official capacity;
  - k. Food or beverage consumed by a public official at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage;
  - l. Entertainment provided to a public official or a relative or member of the household of the public official that is incidental to the main purpose of another event;
  - m. Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while representing the County for a ceremonial purpose.
4. Prohibited Use of Official Position

Public officials may not use their official position to obtain real or personal property, financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

- a. **Exceptions:** This provision does not apply to:
  - i. Official compensation as determined by the public body that the public official serves;
  - ii. Honoraria;
  - iii. Reimbursement of expenses;
  - iv. An unsolicited award for professional achievement;
  - v. Gifts that do not exceed the amount identified by law in aggregate value per calendar year received from a source that could reasonably be known to have a legislative or administrative interest.

- vi. Gifts received from a source that could not reasonably be known to have a legislative or administrative interest.
  - vii. Receipt of any item, regardless of value, that is not considered a "gift" (see Section 3.4(B)(3) - Exceptions).
  - viii. Persons approved by Josephine County to bid on real or personal property that is offered for sale at County auctions, when permitted by law.
  - ix. Persons approved by Josephine County to purchase or receive surplus property pursuant to County Policy, when permitted by law.
- b. A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.
  - c. A public official may not attempt to further the personal gain of the public official through the use of confidential information gained in the course of or by reason of holding position as a public official or activities of the public official.
  - d. A person who has ceased to be a public official may not attempt to further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.
  - e. A person may not attempt to represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate.
  - f. The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed under this policy.

5. Honoraria

A public official may not solicit or receive honoraria for the public official or any member of the household of the public official if the honoraria are solicited or received in connection with the official duties of the public official. This section does not prohibit:

- a. The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or

- b. The solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation or expertise of the public official.
6. Conflicts of Interest
- a. When met with an actual or potential conflict of interest, a public official shall notify in writing the supervisor or person who appointed the public official the nature of the conflict, and request that the supervisor or appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the supervisor or appointing authority shall designate, within a reasonable time, an alternate person to dispose of the matter, or shall direct the public official to dispose of the matter in a specified manner.
    - i. Potential Conflicts of Interest: When met with a potential conflict of interest, an elected public official or an appointed public official serving on a board or commission shall publicly announce the nature of the potential conflict prior to taking any action on the matter giving rise to the conflict of interest.
    - ii. Actual Conflicts of Interest: When met with an actual conflict of interest, an elected public official or an appointed public official serving on a board or commission shall publicly announce the nature of the actual conflict and vote on the issue out of which the actual conflict arises.
  - b. Recording of Notice of Conflict: When a public official gives notice of an actual or potential conflict of interest, the County shall record the actual or potential conflict in the meeting minutes or in the official records of the public body. In addition, a notice of the actual or potential conflict and how it was disposed of may, in the discretion of the County, be provided to the Oregon Government Ethics Commission within a reasonable period of time.

More information on Government Ethics may be found at:  
<https://www.oregon.gov/ogec/Pages/default.aspx>.

## C. POLITICAL ACTIVITY

### 1. General Policy

Pursuant to ORS 260.432, while on the job, during working hours, County employees are prohibited from promoting or opposing any election petitions, candidates, political committees, or ballot measures. Failure to follow County policy and state law on political activity may subject the employee to disciplinary proceedings up to and including termination, as well as civil or criminal penalties.



2. Definitions.

**“Advocate a political position”** means to promote or oppose an initiative, referendum, recall petition, candidate, political committee or ballot measure.

**“Impartial”** means equitable, fair, unbiased, and dispassionate.

3. Prohibited Activities for County Employees

During regular working hours, while on the job, employees are prohibited from campaigning for or against any candidate or ballot measure. County employees shall not:

- a. Prepare or distribute written material, post website information, transmit emails or make a presentation that advocates a political position;
- b. Collect funds, prepare filing forms or correspondence on behalf of candidates or political committees;
- c. Produce or distribute a news release or letter announcing an elected official’s candidacy, or presenting an elected official’s political position;
- d. Make outgoing calls to schedule or organize campaign events or other political activity on behalf of an elected official (except that a scheduler may, as part of official duties, take incoming calls about the official’s availability and add an event to the official’s schedule);
- e. Grant unequal access to public facilities to candidates or political committees;
- f. Draft, type, format or edit a County Resolution that advocates a political position, except to conform the resolution to a standard format;
- g. Prepare or give recommendations to the Board of Commissioners or advisory boards urging which way to vote on such a resolution;
- h. Sign a County Resolution that advocates a political position, except if the signature is only ministerial and clearly included to attest that the Board of Commissioners took the vote;
- i. Announce the Board of Commissioner’s position on such a resolution to the media;
- j. Include the Board of Commissioner’s position or vote on such a resolution in a newsletter, website, or other publication.
- k. Provide personal views to citizens visiting or calling any County department on regular business.

In addition, supervisors and Department Heads shall not direct employees to participate in political activities, including those listed above. Employees are prohibited from using any county property, whether on or off the job, to campaign for or against any candidate or ballot measure. For example, employees shall not use county paper to prepare signs or fliers in support of or in opposition to any candidate or measure. No employee shall be coerced or required to give money, or any other thing of value, to promote or oppose any candidate or measure. Employees are prohibited from soliciting money for or against any candidate or measure, while on the job during working hours. Employees, other than elected officials, shall not use their role with the County to add weight to any political position. Employees who have any questions as to whether they are being directed to perform any prohibited activities should contact the County Legal Counsel and/or Human Resources Director.

#### 4. Allowable Activities for County Employees

County employees, while on the job during working hours may:

- a. Prepare and distribute impartial written materials or make an impartial presentation that discusses election subjects. Employees shall contact the Office of Legal Counsel or the Secretary of State's Office for assistance prior to releasing any such written materials to the public.
- b. Perform standard, regular job duties, such as taking minutes at a public meeting, maintaining public records, opening mail, or inserting a proposed resolution into a Board's agenda packet;
- c. Impartially advise employees about the possible effects of a measure, but not threaten them with financial loss to vote a particular way;
- d. Address election-related issues while on the job, in a factual and impartial manner, if such activity is legitimately within the scope of the employee's normal duties;
- e. As staff of any elected official, handle incoming calls about the official's availability for political events;
- f. Prepare neutral, factual information for the Board of Commissioners to use in determining what position to take on an issue (the planning stage of a Board's proposed issue before certified as a measure to a ballot is not subject to ORS 260.432);
- g. In a clerical manner, incorporate amendments into a finalized version of the Board of Commissioner's resolution on an issue;
- h. Respond to a public records request for information, even if the material advocates a political position;

- i. Wear political buttons, unless the employee is providing voter registration services.

Employees may express their personal political views while off the job, during lunch time, or while on a break. No sanction shall be taken against any employee on the basis of the employee's political beliefs or opinions. Employees may engage in any political activity while off the job, as long as such actions are not in conflict with any other state or federal laws. Employees may, on their own, off duty time, send letters to the editor that advocates a political position, and may participate in any other lawful activity. Employees who send letters to the editor should indicate at the bottom by their signature that "This letter is in the opinion of the writer only and does not reflect the views or opinion of Josephine County."

5. Prohibited Activities for Elected Officials

Elected officials shall not request or direct a County employee, whether the employee is on duty or off duty, to perform any political activity. Elected officials shall not have an opinion piece or letter advocating a political position published in a County newsletter, website, or other publication produced, maintained, or distributed by County employees.

6. Allowable Activities for elected Officials Elected officials may:

- a. Advocate a political position at any time, whether on or off duty;
- b. Vote with other elected officials to support or oppose a measure, and publicly discuss such a vote;
- c. Perform campaign activities at any time, provided that such activities do not involve the acts of any County employees.

7. Ballot Measures, Fact Sheets, and other Publications

Employees shall send drafts of all ballot measures, fact sheets, explainer information, and other elections information to the Secretary of State's office or County Legal Counsel prior to publication.

8. Policy Implementation

Employees with questions or concerns about this policy should contact their supervisor or the Office of Legal Counsel. Every department head shall post the following notice, as provided by the elections office, in a conspicuous location in their department:

*ATTENTION ALL PUBLIC EMPLOYEES:*

*The restrictions imposed by the law of the State of Oregon on your political activities are that "No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or*

*oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of a public employee to express personal political views.”*

*It is therefore the policy of the state and of your public employer that you may engage in political activity except to the extent prohibited by state law when on the job during working hours.*

D. HIRING OF FAMILY/HOUSEHOLD MEMBERS OR THOSE WITH FINANCIAL RELATIONSHIP

Relatives of current employees, or individuals involved in an intimate personal or financial relationship with a current employee, are eligible for hire at the County subject to the same selection and evaluation process and job requirements as any other applicant. However, persons will not be hired or promoted into positions in which one family member (as defined by Oregon law) or person involved in an intimate personal or financial relationship, would fall under the direct line of supervision of the other family member or partner.

All employees shall avoid being in a position where they are subject to supervisory or oversight authority by a family member, member of their household, or a person with whom they have an intimate personal or financial relationship. If the relative relationship is established after employment as a result of organizational restructuring, marriage, or the development of an intimate personal or financial relationship, the employees involved must immediately inform Human Resources. The employees and County will jointly make a good faith effort to find an alternative assignment for one of the two employees. Depending on business need, this may include, but is not limited to restructuring duties, assignment to another position, and assignment to another shift or change in supervision. If no alternative assignment is available, the two employees will have 30 days to decide who will resign. If a decision is not made within 30 days, the County will make the final decision, based on the County’s operational and financial needs.

Policy violations including, but not limited to, failure to disclose a family relation, or an intimate personal or financial relationship, will be investigated by the County. Policy violations may result in discipline, up to and including termination of employment. Supervisors and lead workers may be disciplined for taking employment actions based upon the relationship.

## **SECTION 5 – WHISTLEBLOWING – NO RETALIATION**

Employees may report concerns about the County’s compliance with any law, regulation or policy, using one of the methods identified in this policy. The County will not retaliate against employees who disclose lawfully accessed information that the employee reasonably believes is evidence of:

- A violation of any federal, Oregon, or local law, rules or regulations by the County;
- A violation of any of these personnel policies or other County policies and procedures;
- A violation of law, regulation, or standard pertaining to safety and health in the place of employment;
- Mismanagement, gross waste of funds, abuse of authority, or fraud;
- A substantial and specific danger to public health and safety resulting from actions of the County or one of its employees; or
- The fact that a recipient of government services is subject to a felony or misdemeanor arrest warrant.

Further, in accordance with Oregon law, the County will not prohibit an employee from discussing the activities of a public body or a person authorized to act on behalf of a public body with a member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision, or an elected auditor of a city, county or metropolitan service district.

In addition, the County prohibits retaliation against an employee for participating in good faith in any investigation or proceeding resulting from a report made pursuant to this policy. Further, no County employee will be adversely affected because they refused to carry out a directive that constitutes fraud or is a violation of local, Oregon, federal or other applicable laws, regulations, and policies. The County may take disciplinary action (up to and including termination of employment) against an employee who has engaged in retaliatory conduct in violation of this policy.

This policy is not intended to protect an employee from the consequences of their own misconduct or inadequate performance simply by reporting the misconduct or inadequate performance. Furthermore, an employee is not entitled to protections under this policy if the County determines that the report was known to be false, or information was disclosed with reckless disregard for its truth or falsity. If such a determination is made, an employee may be subject to discipline up to and including termination of employment.

A. EMPLOYEE REPORTING OPTIONS

Employees who wish to report improper or unlawful conduct should first talk to their supervisor. If the employee is not comfortable speaking with their supervisor, or they are not satisfied with the supervisor's response, the employee is encouraged to speak with Human Resources. Supervisors and managers are required to inform Human Resources about reports of improper or unlawful conduct they receive from employees. All reports of improper or unlawful conduct will be handled pursuant to Personnel Policy Article 11.

If the County were to prohibit, discipline, or threaten to discipline an employee for engaging in an activity described above, the employee may file a complaint with the Oregon Bureau of Labor and Industries or bring a civil action in court to secure all remedies provided for under Oregon law.

B. ADDITIONAL PROTECTION FOR REPORTING EMPLOYEES

Oregon law provides that, in some circumstances, an employee who discloses a good faith and objectively reasonable belief of the County's violation of law will have an "affirmative defense" to any civil or criminal charges related to the disclosure. For this defense to apply, the employee's disclosure must relate to the conduct of their coworker or supervisor acting within the course and scope of their employment. The disclosure must have been made to: (1) a state or federal regulatory agency; (2) a law enforcement agency; (3) a manager with the County; or (4) an Oregon-licensed attorney who represents the employee making the report/disclosure. The defense also only applies in situations where the information disclosed was lawfully accessed by the reporting employee.

# ARTICLE 4 – HIRING, TRAINING, PERFORMANCE, & SEPARATION

## SECTION 1 – HIRING

### A. EMPLOYMENT APPLICATION

In order to collect pertinent information regarding applicants for county positions, all persons seeking employment with the County, and all employees applying for a different position within the County, shall complete an official employment application. The Human Resources Office shall be responsible for collecting, distributing and retaining all employment applications.

### B. VETERANS PREFERENCE

As a public employer, Josephine County provides hiring and promotion preference for veterans and disabled veterans pursuant to Oregon Law.

### C. HIRING

#### 1. General Policy

Josephine County Human Resources shall develop and implement standardized hiring procedures. Human Resources shall oversee the hiring process to ensure that, at a minimum, the following standards are met:

- a. Internal position vacancies shall be posted by Human Resources for a minimum of seven (7) days. External postings shall be utilized as needed and appropriate to ensure solicitation of the best qualified pool of candidates.
- b. Departmental screening and applicant ranking shall be in accordance with statutory veteran preference requirements.
- c. Standardized and non-discriminatory interviewing techniques shall be used.
- d. Reference checks, background and criminal records checks, credential verification, and drug testing shall be conducted as required and designated by Human Resources.
- e. Verification of other position specific requirements, such as safe driving record and physical fitness assessments shall be conducted as necessary.
- f. In accordance with ORS 659A.330 the County will not require access to social media accounts in the review or selection process when hiring.

## 2. Policy Implementation

Department heads are responsible for complying with hiring procedures established by Human Resources, as all employees are employed by the County and not an individual department.

### D. POSITION DESCRIPTIONS

It is the policy of Josephine County to maintain a uniform system for establishment, review and maintenance of position descriptions. Position descriptions establish the classification, exempt status, union designation, minimum requirements, and essential duties for each position within the County and are approved by the Board of County Commissioners. Position descriptions form the basis for recruiting and hiring qualified individuals, training new employees, and conducting annual performance evaluations. Human Resources shall maintain all active position descriptions using a standardized format. Departments are not authorized to change or convert job descriptions in any way.

## **SECTION 2 – AT-WILL EMPLOYMENT**

### A. GENERAL POLICY

Notwithstanding the policies regarding Complaint Procedures, at-will employees may be dismissed for any lawful reason so long as procedural due process is followed. The Board of County Commissioners may offer a separation agreement including consideration for a waiver of rights to litigation concerning matters of employment. In the event that the Board of County Commissioners is concerned about the unsatisfactory job performance or conduct of an at-will employee of an elected official, then after an affirmative vote of three (3) Commissioners, the Board of County Commissioners and the elected official will meet and discuss the allegations with the Human Resources Director, with the intent of developing a course of action to ensure that the employee's conduct or performance is corrected to a level a reasonable person would perceive as appropriate and proper.

### B. SEVERANCE PAY RESTRICTIONS

At-will employees who are dismissed for any reason during their probationary period are not eligible for severance pay. A lay-off is not considered a dismissal; laid off employees are not eligible for severance pay.

### C. AT-WILL EMPLOYEES OF ELECTED OFFICIALS

Notwithstanding the above, pursuant to ORS 204.601, the non-union employees of the Assessor's Office, the County Clerk's Office, the District Attorney's Office, County Legal Counsel's Office, the Sheriff's Office, the Treasurer's Office, and the Office of the Board of County Commissioners shall serve as at-will employees at the pleasure of and in the Office of the individual Elected



Official. The employees of these offices are subject to the same duties, rights, restrictions, policies, compensation and benefits as other at-will non-union employees under this Personnel Policy Manual, except that they are at-will employees of the Elected Official, and they may be terminated at any time without cause. Appointed Directors and office support staff of the Board of County Commissioner's may be terminated at any time upon a majority vote of the Board of County Commissioners after a due process or intent to terminate notice has been issued with a minimum of 3 days notice to meet with the employee.

## **SECTION 3 – PROBATIONARY & TRIAL SERVICE PERIODS**

### **A. PROBATIONARY PERIOD**

All new employees are hired into a probationary training period that lasts one year. The probationary period is an extension of the hiring process. During this period, employees are considered to be in training and under observation and evaluation by their supervisor. Evaluation of the employee's adjustment to work tasks, conduct and other work rules, attendance and job responsibilities will be considered during the probationary period. This period gives employees an opportunity to demonstrate satisfactory performance for the position, and also provides an opportunity to determine if the employee's knowledge, skills, and abilities match to the requirements of the position. It is also an opportunity for an employee to decide if the County meets their expectations of an employer.

At or before the end of the probationary period a decision regarding the employee's status will be made. The County will decide whether to move the employee to regular full or part time status or terminate the employment. The County Board shall, upon recommendation of the Department Head, determine whether an employee should be moved to regular employment before the end of the probationary period. Termination of employment may be with or without cause, and such termination shall not be subject to the Complaint procedure provisions in this Personnel Policy Manual.

Employees are not guaranteed any length of employment upon hire; both the employee and the County may terminate the employment relationship during the probationary period for any lawful reason. Further, completion of the probationary period or continuation of employment after the probationary period does not entitle the employee to remain employed by County for any definite period of time. Both the employee and the County are free to terminate the employment relationship, at any time, with or without notice and for any reason not prohibited by law.

### **B. TRIAL SERVICE PERIOD**

Employees who are promoted, demoted, or transferred to a new position shall serve a trial service period of six (6) months in that position, unless the employee

is terminated, demoted, or removed prior to the end of that period. During the first forty-five (45) calendar days of the trial service period, promoted or transferred employees shall have the right to return to the employees' former position, provided that such return will not pose an undue hardship on the affected departments and is allowed under any applicable collective bargaining agreement.

## **SECTION 4 – TRAINING & PROFESSIONAL DEVELOPMENT**

Josephine County encourages all employees to take advantage of opportunities for professional development and improvement. Josephine County recognizes the importance of employee training in achieving its service objectives. The County has both a right and a duty to ensure that employees are sufficiently trained to carry out their existing functions to

appropriate standards. As such, all promoted and/or hired supervisors shall complete manager onboarding training.

The County's focus on the provision and maintenance of services to the highest standard requires an active commitment to provide training to all employees. The approval of an employee's request to attend a training or professional development course is at the discretion of the employee's department head. Employees who receive approval are expected to follow County policy regarding purchasing and reimbursement. Copies of all pertinent training certificates, agendas, course outlines and/or certificates shall be forwarded to the Human Resources Office for inclusion in the employee's personnel file.

## **SECTION 5 – PERFORMANCE**

### **A. FITNESS FOR DUTY**

#### **1. General Policy**

Josephine County is dedicated to providing safe, dependable and efficient services to citizens, and a safe and productive work environment for employees. In order to achieve this, the County is committed to ensuring that its employees are fit for duty and are able to competently perform the essential duties of their jobs (with or without an accommodation) at all times without posing a health or safety risk to themselves, co-workers or the public. In the event the County reasonably believes an employee is not fit for duty, then the County may require a fit for duty examination, including medical or psychological evaluation.

#### **2. Policy Implementation**

Employees must report to work capable of safely and/or competently performing the functions of their job for the duration of their shift. If, at any time, an employee believes they may not be capable of safely and/or competently performing their duties, they must immediately report the concern to their

supervisor. Employees are encouraged to notify a supervisor if they observe a co-worker who may not be fit for duty. In cases when the individual of concern is the employee's supervisor, the employee should notify the next higher level manager or Human Resources. If supervisors observe substandard performance of their employees, they shall discuss the observations with the employee who appears to be unfit for duty and record what they observed. If retraining is appropriate, the supervisor shall make arrangements for retraining. If a medical evaluation appears appropriate, the supervisor shall refer the matter immediately to Human Resources. All employee medical information is confidential and shall be maintained by Human Resources in a secure file, separate from the personnel file; however, fitness for duty examinations, as ordered by the County, may be used in administrative and disciplinary meetings and hearings.

#### B. PERFORMANCE EVALUATION

Every employee, regardless of pay grade step, shall receive a performance evaluation at least annually, using an evaluation form approved by Human Resources. Evaluations will generally include the following:

- An evaluation of the employees' quality and quantity of work
- A review of exceptional employee accomplishments
- Establishment of goals for career development and job enrichment
- A review of areas needing improvement
- Settling of performance goals for the employee for the following year

Whenever possible, evaluations should occur at least seven (7) and not more than thirty

(30) days before an employee's annual step increase is effective. Human Resources will notify Department Heads of upcoming evaluations to complete, and it is the responsibility of the Department Head to ensure that an evaluation takes place and documentation is provided to Human Resources for the employees' file. Supervisors are responsible for evaluating employees in a manner that improves and enhances employee performance. The performance evaluation process is intended to be participatory, involving employee input, thereby contributing to the growth and improvement of Josephine County.

Employees who disagree with a performance evaluation may submit a written response with reasons for disagreement. The employee's response shall be filed with the employee's performance evaluation in the employee's personnel file. Such responses must be filed no later than thirty (30) days following the date the performance evaluation was received.

## SECTION 6 – RECOGNITION

### A. SERVICE

1. Employees receive a service recognition pin at the completion of 5 years of service, and at every 5-year increment thereafter.
2. Employees retiring with twenty (20) years or more of service shall be honored with a plaque.

### B. OUTSTANDING SERVICE AWARDS

Employees who exemplify excellence in public service may be eligible to receive an Outstanding Service Award certificate. All employees, except temporary employees, are eligible to receive recognition under the terms of this policy.

#### 1. Nominations

Any person may submit a Nomination Form nominating an eligible employee, or group of employees, for recognition of their work-related efforts. Such efforts must

have been the result of the employee or team's actions above and beyond normal responsibilities and expectations. Other factors to consider include: 1) Suggestions or work efforts that contribute to the County's fiscal condition and/or quality of services; 2) Acts of heroism; 3) Acts of extraordinary effort and/or community service;

4) Self-improvement/professional development that benefits the County; or 5) Other efforts which go beyond normal expectations, are made for the benefit of others, and which contribute to the public service of the County. Nomination Forms are available from Human Resources.

#### 2. Additional Cash Award

A Department Head nominating an employee for an Outstanding Service Award, or upon receiving the nomination of an employee by any other person, may also recommend an additional cash amount as part of the award. In the written recommendation, the Department Head must include how the cash award will affect the department's authorized budget. The Board of Commissioners may also, on its own, determine that a cash award should be made from the County's budget. The Board of Commissioners may do so as part of its review of a nomination or following notification of recognition from Human Resources. Additional cash awards must be based on the employee's achievement of one or more of the following:

- a. Accomplishment of significant, measurable goals and objectives that made a recent substantial improvement in a department's efficiency or effectiveness;

- b. Completion of an unforeseen critical project or complicated assignment which required substantial time, effort and determination to successfully complete;
  - c. Recommendation of a cost saving suggestion that resulted in substantial dollar savings; or
  - d. Other documented outstanding performance or achievement.
3. Review and Award

All nominations shall be forwarded to Human Resources for review. Human Resources shall consult with the employee's Department Head before bringing them forward to the Board of County Commissioners for decision.

## **SECTION 7 – SEPARATION**

### **A. SEPARATION REQUIREMENTS**

Regardless of the method of separation, the following requirements apply:

1. Return of County Property. Employees are required to return all County property on or before their last day worked. Items include, but are not limited to: keys, materials, identification badges, supplies, tools, uniforms, purchase cards, etc.
2. Employees shall meet with Human Resources to complete necessary paperwork including COBRA continuance application, benefits elections, and other required documentation.
3. All employees leaving Josephine County service will be asked to complete an exit interview form in order to collect information to assist the County in reviewing and improving employee retention and management practices.
4. Terminated employees shall receive their final paycheck according to the timelines established by the Bureau of Labor and Industry as defined by ORS 652.140(2) as amended.
5. Upon separation by a Department Head, Finance shall ensure that petty cash funds pursuant to Administrative Policy B-6, purchasing cards pursuant to Administrative Policy B-9, and any other necessary auditing or inventorying for the department is completed.

### **B. CONTINUED WORK**

1. Supervisors shall work with employees who resign or are laid off to determine an appropriate transition plan and establish what roles, if any, the employee will maintain until separation. Employees who are laid off or who resign may be barred from performing work beyond the time in which notice of resignation or layoff is provided, due to position specific confidentiality, security, or liability considerations. Resigning or terminating employees who threaten litigation

against the county shall not be allowed to work under any circumstances. When an employee is restricted from work, the employee shall receive pay up to the effective date of the resignation or termination, not to exceed two weeks.

2. Employees who are involuntarily terminated shall not be allowed to work beyond the time in which notice of termination is provided.

C. VOLUNTARY SEPARATION

1. Resignation

Employees are expected to submit a letter of resignation at least two weeks in advance for voluntary terminations. When possible, Department Heads shall provide at least ninety (90) days written notice of intent to leave County employment. If the employee wishes to rescind their resignation, the County has sole discretion on whether or not to accept the rescission.

- a. Employees in Deputy Sheriff and Parole and Probation Officer positions who voluntarily leave their employment with Josephine County within three (3) years of being hired shall notify Human Resources of subsequent employment by another governmental agency in a timely manner and shall notify future employers of the reimbursement requirements under Administrative Policy B- 11.

2. Retirement

- a. Notice. Employees who are planning to retire and leave County employment are encouraged to provide thirty (30) days' notice prior to retiring. Department Heads who are planning to retire and leave the county employment are encouraged to provide ninety (90) days' notice prior to retiring.

- b. Rehiring. Josephine County will consider allowing PERS-eligible employees to retire from their employment with the County and then rehiring them, as permitted under Oregon law. The employee may be allowed to remain in their current position, be rehired on a time-limited basis, be rehired as a temporary employee, or be rehired to a different or modified position. The County will consider, among other factors, the uniqueness of the employee's skills or experience, the needs of the department and/or County, and the ability of existing employees to perform the work of the retiring employee. Decisions regarding rehiring retirees shall be made by the Board of County Commissioners. Where an employee begins receiving PERS benefits while continuing County employment, the following shall occur:

- i. Any leave bank hours accumulated as of the time of retirement shall be paid out pursuant to Personnel Policy 7.2(K).

- ii. Any remaining PTO hours will be reported to PERS, up to the maximum established in Personnel Policy 7.2(K), and the leave bank will be reduced to zero.
- iii. Employees may receive PTO payout at the time of retirement and upon final separation from the County, but the total combined PTO payout amount may not exceed the maximum provided in Section 7.2(K)(2). Employees shall not be eligible for further reporting of additional leave bank hours to PERS upon final separation.
- iv. PERS no longer requires an employee contribution, therefore the County will no longer pay the employee contribution on the employee's behalf.

### 3. Failure to Report

Employees who fail to report for scheduled work for two (2) consecutive days shall be considered as having abandoned their position and resigned from employment (except as may be protected by applicable law). Such instances shall be treated as a voluntary separation unless the employee provides evidence that the employee was unable to notify the supervisor of the absence by reason of sickness, physical disability, or other legitimate reason beyond the employee's control. The Josephine County Employee Termination Notice must be completed by the Department and sent to the Human Resources Office at least forty-eight (48) hours prior to the last day the employee will work. Management must notify Human Resources of an employee's last day of work as soon as possible in order to allow time for the Finance Office to prepare the final paycheck in accordance with the timelines established by state law.

## D. INVOLUNTARY TERMINATION

Involuntary terminations must be reviewed and approved by Human Resources prior to being implemented and shall be in accordance with County disciplinary policies found in Article 11 and applicable collective bargaining agreements and laws. Employees not subject to a collective bargaining agreement are considered "at-will" employees, unless otherwise expressly covered by a specific employment contract.

## E. REDUCTIONS IN FORCE / LAYOFF

### 1. General Policy

Employees may be laid off from their positions or reduced in assigned work hours due to reorganization, lack of work, curtailment of funds, or other non-disciplinary reasons. In the event of a reduction in force or layoff, the County shall make reasonable efforts to inform employees of their options, to assist them in making their transition, and to minimize negative impacts on the employees and their families. Before implementing a reduction in force or

layoff, the department head shall consider the needs of the County regarding the types of positions and the special knowledge and skills necessary to accomplish the goals of the department. The department head shall then determine the number of positions, classifications, programs or other organizational units affected, and notify Human Resources.

## 2. Layoff Determination and Procedure for Non-Union Employees

In the event of a layoff of non-union employees, the department head and the Human Resources Director, and Legal Counsel, will review and document a recommendation of employees to be removed, taking into consideration the following factors, in decreasing order of importance:

- a. The qualifications of the employees in each classification affected, considering the special skills or expertise of each employee, the needs of the Department, and the probable transition time for an employee to be capable of performing the requirements of these positions.
- b. The quality of performance and relative merit of each employee in the classifications affected, considering their most recent performance evaluation, or by a special evaluation as determined by the department head, the Human Resources Director, and Legal Counsel.
- c. The length of employment with the County of each employee in the classifications affected.

The Board of County Commissioners shall review the recommendation and make the final determination regarding any employee layoff.

Probationary employees shall receive the first layoff notices by classification, followed by those employees identified for reduction or layoff by the department head, the Human Resources Director, and Legal Counsel. Except in cases of unexpected emergencies, the department head shall, as early as possible and in no case less than fifteen (15) calendar days prior to the effective date of layoff, provide written notification to the identified employee(s) of their pending removal, the effective date, their complaint rights, and any other available options. The procedure, evaluations, and decisions of the Board of Commissioners, department head, the Human Resources Director, and Legal Counsel shall be documented in writing, and shall be maintained for three (3) years from date of layoff. The documentation shall include the rationale for identifying those laid off.

## 3. Reduction in Work Hours

Except in cases of unexpected emergencies, the department head shall, as early as possible and in no case less than fifteen (15) calendar days prior to the effective date of the reduction in assigned work hours, provide written notification to the identified employees including the effective date of the change.



4. Displacement or Bumping

Union employees may exercise displacement and bumping rights in accordance with their collective bargaining agreement. Non-union employees may displace or bump union employees if allowed under the union employee's applicable collective bargaining agreement. Union employees may not displace or bump non-union employees.

5. Recall Eligibility

Probationary employees are not eligible for recall. Non-probationary employees who have been laid off shall be placed on a County recall list for a period of fourteen (14) months. The County shall recall an employee from the list when a vacancy in the employee's prior position arises. Upon application of the employee, laid off employees shall be considered for recall into vacant County positions not previously held by the employee, provided that the employee possesses the qualifications, performance record, aptitude, ability to perform the work, combination of education and experience, and any other factors demonstrating the ability to meet the minimum requirements for the position as defined in the job description. When necessary, the Human Resources Director shall determine the recalled employee's qualifications, performance record, aptitude, and ability to perform the work through discussions with the applicable Supervisor and a meeting with the employee.

6. Registration

Employees on layoff must register in person, by email, or by mail with the Human Resources Office, signifying their availability for recall, by providing their current address and telephone number, at least once every ninety (90) calendar days, or within ten (10) days of any change in their address or telephone number, during the period of layoff. Failure to register, or to respond within five (5) working days after delivery or attempted delivery of a Notice of Recall to the last address on file with the County, shall terminate such employee's recall rights. Employees on layoff who have been offered recall to their prior job classification, and who have voluntarily refused such recall, shall be removed from the recall list. Employees on layoff who have been offered recall to a position not previously held by the employee, and who voluntarily refuse such recall, shall remain on the recall list.

7. Reinstatement from Layoff

Employees shall not accrue seniority and benefits during layoff. Upon recall, employees shall be entitled to restoration of their seniority in effect as of the date of layoff and shall begin accruing additional seniority on their return to work date. The payroll anniversary date for recalled employees shall be

adjusted accordingly. Recalled employees shall have restored to them all leave accruals that were not paid out upon layoff. A recalled employee must comply with PERS requirements in order to reinstate their prior status under PERS.

## **SECTION 8 – EMPLOYMENT VERIFICATION AND REFERENCES**

Josephine County discloses only the dates of employment and position(s) held of former employees. Current or former employees may authorize their manager, supervisor, or co- worker to provide substantive or other recommendations. Such authorization must be provided in writing.

All other requests for references or recommendations must be directed to Human Resources in writing. No manager, supervisor, or employee is authorized to give references for current or former employees without written authorization from the former employee. Managers, supervisors, and employees are expressly prohibited from providing professional networking site “recommendations” or using a website on the internet to discuss a current or former employee’s performance or termination of employment.

## **ARTICLE 5 – WORKPLACE & SCHEDULE**

### **SECTION 1 – HOURS OF WORK**

#### **A. REGULAR WORK SCHEDULE**

The County has established regular working hours to promote a productive work environment that will serve our citizens. The usual workweek for full-time employees consists of forty (40) hours, with at least two (2) consecutive days off. Unless otherwise established by the Department Head or collective bargaining agreement, a full-time employee is expected to work 8:00 a.m. until 5:00 p.m. Monday through Friday, excluding recognized holidays and other time off (“Working Hours”). Alternative schedules may be established if the Department Head determines that the alternative schedule is consistent with the service needs of the department, and the alternative schedule is approved by the Board of County Commissioners.

Non-exempt employees should not begin work before their normal starting time, nor continue to work beyond the normal quitting time without advance approval from their supervisor.

#### **B. CHANGES IN SCHEDULE**

Changes in regular work schedules may be made by department heads, provided that affected employees are given adequate notice of such changes. Except for emergency situations, and for the duration of that emergency, notice of a permanent change in a regular work schedule shall be given at least fourteen (14) days in advance.

#### **C. REST PERIODS**

As scheduling and workload allow, each employee shall be allowed a fifteen (15) minute rest period during each one-half shift of four hours. The time at which rest periods are taken by an employee shall generally be scheduled in the middle of each one-half shift or in accordance with the operating requirements of each department and shall be considered on-duty time. Rest periods are mandatory and are not optional. Rest periods may not be combined with meal periods as a single break, nor may they be “skipped” in order to start work late or leave early.

#### **D. MEAL PERIODS**

Each non-exempt employee working a shift totaling six (6) hours or more shall be granted an uncompensated meal period of at least thirty (30) minutes, unless to do so would impose an “undue hardship” on the department pursuant to OAR 839-020-0050. As scheduling and workload allow, exempt employees shall be granted a meal period during each work shift. To the extent consistent with the operating requirements of the department in which the employee works, meal periods shall be scheduled at or about the middle of the work shift. Meal periods

are mandatory and are not optional, and they may not be “skipped” to start work late or leave early.

## **SECTION 2 – ATTENDANCE**

Employees are expected to report to work as scheduled, on time and prepared to start work. Employees are also expected to remain at work their entire work schedule, except for unpaid break periods or when required to leave on authorized County business, and perform the work assigned to or requested of them. Late arrivals, early departures, or other absences from scheduled hours are disruptive and must be avoided.

### **A. NOTICE OF UNEXPECTED ABSENCE**

Employees who will be unexpectedly absent from or late to work for any reason must inform their supervisor prior to the start of their shift/workday pursuant to Personnel Policy 6.2(C)(1)(b). Not reporting to work and not calling to report the absence is a no-call/no-show and is a serious matter. The first instance of a no call/no show will result in a final written warning. The second separate offense may result in termination of employment with no additional disciplinary steps. A no call/no show lasting two days will be considered job abandonment and may result in termination of employment.

### **B. ABSENCES DUE TO COUNTY EMERGENCIES OR SEVERE INCLEMENT WEATHER**

#### **1. Notification**

The Board of County Commissioners shall announce the scope of any work closure due to emergency or severe inclement weather via public broadcast media, on the County website, by broadcast communications alert, and by contacting department heads as soon as possible. Employees should notify their immediate supervisors of any anticipated late arrivals or absences as soon as possible to explain the nature of the situation, the anticipated extent of delay, and to allow for coverage of work responsibilities. Supervisors should notify employees of work closures as soon as possible.

#### **2. Attendance**

While the County will encourage adherence to rules regarding hours of operation and employee attendance for departments remaining open, it is recognized that adverse conditions may affect individual employees’ ability to report to work.

#### **3. Compensation**

Where the Board of Commissioners has announced a closure, employees shall be paid as though they worked their scheduled shift. Where no closure has been announced, employees shall be allowed to use accrued leave for instances when they are unable to report for their regular duties because of emergency

situations or severe inclement weather, because they are needed to work for the safety of their family or to prevent property damage, or because they are needed to help rescue operations to save life and property. Employees that are required to work even after a County closure has been announced shall have the hours worked added to their comp bank.

C. MEETING ATTENDANCE

Employees shall attend all assigned work-related meetings. Attendance at assigned work related meetings shall be paid time. Josephine County shall not conduct or sponsor meetings involving matters of religious or political opinion. In the event an employee believes a religious or political opinion is to be discussed, they may request to be excused from the meeting. As protected by ORS 659.785, adverse employment action shall not be taken against an employee for failure to attend a meeting where religious or political opinions are discussed.

### **SECTION 3 – APPEARANCE**

County employees shall maintain an appearance that is suitable for the requirements of their position. County employees shall maintain standards of clothing, grooming, and hygiene that convey an impression of neatness, competence, and professionalism to citizens of Josephine County. Employees shall not wear any clothing that may present a safety hazard when carrying out the requirements of their jobs. All employees are expected to wear specialized safety clothing or Personal Protective Equipment (See Section 5.6(A)(1)) that are in compliance with applicable legal requirements and County safety rules. If the County requires an employee to wear a uniform, the County shall provide the uniform. Any safety clothing or equipment required to be worn or used by employees shall be furnished and maintained by the County or as specified in applicable collective bargaining agreements.

It is the responsibility of each department head to ensure that employees maintain a clean, neat appearance and wear appropriate clothing for the requirements of their positions. Any employee whose appearance or clothing is deemed to be below the standards of acceptability conveyed in this policy may be subject to appropriate disciplinary action. Reasonable accommodations pursuant to Personnel Policy 3.2 shall be made for an employee or prospective employee. Individual Departments may further define reasonable guidelines for personal appearance.

### **SECTION 4 – EMPLOYEE IDENTIFICATION BADGES**

All employees shall be issued, and must carry, identification badges provided by the County.

- A. Employee identification badges shall be a County-issued badge including, at a minimum, a photographic image, employee name, and position title.
- B. All County employees shall be issued an identification badge upon hire and upon any change in position title or name. The County will provide a clip, chain, or

lanyard for each employee to wear the identification badge, if so required by the Department Head.

- C. All County employees shall have their identification badges available to present during work hours and while conducting County business.
- D. Badge photos should be updated every five (5) years.  
Supervisors shall retrieve identification badges from employees who are terminated from employment, suspended, placed on administrative leave, or absent for an extended period of time due to any reason.
- E. Employees shall report lost or stolen cards to their supervisor as soon as possible. If an employee misplaces, loses, or forgets their identification badges, supervisors may make arrangements for the employee to wear a temporary badge marked "Temporary."
- F. Supervisors shall ensure that all temporary County employees are issued an identification badge or wear a badge marked "Temporary."
- G. Supervisors and employees shall ensure that all visitors, such as service technicians or consultants, wear a visitor badge marked "Visitor" when allowed access to work areas normally accessible to employees only.
- H. Badges shall be updated to reflect current information such as name or position changes. If needed more frequently due to loss, the employee may be charged a \$3.00 fee.

## **SECTION 5 – WORKPLACE**

### **A. EMPLOYEE PARKING**

#### **1. General Policy**

It is the policy of the Board of County Commissioners to provide adequate parking for the public and for employees' personal vehicles, whenever possible. It is the responsibility of County employees to be aware of and to comply with all applicable regulations pertaining to parking their personal vehicles and County vehicles. All employees are expected to be aware of, and to comply with, any County or Departmental regulations regarding "public only" parking areas. Employees shall adhere to all posted parking limits and requirements.

#### **2. Designated and Reserved Parking**

Designated County vehicle parking spaces shall be marked as such and are to be used for County-owned vehicles only. Spaces may be assigned to specific County vehicles depending on departmental needs. Reserved parking spaces are allocated to specific County departments by the Board of County Commissioners. Such spaces are then assigned by department heads to specific employees' personal vehicles.

3. Theft, Loss, or Damage

The County is not responsible for any theft, loss, or damage to personal vehicles, or the contents thereof, while parked in County owned or maintained parking areas. Employees should lock their cars whenever they are left unattended.

B. FOOD & BEVERAGES

Employees may keep food and beverages at their workstation or in the office, unless doing so attracts rodents or insects, or becomes spoiled.

C. WORKPLACE INSPECTIONS

Josephine County may conduct workplace inspections unless otherwise prohibited by policy, law, or applicable CBA. A County-led inspection may include a search of any organization-provided property, such as vehicles, desks, work areas, file cabinets, voicemail/phone systems and computer systems (including email accounts maintained by County and internet browsing history). Employees are strongly discouraged from storing personal items in the desks, lockers, work areas, file cabinets and other office equipment or furniture, as well as voicemail/phone and computer systems assigned to them by the County; these areas are not private. The County does not guarantee any right to privacy for any document or communication used by or maintained on any equipment that has been issued by the County or used for County purposes.

D. ANIMALS IN THE WORKPLACE

Employees are not allowed to bring pets or other animals into County facilities and vehicles. County-owned parks and green spaces are excluded from this definition only when the employee is not working for or performing any duties on behalf of the County.

1. Service or Working Animals

In certain circumstances, the County may be willing to accommodate service or working animals for employees with known disabilities. At a minimum, the employee must agree to the conditions below, and present documentation from a health care provider attesting that a service or working animal is necessary for the employee to perform the essential functions of the employee's position. The County will then work with the employee to assess what accommodations may exist to help the employee perform the essential functions of their position, and whether allowing the employee to bring a service or working animal to work is the most effective accommodation available. Proof that the service animal can perform specific tasks or functions identified by the health care provider or employee may be required. The County Board shall be notified when a service or working animal is approved for any department.

Service or working animals also include animals required for essential job functions and service or working animals in training, with County approval. Service or working animals in training must be participating in a formal training program that provides liability coverage.

Further, nothing in this policy is intended to circumvent or contravene laws that allow members of the public to bring service animals into County facilities, or in connection with the receipt of County services, as provided under Title II of the Americans with Disabilities Act and Oregon law. This policy applies to employees, volunteers and contracted workers only, while the employee/volunteer/contracted worker is on duty and performing duties on behalf of the County.

## 2. Conditions

If the County approves an employee's use of a service or working animal during working hours and in County facilities, the following conditions apply:

- a. The service or working animal must be under the direct or indirect physical control of the employee at all times, and not any other employee. ("Direct physical control" means control by means of a leash or other restraining device held by the employee and leading to the service animal. "Indirect physical control" is a cage, crate, or temporarily tied to an inanimate object such as a tree, post, building, handrail, etc.). With the exception of Sheriff's Office K-9s, an employee may not leave a pet or service or working animal unattended outdoors or in a vehicle during working hours.
- b. The employee must care for the service or working animal in a responsible way that ensures the safety of those in the County facility, as well as the safety of the service or working animal.
- c. The service or working animal must be housebroken. The employee will ensure the service or working animal relieves itself outside in a location or locations designated by the County; will clean up after the service or working animal and dispose of the service or working animal's waste properly; and ensure that the service or working animal is clean, groomed, and in a healthy condition without fleas or disease.
- d. The service or working animal will be licensed, vaccinated, and have identification tags.
- e. If the service or working animal creates a disturbance, poses a health or safety risk to the employee or others, or interrupts the work of the employee or others, it must be immediately removed from the County facility.
- f. For the safety of both humans and animals, service or working animals are prohibited from kitchens, workshops, labs or other areas housing



potentially hazardous materials and machinery. All requests for service or working animals as a “reasonable accommodation” will be evaluated on a case-by-case basis, however.

- g. The employee, and/or service or working dog training program, must accept sole financial and legal responsibility for any injury, damage, or other harm caused by the service or working animal and will indemnify the County should the employee or his/her service or working animal be found legally liable for any injury or other harm caused by or to the service or working animal.

3. Employees who do not maintain the direct or indirect physical control of the service or working animal as defined above, or who violate any provisions within this policy, will not be allowed to bring a service or working animal to work and will be subject to disciplinary action for violation of this policy.

Employees who intentionally injure, harm or otherwise prevent a service or working animal approved by the County from doing his/her work will be subject to discipline, up to and including termination. No employee may harass another employee for bringing a service or working animal to work, and all employees are expected to respect the personal space and privacy of an employee with a service or working animal (*e.g.*, no unauthorized petting, feeding or playing with the service or working animal unless the employee has express permission from the owner to do so).

#### E. TELEWORK

Telework is defined as work alternatives that substitute home-to-work commuting with the option of working at home or elsewhere. Telework does not include temporary work at home due to special conditions such as providing dependent care, recovering from an illness, or caring for an ill family member. Such situations may be arranged between the employee and their supervisor, at the supervisor’s discretion.

Not all positions at Josephine County are appropriate for telework. In general, jobs appropriate for telework are those in which face-to-face interactions are minimal or that may be scheduled to permit telework, and in which the employee can perform all aspect of the positions remotely, as if the work was being performed in the County’s office. Employees who work with confidential information will be assessed on a case-by-case basis.

The availability of telework is at the County’s option. County may terminate the employee’s telework privileges at any time with reasonable advance notice.

## 1. Eligibility

Employees seeking formal telework arrangements must meet, at a minimum, the following requirements:

- Employed with County for a minimum of six months of continuous, regular employment at the time the telework arrangement is requested;
- Demonstrated excellent working habits; and
- Employed in a position that is suitable for Telework (determined by the employee's Department Head with approval from the Board of County Commissioners.)
- Approval of the Board of County Commissioners

Josephine County will make an exception to these eligibility requirements when an employee with a "disability" under federal or Oregon law requests telework as a reasonable accommodation and provides verification from a health care provider of the Employee's need for telework (subject to County's determination of whether providing telework as an accommodation would create an undue hardship on County's operations).

County reserves the right to add to or change any of the eligibility requirements described in this policy. Employees requesting formal telework arrangements must agree to enter into a Telework Agreement with County.

## 2. General Provisions

An employee's regular work schedule may include telework on either a part-time or full-time basis. Telework can be informal, such as working from home for a short-term project, during inclement weather, or on the road during business travel, or formal, as described below. All informal telework arrangements are made on a case-by-case basis, focusing first on the business needs of the County, with approval from the employee's Department Head with approval from Board of County Commissioners..

- a. Any formal telework arrangement made will be on a trial basis for the first three months, and may be discontinued, at will, at any time at the request of either the Employee or the County. Formal telework arrangements must be approved by the Board of Commissioners. At the conclusion of the trial period Employee and their supervisor will each complete an evaluation of the arrangement and make recommendations for continuance or modifications.
- b. Professionalism in terms of job responsibilities, work products, and customer or public contact will continue to conform to the same high standards as currently being met by County employees at their onsite work locations. While teleworking, the employee must be reachable via

telephone, internet communication (such as video conferencing or e-mail), or other County-approved technology during agreed-upon work hours, as if the employee was in the office. The employee's duties, obligations, and responsibilities will not change solely because of telework. The employee will meet or communicate with their supervisor as often as the supervisor believes is necessary to receive assignments, review work progress, and complete work. Teleworking employees shall attend all required meetings through video conferencing or other approved means.

- c. Employee's salary, benefits, worker's compensation, and other County insurance coverage will not change due to telework, if the working hours remain the same.
- d. Teleworking employees remain subject to all policies relating to overtime, comp time, and timekeeping.
- e. Travel from Employee's home to Employee's assigned County work location will be considered commuting mileage and will not be reimbursed.
- f. Professionalism in terms of job responsibilities, work products, and customer or public contact will continue to follow the same high standards as currently being met by County's employees at their onsite work locations. Employees will be expected to adhere to all County policies during the course of Employee's telework arrangement with County.
- g. Telework is not a substitute for dependent care or care for others. Employees must agree to make arrangements necessary to ensure the employee is able to apply full attention to duties and assignment during the agreed-upon work hours.
- h. Telework employees shall not perform personal business or activities during agreed-upon work hours.

The availability of telework can be discontinued at any time at County's discretion. Every effort will be made to provide 30 days' notice of such a change to accommodate commuting, child care and other problems that may arise from such a change. There may be instances, however, when no notice is possible.

### 3. Work Site

- a. A designated workspace shall be maintained by Employee that is quiet, free of distractions, and kept in a clean, professional, and safe condition, with adequate lighting and ventilation, and adequate furniture that meets ergonomic standards. To ensure that safe working conditions exist, or to ensure that the employee's designated workspace is suitable for telework,

County retains the right to require the employee to show the workspace through video conferencing or to make on-site inspections of the workspace, including a home workspace, at mutually agreed-upon times.

- b. County is not responsible for operating costs, home maintenance, property or liability insurance, or other incidental expenses (utilities, cleaning services, etc.) associated with the use of Employee's residence.
  - c. County is not liable for damages to the employee's property that may result from participating in the telework program.
  - d. Employees are advised to contact their insurance agent and tax consultant for information regarding taxes/deductions associated with home work sites and coverage for equipment that is damaged, destroyed, or stolen. County will not provide tax or insurance advice.
  - e. County retains discretion regarding whether to allow teleworking from a location outside the State of Oregon.
4. Supplies, Equipment, and Software Usage
- a. Equipment provided or purchased by County for Employee to assist with telework will be maintained by County. All provided and purchased equipment must be returned to County when the employee is no longer telework, or when employment has been terminated. County does not guarantee the purchase of equipment for a teleworking employee. Employee will be responsible for taking all necessary action to protect County's equipment against damage or theft.
  - b. Equipment supplied by Employee, if deemed appropriate by County, will be maintained by the Employee. County accepts no responsibility for damage or repairs to employee-owned equipment. County reserves the right to make determinations as to appropriate equipment, subject to change at any time. Within one week of beginning a telework arrangement, Employee must provide County with a list of equipment Employee is supplying that will be used in connection with the telework arrangement.
  - c. Employee's out-of-pocket expenses for supplies, which are normally available in the employee's regular work location, will not be reimbursed. Other supplies, as needed, must be requested by the employee and approved by the manager.
  - d. Employee will provide their own Internet access and equipment necessary to access the Internet. When not on the County's network, Employee must access County's Virtual Private Network to ensure that internet transmissions are secure.
  - e. Use of County equipment, communications and software systems, including

the VPN, by telework employees is subject to County's policies on Use of Technology (Article 9) as described in this manual.

- f. A computer used for County's business must be plugged into a surge protector and have current virus protection maintained. Employees shall maintain updates for computer equipment and software as available.
- g. Materials designated by County as "Confidential" shall not be removed from the County's on-site work location or accessed through the computer unless approved in advance by Employee's manager and the appropriate security access administrator.
- h. Employees shall promptly notify their manager when unable to perform work assignments due to the equipment failure or other unforeseen circumstances. The employee may be assigned to another project and/or a work location that may necessitate termination of the telework agreement, or the employee may be required to use paid time off to cover the hours the Employee is unable to telework.
- i. County may pursue recovery for County property that is damaged, destroyed, or stolen while in the employee's care, custody, or control if such loss results from the employee's intentional act or negligence.

#### 5. Security

Teleworking employees must protect County's information from unauthorized disclosure or damage in compliance with Federal and Oregon law, and County's rules and policies. Work done at an employee's telework site is regarded as official County business. All records, documents, and correspondence, either in paper or electronic form must be safeguarded for return to County. Destruction of records should be done only in accordance with Oregon or federal law and County policy, and with the knowledge of the employee's supervisor. Electronic/computer files are considered County records and shall be protected as such. Employees must surrender all County-owned equipment and/or data documents immediately upon request.

#### 6. Requesting a Telework Arrangement

Employees interested in requesting a telework arrangement should speak with their Department Head. Employee and their Department Head must discuss the suitability of a telework arrangement and consider: (1) whether the job performed by the Employee is appropriate for telework; (2) equipment needs; (3) workspace considerations; and (3) scheduling issues. If the Department Head determines that a telework arrangement may serve the department, they will discuss the arrangement with the Human Resources Director. If the employee and all directors agree on the arrangement, a telework agreement will be prepared, with review by Legal Counsel, and presented to the Board of Commissioners for approval.

7. Discipline

If an employee violates any term of this policy, or the Telework Agreement, the employee's telework privileges will be immediately revoked and the employee may be subject to discipline, up to and including termination.

The Board of County Commissioners may terminate the employee's telework privileges at any time.

**SECTION 6 – EQUIPMENT & SAFETY**

A. GENERAL EQUIPMENT

1. Personal Protective Equipment

The County shall provide and maintain, at its expense, personal protective equipment (PPE) for employees who work with contaminants or materials that will soil clothing beyond normal home laundry capabilities, or where safety requires such equipment. PPE includes, but is not limited to: aprons, rubber boots, gloves, fall protection, head protection, reflective apparel, welding apparel, vegetation maintenance apparel, electric bus apparel, N95 masks, and water coolers.

- a. Use of PPE may be required by department policies. Employees who fail to use required PPE may be subject to disciplinary action, up to and including termination.
- b. PPE required by department policy that is supplied by an employee must be approved by the supervisor before it may be used.

2. Uniforms

The County will provide uniforms, or an allowance for uniforms, for those employees who are required to wear a uniform. Any safety equipment or clothing required to be worn or used by employees shall be furnished and maintained by the County. Clothing maintenance does not include normal home laundering, unless otherwise provided by department policy.

3. Tools

The County will provide those tools (or an allowance for such tools) that are required by employees to perform their assigned duties. Such tools shall remain the property of the County. Employees may not remove such tools from their work site without the prior authorization of their supervisor. Employees are prohibited from using County tools for personal use.

B. SAFETY PROGRAM

1. General Policy

Josephine County is committed to providing employees with a safe work environment. Reducing and eliminating incidents, illness, and injury is of the

utmost importance. To accomplish this goal, management and employees must diligently promote safety. The County, through its Safety Committee(s) develops and implements the safety rules contained in the Josephine County Safety Manual. Supervisors are responsible for educating employees as to physical and task- oriented hazards of the workplace, and for training employees as to such hazards and the proper and safe method to perform job tasks. Human Resources is responsible for the oversight and management of the county-wide safety programs. Departments are encouraged to develop department-specific Safety Committees and programs to assist in the overall safety efforts of Josephine County. All Departments will have an open door policy in regard to safety, and employees are encouraged to report any unsafe equipment or activity at any time to their supervisor or to Human Resources.

## 2. Employee Requirements

Employees are required to perform job responsibilities using the highest standard of care and good judgment. Employees must follow all safety rules and regulations at all times, including the use of protective clothing and equipment, attendance at all required training sessions, and the directions of warning signs and the direction of supervisors. Failure to comply with any Safety Manual provision or department safety policy may be grounds for disciplinary action, up to and including termination. Any employee observing a potentially hazardous condition for employees or the public, or who are involved in a safety incident or accident must report the occurrence to their supervisor immediately.

## C. WORKERS' COMPENSATION & INJURY REPORTING

Employees are insured under the County's workers' compensation insurance for injuries and illnesses received while performing work for the County. Josephine County uses an external claims adjuster to process employee claims, and to determine the compensability of a claim.

### 1. Accident & Injury Reporting

All job-related injuries or illnesses must be reported to the employee's supervisor or department head immediately, regardless of severity, using the Employee Incident/Injury Report form. Employees who seek medical treatment must also complete the state required 801 Form to be submitted immediately to Human Resources. In the case of serious injury, the reporting obligation will be deferred until circumstances reasonably permit a report to be made. Failure to report an injury or illness may affect or delay the payment of any benefits to the employee and could subject the County to fines and penalties. Detailed reporting requirements are described in the Josephine County Safety Manual.

2. Return-to-Work After Work Related Injury

The Return-to-Work program provides guidelines for returning employees to work at the earliest possible time after an on-the-job injury or illness. This program is not intended as a substitute for reasonable accommodation when an injured employee also qualifies as an individual with a disability. The Return-to-Work Program is intended to be modified duty, to enable employees to return to their regular job in a reasonable period of time. Program policies are described in the Josephine County Safety Manual.

## SECTION 7 – ENVIRONMENT

### A. SMOKE-FREE WORKPLACE

1. General Policy

Josephine County is committed to providing a smoke-free work environment to protect the health, welfare, and comfort of County employees and visitors, and shall provide a place of employment that is free of smoke for all employees. Because smoking creates a health hazard to those present in confined places, it is necessary to reduce exposure to smoke by prohibiting smoking in all public places and places of employment. This policy ensures compliance with Oregon’s Smokefree Workplace Law and Oregon Indoor Clean Air Act (ORS 433.835-433.990).

2. Definitions

**“County Facility”** means any enclosed space that is operated, owned, leased or rented by Josephine County, including but not limited to buildings, portions of buildings, equipment, machinery and motor vehicles.

**“Designated Smoking Area”** means an area designated and posted as a Smoking Area.

**“Electronic delivery device”** means any product that contains or delivers nicotine, lobelia, marijuana, or any other substance intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, distributed, marketed, or sold as e-cigarettes, e-cigars, e-pipes, heated cigarettes, mods, tank systems, vape pens, Juul, or under any other product name or descriptor.

**“Place of employment”** means every enclosed area under the control of the County that employees frequent during the course of their employment, including but not limited to: work areas, employee lounges, County-owned vehicles, rest rooms, conference rooms, classrooms, hallways, meeting rooms, elevators, and stairways.

**“Public place”** means any County-owned enclosed area open to the public.



**“Smoking”** means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes carrying or using an activated electronic delivery device and/or chewing tobacco.

### 3. General Policy

Smoking is prohibited within all County Facilities. No person shall smoke, or carry any lighted smoking instrument in any County Facility or within 10 feet of the following parts of County Facilities: 1) Entrances; 2) Exits; 3) Windows that open; 4) Ventilation intakes that serve an enclosed area; and 5) Service lines or within 10 feet of a service line that extends outside an entrance. No person shall smoke or carry a lighted smoking instrument within 10 feet of an accessibility ramp that extends beyond 10 feet from the entrance or exit. Employees who choose to smoke shall do so in Designated Smoking Areas on their regularly scheduled breaks or meal periods. Employees are expected to exercise common courtesy and to respect the needs and sensitivities of coworkers and the public with regard to this policy. Smokers shall keep Designated Smoking Areas litter-free. Employees driving or riding in personal vehicles for work purposes may smoke in their own personal vehicle if alone; however, the employee may not smoke, and should not allow others to smoke, if the vehicle occupies other persons as a condition of work.

### 4. Signs

The County shall post signs prohibiting smoking. Signs shall use either the "no smoking or vaping" symbol (a cigarette and electronic delivery device, each with a diagonal slash through it within a circle) and the words “within 10 feet,” the words "No Smoking or Vaping within 10 feet," or both. Signs may be used without specifically including the words “within 10 feet” if the signs specify some other restriction greater than 10 feet or designates the entire premises as smoke free. Signs shall be posted prominently at each entrance and exit to County Facilities. All signs shall be placed at a height and location easily seen by a person entering the building, and shall not be obscured in any way.

### 5. Ashtrays and Receptacles

Ashtrays or any receptacles to be used for smoking or depositing cigarette or smoking debris are prohibited inside County Facilities, and within 10 feet of any entrances, exits, accessibility ramps that extend beyond 10 feet from an entrance or exit, windows that open, and ventilation intakes that serve an enclosed area of any County Facility.

### 6. Designated Smoking Area

The County may establish smoking areas for use by County employees and the public. Designated Smoking Areas shall be: 1) At least ten (10) feet from entrances, exits, windows that open, and ventilation intakes of County Facilities; and 2) Designated as such by signs.

7. Enforcement and Violations

The enforcement of this policy is the responsibility of all County employees. Any County employee who observes an employee or member of the public acting in violation of this policy is encouraged to inform them of the policy violation.

Upon notification or personal observation of a violation of this policy by a County employee, the supervisor of the employee shall address that issue with the employee. Violation of this policy may subject an employee to disciplinary action. Violation of this policy, or complaints regarding this policy by persons who are not County employees, shall be reported to department head, supervisor, or Human Resources.

8. Smoking Cessation

The County shall provide smoking cessation resource information to all employees who request it. Employees and visitors may visit the Tobacco Prevention and Education Program website for information regarding the effects of tobacco use, self- help materials, and resources for cessation. Employees may contact Human Resources regarding the availability of tobacco-related cessation support programs.

9. Compliance with State Law

In the event that any provision of this policy conflicts with any term or provision of ORS 433.385 through ORS 433.990 as amended, or OAR 333-015-0025 through OAR 333-015-0090 as amended, the provisions of such Statutes and Rules shall control.

B. DRUG-FREE WORKPLACE

Josephine works to maintain a safe and efficient work environment. An employee's on- the-job involvement with drugs and alcohol can have a significant impact on the workplace and can present a substantial risk to the employee who is using alcohol and drugs, to coworkers and others.

Josephine County expects employees to report to work in a condition that is conducive to performing their duties in a safe, effective and efficient manner.

This policy applies to all employees (except where noted in this policy or where it is inconsistent with applicable law and/or collective bargaining agreement provisions.) This policy revises and supersedes all previous drug and alcohol testing policies and practices. Employees subject to Federal Motor Carrier or Federal Transit Authority requirements (See Article 12 herein), or who are required

to comply with the federal Drug Free Workplace Act, must also comply with those separate requirements.

1. Prohibited Conduct

The following examples of prohibited conduct do not apply to law enforcement employees who possess drugs, alcohol or other items identified in this policy in connection with law enforcement work.

Possession, transfer, use or being under the influence of any alcohol while on County property, on County time, while driving County vehicles (or personal vehicles while on County business), or in other circumstances which adversely affect County operations or safety of County employees or others.

- i. The conduct prohibited by this rule includes consumption of any intoxicating liquor within four hours of reporting to work or during rest breaks or meal periods. If use of alcoholic liquor or an alcohol "hangover" adversely affects an employee's physical or mental faculties while at work to any perceptible degree, or the employee's blood alcohol content exceeds .02 percent, the employee will be deemed "under the influence" for purposes of this rule.

2. Possession, distribution, dispensing, sale, attempted sale, use, manufacture or being under the influence of any narcotic, hallucinogen, stimulant, sedative, drug or other controlled substance while on County property, on County time, while driving County vehicles (or personal vehicles while on County business), or in other circumstances which adversely affect County operations or safety of County employees.

- i. The conduct prohibited by this rule includes consumption of any such substance prior to reporting to work or during rest breaks or meal periods. If use of such substances or withdrawal symptoms adversely affects an employee's physical or mental faculties while at work to any perceptible degree, or the employee tests "positive" for any such substances by screening and confirmation tests, the employee will be deemed "under the influence" for purposes of this rule.
- ii. As used in this policy, "controlled substance" includes, but is not limited to, any controlled substance listed in Schedules I through V of the Federal Controlled Substance Act, including marijuana that is otherwise lawful to use under Oregon, Washington, or any other state's law.

3. Bringing to County property, or possessing, items or objects on County property that contain any "controlled substance," including, for example, "pot brownies," "edibles," and candy containing marijuana. No employee,

regardless of position held, may knowingly serve items containing marijuana or any other “controlled substance” to coworkers, members of the public, or elected officials while on work time or on/in County property.

4. Bringing equipment or any devices marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing marijuana or controlled substances, such as pipes, bong, “vape” pens, smoking masks, roach clips, and/or other drug paraphernalia.
  - a. Bringing equipment, products or materials that are marketed for use or designed for use in planting, propagating, cultivating, growing, or manufacturing marijuana, including live or dried marijuana plants to County property. This prohibition does not apply to employees who possess such items in connection with law enforcement work.
5. Prescription Drugs and Medical Marijuana

With the exception of medical marijuana, nothing in this rule is intended to prohibit the use of a drug taken under supervision by a licensed healthcare professional, where its use does not present a safety hazard or otherwise adversely impact an employee's performance or County operations.

Employees must inform their supervisor about their use of any prescription or over-the-counter drugs that could affect their ability to safely perform the duties of their position. If an employee's use of such prescription drugs could adversely affect County operations or safety of County employees or other persons, County may reassign the employee using the prescription drugs to other work or take other appropriate action to accommodate the physical or mental effects of the medication. Failure to report use of prescription drugs covered by this rule will subject an employee to disciplinary action, up to and including termination. (Although an employee is not required to provide County with the name(s) of the prescription medication(s) taken, medical verification of the prescription may be required.)

The use of marijuana, which is a Schedule 1 controlled substance under federal law, is expressly prohibited under this policy, even if its medical use is authorized under state law. Employees who use medical marijuana in connection with a disability should discuss with their supervisor other means of accommodating the disability in the workplace, as County will not agree to allow an employee to use medical marijuana as an accommodation.

6. Testing

County reserves the right to:

  - a. Subject applicants who are given a conditional offer of employment in a safety-sensitive position to a drug and alcohol test;
  - b. Test employees reasonably suspected of using drugs or alcohol in violation

of this policy;

- c. Discipline or discharge employee who test positive or otherwise violate this policy; and
- d. Test employees when they:
  - i. Cause or contribute to accidents that seriously damage a County vehicle, machinery, equipment or property;
  - ii. result in an injury to themselves or another employee requiring offsite medical attention; and/or
  - iii. when County reasonably suspects that the accident or injury may have been caused by drug or alcohol use.

#### 7. Reasonable Cause Testing

If there is reasonable cause to suspect that an employee is under the influence of controlled substances or alcohol during work hours or has used drugs or alcohol in violation of this policy, County may require the employee to undergo testing for controlled substances or alcohol.

As used in this policy, unless the context indicates otherwise:

- a. The terms "test" and "testing" shall be construed to mean job impairment field tests, laboratory tests, breathalyzer tests, and other tests of saliva, blood and urine. No testing shall be performed under this rule without the approval of the Human Resources Director or their designee, after consultation with the Risk Manager or Legal Counsel.
- b. "Reasonable cause" as used in this policy means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is more likely than not under the influence of controlled substances or alcohol or has used drugs or alcohol in violation of this policy. Circumstances which can constitute a basis for determining "reasonable cause" may include, but are not limited to:
  - i. a pattern of abnormal or erratic behavior;
  - ii. information provided by a reliable and credible source;
  - iii. direct observation of drug or alcohol use;
  - iv. presence of the physical symptoms of drug or alcohol use (*i.e.*, glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes);
  - v. unexplained significant deterioration in individual job performance;
  - vi. unexplained or suspicious absenteeism or tardiness;
  - vii. employee admissions regarding drug or alcohol use; and

- viii. unexplained absences from normal work areas where there is reason to suspect drug or alcohol related activity.

Supervisors should detail in writing the specific facts, symptoms or observations that form the basis for their determination that reasonable cause exists to warrant alcohol or controlled substance testing of an employee or a search. This documentation shall be forwarded to the Human Resources Director. Whenever possible, supervisors should locate a second employee or witness to corroborate their “reasonable cause” findings.

An employee whose initial laboratory screening test for controlled substances yields a positive result shall be given a second test. The second test shall use a portion of the same test sample withdrawn from the employee for use in the initial screening test. If the second test confirms the initial positive test result, the employee shall be notified of the results in writing by the Human Resources Director. The letter of notification shall state the particular substance identified by the laboratory tests. The employee may request a third test of the sample within 24 hours of receiving the letter of notification, but such testing will be paid for by the employee.

#### 8. Search of Property

When reasonable cause exists to believe an employee possesses alcohol or a controlled substance on County property or has otherwise violated provisions of this rule regarding possession, sale or use of controlled substances or alcohol, County may search furniture, equipment or other property provided to the employee by County, including but not limited to, clothes (uniforms), locker, toolbox, and desk. Employees should have no expectation of privacy in any property, equipment or supplies provided by County to employee.

#### 9. Employee Refusal to Test/Search

An employee who refuses to consent to a test or a search when there is reasonable cause to suspect that the employee has violated this policy is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

An employee who refuses to cooperate with any tests required by this policy is also subject to discipline, up to and including termination. This includes, but is not limited to, tampering with, or attempting to tamper with, a specimen sample, using chemicals or other ingredients to mask or otherwise cover up the presence of metabolites, drugs or alcohol in a specimen, or providing a blood or urine specimen that was produced by anyone or anything other than the employee being tested.

#### 10. Crimes Involving Drugs and/or Alcohol

Employees shall report the following within one business day of the event:

- a. Any criminal arrest or conviction for drug- or alcohol-related activity;
- b. Entry into a drug court or diversion program; or
- c. Loss or limitation of driving privileges when the employee's job is identified as requiring a valid driver's license (regular or CDL).

Failure to report as required will result in disciplinary action up to and including termination.

#### 11. Drug and Alcohol Treatment

Josephine County recognizes that alcohol and drug use may be a sign of chemical dependency and that employees with alcohol and drug problems can be successfully treated. Josephine County is willing to help such employees obtain appropriate treatment.

An employee who believes they have a problem involving the use of alcohol or drugs should ask a supervisor or Human Resources for assistance.

Josephine County will work with an employee to identify all benefits and benefit programs that may be available to help deal with the problem. Attendance at any rehabilitation or treatment program will be a shared financial responsibility of the employee and the County to the extent its existing benefits package covers some or all program costs.

Although Josephine County recognizes that alcohol and drug abuse can be successfully treated and is willing to work with employees who may suffer from such problems, it is the employee's responsibility to seek assistance *before* drug or alcohol problems lead to disciplinary action. Once a violation of County policy is discovered, the employee's willingness to seek County or outside assistance will not "excuse" the violation and generally will have no bearing on the determination of appropriate disciplinary action.

#### 12. Discipline and Consequences of Prohibited Conduct

An employee who violates this policy will be subject to either termination or a last- chance agreement.

A last-chance agreement is an agreement whereby an employee who would otherwise be terminated is provided an opportunity to address their substance abuse issue and/or performance or safety issues. The last-chance agreement will inform the employee of the problems noted with their performance and specify the performance required for the employee to achieve in order to continue to be employed by the County.

Depending on individual circumstances and the employee's commitment to rehabilitation, the County may require the employee to enroll in one or more of the following:

- a. Employee Assistance Program
- b. Education and/or training Program
- c. Treatment or Rehabilitation Program

If an employee is required to enroll in a program listed above, continuing employment is conditioned on the following requirements:

- The employee must present written certification of successful program completion.
- The employee must satisfactorily complete required drug test(s).

If the County determines that rehabilitation is required for an employee who has been convicted of a criminal drug offense, that employee will minimally be required to participate in a drug and alcohol abuse evaluation within 30 days of the conviction, and will be required to complete a rehabilitation or treatment program based upon the evaluation. The rehabilitation program must be one that is approved for such purposes by a federal, state or local health, law enforcement or other appropriate agency for such purposes.

Violation of the provisions of a last-chance agreement shall result in immediate termination of the employee, notwithstanding the provisions of any other personnel rule.

### 13. Confidentiality

All information from an employee's drug and alcohol evaluation is confidential and only those with a need to know are to be informed of test results. Disclosure of such information to any other person, agency, or County is prohibited unless written authorization is obtained from the employee.



## ARTICLE 6 – TIME OFF

### SECTION 1 – HOLIDAYS

#### A. RECOGNIZED HOLIDAYS

The following days are recognized as holidays by the county:

<u>Holiday</u>	<u>Date Observed</u>
New Year’s Day	January 1
Martin Luther King Jr. Day	Third Monday of January
Presidents Day	Third Monday of February
Memorial Day	Last Monday in May
Juneteenth	June 19
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday of November
Day after Thanksgiving	Friday following Thanksgiving Day
Christmas Eve	December 24
Christmas Day	December 25

Any other day declared by the Board of Commissioners

#### B. WEEKEND HOLIDAYS

If a recognized holiday falls on Sunday, the following Monday shall be observed as the holiday. If a holiday falls on a Saturday, it shall be observed on the preceding Friday.

#### C. HOLIDAY DURING PAID LEAVE

If a recognized holiday occurs during a period in which the employee is on paid leave, including vacation, sick leave, or personal leave, then the holiday shall not be charged against such paid leave.

#### D. ELIGIBILITY

An employee who does not have any earnings from work or paid leave in a calendar month will not qualify for holiday pay or compensatory time for any holiday that falls within that month.

E. HOLIDAY PAY

Full-time employees shall receive eight (8) hours of pay for each recognized holiday during which the employee performs no work for the County. Employees who work ten- hour shifts may use PTO, Comp Time, or flex their time for the additional two hours. If the employee with a ten-hour shift does not have sufficient PTO, their schedule for the week will be converted to eight-hour shifts for that week. When a holiday is observed on an employee’s regularly scheduled day off, an alternate day will be observed as the holiday.

Part-time employees shall receive holiday pay in a pro rata amount based upon current FTE for the month of the holiday. If a holiday is observed on a day that part-time employees are not regularly scheduled to work, part time employees who are assigned a FTE level of .4 or greater will receive alternate time off on a scheduled workday on a pro rata basis. Part-time employees who are assigned a FTE level less than .4 shall not receive holiday pay or alternate time off.

F. HOLIDAY WORK

If an employee is required to work on any recognized holiday, in addition to any holiday pay for which the employee is eligible, the employee shall be credited with alternate time off equal to one and one-half (1-1/2) times the amount of time worked on the holiday.

**SECTION 2 – PAID TIME OFF**

Paid Time Off (PTO) is provided by the County to ensure employees receive adequate rest, to cover illness or injury of the employee or an immediate family member, and time off for personal reasons.

A. PAID TIME OFF ACCRUAL

Full-time non-union employees shall accrue a total number of PTO hours per year in accordance with the following schedule, depending on whether they are an exempt employee as defined in Article 2, Section 5:

<b>Months of Completed Continuous Service</b>	<b>Non-Union</b>	<b>Management Non-Union Exempt</b>
1-6 months	96 hours	120 hours
7-24 months	210 hours/year	258 hours/year
25-60 months	234 hours/year	282 hours/year
61-120 months	258 hours/year	306 hours/year
121-180 months	282 hours/year	330 hours/year
>180 months	306 hours/year	354 hours/year

Part-time non-union employees who are assigned an FTE level of .4 or greater shall accrue PTO in a pro rata amount based upon the hours compensated for the month. Employees may not use or be compensated for PTO until it is earned. Part-time non- union employees who are assigned a FTE level less than .4 shall not accrue PTO.

1. Accrual While on Leave Without Pay

An employee shall not accumulate PTO during any pay period in which leave without pay is in excess of three (3) days, or in which any suspension without pay is in excess of three (3) days.

2. Maximum Accrual

A non-union employee's maximum PTO accrual shall not exceed 1400 hours.

3. Probationary Employees

Probationary employees shall not be eligible to use PTO until completion of six (6) months of continuous employment except for absences due to illness or injury of the employee or a member of the employee's immediate family, or due to death in the employee's immediate family or other protected leave, or with Department Head approval.

4. Balance Conversion at Transfer

Employees who transfer to or from a bargaining or a non-represented unit shall be subject to the policy or collective bargaining agreement of the receiving unit. Accrued hours will be converted as applicable in order to be incorporated into the leave program of the receiving unit. For example, if transferring from a combined PTO program to a split (vacation/sick) program, the employee shall be allowed to convert PTO hours to vacation hours up to the maximum vacation accrual limit, with the remaining hours credited to sick leave up to the maximum sick leave limit. Likewise, if transferring from a split (vacation/sick) program to a combined PTO program the employee shall be allowed to move all hours over to the combined PTO program up to the maximum allowable. In the event that the receiving program has a lower maximum accrual limit, the employee shall be cashed out for PTO hours in excess of the accrual limit.

B. SICK TIME (EMPLOYEES LESS THAN .4 FTE)

Employees who do not qualify for PTO (less than .4 FTE) will receive Sick Time in accordance with Oregon Paid Sick Leave Law. Employees subject to this policy may accrue up to 40 hours of paid sick leave per calendar year. Paid sick leave shall accrue at the rate of one (1) hour per 30 hours worked, up to an annual cap of 40 hours.

Paid sick leave will be paid at the employee's regular rate of pay. Employees may carry over a maximum of 40 hours of accrued and unused sick leave for

use in a subsequent calendar year. Total Sick Time accumulation is capped at 80 hours. Any unused sick leave will not be cashed out upon separation from employment. If an employee leaves employment and is rehired within 180 days, the employee's sick leave balance will be restored.

If an employee becomes eligible for PTO (as noted in 2.1(A) above), the employee will maintain their sick leave hours, but must use sick leave before PTO when absences are due to qualifying events per Oregon Paid Sick Leave Law.

### C. USE OF PAID LEAVE

Employees may schedule time off or use accrued PTO when the employee is unable to perform work duties because of illness, injury, necessary medical or dental care, or because of exposure to contagious disease where the health of the employees, members of the public, or members of the immediate family would be endangered by the attendance of the employee. The first forty (40) hours of PTO per calendar year shall be considered "sick leave." Employees may be required to provide a medical provider's note if an employee exceeds 40 hours of sick time and/or otherwise allowed by law.

Employees shall have the right to request a specific time period for their scheduled PTO, subject to the department head's approval, considering the scheduling required for public service and the needs of efficient operations. Employees cannot request PTO for non-medical reasons if they have less than 20 hours of PTO.

Non-exempt employees shall take PTO to cover any full or partial day they are absent from work. Exempt employees who are absent from work for a full workday shall use PTO to cover the absence. Exempt employees that are on PTO shall generally refrain from working. When it is necessary for an exempt employee to perform substantive work or more than de minimis work, the exempt employee shall update their timesheet to reflect that day as a workday. The exempt employee shall determine whether the amount of work performed qualifies as a workday, but generally "de minimis" work is not more than a couple brief phone calls or emails that do not require substantive discussion and take very little time. Matters that require the exempt employee to engage in substantive discussion or take substantive actions are not de minimis. Employees on protected leave shall follow state and/or federal law.

#### 1. Notice

- a. *Scheduled Leave.* Employees requesting time off for personal reasons shall provide their supervisor with as much advance notice as practical and reasonable. Use of PTO in excess of three (3) days, for reasons other than illness or injury, requires advance supervisory approval.

- b. *Unscheduled Leave.* When reasonably possible, an employee shall notify their supervisor at least two hours before the start of the scheduled work shift if the employee is unable to report to work as scheduled. Department heads may authorize a shorter notice timeline or identify specific notice methods that are or are not acceptable.
- c. *Leaving Early.* An employee shall notify their supervisor as soon as possible if a need to leave their shift early arises.
- d. *Department Heads.* When a Department Head is on PTO or other leave for more than a day, they shall notify the Board of Commissioners office of their anticipated unavailability and the point(s) of contact in their department during their absence. The Department Head may identify the circumstances under which they want to be contacted regarding department matters during their absence.

## 2. Minimum Usage Required

All full-time employees are required to take a minimum of forty (40) hours of PTO in a calendar year. Part-time employees are required to take PTO in an amount proportionate to FTE level.

- a. *Financial and Network Employees.* Employees of the Finance, Treasury and Information Technology Department are required to take a minimum of one continuous week of PTO in a calendar year.

## 3. Leave Due to Catastrophic Events

In the event that an employee's residence is uninhabitable due to a catastrophic event such as fire or flood, the employee may cash out up to 500 hours of PTO. If the employee leaves County employment within three (3) years of using this provision, they will forego any accrued leave payments.

# SECTION 3 – LEAVE WITHOUT PAY

## A. Request and Approval

In instances where a department will not be adversely affected by the temporary absence of an employee, the department head, after consultation with the Human Resources Director, may grant a leave of absence without pay not to exceed six (6) months. Requests for such leave must be in writing, and must establish reasonable justification for approval of the request. Normally, such leave will not be approved for an employee who is accepting other employment. Employees must exhaust all available paid leave before they will be granted an unpaid leave of absence of any type. Employees who are granted sick leave without pay for the remaining period of illness or disability may be required to provide verification of the illness or injury from the employee's health care provider and/or a medical release upon returning to work in compliance

with state and federal laws. Employees who are on unpaid leave in excess of three (3) days in a calendar month will be required to pay a prorated health insurance premium, except when on Family Medical Leave or other legally protected status. Failure to obtain approval for leave without pay as provided herein can result in discipline up to or including the termination of employment.

**B. OPERATIONAL/BUDGETARY BEST INTEREST EXCEPTION**

When a department head determines it to be in the best interest of the County due to budgetary and operational considerations, an employee requesting voluntary leave without pay may be granted such leave not to exceed 90 days upon the approval of the Human Resources Director. During such period of voluntary leave without pay, the employee will work or utilize PTO sufficient to cover withholdings such as health insurance premiums for this period. The employee will not be required to exhaust all available and accumulated PTO prior to taking such voluntary leave.

**SECTION 4 – FAILURE TO RETURN FROM LEAVE**

Any employee who has been granted a leave of absence and who, for any reason, fails to return to work upon the expiration of the leave shall be considered as having resigned from employment with the County. The employee's position shall then be considered vacant, unless the employee furnishes evidence that the employee was unable to return due to a legally protected status.

**SECTION 5 – TYPES OF LEAVE**

**A. JURY AND WITNESS DUTY**

**1. Jury Duty.**

- a. *General Policy.* It is the policy of the County to release employees from regularly scheduled work to provide service on a jury, and to ensure that employees do not experience a reduction in income while absent from work due to service on a jury. A copy of the court notice must be submitted to the employee's department head to verify the need for such leave. The employee is expected to report for work when doing so does not conflict with court obligations. It is the employee's responsibility to keep their supervisor or manager informed about the amount of time required for jury duty.
- b. *Pay and Jury Fees.* The County shall provide full pay to employees for work hours missed due to the performance of jury duty. Employees shall not waive payment of jury duty fees, and shall promptly submit the jury duty fees to their department upon receipt. The jury fees shall then be forwarded to the County Treasurer's Office.

## 2. Witness Duty

Time spent serving as a witness in a work-related, legal proceeding will be treated as time worked for pay purposes, provided the time served occurs during regularly scheduled hours, the employee is subpoenaed to testify, and the employee submits witness fees to their department upon receipt.

Except for employee absences covered under the County Crime Victim Leave Policy, Domestic Violence Leave and Accommodation Policy, or Paid Leave Oregon Safe Leave, employees who are subpoenaed to testify in non-work-related legal proceedings must use any available PTO to cover their absence from work. If the employee does not have any available PTO, they will be granted leave without pay. Employees must present a copy of the subpoena served on them to their supervisor for scheduling and verification purposes within two (2) business days.

### B. MILITARY

Employees who wish to serve in the military and take military leave should contact the Human Resources Department for information about their rights before and after such leave. Employees are entitled to reinstatement upon completion of military service, provided the employee returns or applies for reinstatement within the time allowed by law.

All employees who are members of the National Guard, National Guard Reserve or of any reserve component of the Armed Forces of the United States or of the United States Public Health Service are entitled to a paid leave of absence from duties for a period not exceeding 21 work days in any federal fiscal year (October 1st through September 30th) for training, provided the employee is employed at least six months prior to the leave. Employees who have not worked for the County for six months will also receive up to 21 work days in any federal fiscal year for the same purposes, but such leave will not be paid. Employees are not required to take their leave in one block of time but may use the paid leave allowed under this rule over the course of the federal fiscal year. The actual number of paid work hours allowed is dependent on the employee's standard work schedule but must be consistent with the intent of this rule. Employees may use military leave for active duty or inactive duty for training, state active duty and duty under Title 10 or 32 of the United States Code.

The total number of paid days for both training and active duty shall not exceed the total amount allowed above in any federal fiscal year.

Absences incurred for additional active duty or inactive duty for training, state active duty and duty under Title 10 or 32 of the United States Code may be charged to accrued PTO or compensatory time or taken as unpaid leave.

C. BEREAVEMENT

Under this policy, “Family Member” means the employee's:

- Spouse or registered domestic partner;
- Child or the child’s spouse or registered domestic partner;
- Parent of the parent’s spouse or registered domestic partner;
- Sibling or stepsibling or the sibling’s or stepsibling’s spouse or registered domestic partner;
- Grandparent or the grandparent’s spouse or registered domestic partner;
- Grandchild or the grandchild’s spouse or registered domestic partner; or
- An individual related by blood or affinity whose close association with an employee taking bereavement leave is the equivalent of a family relationship.

Employees who have worked for the County for 180 calendar days, and averaged at least 25 hours per week, may take up to two (2) weeks of PTO for bereavement leave per death of a Family Member, up to a maximum of four (4) weeks per leave year. Employees who have worked for County for 90-180 days, and who have experienced the death of a Family Member, may use up to 40 hours of accrued PTO for bereavement purposes. Employees who have worked for the County for fewer than 90 days may not be eligible for bereavement leave; see the Human Resources Department for more information.

D. RELIGIOUS OBSERVANCES LEAVE

Josephine County respects the religious beliefs and practices of all employees and shall allow an employee to take leave for such observances when it would not create an undue hardship for the County. Employees may use PTO or unpaid leave for religious holidays or to participate in religious observance or practice; if accrued PTO is not available, then an employee may request to take unpaid leave. Request for religious leave should be made with the employee’s department head, and may require information from the employee in support of the request.

E. WORKERS’ COMPENSATION

Employees may coordinate use of PTO with accepted workers’ compensation claims in order for the employee to receive the difference between payments received under Workers’ Compensation and the employee's regular salary (net after taxes). The County shall continue to make the contributions for insurance coverage while the employee is off work due to an accepted workers’ compensation claim, and the employee shall pay any required employee's portion of premiums for such coverage to stay in effect for the full term of the leave.



F. MEDICAL HARDSHIP

Employees may apply for medical hardship leave by submitting to Human Resources a written request with a health care provider's written statement certifying that the prolonged serious health condition of the employee or immediate family member will continue after the employee is projected to have exhausted all accumulated paid leave. Hardship leave is not intended to cover intermittent leave under the Family and Medical Leave Act, nor is it intended to cover any period of time preceding the date of the request for hardship leave. Upon the approval of the request for hardship leave, the County may allow no more than two (2) separate periods of leave, each totaling at least one (1) calendar week for full-time employees.

G. CRIME VICTIM LEAVE

An employee may take reasonable leave to attend criminal proceedings if the employee or their immediate family member has suffered financial, social, psychological or physical harm as a result of being a victim of certain felonies, such as kidnapping, rape, arson, and assault.

Employees who are eligible for crime victim leave:

1. May use any accrued PTO to make their paycheck whole;
2. Must provide as much advance notice as is practicable of their intention to take leave (unless giving advance notice is not feasible); and
3. Must submit a request for the leave in writing to Human Resources as far in advance as possible, indicating the amount of time needed, when the time will be needed, and the reason for the leave.

The County may require certification of the need for leave, such as copies of any notices of scheduled criminal proceedings that the employee receives from a law enforcement agency or district attorney's office, police report, a protective order issued by a court, or similarly reliable sources.

H. DOMESTIC VIOLENCE LEAVE

All employees are eligible for reasonable leave to address domestic violence or the crimes of harassment, sexual assault, bias or stalking (against either the employee or the employee's minor dependents).

Reasons for taking leave include the employee's (or the employee's dependent's) need to: seek legal or law enforcement assistance or remedies; secure medical treatment for or time off to recover from injuries; seek counseling from a licensed mental health professional; obtain services from a victim services provider; or relocate or secure an existing home.

The employee may use any accrued PTO to make their check whole.

When seeking this type of leave, the employee should provide as much advance

notice as is practicable of their intention to take leave, unless giving advance notice is not feasible.

Notice of need to take leave should be provided by submitting a request for leave in writing to the employee's department head and Human Resources as far in advance as possible, indicating the amount of time needed, when the time will be needed, and the reason for the leave. County will then generally require certification of the need for the leave, such as a police report, protective order or other evidence of a court proceeding, or documentation from a law enforcement officer, attorney, healthcare professional, member of the clergy, or victim services provider.

If more leave than originally authorized needs to be taken, the employee should give County notice as soon as is practicable prior to the end of the authorized leave. When taking leave in an unanticipated or emergency situation, the employee must give verbal or written notice as soon as is practicable. When leave is unanticipated, this notice may be given by any person on the employee's behalf.

## **SECTION 6 – FAMILY LEAVE**

### **A. OREGON FAMILY LEAVE ACT (OFLA)**

The following is a summary of Oregon Family Leave Act (OFLA) policy and procedures. Generally, and as will be discussed, eligible employees are entitled to 12 weeks of unpaid leave for the reasons identified below. Oregon law prohibits retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested or used OFLA Leave. In all cases, applicable Oregon laws, rules, policies, and collective bargaining agreements govern the employee's and the County's rights and obligations, not this policy.

Employees seeking further information should contact the Human Resources Department.

#### **1. Definitions**

##### **a. "Family Member"**

A spouse or domestic partner, a child of a covered individual or the child's spouse or domestic partner, a parent of a covered individual or the parent's spouse or domestic partner, a sibling or stepsibling of a covered individual or the sibling's or stepsibling's spouse or domestic partner, a grandparent of a covered individual or the grandparent's spouse or domestic partner, a grandchild of a covered individual or the grandchild's spouse or domestic partner, any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.

b. “Child”

Includes a biological, adopted, foster or stepchild, the child of a registered domestic partner, or a child with whom the employee is in a relationship of *in loco parentis*, under the age of 18 or over 18 if incapable of self-care because of a mental or physical disability.

c. “Eligible Employee”

- OFLA. To qualify for OFLA leave an employee must have been employed for at least 180 days and worked an average of at least 25 hours per week.
- OMFLA. For purposes of Oregon Military Family Leave Act leave, the employee need have only worked 20 hours per week (no minimum length of employment required). A different calculation method applies for reemployed service members under USERRA who seek OMFLA leave; see Human Resources for more information.

d. “Public Health Emergency Leave” Employees are eligible to take any OFLA leave during a Public Health Emergency if they have worked: (a) more than 30 days immediately before the date on which the leave would begin; or (b) an average of 25 hours per week in the 30 days immediately before the date on which the leave would begin. See definition of “public health emergency” definition below.

e. “Public Health Emergency” A “public health emergency” is a public health emergency declared under ORS 433.441 or an emergency declaration declared under ORS 401.165. An example of this is when the State of Oregon declared a COVID-19 state of emergency in March 2020 and the wildfire state of emergency in June 2021.

2. Reasons for Taking Leave

OFLA leave may be taken for any of the following purposes:

a. *Pregnancy Disability Leave*: For incapacity due to pregnancy, prenatal medical care or birth.

*Sick Child Leave*: To care for a child who suffers from an illness or injury that requires home care or has a serious health condition, or to care for a child whose school or place of care has been closed due to a public health emergency. This type of leave does not provide for routine medical and dental appointments or issues surrounding the availability of childcare when the child is not ill or injured.

b. *Bereavement Leave*: To manage the death of a Family Member by

attending the funeral of the Family Member, making arrangements necessitated by the death of the Family Member, or grieving the Family Member's death. Employees are eligible for two (2) weeks per family member, up to a maximum of four (4) weeks per leave year.

- c. *Oregon Military Family Leave Act Leave ("OMFLA")*: During a period of military conflict, as defined by the statute, eligible employees with a spouse or registered domestic partner who is a member of the Armed Forces, National Guard, or military reserve forces ("Military Spouse"), and who has been notified of an impending call or order to active duty (or who has been deployed) is entitled to a total of 14 days of unpaid leave per deployment after the Military Spouse has been notified of an impending call or order to active duty and before deployment and when the Military Spouse is on leave from deployment.
- d. *Public Health Emergency Leave*: Employees are eligible to take any OFLA leave during a Public Health Emergency if they have worked: (a) more than 30 days immediately before the date on which the leave would begin; or (b) an average of 25 hours per week in the 30 days immediately before the date on which the leave would begin. This is available to employees who are eligible for OFLA only. See the definition of "public health emergency" above.

If applicable, OFLA leave will run concurrently with FMLA when permitted.

### 3. Length of Leave

In any One-Year Period, eligible employees may take up to 12 weeks of unpaid protected time off per leave year. Employees are eligible to take up to two (2) weeks of unpaid Bereavement leave, up to a maximum of four (4) weeks per leave year.

### 4. One-Year Period

For purposes of determining the amount of OFLA leave that an eligible employee may take, "One-Year Period" means a period of 52 consecutive weeks beginning on the Sunday immediately preceding the date on which the employee's OFLA leave begins.

### 5. Intermittent Leave

Intermittent or reduced-schedule leave may be taken when medically necessary. Employees must make reasonable efforts to schedule planned medical treatments to minimize disruption of County operations, including consulting management prior to the scheduling of treatment to work out a treatment schedule which best suits the needs of both County and the employee.

### 6. Employee Responsibilities - Notice

Employees must provide at least 30 days' notice before OFLA leave is to begin or as soon as possible. If the situation giving rise to a Sick Child Leave is unforeseeable, an employee must give verbal or written notice to County within 24 hours of commencement of the leave.

Whether leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time. Employees shall advise their department head and the Human Resources Department as soon as practicable if dates of scheduled leave are changed or are extended.

If circumstances change during the leave and the leave period differs from the original request, the employee must notify their department head and the Human Resources Department within three business days, or as soon as possible.

Regardless of the reason for leave, or whether the need for leave is foreseeable, employees will be expected to comply with County's normal call-in procedures. Employees who fail to comply with County's call-in procedures may be disciplined or may have their period of OFLA leave reduced.

7. Certification

Generally speaking, employees may be required to provide sufficient information for County to determine if the leave may qualify for OFLA protection and the anticipated timing and duration of the leave. An employee will be required to provide a note from a doctor or healthcare provider if the employee has used more than three days (*i.e.*, one, three-day occurrence or three separate instances) of sick child leave within a One-Year Period,

Employees must furnish County's requested medical certification information within 15 calendar days after such information is requested by the County.

8. Substitution of Paid Leave for Unpaid Leave

Employees are required to use and exhaust accrued leave (PTO, comp, other) prior to a period of unpaid leave of absence on OFLA leave.

9. Holiday Pay While on Leave

Employees using PTO during a portion of approved OFLA leave in which a holiday occurs will qualify to receive holiday pay.

10. Benefits While on Leave

County will continue the employee's health coverage under any group health plan during a period of approved OFLA leave on the same terms as if the employee had continued to work. The employee must continue to make any regular contributions to the cost of the health insurance premiums

during the period of approved OFLA leave. Employees will not accrue PTO or other benefits (other than health insurance) while the employee is on an unpaid OFLA leave. The leave period, however, will be treated as continuous service (i.e., no break in service) for purposes of vesting and eligibility to participate in County benefit plans.

#### 11. Job Protection

Employees returning to work from OFLA Leave will be reinstated to their former position. If the position has been eliminated, the employee may be reassigned to an available equivalent position. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring OFLA Leave have been resolved, even if leave was originally approved for a longer period. If an employee does not return to work at the end of a designated OFLA Leave period, reinstatement may not be available unless the law requires otherwise.

The use of OFLA Leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

#### 12. Restoration of Leave Bank at Time of Re-Employment

An employee who leaves employment with County for any reason may be eligible for OFLA leave if they are re-employed by County within 180 days of the separation and if the employee was eligible for OFLA leave at the time of the separation. Special rules apply to employees who temporarily stop working for County for 180 days or less; please speak with the Human Resources Department for more information.

#### B. FAMILY MEDICAL LEAVE ACT (FMLA)

The following is a summary of the policy and procedures under the federal Family Medical Leave Act (FMLA).

Generally, eligible employees are entitled to 12 weeks of protected leave for the reasons identified below. Federal law prohibits retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested or used FMLA. In all cases, applicable federal laws, rules, policies and collective bargaining agreements govern the employee's and the County's rights and obligations, not this policy.

Employees seeking further information should contact the Human Resources Department.

##### 1. Definitions

a. *"Child/Son or Daughter"*

A “son or daughter” is defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either under 18 years of age or is 18 years of age or older and “incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence. FMLA military family leave is not restricted by age — see below.

b. “*Eligible Employee*”

Employees are eligible for FMLA leave if they have worked for at least one year (which may be based on separate stints of employment) and for 1,250 hours during the 12 months preceding the date leave is to begin.

Leave under FMLA and OFLA will run concurrently when permitted. If applicable, leave under FMLA will also run concurrently with Paid Leave Oregon leave – see Paid Leave Oregon policy below.

c. “*Family Medical Leave*”

This includes all the types of leave identified in the section below, entitled “Reasons for Taking Leave,” unless otherwise specified.

d. “*Family Member*”

A “family member” is defined as a spouse, parent or a “son” or “daughter” (defined above).

e. “*Serious Health Condition*”

An illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a healthcare provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a healthcare provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition.

Other conditions may meet the definition of a “serious health condition;” see the Human Resources Department for more information. The common cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, and cosmetic treatments (without complications), are examples of conditions that are not generally defined as serious health conditions.

## 2. Reasons for Taking Leave

FMLA may be taken under any of the following circumstances:

- a. *Call to Active Duty Leave*: Eligible employees with a spouse, son, daughter or parent on active duty or call to active duty status in the regular Armed Forces, National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain “qualifying exigencies.” “Qualifying exigencies” may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
- b. *Employee’s Serious Health Condition Leave*: To recover from or seek treatment for an employee’s serious health condition, including pregnancy-related conditions and prenatal care.
- c. *Family Member’s Serious Health Condition Leave*: To care for a family member with a serious health condition.
- d. *Parental Leave*: For the birth of a child or for the placement of a child under 18 years of age for adoption or foster care. Parental leave must be completed within 12 months of the birth of a newborn or placement of an adopted or foster child.
- e. *Servicemember Family Leave*: Eligible employees may take up to 26 weeks of leave to care for a “covered servicemember” during a single 12-month period. A “covered servicemember” is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform their duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. Under some circumstances, a veteran will be considered a “covered servicemember.”

## 3. Length of Leave

In any one-year period, eligible employees may take up to 12 weeks of unpaid protected leave.

When leave is taken for Servicemember Family Leave, an eligible employee may take up to 26 weeks of leave during the One-Year Period to care for the servicemember. During the One-Year Period in which Servicemember Family Leave is taken, an eligible employee is entitled to a combined total of 26 weeks of FMLA Leave (some of which may include other types of FMLA-specific leaves of absence).



4. One-Year Period

The “12-month period” during which leave is available (also referred to as the “One- Year Period”) is a period of 52 consecutive weeks beginning on the Sunday immediately preceding the date on which the employee’s FMLA leave begins.

5. Intermittent Leave

Intermittent or reduced schedule leave may be taken during a period of Family Member or Employee Serious Health Condition Leave or Servicemember Family Leave. Additionally, Call to Active Duty Leave may be taken on an intermittent or reduced leave schedule basis. An employee may be temporarily reassigned to a position that better accommodates an intermittent or reduced schedule. Employees must make reasonable efforts to schedule planned medical treatments to minimize disruption of County operations, including consulting management prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both County and the employee. Intermittent leave for Parental Leave is not available.

6. Employee Responsibilities - Notice

Employees must provide at least 30 days’ notice before FMLA leave is to begin if the reason for leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned treatment for a serious injury or illness of a covered servicemember (Servicemember Family Leave). If 30 days’ notice is not practicable notice must be given as soon as practicable.

For Call to Active Duty Leave, notice must be provided as soon as practicable, regardless of how far in advance such leave is foreseeable.

Whether leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee must let County know as soon as practicable if dates of scheduled leave change or are extended or were initially unknown.

If circumstances change during the leave and the leave period differs from the original request, the employee must notify County within three business days, or as soon as possible. Further, employees must provide written notice within three days of returning to work.

Regardless of the reason for leave, or whether the need for leave is foreseeable, employees will be expected to comply with County’s normal call-in procedures. Employees who fail to comply with County’s leave procedures may be denied leave, may be subject to discipline, or may have the start date of the employee’s FMLA leave delayed.

7. Certification

Generally speaking, employees must provide sufficient information for County to determine if the leave may qualify for FMLA protection, and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a healthcare provider, or circumstances supporting the need for either Call to Active Duty or Servicemember Family Leave.

Employees also must inform the County if the requested leave is for a reason for which FMLA leave was previously taken or certified. Additionally, employees requesting Serious Health Condition Leave for themselves or to care for a covered family member will be required to provide certification from the healthcare provider of the employee or the covered family member to support the request.

Employees must furnish County's requested medical certification information within 15 calendar days after such information is requested by County. In some cases County may require a second or third opinion, at County's expense. Employees also may be required to submit subsequent medical verification.

Employees will not be asked for, and they should not provide, any genetic information about themselves or a family member in connection with a medical certification.

8. Medical Certification Prior to Returning to Work

If FMLA leave is for the employee's own serious health condition, the employee must furnish, prior to returning to work, medical certification from their healthcare provider stating that the employee is able to resume work.

9. Substitution of Paid Leave for Unpaid Leave

Employees are required to use accrued PTO prior to a period of unpaid leave of absence when on a FMLA leave. Use of accrued PTO will run concurrently with FMLA leave. This policy does not apply if the employee is receiving PLO benefits for the same time period.

10. Holiday Pay While on Leave

Employees using PTO during a portion of approved FMLA leave in which a holiday occurs will qualify to receive holiday pay. Employees who are on unpaid leave during a holiday will not qualify to receive holiday pay.

11. On-the-Job Injury or Illness

Periods of employee disability resulting from a compensable on-the-job injury or illness will qualify for FMLA Leave if the injury or illness is a "serious

health condition” as defined by applicable law.

If the employee’s serious health condition is the result of an on-the-job injury or illness, the employee may qualify for workers’ compensation time-loss benefits.

## 12. Benefits While on Leave

If an employee is on approved FMLA Leave, County will continue the employee’s health coverage under any “group health plan” on the same terms as if the employee had continued to work. An employee wishing to maintain health insurance during a period of approved FMLA leave will be responsible for bearing the cost of their share of group health plan premiums which had been paid by the employee prior to the FMLA leave. Employees will not accrue PTO or other benefits (other than health insurance) while the employee is on an unpaid FMLA leave. The leave period, however, will be treated as continuous service (i.e., no break in service) for purposes of vesting and eligibility to participate in County benefit plans.

## 13. Job Protection

Employees returning to work from FMLA leave will be reinstated to their former position. If the position has been eliminated, the employee may be reassigned to an available equivalent position. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring FMLA leave have been resolved, even if leave was originally approved for a longer period. If an employee does not return to work at the end of a designated FMLA leave period, reinstatement may not be available unless the law requires otherwise.

The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee’s leave.

Employees who work for other employers during a “serious health condition” leave may be subject to discipline up to and including termination. Additionally, all employees who use FMLA leave for reasons other than the reason for which leave had been granted may be subject to discipline up to and including termination.

### C. PAID LEAVE OREGON (PLO)

Paid Leave Oregon (PLO) is a state-run program, administered by the Oregon Employment Department (OED), that allows eligible employees to take up to 12-weeks of paid time off per benefit year, for the following reasons:

- *Family leave* – for an employee to care for an eligible family member with a serious illness or injury, to bond with a new child after birth, adoption, or

foster care placement, or to effectuate the legal process required for placement of a foster child or the adoption of a child.

- *Medical leave* – for an employee experiencing their own serious health condition or disability, including those due to pregnancy.
- *Safe leave* – for an employee or eligible child dependent experiencing issues related to sexual assault, domestic violence, harassment, bias crimes, or stalking.

The Paid Leave program also allows employees to take an additional two (2) weeks of Paid Leave for pregnancy, childbirth, or related medical conditions.

#### 1. Notification Requirements

Although the Paid Leave Oregon program is administered by the Oregon Employment Department (OED), employees are required to notify the County when they have applied for leave.

- Foreseeable Leave:* If the need for Paid Leave is foreseeable or planned, the employee is required to provide the Human Resources Department with at least 30 days' written notice before paid leave begins.
- Unforeseeable:* If the need for Paid Leave is unforeseeable or unplanned, an employee is required to provide oral notice to their department head within 24 hours of the start of the leave, and the employee must also provide written notice to the Human Resources Department within three (3) days after the start of the leave.

Written notice must include the employee's first and last name, type of leave, explanation of the need for leave, and anticipated timing and duration of leave.

Timing and duration of leave should include whether the employee plans to take leave on an intermittent basis (and the proposed schedule), or in one block of time.

If the employee's dates of scheduled leave change, are extended by the PLO program, or if circumstances change during the leave and the leave period differs from the employee's original notice, the employee must notify the Human Resources Department within three business days, or as soon as possible.

Regardless of the reason for leave, or whether the need for leave is foreseeable, employees are expected to comply with County's normal call-in procedures.

Under Oregon law, an employee who fails to follow these notification requirements may receive reduced PLO benefits; specifically, the first weekly benefit amount will be reduced by 25 percent (the penalty calculated

for leaves that are taken in increments of less than a full work week differs). See OAR 471-070-1310(9) and (10).

2. Concurrent use of FMLA Leave

If an employee's Paid Leave is also eligible for protected leave under FMLA, FMLA leave must be taken concurrently with Paid Leave.

Employees must provide sufficient information for the County to determine if the Paid Leave qualifies for FMLA leave. Employees who have applied for Paid Leave benefits are required to complete a Protected Leave Request Form and return it to the Human Resources Department.

If an employee is eligible for FMLA leave due to a serious health condition or has a family member with a serious health condition, employees must furnish medical certification information as required by the County leave policy.

3. Accrued Leave and Holiday Pay While on Leave

Employees using accrued PTO in addition to receiving PLO benefits will continue to accrue PTO and receive holiday pay during the leave period. Employees who do not use accrued PTO while receiving PLO benefits will not accrue PTO and will not receive holiday pay during the leave period.

4. Benefits While on Leave

If an employee is receiving PLO benefits, the County will continue the employee's benefits on the same terms as if the employee had continued to work. An employee wishing to maintain coverage when on PLO is responsible for paying their share of premiums, the same as when premiums were paid by the employee prior to receiving PLO benefits.

If the County chooses to pay the employee's portion of the insurance coverage during the period of PLO, employees are expected to repay the County for those premiums. Upon return to work, the County will deduct those premiums from the employee's pay, up to 10% of an employee's gross pay, each period, until the County has been paid back.

5. Medical Certification Prior to Returning to Work

If an employee uses more than three consecutive scheduled workdays for their own serious health condition, and the PLO is used concurrently with FMLA, prior to returning to work the employee must furnish medical certification from their healthcare provider stating that the employee is able to resume work.

6. Job Protection

Employees who worked for the County for more than 90 consecutive calendar days prior to taking Paid Leave may be reinstated to their former

position if the position still exists. If the position has been eliminated, the employee may be restored to a similar position with similar job duties with the same employment benefits and pay.

Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring Paid Leave have been resolved. If an employee does not return to work at the end of their Paid Leave, reinstatement may not be available.

7. Use of Accrued Leave During Paid Leave

PLO benefits may not provide employees with 100% of their gross regular wages. Employees receiving PLO benefits may choose to use accrued PTO and/or comp time in addition to receiving PLO benefits to reach 100% of their gross regular wages.

8. Complaint Procedure

The County prohibits retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested, or used Paid Leave.

9. Who to Contact for More Information

For more information, or if you have questions about the Paid Leave Oregon policy, contact the Human Resources Department.

For more information about the PLO program, including steps for applying for PLO benefits and contact information, go to <https://paidleave.oregon.gov/>

## **ARTICLE 7 – COMPENSATION & BENEFITS**

### **SECTION 1 – TIMEKEEPING**

#### **A. EMPLOYEE RESPONSIBILITIES**

1. All employees must accurately record time worked by clocking in and out through the County’s electronic timekeeping system (“time sheets”) for payroll purposes.
2. Non-exempt employees are responsible for ensuring that their time sheet submissions are complete, accurate, and timely.
  - a. Employees are required clock in at the beginning and clock out at the end of each work period, including before and after the meal period. With the exception of employee rest periods, employees also must record their time whenever they leave the building for any reason other than County business.
  - b. Full time employees shall submit time sheets with not less than forty (40) hours, through a combination of hours worked, PTO, comp time, or other accrued paid leave. If an employee will not have sufficient paid leave, leave without pay may be approved by the supervisor.
  - c. Time off and hours worked requiring premium pay (e.g. overtime, comp time) must be clearly recorded and duly authorized. Unapproved overtime in excess of fifteen (15) minutes per week, or as otherwise allowed by the Department Head, may be grounds for disciplinary action, up to and including termination.
3. Exempt employees shall submit time sheets totaling forty (40) hours of time per week in full day increments reflecting actual days worked, paid time off, and/or unpaid leave, except when on approved protected leave or on holidays when shorter time increments are appropriate. Full day increments shall be based on the employee’s regular work schedule.
4. An employee who fails to record their time may be subject to discipline. An intentional misrepresentation of hours worked by an employee constitutes fraud and may result in disciplinary action up to and including termination.
5. Clocking in or out for another employee or allowing another employee to clock in or out for yourself will be grounds for discipline, up to and including termination. Employees must use a PIN number that may not be shared with any other employee.
6. All employees shall certify the accuracy of total hours worked per day and per week on their time sheet by approving it electronically. Employee certification of the time sheet attests to their confirmation of the accuracy of

the hours reported, and that the employee has not worked more or less time than reported.

7. Supervisors shall review time sheets for accuracy and must certify that the hours worked are correct.
8. To facilitate accurate and timely issuance of paychecks Department Heads or their designees are responsible for approving employee time sheets each week by Tuesday at 10:00 am., or as otherwise directed by the Finance Department to meet payroll deadlines.

**B. MOBILE TIME KEEPING**

1. Unless otherwise recommended by the Human Resources Director and approved by the Board of County Commissioners, all employees shall be required to clock in and out from their workstation or an approved device.
2. Use of mobile time keeping features will only be approved by the Board of County Commissioners and subsequently made available by Finance for staff who begin or end their work at a remote worksite other than their workstation, and location services must be enabled on the mobile device.

**C. AUTOMATIC MEALS**

1. Automatic meal breaks shall only be enabled by Human Resources/Finance when a group of employees working outside of a main office take meal breaks together.
2. When automatic meal breaks are allowed, it is the employee's responsibility to take the meal break time off and not work for that period of time. If the meal break is not taken, it is the employee's responsibility to correct their time sheet prior to approval. Approval of the time sheet certifies that the meal breaks were taken.

**D. MISSED PUNCHES**

1. An employee who misses an entry to clock in or out on their electronic time sheet shall be responsible for adding a note in the electronic timekeeping system with the reason for the missed punch. If no note is added prior to timesheet approval the missed punch shall be presumed unexcused.
2. Supervisors shall review notes regarding missed punches and determine whether the missed punch is excused or unexcused. If the missed punch is unexcused it shall be noted in the electronic timekeeping system.
3. Excessive unexcused missed punches may be grounds for disciplinary action. Any occurrence of four (4) or more unexcused missed punches in a thirty (30) day period shall be reported to the Board of Commissioners by the Department Head.



## SECTION 2 – COMPENSATION

The goal of Josephine County is to provide fair and equitable compensation for all employees, and to maintain wage and benefit levels that attract and retain qualified personnel. The County shall maintain salary tables with adequate differentials between pay grades, a minimum and maximum pay rate assigned to each grade, and intermediate pay steps within each grade. The provisions covered in this section provide a set of standardized rules to be applied to all employees unless otherwise defined by a collective bargaining agreement.

### A. PAYDAYS

Employees shall be paid on or before Tuesday of every other week. Except for a final paycheck upon separation from the County, net pay will be directly deposited into the employee's bank account, unless an employee requests otherwise. If an employee requests to pick up their paycheck from the County, only the employee named on the paycheck will be allowed to do so, unless the employee provides written permission to the County for someone else to receive the check. Josephine County does not provide advance payments of salary or loans from salary to be earned.

### B. OVERTIME AND COMPENSATORY TIME

A department head, or other supervisor may require employees to work overtime in order to complete their work, to respond to an emergency, or as required for purposes of efficiency or economy. Non-exempt employees shall not work overtime without prior approval from their supervisor. The County shall attempt to give as much notice as possible of the need to work overtime. In assigning overtime work, the County will consider any unusual circumstances which might cause such an assignment to be a burden upon the employee.

1. Overtime Compensation. Employees who are classified exempt pursuant to the Fair Labor Standards Act (FLSA) are not compensated for hours worked in excess of forty

(40) hours per workweek. Non-exempt employees who are entitled to overtime pay under applicable wage and hour laws will be compensated at one and one-half (1- 1/2) times their regular rate for hours worked in excess of forty (40) hours per workweek. Pay for time not actually worked, such as holidays, paid time off, vacation leave, or sick leave, shall not count as "hours worked" for purposes of determining whether an employee is entitled to overtime compensation.

2. Compensatory Time. Compensatory time is available to non-exempt employees who are eligible for overtime compensation. Such overtime shall be compensated in the form of compensatory time off in accordance with federal law, unless the County elects to pay cash for such overtime. If the County so elects, cash payment for the overtime shall be made on the

paycheck for the period in which the overtime is worked. Compensatory time may be accumulated to a maximum of eighty (80) hours.

C. ANNUAL PAY INCREASES

Each January 1 the compensation for non-union employees in all pay grades shall increase by 100% of the US CPI-W for the November to November period preceding January with a maximum of 4% and a minimum of 0%, unless otherwise determined by the Board of County Commissioners. In determining whether pay increase adjustment will be withheld, the Board shall consider such factors including but not limited to: The County's economic condition and ability to pay; recent changes in the regional cost of living; health insurance costs; wage and benefit survey results; wage compression due to employee wage increases; and employee recruiting and retention statistics.

The compensation of all Elected Officials shall be reviewed annually by the Elected Official Compensation Committee who will make an advisory recommendation to the Josephine County Budget Committee who will in turn make the final recommendation to the County Board. This recommendation will be based on comparing fiscal data from comparable Elected Official positions from comparable counties as defined in ORS 243.746(4)(e) with the intention of maintaining the Elected Official base salary within five percent (5%) of the average of the comparable counties.

1. The Board of County Commissioners may opt out of any wage adjustment pursuant to a unanimous vote of the Board.

D. STEP INCREASES

Part-time and full-time employees shall be eligible for a one (1) step increase in compensation on their Payroll Anniversary Date and each full year thereafter so long as the employee has achieved at least a minimum of an overall satisfactory evaluation of performance, and until the employee reaches the maximum step of their pay grade.

E. LONGEVITY PAY

Upon completion of ten (10) years continuous employment, employees will be eligible to move to step L10 and receive a 2% pay increase on their Payroll Anniversary Date. In order to qualify, the employee must have completed at least one year at the last regular step and received at least a "Competent" on their current evaluation.

Upon completion of fifteen (15) years continuous employment, employees will be eligible to move to step L15 and receive a 2% pay increase on their Payroll Anniversary Date. In order to qualify, the employee must have completed at least one year at step L10 and received at least a "Competent" on their current evaluation.

Upon completion of twenty (20) years continuous employment, employees will be eligible to move to step L20 and receive a 2% pay increase on their Payroll Anniversary Date. In order to qualify, the employee must have completed at least one year at step L15 and received at least a “Competent” on their current evaluation.

1. Longevity Pay for Department Heads

Employees designated as a Department Head who have completed at least three (3) years at the last regular step and received at least a “Competent” on their current evaluation, will be eligible to move to step L3 and receive a 2% pay increase on their Payroll Anniversary Date.

Employees designated as a Department Head who have completed at least three (3) years at step L3 and received at least a “Competent” on their current evaluation will be eligible to move to step L6 and receive a 2% pay increase on their Payroll Anniversary Date.

Employees designated as a Department Head who have completed at least three (3) years at step L6, and received at least a “Competent” on their current evaluation will be eligible to move to step L9 and receive a 2% pay increase on their Payroll Anniversary Date.

F. PROMOTION INCREASE

When an employee is promoted, that employee shall move to the new salary pay grade and shall be placed at a new salary step which provides a salary increase in an amount equal to or greater than a two (2) step increase in their pre-promotion pay grade. The date of this increase shall then become the employee's Payroll Anniversary Date.

G. DEMOTION DECREASE

If an employee is demoted for any reason, that employee shall move to the new salary pay grade and shall be placed at a new salary step that provides a salary decrease in an amount equal to or greater than a two (2) step decrease in their pre-demotion pay grade. The date of this decrease shall then become the employee's Payroll Anniversary Date. If the employee did not complete their trial service period, the new salary step shall be at the salary step of their old classification.

H. RECLASSIFICATION

If an employee is given significant additional responsibility, or significant decreased responsibility, in their current classification, the department head may request the Human Resources Director to conduct a reclassification review to determine whether a reclassification is appropriate.

1. *Upward.* When an employee is reclassified upward, that employee shall move to the new salary pay grade and shall be placed at a new salary step that is closest

to, but not less than, the employee's salary step of their pre-reclassification pay grade. The employee's Payroll Anniversary Date will not be reset as a result of a reclassification upward.

2. *Downward.* When an employee is reclassified downward, that employee shall move to the new salary pay grade and shall be placed at a new salary step that is closest to the employee's salary step of their pre-reclassification pay grade. The employee's Payroll Anniversary Date will not be reset as a result of a reclassification downward.

I. POSITION TRANSFER

When an employee transfers to a different position, that employee shall move to the new salary pay grade and shall be placed at a new salary step that is equal to or greater than their pre-transfer pay grade, not to exceed the maximum step of the new salary pay grade. The employee's Payroll Anniversary Date will not be reset as a result of a position transfer. Employees who transfer to fill-in positions shall move to the salary step or flat rate designated to the fill-in position.

J. INTERIM APPOINTMENT

*Department Head:* When a Department Head leaves County employment, the County Board should appoint a new or Interim Department Head within ten (10) business days of the position being vacated. The Interim Department Head shall be provided a ten (10) percent increase to current pay, or shall move to step 1 of the current salary range for the departing Department Head, whichever is greater.

1. *Other Employees:* Employees appointed to higher level positions on an interim basis shall move to the new salary pay grade for the position which they assume and shall be placed at a step which provides a salary increase in an amount equal to or greater than a two (2) step increase in their pre-interim appointment pay grade. The date of this increase shall become the employee's Payroll Anniversary Date.
2. *Time for Action:* If, after twelve (12) months of service in an interim appointment, a regular appointment is not made, then the Board of County Commissioners shall take one of the following actions:
  - a. Extend the employee's interim appointment for a maximum of an additional twelve (12) months;
  - b. Appoint the employee to a regular position, unless the interim appointment was made and continues due to federal or state protected rights of another employee, in which case the interim appointment shall continue indefinitely for as long as the other employee has a protected right to return to the position; or
  - c. Conclude the interim appointment, at which time employees shall return

to their previous positions and previous pay plus any step increase(s) they would have earned during that period, as if they had occupied the previous position during the interim time period.

K. PAY AT SEPARATION

1. Final Paycheck

An employee's final paycheck will be a physical check that will be provided to an authorized signer for the department, the employee (or an individual designated by the employee in writing), or mailed to the employee's address on file, as indicated by the termination form.

2. Compensation for PTO

Probationary employees who are terminated or separated from employment prior to completing their probationary period shall not be entitled to any cash compensation in lieu of paid leave. Non-probationary, non-union employees who are terminated or separated from employment for any reason shall be entitled to cash compensation for one hundred percent (100%) of accrued paid leave up to 300 hours. In the event of the death of an employee, compensation for accrued paid leave shall be paid in the same manner that salary due to the decedent is paid.

As described in Personnel Policy 4.7(C)(2), where an employee retires to receive PERS benefits and is rehired to their same or modified position, the employee may receive cash compensation for accrued paid leave at the time of retirement, final separation, or both, but cannot exceed a total of 300 hours.

PERS Reporting Upon Retirement Upon retirement from County employment, non-union employees shall have 100 percent (100%) of all remaining accrued paid leave up to a maximum of 1100 hours reported to PERS and included as PERS subject compensation in accordance with PERS regulations. These hours shall be reported to PERS as "sick time." Reporting the hours to PERS does not guarantee that an employee will receive credit for the hours from PERS.

L. PAID LEAVE MANAGEMENT INCENTIVE

The County offers a generous leave compensation package with the assumption that employees should use their leave in order to receive adequate rest. Employees should also maintain enough leave to cover the need for potential extended leave. In order to incentivize optimal management of paid time off, the County will allow non-union employees to redeem up to forty (40) hours of paid time off in the first pay period of November and/or the first pay period of May (redemption date) if the following criteria are met:

1. Employee has a balance of at least 150 hours of PTO at the time of the request; and
2. Employee has used a minimum of three weeks of PTO and/or comp time during the 12 months preceding the redemption date. Prior PTO paid out does not count as usage.

M. TIME MANAGEMENT LEAVE

1. General

Time Management Leave is no longer available to County employees. This Section applies to employees who were hired on or before the date of the adoption of these Rules, and who have accrued Time Management Leave.

2. Maximum Accrual

Non-Union employees shall have any accrued Time Management Leave documented by the Human Resources Department as follows:

- a. Employees whose date of hire is on or after July 1, 2002, may accumulate up to 1040 hours of Time Management Leave.
- b. Employees whose date of hire is on or before June 30, 2002, may accumulate up to 1500 hours of Time Management Leave.
- c. Employees who have received time management merit awards on or before August 30, 2005, shall be entitled to cash compensation of one hundred percent (100%) of the amount of hours in the employee's time management merit award leave bank.

3. Sell-Back

Employees are not eligible to sell back any accrued Time Management Leave to the County in exchange for compensation, except as set forth in 7.2(M)(5).

4. Time Management Leave Compensation at Separation

*General Separation.* Regular employees whose date of hire is on or before June 30, 2002, and who are subsequently terminated or separated from employment for reasons other than retirement shall be entitled to cash compensation at one hundred (100%) percent of the first 900 hours of accrued Time Management Leave, and for a minimum of sixty-five (65%) percent of accrued Time Management Leave for any remaining hours. Regular employees whose date of hire is on or after July 1, 2002, and who are subsequently terminated or separated from employment for reasons other than retirement shall be entitled to cash compensation at one-hundred (100%) percent of up to 300 hours of accrued Time Management Leave. The remaining hours of Time Management Leave shall not be compensated.

- a. *Retirement.* Employees who retire from County employment shall be entitled to cash compensation at one hundred percent (100%) of the first 900 hours of their accrued Time Management Leave. Any remaining Time Management Leave will be paid as follows:
  - i. Employees with more than five (5) years of continuous employment with the County shall be paid seventy-five percent (75%) of any remaining accrued Time Management Leave.
  - ii. Employees with more than ten (10) years of continuous employment with the County shall be paid eighty-five percent (85%) of any remaining accrued Time Management Leave.
  - iii. Employees with more than fifteen (15) years of continuous employment with the County shall be paid ninety-five percent (95%) of any remaining accrued Time Management Leave.
  - iv. Employees with more than twenty (20) years of continuous employment with the County shall be paid one hundred percent (100%) of any remaining accrued Time Management Leave.
- b. *Longevity Award.* Employees who were hired on or before August 30, 2005, and who have at least twenty-five (25) years of continuous employment with the County shall be paid one hundred percent (100%) of any accrued Time Management Leave plus an additional 125 hours for longevity.
- c. *Death or Permanent Disability.* In case of death or permanent disability, compensation for any accrued Time Management Leave hours shall be paid to the employee or their heirs.

5. Accrued Time Management Leave Conversion

Employees who have accrued Time Management Leave may convert or exchange their accrued Time Management Leave in any combination of the following:

- a. Employees may retain their accrued Time Management Leave and receive cash compensation in return upon retirement or termination.
- b. Employees may, at any time, sell back up to fifteen (15) hours of their accrued Time Management Leave on a monthly basis, at the rate of one hundred percent (100%) of the employees' hourly wage.
- c. Employees may, at any time, sell back all or any part of their accrued Time Management Leave at the rate of seventy-five percent (75%) of the employees' hourly wage as a lump sum.
- d. Employees may, at any time during each calendar year, place up to \$3,500.00 of their accrued Time Management Leave into a deferred compensation plan, at the rate of one hundred percent (100%) of the

employees' hourly wage.

- e. Employees may retain their accrued Time Management Leave and use it as paid time off, including vacation, sick leave, or personal leave, upon approval from the employee's department head.

6. Time Management Merit Awards

Non-union employees who have received time management merit awards shall be entitled to cash compensation of one hundred (100%) of the amount of hours in the employees' time management merit award leave bank upon retirement or termination of employment.

N. WAGE ADJUSTMENT

1. Wage and Benefit Survey

The Human Resources Director will conduct a wage and benefit survey of selected and representative non-union classifications every three (3) years. The comparable employers surveyed will include the standard County comparators (based on similar populations). When insufficient data is available human resources may use regional employers from the public and private sector. The positions surveyed will reasonably match the County's position descriptions. The criteria to be utilized in determining the classifications selected for the survey shall include: Recruiting and retention statistics; the length of time and the survey results from the last classification survey; the results of internal wage comparisons between similarly evaluated classifications; and supervisor-employee wage compression data. In order to maintain an effective work force of non-union employees, a base salary differential of 10% above the average of subordinates is a realistic goal, with some limited exceptions, such as for supervision of highly compensated medical or technical personnel.

2. Wage Adjustment

The Board of County Commissioners will review the results and recommendations from the Wage and Benefit Survey and adjust, where determined appropriate by the Board, non-union employees' compensation in order to maintain fair and equitable compensation levels.

O. STATEMENT REGARDING PAY PRACTICES

The County makes all efforts to comply with applicable Oregon and federal wage and hour laws. In the event you believe that the County has made any improper deductions, has failed to pay you for all hours worked or for overtime, has failed to pay you in accordance with the law, or has failed to properly calculate your wages in any way, you must immediately report the error to the Human Resources Department. The County will investigate all reports of improper pay practices and will reimburse employees for any improper deductions or



omissions. No employee will suffer retaliation or discrimination for reporting an error or complaint regarding the County's pay practices.

### **SECTION 3 – BENEFITS**

Josephine County strives to provide competitive, equitable and cost-effective benefits for employees. Policies, provisions and procedures that govern the benefit programs apply to all benefits-eligible employees. Summary Plan Descriptions for Josephine County benefit programs are distributed to new employees at orientation and a current summary of benefits available to an employee can be obtained from Human Resources at any time. The benefit programs are explicitly defined in legal documents, including insurance contracts and official plan texts. In the event of a conflict between these documents and this policy, the plan documents shall govern.

Additionally, employees subject to a collective bargaining unit may have different benefits available than what is described in this Article. In the event of a conflict between a collective bargaining agreement and this Article, the collective bargaining agreement shall govern.

#### **A. ELIGIBILITY**

Full-time employees and elected officials, except for the District Attorney, are eligible for medical, dental, vision, life, and long-term disability insurance benefits provided by the County. Part-time employees who were hired on or before December 31, 2001, and who remain employed at least half-time (.5 FTE) are eligible for medical, dental, vision, and life insurance benefits provided by the County. Coverage is available the first day of the month following completion of one full month and one partial month of employment, or two full calendar months of employment, whichever is earlier. Part-time employees hired on or after January 1, 2002, are not eligible for any medical, dental, vision, or life insurance benefits through the County.

#### **B. INSURANCE**

##### **1. Health Insurance**

Medical, dental and vision insurances are provided to eligible employees and dependents. Employee premium costs and plan coverage limits vary based on benefit eligibility requirements and union status. Full-time employees shall be mandatorily enrolled in all benefit plans that are established and rated based on group participation and may choose to enroll in voluntary insurance plans made available by the County.

- a. *County Contributions.* The County's contribution toward payment of health insurance benefits are subject to change according to the costs of insurance and the County's ability to pay.

- b. *County Contribution Increases.* Effective October 1 of each calendar year, or the first day of the plan year, the County contribution cap shall be increased by the same percentage as the Medical Rate of the US CPI-W effective for the June to June period preceding each October. The US CPI-W Medical Rate to be utilized will not be the CPI-W for Urban Wage Earners and Clerical Workers for the West – Size B/C that are not seasonally adjusted. The Board of County Commissioners shall review and determine, prior to commencement of Open Enrollment of each calendar year, if an alternative increase will be approved for employees for the plan year.
- c. *Unspent County Contribution.* Any County contribution that is not spent for medical insurance may be utilized to purchase dental and/or vision insurance, with any excess deposited into an employee HSA or HRA.
- d. *Employee Opt-Out.* Employees who provide proof of other group coverage shall receive an additional opt-out payment. Employees may elect to opt out of plan coverage by providing proof annually, and upon request, of alternative health coverage, such as other group insurance (e.g., insurance through a spouse’s or parent’s employer). By opting out, employees forego individual and family health coverage, but they may purchase vision and dental coverage at 100% of premium cost. Employees who elect to opt out of plan coverage will receive a payment on two paychecks per month, less applicable taxes and withholdings.
- e. *Retiree Benefits.* Employees who retire from the County may elect to continue their medical insurance coverage at their own expense until they reach Medicare eligibility or obtain other coverage, whichever comes first.

2. Life, Disability, and ADD Insurance

Life, disability and ADD insurances are provided to eligible employees and dependents. Employee premium costs and plan coverage limits vary based on benefit eligibility requirements and union status. The County contributes to the cost of group life insurance and long-term disability insurance for eligible employees of the County, up to limits described in the Plan Summary, available in Human Resources.

C. OPTIONAL BENEFITS

1. Employee Assistance Program

This free, confidential service is available to all County employees. The EAP can be used to assist employees and eligible family members with any personal problems, large or small. Each covered employee and eligible family members can receive a certain number of personal counseling sessions per situation per year, depending on the specific program. Sessions can be face

to face, over the phone, or online for concerns such as interpersonal conflict, mental health, substance abuse, grief, career development, etc.

Certain educational tools may also be available, such as resources relating to eldercare, childcare, legal consultation, financial coaching, identity theft, home ownership, and gym membership discounts.

More information regarding this service can be obtained by contacting the Human Resources Department.

2. Section 125 Plans (Flexible Spending Accounts)

Eligible employees may participate in the County Flexible Spending Accounts (Section 125 Plans) for medical reimbursement and dependent care. Contributions made by employees are voluntary and in accordance with the plans developed by the County as provided by the Internal Revenue Code. The County does not make contributions to these accounts.

3. Supplemental Insurance Benefits

The County may, from time to time, offer additional supplemental insurance benefits or programs in which employees may voluntarily participate. The type of benefit, allowable participation, and administration of such benefits is within the discretion of the Board of County Commissioners.

4. Membership and Group Consumer Plans

The County may choose to make available membership or group consumer plans which may benefit employees through their voluntary participation. Employees may request such plans by submitting a petition with the signatures of at least twenty-five

(25) employees in support of the plan to Human Resources. The Board of County Commissioners reserves the right to approve or deny the request for implementation of such plans. Optional plans may be terminated with 30 days' notice.

D. RETIREMENT AND DEFERRED COMPENSATION

1. Public Employees Retirement System

Unless otherwise provided in an employee's collective bargaining agreement, County shall assume and pay the six percent (6%) amount to the Oregon Public Employees Retirement System for purposes of ORS 238A.224(2)(b) and, further, the required PERS employee contribution for non-union employees and elected officials is deemed to be "picked up" for purposes of IRC Section 414(h). Eligibility and participation requirements are set by PERS, and participation is not optional for any employee other than elected officials not currently participating. Further details are provided in the PERS handbook at the PERS website, <http://oregon.gov/PERS/>.

## 2. Deferred Compensation Plans

The County offers a voluntary Deferred Compensation Plan under Section 457 of the Internal Revenue Code. The County administers the plan in accordance with the adopted Deferred Compensation Plan and selects the investment providers for the Plan. A copy of the Plan is available in the Human Resources Office.

All employees who are assigned an FTE level of .5 or greater are eligible to participate in the Deferred Compensation Plan. Employees may elect to participate in the Deferred Compensation Plan at any time. The County shall not match any deferred compensation contribution for any non-elected employee. For elected officials, the County will “pick up” PERS at 6%, as well as offer up to a six percent (6%) match to the Deferred Compensation Plan if the elected official opts out of the PERS plan.

## **ARTICLE 8 – TRAVEL & REIMBURSEMENT**

It is the policy of Josephine County to encourage training and professional development for the benefit of the County. Training and professional development includes, but is not limited to, attending and participating in meetings, seminars, conferences, and training courses which are directly related to County services and operations, and which serve to assist employees in improving their job performance. Employee participation in training or professional development shall be subject to prior written approval by the department head. Employee travel time in conjunction with training or County business is considered time worked and should be scheduled within the employee's regular workday whenever possible.

### **SECTION 1 – TRAVEL**

#### **A. IN-STATE TRAVEL**

In-state travel is defined as travel within the State of Oregon. The employee department head or the Finance Director must pre-approve all In-state travel by employees conducting County business, for any reason.

#### **B. OUT OF STATE TRAVEL**

Out-of-state business travel should generally be a rare occasion. All overnight out-of-state travel must be carefully reviewed in advance for necessity and appropriateness by the Board of Commissioners before the business travel is approved in writing on an estimated Travel Expense Detail signed by the Board of County Commissioners. All approved and authorized out-of-state business travel expenses must have a clear public purpose and serve the public interest. Actual total expenses that come in over 15% higher than the estimated form needs to be reapproved by the Board of County Commissioners.

Commissioner Travel. Out-of-state travel for County purposes by any County Commissioner requires the prior approval of the Board of County Commissioners. Before any reservation or travel arrangement is made that will encumber the County, including the use of an individual County Commissioners' Purchase Card, prior approval is required by the majority of the Board.

#### **C. AIR TRAVEL**

Coach class air travel for County business will be an allowable expense, with approval from the Board of Commissioners. Economy plus or business class air travel, or similar upgrades, for County business, will be an allowable expense for any direct flight that exceeds three (3) hours in length. First class air travel for County business will not be an allowable expense. Airfares to be paid by the County must be reasonable, cost effective and take into account the lowest available fare, total length of flight, travel plan, number of intermediate stops, etc. Costs for non-air travel arrangements shall not exceed the air fare amount the County would

have paid.

D. VEHICLE TRAVEL

1. Employees operating a motor vehicle for the purpose of county business travel are subject to all applicable provisions of Personnel Policy 8.3, Administrative Policy E- 11, and the Fleet Safety Program Handbook.
2. Employees attending the same conference or meeting will be required to travel together in a single vehicle, unless the supervisor determines that separate travel is appropriate due to county business or the needs of the department. Employees who otherwise choose to travel separately may not be reimbursed for mileage.
3. Fleet Assigned Vehicles: If a department has access to a fleet vehicle it is generally more economical to use these vehicles for travel.
4. Rental Vehicles: Where a rental vehicle is determined to be the most economical or reasonable means of travel:
  - a. The County shall pay for the car rental costs and gasoline expenses.
  - b. If more than four employees are traveling to the same event, a larger vehicle upgrade may be approved by the Department Head. If for any reason employees decide not to travel together, only one vehicle rental will be allowed. The department head will decide whether a vehicle upgrade is allowed, and which employee will be provided with the rental vehicle.
5. Personal Vehicles: When an employee is granted permission to use a private vehicle for travel, the County will reimburse the employee at the current IRS mileage rate. Mileage shall be calculated between the travel destination and the employee's workstation or residence, whichever is less. When an employee combines official County travel with holiday, weekend, vacation or other personal travel, transportation must be by the employee's personal vehicle only and must be pre- approved as outlined in this policy. Reimbursements will be made only for those costs necessary for the County's business portion of the trip.
  - a. Mileage reimbursement shall not be paid unless the requesting employee has an acceptable driving record and has provided documentation of valid vehicle insurance.
6. Transportation costs chargeable to the County must be for the most direct route reasonably available.

## **SECTION 2 – EXPENSES & REIMBURSEMENTS**

The Travel and Reimbursement policies apply to all employees in every County Department and Office; Provide consistent, County-wide business travel criteria and standards and ensure compliance with Internal Revenue Service (IRS) business travel reimbursement regulations and guidelines.

### **A. REIMBURSEMENT REQUIREMENTS**

1. The County pays for the travel expenses of County employees who are authorized to travel for the purposes of conducting County business.
2. Employees are encouraged to request a travel allowance based on the “per diem” rate and round-trip mileage if employee’s vehicle is authorized for use. Such requests may be made in advance of the trip and will be payable within ten days preceding the travel date.
3. Employees shall submit a Travel Expense Form with estimated trip costs for overnight travel to the Finance Department for approval in advance of the travel. Upon return, employees must update the Travel Expense Form if any actual expenses have changed.
4. Travel must serve the public interest and be both reasonable and necessary in conducting County business.
5. The County will not reimburse travel costs for persons not employed by the County unless the travel is approved in advance by the Finance Director and department head, and the person is a member of a County board, a volunteer, community partner, a committee member or is involved with a County contract. The reimbursement shall be based on the per diem allowed.
6. The use of County business travel for personal gain, for non-county business, or for use beyond the scope and course of employment, is prohibited, and may subject employees to violations of the Government Ethics laws as well as potential disciplinary action up to and including termination of employment. Employees shall not receive travel awards such as coupons, discounts, credit card rebates, frequent flyer miles, tickets and vouchers while on County business, when such awards can be used for personal (non-official) purposes. Any and all such travel awards must be turned into the Finance Office.
7. Department heads are authorized to establish additional business travel policies directly related to their departments. Department travel policies and procedures shall not conflict with any County Business travel policy.
8. Exceptions to this policy may only be granted by the Board of County Commissioners.

B. REIMBURSEMENT REQUIREMENTS

Each travel event should be documented on a separate Travel Expense Detail form and include all travel costs associated with the event. All required forms and supporting documentation must be delivered to the Finance Office, using the approved forms and procedures in place at that time. Incomplete requests for reimbursement will be returned to the employee. All travel reimbursement requests must be signed by the employee and by their supervisor or department head. Travel reimbursement requests for department heads must be signed by the Board liaison or Designee. Travel forms may be updated as information changes or is acquired, but a single final Travel Expense Detail form must be on file at the conclusion of reimbursement.

C. PURCHASE CARDS

A County Purchase Card may be used for all official travel expenses that are not paid to an employee as mileage reimbursement or per diem allowance. Where a purchase card is used for meals or mileage, the actual cost shall be deducted from the reimbursement amount up to the per diem allowance. Use of a County Purchase Card is subject to the requirements of Administrative Policy B-9.

D. LODGING

Lodging is allowable on County business trips requiring overnight stays at a single rate, unless the room is shared by another County employee and one employee pays the bill and requests reimbursement. Employees shall choose reasonably priced lodging at or near the purpose of the County business travel. Reimbursement for lodging will be based upon the following:

1. Lodging the night before a conference or meeting will be allowed if the employees need to leave home for travel more than two hours before the start of their regular work schedule to reach their destination.
2. The maximum amount of reimbursement for commercial lodging shall be the established government or commercial rate, whichever is less, for single occupancy. Reimbursement for conference lodging at the site of the conference shall be permitted in excess of the government or commercial rate if such rates are not available. Receipts must accompany travel expense reports and claims for reimbursement.
3. Employees shall request exemption from room taxes as may be allowed for government employees.
4. A non-commercial lodging credit (in lieu of other lodging reimbursements) is allowed. This credit is set at a flat rate of \$30.00 per day from the first full day of travel. Examples of non-commercial lodging include lodging at a private residence, RV park, campground, etc.
5. If lodging is provided as part of any conference package, no reimbursement



will be paid to employees.

E. MEALS

1. Federal Per Diem

Meal reimbursement will be the amount set by the Federal Per Diem, except where:

- a. Meals are included as part of the meeting, conference, training, or lodging; and/or
- b. The official program of the meeting includes a scheduled meal with a charge higher than the per diem rate.

Any requests for a higher per diem reimbursement must be accompanied by receipts clearly stating the circumstances involved.

2. Meal Reimbursement Requirements

The County is not obligated to reimburse meal expenses if departure or return time is not necessary to reach destination in a safe and timely manner. All meals between the time the employee must depart (required departure time) and the time the employee returns (required return time) shall be reimbursed, subject to the following restrictions:

- a. In order to claim reimbursement for breakfast, the required departure time must be two or more hours before, or the return time must be two or more hours after, the start of the regular work schedule.
- b. In order to claim reimbursement for lunch, the required departure must be two or more hours before, or the required return time must be two or more hours after, the midpoint of the regular work schedule.
- c. In order to claim reimbursement for dinner, the required departure must be two or more hours before, or the required return time must be two or more hours after, the end of the regular work schedule.
- d. Required departure or return times must be due to County business and/or adverse conditions. If an employee leaves earlier or returns later than the required time for any reason other than County business or adverse conditions, the employee will not be eligible for the applicable meal reimbursement unless the County business and/or adverse conditions would otherwise support reimbursement.

3. Taxable Meal Allowances

Meal allowances not connected with overnight travel are taxable income to employees and are not considered payments under an IRS accountable plan. These reimbursements are subject to withholdings for payroll taxes and will be included in the employees' next payroll check.

F. OTHER ALLOWABLE COUNTY BUSINESS TRAVEL EXPENSES

1. Taxis, shuttle buses, ridesharing, and public transit are reimbursable when use is necessary to conduct County business.
2. Parking meters and parking lot or garage fees are reimbursable. Optional valet parking is not reimbursable.
3. With the approval of the department head, internet access, business faxes, office supplies, postage and other reasonable and necessary business expenses are reimbursable.

Expenditures of a personal nature are not allowable. Examples of these non-reimbursable expenses include: mini-bar and amenities charges; laundry service, room movies, or fees for social events at a conference or meeting (e.g. golf, sightseeing, or spousal/guest entertainment).

G. LOCAL TRAVEL REIMBURSEMENTS

Routine local personal vehicle mileage expenses shall be reimbursed on a monthly basis, based upon the current mileage rate in effect at the time of travel. Requests for local mileage reimbursement for the previous month must be submitted by the first Friday of the month following the month for which reimbursement is requested. Reimbursement requests must be submitted to the Finance Office Local Mileage and Expense Detail Form. The Form must be filled out completely and include supporting information about the purpose of the trip, authorizations, meeting agendas, and certificates of attendance. Incomplete requests will be returned to the employee without being processed.

### **SECTION 3 – VEHICLES FOR COUNTY BUSINESS**

It is the policy of Josephine County to ensure that all County employees and authorized volunteers who operate a County owned motor vehicle, or a personal vehicle while used on official County business, are qualified to drive and drive safely. This policy applies to both County-owned and privately owned motor vehicles, and to all County employees and volunteers.

A. VEHICLE OPERATION ELIGIBILITY

When driving is a condition of employment, the employment offer shall be made contingent upon satisfactory proof of an acceptable driving history. No vehicle, whether a County vehicle, privately owned vehicle, or County or personal UTV, while on County business, shall be operated by an improperly licensed driver or by a driver with an unacceptable driving record as defined within this policy.

1. UTV Operation. In addition to having a valid driver's license and acceptable driving record, employees or volunteers operating a UTV for County business must have an ATV Safety Card, acquired within two (2) years. The ATV Safety Card may be obtained at [rideatvoregon.org](http://rideatvoregon.org).

2. Privately Owned Vehicle. In addition to having a valid driver's license and acceptable driving record, no driver, while on County business, shall operate their privately owned vehicle without the minimum amount of state required private party insurance on their privately owned vehicle.
3. It is the responsibility of each supervisor to see that all employees whose job classification or volunteer responsibilities require driving a motor vehicle as an essential job duty have fulfilled the requirements of this policy.

Use of County vehicles for personal gain, for non-county business, or for use beyond the scope and course of employment, is prohibited, and may subject employees to legal and/or disciplinary action, up to and including termination of County employment.

**B. EMPLOYEE DRIVER QUALIFICATIONS**

1. New hires and current employees must have an acceptable driving record to qualify for, or to retain, a position that requires driving a motor vehicle as an essential job duty. A prospective employee from out-of-state must possess a valid Oregon driver's license within thirty (30) days of obtaining employment with Josephine County.
2. An acceptable driving record is present when the driver possesses a valid Oregon driver's license, except as modified below:
  - a. Where a specific type of license or endorsement, such as a Commercial Driver's License (CDL) is required to operate a specific type of vehicle, an acceptable driving record includes possession of a proper licensing for the particular vehicle.
  - b. Where driving a motor vehicle is an essential job duty, an employee or applicant must also meet the following criteria. Any accidents or citations, on or off duty, in a work or personal vehicle are considered to be a violation for the purpose of these rules:
    - i. No major violations in the previous five years. Major violations include but are not limited to: driving under the influence of alcohol or drugs; driving while license is suspended or revoked; leaving the scene of an accident; reckless driving; or road rage incidents. Current employees as of adoption of this policy may be granted an exception at the Board of County Commissioners' discretion if they have had no major violations within the previous three years.
    - ii. Employees must have had no more than two minor violations in the previous three years. Minor violations include but are not limited to: speeding 20 MPH or less over the posted limit; failure to obey a traffic control or signal; improper lane change; failure to signal; failure to yield the right of way; or failure to wear a seat belt.

- iii. Employees must have had no more than two at-fault accidents involving property damage in the previous three years. All accidents are considered at fault unless proven otherwise.

Two or more at-fault accidents involving property damage combined with two or more minor violations in the previous three years are considered an unacceptable driving record.

- c. When criminal record or driving record requirements are mandated by contract or other regulations.

The department head may approve employees and volunteers using their own personal automobiles on County business, provided that each employee or volunteer carries the state minimum required insurance coverage. The employee's insurance coverage shall be primary coverage, and the County's insurance shall be secondary coverage. Employees who drive their personal automobile for County business must provide annual verification of insurance in order to receive reimbursement for mileage.

- 3. Property damage or theft to an employee's private vehicle (collision and comprehensive insurance), repairs, maintenance or operating costs, personal injury protection and uninsured or underinsured motorist coverage are not available under the County's insurance policy and are not reimbursable by the County.
- 4. Final candidates for County positions that require driving shall provide the County with a certified copy of their driving record. Final candidates who do not provide the required record will not be considered for employment in positions that involve driving. The County will not reimburse applicants for the cost of obtaining the driving record.
- 5. The county shall use the DMV employer database to receive notifications of changes to an employee's driving record.
- 6. Employees who have a position that requires driving for the County shall immediately inform their supervisor of any traffic incident they are involved in and/or change in driving status that affects the employee's ability to perform their duties including the following;
  - a. If they receive, whether on or off the job, a restriction or revocation of driver's license, or any other change in their driving status.
  - b. If they are charged with any major or minor moving violations or are involved in any at-fault accident involving property damage or injury.
  - c. If they cease to have the required level of insurance on their privately owned vehicle(s) operated on County business.

C. SAFETY AND SECURITY

1. All drivers of vehicles and equipment on County business will exercise reasonable caution and care while operating the vehicle or equipment. Operators of County vehicles or equipment shall refrain from any acts that would prevent safe operation of vehicles or equipment, such as eating, drinking beverages, etc.
2. Use of cell phones without hands-free functionality is prohibited.
3. Smoking or tobacco use while operating or riding in County vehicles or equipment is prohibited.

Safe driving practices include taking steps to ensure the driver's total concentration and safe operation of vehicles, such as determining clear directions before departing, not operating a vehicle when the driver's ability to react is impaired, and other defensive driving practices. Drivers shall obey all traffic laws and comply with all registration and licensing requirements.

4. All drivers and passengers of vehicles shall wear safety belts as required by Oregon law, such as when a vehicle is in fixed route or commuter route service. It is the responsibility of the driver to see that all passengers comply.
5. Operation of a motor vehicle on County business, whether privately or County owned, while consuming or under the influence of alcohol or controlled substances, is strictly prohibited.
6. Employees who use medications or substances that may impair the employee's ability to operate a motor vehicle must report such work restrictions to the supervisor prior to operation of a vehicle. Employees may be asked to provide proof of the restriction from driving and the duration for which the impairment is expected to last.
7. Employees shall take reasonable care not to park County vehicles in front of establishments which may cause public concern, unless for the express reason of conducting County business (e.g. health inspections, law enforcement). Employees shall not use County vehicles while on or off duty to patronize establishments which may cause public concern.
8. County vehicles shall be parked in a secure manner, and in as secure an area as possible. When not in use, the vehicle shall be locked.
9. Employees shall not relinquish control of a County vehicle to a non-authorized individual unless an emergency exists.
10. When driving conditions are hazardous, supervisors should reassign or reschedule drivers until such conditions have abated. This provision does not apply to police and emergency personnel, or to the Public Works

employees, who are specifically assigned to clear roads and right of way hazards.

11. Pets are not allowed in County vehicles. This prohibition does not apply to service or working dogs and activities relating to the Animal Control Department. Transit may allow transportation of pets, provided the pet is restricted to being secured in a carrying device.
12. Only authorized passengers are allowed to ride in County vehicles and other vehicles while in use for County business. Authorized passengers include:
  - a. County employees conducting County business;
  - b. Officer and agents representing the County;
  - c. Volunteers acting on behalf of the County;
  - d. Vendors and contractors working on behalf of the County;
  - e. Participants in official County business, training, tours and programs;
  - f. Representatives of other governmental agencies working with County;
  - g. Clients, inmates, and those in custody of the County;
  - h. Public transit users;
  - i. Anyone with prior authorization by the department head.
13. Employees shall not modify County vehicles in any manner.
14. Employees and volunteers must read and provide written acknowledgement that they have read the Josephine County Vehicle Operation Policy prior to operating any vehicle on County business. It is the responsibility of the department head to assure this has been done and that documentation exists in the employee/volunteer's file before the employee operates a County vehicle.

#### D. ACCIDENTS

Each County vehicle shall contain an accident kit including, but not limited to; procedures to follow in the event of an accident, a first aid kit, a fire extinguisher, and insurance information. In the event of an accident, the employee operating the vehicle shall follow the steps outlined in the Fleet Safety Program Handbook.

#### E. USE OF COUNTY VEHICLES

1. Employees are expected to utilize County vehicles for County business whenever it is reasonable to do so. Use of private vehicles for County business requires Department Head approval.
2. Employees operating motor vehicles for County business must comply with applicable Administrative policies and the Fleet Safety Handbook.

3. Employees using County vehicles equipped with GPS tracking on a regular basis shall be issued a tracking system for the fob that should be used any time they are operating a County vehicle. Employees may not use another employee's tracking system for the fob.
4. Employees are prohibited from driving County vehicles home at the end of a workday without the written consent of the Department Head, after approval of the Board of County Commissioners. Consent may be given under one of the following circumstances:
  - a. *Emergency Response Status* - When a department function requires an employee, or a limited number of employees, to be placed in an 'emergency response' status. The 'emergency response' design only occurs in those departments where there is:
    - i. An immediate need to respond to urgent situations and operational emergencies that occur on a frequent basis, and
    - ii. A timely response that cannot be achieved without the employee responding from home is necessary in order for the department to provide necessary and critical services to preserve life and property.

When an employee is assigned to a specific operational emergency as a part of their employment. When the specific operational emergency ends, or when the services of the employee is no longer needed, the employee is then prohibited from driving the County vehicle home.
    - iii. An 'emergency response' designation is not defined as having a vehicle available at home for an employee to return to the regular work site during these urgent emergency situations.
  - b. *Temporary Work Site* - When an employee is required to travel directly from their residence to a temporary, specific work site without first going to their regular work site.
  - c. *Out-of-Town Travel* - When an employee will be attending an out of town meeting, conference, or training which requires departure before regular work hours or which requires the employee to return after regular work hours.
5. The Department Head shall obtain from the Board of County Commissioners authorization for an employee to take a County vehicle home at the end of a workday. "Ongoing" means any authorization that covers recurring instances of the vehicle being stored at the employee's home. The notification shall include the basis for the authorization and any schedule on which the vehicle will be at the employee's home.
6. Departments that have placed specific employees in an 'Emergency Response'

status shall include this information in their annual budget program narrative. The narrative report shall include the positions designated as 'Emergency Response,' the total number of employees assigned, and the reason(s) for the designation.

7. In general, non-law enforcement employees who are placed in an 'Emergency Response' status and who use County vehicles for travel home at the end of a workday are subject to taxable fringe benefits under Internal Revenue Service reporting regulations.



## ARTICLE 9 – USE OF TECHNOLOGY

It is the policy of Josephine County that phones, computers and electronic equipment, information, and messaging be used in a manner which conforms to law and appropriate professional and ethical standards. The use of technology shall be conducted in accordance with this policy. This policy applies to the use of any County computers, phones, and electronic communication or recording equipment, including internet and email, by employees, volunteers, and other authorized users. It also applies to the use of an employee’s personal devices, when they are used for County business purposes.

### SECTION 1 – DEFINITIONS

**“County Business”** means activity engaged in as part of an employee’s job responsibilities or that may affect County operations or administration.

**“Electronic information”** means any information, message, article, letter, software, or other document, file, or data that is stored, obtained, or transferred by phone or computer equipment.

**“Email”** or **“electronic mail”** means any memo, letter, note, report, instant messaging, photograph, sound recording, or other communication between individuals and groups that is stored and/or transmitted in a format that requires an electronic device or a computer to capture and access. “Email” refers to the messages and their attachments carried by the computer system.

**“Information Technology Department”** or **“IT Department”** means the Information Technology Department of Josephine County.

**“Internet”** means all information and sites accessed or contained on the world wide web.

**“Network”** means the computer network system used by Josephine County.

**“Retention period”** means the minimum length of time a public record must be retained by law under State Archives requirements (OAR Chapter 166).

**“Software”** means updates, patches, freeware, shareware, executable files, applications, or other computer programs.

**“Technology”** means phones, computer systems, copiers, fax machines, mobile devices, telecommunication systems, software applications, the internet, and any new technologies that may develop in the future that are authorized to be utilized during employment, or any device which interfaces with these items.

**“User”** means the person authorized to use the computer equipment during employment, including employees and volunteers.

## **SECTION 2 – ACCEPTABLE USE**

### **A. GENERAL REQUIREMENTS**

County electronic equipment and services are provided and intended for County business purposes, and not for personal matters, communications, or entertainment.

#### **1. Access**

Only Users shall be allowed access to County technology. Users shall not install, download, or access any software from any source on a County device without the permission of the Information Technology Department. Unauthorized access to protected resources is prohibited. Employees shall not share passwords or user-specific login information.

#### **2. Use Outside Business Hours**

Non-exempt employees may not use County technology or their personal mobile device for County business outside of their normal work schedule without authorization in advance from their supervisor. This includes, but is not limited to, reviewing, sending and responding to emails or text messages, and responding to calls or making calls. Employees who violate this policy may be subject to discipline, up to and including termination. Nothing in this policy removes a non-exempt employee's obligation from recording time for all hours worked.

#### **3. Security**

Many forms of electronic communication are not secure. Employees who use cell phones, desk phones, fax communications, or email sent over the internet should be aware that such forms of communication are subject to interception. These methods of communication should not be used for privileged, confidential, or sensitive information unless appropriate encryption measures are implemented.

#### **4. Saving of Work**

The Information Technology Department does not back up local drives and may not be able to recover any information that is lost from the local drive of any County electronic device. Users shall save their work on their appropriate network server, or by another method, as determined by their department and IT.

#### **5. Passwords**

Users should take appropriate measures to ensure the privacy of their passwords. Users shall not share their passwords with anyone, or use anyone else's password, except as required by the Information Technology Department staff.

6. Malicious Software Prevention and Protection

Downloading any file, even a document in Microsoft Word, may introduce malicious software (malware) to the device and/or network. Malware includes, but is not limited to, viruses, spyware, adware, and ransomware. If a user receives a file that is questionable or malicious, the County's software may alert the user. If this happens, the user should leave the file unopened, delete the file immediately, and contact the Information Technology Department. Although the County has software to protect against malware, and continues to update it regularly, it is not a complete deterrent to malware problems and employees should remain vigilant. Potential phishing emails shall always be reported to Information Technology and should only be opened after receiving permission from IT to do so.

7. Training Regarding Emails

The County shall provide training and follow up testing of proper assessment of incoming email messages, but it is up to the employee to report suspicious emails (phishing) immediately. Suspicious email is email that, according to the current training, establishes that there is uncertainty as to the identity of the sender, or as to the validity of the links or attachments. Extra attention is warranted when the email is indicated to be from external sources. It is never acceptable to enter your credentials (username and password, or personal information) in response to an email request.

Employees who fail to pass random internal phishing tests will be required to complete further training. If an employee continues to 1) fail internal phishing tests or to 2) respond inappropriately to real phishing emails by clicking on unsafe links or opening attachments, they will have their email account suspended and face progressive discipline up to and including termination of employment.

B. ACCEPTABLE USE

1. User Responsibilities

- a. Users shall be professional, courteous, and respectful in their electronic communications. Users shall not refer to others in disparaging or demeaning terms and are prohibited from making unlawful communications or libelous statements.
- b. Users shall be responsible for the data found on their phones and computers, just as for written or physical materials found in their desks or filing cabinets.
- c. Providing email correspondence from the County Legal Department to persons who are not employed by the County is prohibited without prior approval from the Board of Commissioners or Legal Counsel's Office

- d. Providing email correspondence to persons who are not employed by the County or who are not part of the basis of the email may be prohibited or treated as a public record request. Employees should consider confidentiality in requests for emails.
- e. It shall be the responsibility of each employee to use the electronic systems as follows:
  - i. Use the same level of care when drafting an electronic message as with any other type of message; think before sending the message
  - ii. Be businesslike, courteous, and civil in electronic communications
  - iii. Records and electronic messages which are retained should be moved and saved outside the email system by either a) printing them out, or b) storing them on the server
  - iv. Records and electronic messages that are retained should be organized to allow effective retrieval and identification.

2. Unacceptable use

Employees may not use County internet or other equipment and services to:

- a. Compromise the privacy of other network users
- b. Engage in any illegal activities or use for commercial purposes or political activity
- c. Engage in derogatory personal references, expressions of animosity, or biased against individuals, groups or organizations
- d. Engage in offensive material such as obscenity, profanity, or practical jokes
- e. Access websites that contain obscene, hateful, or other objectionable materials, or that would otherwise violate County policies, unless a specific exception is granted by the employee's Department Head for a work-related purpose.
- f. Change any portion of a previously sent message without authorization
- g. Send electronic messages under another employee's name without authorization
- h. Engage in discriminatory, harassing, bullying, or threatening forms of communication
- i. Engage in intimidating forms of communication or attempting to coerce an employee or other individual to do wrongful acts
- j. Engage in any activity that violates the rights of any person or the County;
- k. Engage in any activity that is protected by copyright, trade secrets, patent, or other intellectual property (or similar laws or regulations);

- l. Engage in activity that violates the right to privacy of protected healthcare information or other confidential information
  - m. Engage in activity that would introduce malware purposefully into a workstation or the network
  - n. Solicit junk mail or subscribe to distribution lists unrelated to County business
  - o. Send offensive messages, including words or pictures that would be considered offensive or inappropriate in the workplace or that would contribute to creating a “hostile work environment.” Examples include, but are not limited to, messages which contain content that could make others feel uncomfortable because of treatment of topics involving sex, race, color, religion, age, national origin, disability, or gender identity.
  - p. Personal use of County technology, except in compliance with County policy, including the following:
    - i. Downloading software or any information requiring storage on County equipment which is not related to assigned job responsibilities
    - ii. Personal communications to social networking sites such as group bulletin boards, chat rooms, instant messaging, personal profile or blogging sites, etc.
    - iii. Playing games (including social media games)
    - iv. Downloading or viewing streaming content, including non-County related videos, movies, and TV shows. Streaming music is allowed, provided it does not contain explicit material, adversely affect network speed, or interfere with others’ ability to work;
    - v. Using County-provided email addresses to create or manage personal accounts (e.g., shopping websites, personal bank accounts, and social media accounts). County email addresses for professional-based social media accounts may be allowed with the approval of the employee’s supervisor
    - vi. Printing materials for personal use, without payment for copies
3. Personal use

The County does not prohibit limited personal use of County technology, including County-provided mobile devices. Limited use includes brief communications (phone call, text message, email, fax, etc.), accessing internet sites, typing a letter, etc. The County recognizes that employees occasionally have a need for personal use during regular working hours and that, in today’s electronic environment, use of technology for this purpose

may be more efficient. The County recognizes that personal use for these limited purposes during working hours is less disruptive provided that the use is brief, infrequent, and in compliance with the acceptable use guidelines for use of County technology. Employees shall not allow family or friends to use County technology. Employees should be aware that communications made using County electronic equipment for personal use are not private.

C. USE OF PERSONAL COMMUNICATION FOR COUNTY BUSINESS

Use of personal equipment to conduct County business is discouraged. If an employee uses their private email or other communication account to conduct County business, then the employee shall copy their work email account or otherwise document the communication as soon as possible. Text messages shall not be used for official purposes other than routine communications that do not meet the definition of a “public record.” See Administrative Policy F-7 for clarification. Personal equipment used to conduct County business may be subject to search.

D. VIOLATION OF POLICY AND LIABILITY

Violation of County policy regarding use of technology may result in disciplinary action, up to and including termination of employment. In addition, violators may be personally liable and/or subject to personal penalties under state or federal law as follows:

1. for any licensing infringement due to unauthorized use of computer software;
2. for any damage caused by malware from failure to comply with this policy; or
3. for any damage caused by the installation of unauthorized software.

In addition, routine use of technology, with the exception of personal use of cell phones, in order to avoid a financial detriment (including purchase of a computer or subscription to an internet service provider) may be considered an ethics violation and may subject an individual to penalties under the state Government and Ethics laws.

### **SECTION 3 – OWNERSHIP AND CONTROL OF TECHNOLOGY AND RECORDS**

Employees have no right of privacy for any information contained on any County computer or other device. Any data created, received, or transmitted using County equipment or services are the property of County and may be recovered even though deleted by the user.

All use of technology by employees is subject to County oversight. Appropriate County personnel have the right to view the contents of an employee’s email mailbox, phone records, texts or similar communications, or records of internet site access at any time on all devices provided by the County.

A. OWNERSHIP

1. All devices provided by the County are the property of the County and may not be removed from County premises unless it is for County business purpose. Phone numbers are the property of the County and may not be transferred to an employee for personal use without approval from the Board of Commissioners.
2. All information and communications in any format, created or stored by any means on, or received or transmitted via County electronic equipment is the sole property of County and is subject to inspection at any time without notice. Personal passwords may be used for purposes of security, but the use of a personal password does not affect County's ownership of the electronic information, electronic equipment, or services, or County's right to inspect such information. County reserves the right to access and review electronic files, documents, archived materials, messages, email, voicemail, and other such material to monitor the use of all County's electronic equipment and services, including all communications and internet usage and resources/sites visited. County will override all personal passwords if it becomes necessary to do so for any reason.

B. UNAUTHORIZED ACCESS

1. Employees are not permitted access to the electronic communications of other employees or third parties without specific authorization to do so. No employee shall monitor, examine, change, or use another person's communications, files, output, username, or password without specific authorization to do so. IT shall provide access only under the following circumstances, which must be documented in writing:
  - a. Upon request of the RMO or Legal Counsel pursuant to a Public Records Request;
  - b. Upon request of Human Resources for the purpose of an employment investigation pursuant to Article 11;
  - c. Upon request of Legal Counsel relating to litigation or court order;
  - d. Upon request of law enforcement investigating criminal conduct; or
  - e. Upon request of a Department Head, and upon approval of the Board of County Commissioners, for purposes of continuing operations following the departure or long-term unavailability of an employee.
2. Employees shall be notified immediately if their communications and/or files are being accessed pursuant to paragraphs 1(a), (c), or (e) above. Employees shall be notified upon completion of any investigation involving paragraphs 1(b) or (d) above. Department Heads and Legal Counsel shall be notified immediately if access is made pursuant to paragraph 1(b) or (d).

3. Work by the IT Department in the course of their duties shall not be considered unauthorized access under this section.

C. PERSONAL HARDWARE AND SOFTWARE

Employees may not install personal hardware or software on County's computer systems or mobile devices without approval from IT. All software installed on County's computer systems must be licensed. Copying or transferring County-owned software to a personal device/equipment may be done only for personal devices/equipment used for County business and with the written authorization of the IT Director.

D. OREGON PUBLIC RECORDS DISCLOSURE AND RETENTION

Electronic communications using County technology constitute "public records" under Oregon Public Records law (ORS 192.410, et seq.), even if the sender or writer of the communication does not intend for the message to be made public. County business conducted on personal devices also constitutes "public records." All electronic communications are subject to disclosure and retention requirements under ORS

192.410 and Oregon Administrative Rules, Chapter 166. Electronic communications, like other public records, must be available upon request to any member of the public unless the record or communication is exempt by law from disclosure. Employees shall apply the appropriate disclosure and retention rules to electronic records created, sent, and received. Questions concerning public records and retention requirements should be directed to a department head or Legal Counsel.

E. STORAGE, ORGANIZATION, AND RETRIEVAL

Users should systematically file and maintain emails for convenient retrieval and retention and follow any standardized filing rules within the user's department. The Information Technology Department shall be responsible for the retention of email documents pursuant to the Public Records laws for up to three (3) years. The retention of Public Records requiring longer than three (3) years shall be the individual responsibility of each user and Department. Users should not expect that email messages will be retained or stored by the Information Technology Department for a period longer than three (3) years.

## **SECTION 4 – MOBILE DEVICES**

This policy applies to employee use of cell phones, smart phones, tablets, and similar devices, all of which are referred to as "mobile devices" in this policy. When using mobile devices employees should remain aware of their surroundings and who or what may be able to see, hear, or intercept the information.



A. COUNTY-PROVIDED MOBILE DEVICES

Mobile devices are made available to County employees on a limited basis to conduct County business. Determinations as to which employees receive County-provided mobile devices will be made on a case-by-case basis by Department Heads; employees are not guaranteed a cell phone or cellular device. Cell phones may be issued to employees when:

1. The employee's job duties require time away from the employee's regular work site, and a cell phone is required to conduct County business in a safe or productive manner;
2. The employee's job duties require the employee to be accessible outside of their regularly scheduled work hours or in emergency situations; or
3. A department requires a cell phone to be available for use on a rotating or intermittent basis to conduct County business outside of normal work hours or in emergency situations.

Employees who receive a County mobile device must agree to not use the mobile device for personal use except in emergency situations and must abide by all policies relating to Use of Technology in using a County-provided mobile device.

Employees who receive a County mobile device must acknowledge and understand that any communications (including text messages) received by or sent from the mobile device may be subject to inspection and review if County has reasonable grounds to believe that the employee's use of the cell phone violates any County policy.

Employees shall promptly notify their supervisors of any problems in service, or any lost or stolen mobile device so that appropriate action can be taken.

Mobile devices that are replaced or no longer needed shall be returned to the IT Department to be disposed of in accordance with the applicable cell phone contract or County policy for surplus property.

B. PERSONAL MOBILE DEVICES

Employees are allowed to bring personal mobile devices to work with them. During working hours, however, employees should refrain from using them for personal reasons, except in an emergency or during a meal period or rest break. Employees should not use personal mobile devices to conduct County business, unless such communication is through County systems.

1. Personal Device Agreement

Employees who have a Personal Device Agreement on file with the County may be allowed to use their personal mobile device for County business. Personal Device Agreements are maintained and approved by IT. IT at its discretion may require Mobile Device Management (MDM) software on

personal devices for the purposes of security and records retention. A Personal Device Agreement will be subject to the approval of the employee's Department Head and may limit the specific uses of a personal mobile device. At a minimum, employees using a personal device for County business must agree to:

- a. Follow the policy regarding use of personal devices and all other County policies when conducting County business on a personal mobile device.
- b. Comply with preservation letters and immediately notify the Human Resource Director if a personal mobile device contains any information related to the subject of a preservation letter, and work with IT to obtain or preserve the information.
- c. Provide copies of, sign consent forms for the release of, or allow County access to the device to obtain records of incoming or outgoing calls or text messages specifically required to respond to a public records request or to conduct an employment investigation.
- d. Provide copies of, sign consent forms for the release of, or allow County access to the device to obtain the content of text messages or user location data that is County business-related and specifically required to respond to a public records request or that is necessary to conduct an employment investigation.

## 2. Use of Personal Devices

The personal mobile device may be used for one or more of the following County business purposes, as approved by the employee's Department Head, once a Personal Device Agreement has been implemented:

- Email
- Phone Calls
- Text and other forms of instant messages. Employees are encouraged to communicate for County business through the County's instant messaging application, rather than text message or other instant message. Any text or other instant message conducting County business that is sent or received through a system that is not County-owned must be captured and sent to a County-owned system.
- Creation and modification of files, as long as they are stored on the County network.
- Video meetings – Teams or County Zoom account logins should be used for all County business meetings

## 3. Prohibited Use of Personal Devices

An employee's personal device may not be used as follows:

- a. Viewing, transmitting, or storing confidential information, regardless of whether it is for County business;
  - b. Storing notes, files, or other data related to County business (County information must be stored on a county device or County network location);
  - c. Violation of any County policy, including, but not limited to, the County's discrimination, harassment, or bullying policy.
4. Access for Investigation

An employee who refuses to comply with the terms of the Personal Device Agreement in connection with an investigation and after reasonable notice may be subject to discipline, up to and including termination.

## **SECTION 5 – ARTIFICIAL INTELLIGENCE – CHATBOTS**

This policy aims to ensure that employee use of AI Chatbots conforms with County's policies and goals relating to privacy, confidentiality, and data security and is used to enhance productivity and efficiency.

Although AI takes many forms and can serve many different functions, this policy addresses only the use of a web-based interface to ask or "prompt" the chatbot in a conversational manner to find answers to questions or to create or edit written content (e.g., Open AI's ChatGPT and Google's Bard). This policy applies to all County employees and to all work associated with County that those employees perform, regardless of location (on or off County premises).

### **A. AI USAGE IN GENERAL**

Employees wishing to use AI chatbots in connection with work should discuss the parameters of the intended use with their supervisor. The supervisor may approve, deny, or modify the requested parameters as best meets County policy, legal requirements, or other needs of the County. Supervisors may consult with the IT Director when there is a question as to whether a request should be approved. A supervisor may not approve any request to use AI when the use will involve entering proprietary or confidential County data without review and approval by the IT Director.

#### **1. Appropriate use**

Authorized AI-generated uses include general knowledge questions meant to enhance understanding on a work-related topic; to brainstorm ideas related to projects being worked on; to create formulas for Excel spreadsheets or similar programs; to develop or debug code (to be verified before use); to draft an email or letter; to draft job descriptions or job announcements; or to summarize online research or to create outlines for projects.

2. Citation

All AI chatbot-generated content must be properly cited as “AI chatbot-generated content” when used as a resource for County work, except for general correspondence (such as email or text).

3. Accuracy Review

All AI-generated content must be reviewed for accuracy before relying on it for work purposes. If a reliable source cannot be found to verify actual information generated by the chatbot, that information cannot be used for work purposes.

4. Records Retention

Employees must always comply with Oregon’s retention records and public records laws, and any County policy relating to the retention or destruction of public records.

B. PROHIBITED AI USES

Prohibited AI-generated uses include:

1. Using any text created by an AI chatbot in final work products of any kind, except as noted above;
2. Copying/pasting, typing, or in any way submitting County content or data of any kind into the AI chatbot;
3. Inputting confidential or sensitive information about County employees (past or present), any individual with reasonable or legally protected privacy interests, or descriptions of County personnel matters into the AI chatbot; or
4. Inputting data or information into an AI chatbot that discloses confidential, proprietary, or personal information of the County, its employees, or any member of the public.

C. ETHICAL USE

Employees must use generative AI chatbots in accordance with all County policies and values. These technologies must not be used to create content that is inappropriate, discriminatory, or otherwise harmful to others or County. Such misuse will result in discipline, up to and including termination of employment.

D. MONITORING

All County policies relating to computer usage, mobile devices, and the like apply when using AI chatbots on work time and/or for work purposes, regardless of whether the equipment is owned or provided by County.

## SECTION 6 – SOCIAL MEDIA

For purposes of this policy, “social media” includes all means of communicating or

posting information or content of any sort on the internet, including to the employee's or any other web log or blog, journal, or diary, personal or commercial website, social networking website, web bulletin board, or a chat room, whether or not associated or affiliated with the County, as well as any other form of electronic communication.

Ultimately, employees are solely responsible for what they post online. Before creating online content, employees should consider some of the risks and rewards that are involved. They should keep in mind that any conduct that adversely affects their job performance, the performance of coworkers, or otherwise adversely affects County residents, employees, or the County's legitimate business interests may result in disciplinary action up to and including termination.

A. PROHIBITED POSTINGS

1. Employees will be subject to discipline, up to and including termination, if they create and post any text, images, or other media that violate any County policies, including the County's discrimination, harassment, bullying, or employee conduct policies. Similarly, postings that include threats of violence, that are physically threatening, intimidating, bullying, or harassing, will not be tolerated and may subject an employee to discipline, up to and including termination.
2. Employees should not create a link from their blog, website, or other social networking site to a County-owned or maintained website without identifying themselves as a County employee.
3. Employees should express only their personal opinions on social media that is not maintained by the County. Employees shall not represent themselves as a spokesperson for County unless they are authorized by their supervisor to do so. If County is a subject of the content an employee is creating, employees should be clear and open about the fact that they are a County employee and make it clear that their views do not represent those of County or its employees or elected officials.

B. ENCOURAGED CONDUCT

Nothing in this policy is meant to prevent an employee from exercising their right to make a complaint of discrimination or other workplace misconduct, engage in lawful collective bargaining activity, or to express an opinion on a matter of public concern that does not unduly disrupt County operations. Employees are free to express themselves as private citizens on social media sites, but an employee's exercise of expression is balanced against the County's interest in the effective and efficient fulfillment of its responsibilities to the public.

Employees should be fair and courteous to coworkers, employees, elected officials, County residents, and suppliers or other third parties who do business with County.

Employees should keep in mind that they are more likely to resolve work-related complaints by speaking directly with their coworkers or supervisor, or utilizing the County's Open Door policy, than by posting complaints to a social media outlet. Employees who decide to post complaints or criticism should avoid using statements, photographs, video, or audio that reasonably could be viewed as malicious, obscene, threatening, intimidating, that might disparage citizens/coworkers/County employees/elected officials, that might constitute harassment or bullying, or that violate County policies. Examples of such conduct include offensive posts that a reasonable person would perceive as calculated to intentionally harm an individual's personal or professional reputation, or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion, or any other status protected by law or County policy.

Employees must maintain the confidentiality of County's confidential information. Failure to maintain confidential information, or the use of confidential information for an employee's personal gain, is a criminal offense and may subject an employee to discipline up to and including termination. Any questions regarding the confidentiality of any information should be addressed to the Risk Manager or County Legal Counsel.

C. REQUEST FOR EMPLOYEE SOCIAL MEDIA PASSWORDS

County supervisors are prohibited by law from requiring or requesting access to an employee's or an applicant's personal social media account. This includes, without limitation, obtaining in any way a username and password that would allow access to a private email or social media account.

Nothing in this policy prohibits the County from requiring an employee to produce content from their social media or internet account in connection with a County investigation into potential misconduct, unlawful or unethical behavior, or violation of any policy or rule.

## **ARTICLE 10 – MISCELLANEOUS POLICIES**

### **SECTION 1 – PERSONAL PROPERTY**

Employees should not bring unnecessary personal property to the workplace. If valuables are brought to the workplace, it is the employee's responsibility to take precautions to keep items secure. The County does not generally cover loss or damage to an employee's personal property, though exceptions may be made by an employee's Department Head. Personal property damage or theft should be reported to the Risk Manager immediately upon discovery of the loss, with an incident report and supporting documentation submitted within ten (10) business days. Thefts and intentional damage to an employee's personal property should also be immediately reported to law enforcement.

# **ARTICLE 11 – COMPLAINT, INVESTIGATION, AND DISCIPLINARY ACTION**

## **SECTION 1 – PERFORMANCE MANAGEMENT**

It is the policy of Josephine County to promptly identify and correct problems with employee behavior, performance, and conduct, as well as violations of County policies and work rules. When appropriate, clarification of work expectations and guidance in performance improvement will take place through employee-supervisor discussions. When necessary, action that the County deems appropriate to the nature of the offense or violation will be taken, up to and including termination of employment. It is County policy to apply the principles of progressive discipline and corrective action where appropriate, to correct unacceptable behavior, conduct, and performance that interferes with accomplishing the mission, operations, action plans, goals, and objectives of the County. The policy is not intended to convey any additional procedural and/or legal rights to employees, nor is it intended to provide any rights beyond those established in a collective bargaining agreement or otherwise provided by law.

## **SECTION 2 – OPEN DOOR POLICY**

The County's Open Door Policy is based on the belief that open, honest communication between managers and employees should be a common business practice. County's managers and supervisors are responsible for creating a work environment where employee input is welcomed, and where issues are identified early and shared without the fear of retaliation (when the employee provides the input in good faith). If any employee has a complaint, concern, suggestion, or question about their job, working conditions, or the treatment received from anyone in County, employees should raise them first with their immediate supervisor or Department Head. If the concern is regarding the Department Head, the matter should be raised with Human Resources. If the employee is not satisfied with the response from the immediate supervisor or Department Head, then the employee should raise the matter with Human Resources.



## SECTION 3 – DEFINITIONS

“Actor” or “Alleged Actor” means the employee the complaint indicates engaged in unacceptable conduct “Complainant” means the person(s) raising a complaint regarding the conduct of an employee.

“Employee”, for purposes of this Article, includes volunteers and advisory board members acting within the scope of their association with Josephine County.

“Discipline” or “Disciplinary Action” means action taken in response to improper employee conduct, including a documented verbal warning, written warning, written reprimand, last chance agreement, demotion, or dismissal. It does not include actions by the County to educate or assist employees in

performing their duties, such as letters of instruction or improvement plans.

“Complaint” means any statement that a situation is unsatisfactory or unacceptable.

“Investigator” means the supervisor, Department Head, or Human Resources Director or designee

who is tasked with initial review, response, and/or investigation regarding a complaint.

“Written Complaint” means an email or document from the complainant containing the following information:

1. Who is involved
2. The circumstances surrounding the complaint, and from which the complaint arose;
3. The date, time, and place of the occurrence of the conduct;
4. The particular policies, rules, and/or laws which are claimed to have been violated; and
5. The remedy or corrective action sought.

## SECTION 4 – PROTECTION AGAINST RETALIATION

Josephine County prohibits retaliation in any way against an employee because the employee has made a good-faith complaint pursuant to this policy or the law, has reported (in good faith) sexual assault, harassment, or discrimination, or has participated in an investigation of such conduct. Employees who believe they have been retaliated against in violation of this policy should immediately report such retaliation pursuant to this policy as outlined under open door policy above. Any employee who is found to have retaliated against another employee in violation of this policy will be subject to disciplinary action up to and including termination of employment.

## SECTION 5 – COMPLAINTS

Anyone that believes a situation is unacceptable, who has experienced or witnesses a violation of County policy, or who has information about such violations occurring, is expected to bring the matter to the attention of a manager or Human Resources as soon as possible. Complainants are strongly encouraged to document the information or incident in written or electronic form, or with a voicemail message. All complaints and reports will be promptly reviewed and impartially investigated, and will be kept confidential to the extent possible, consistent with the County's need to investigate the complaint and address the situation. If conduct in violation of this policy is found to have occurred, County will take prompt, appropriate action, and any employee found to have violated this policy may be subject to disciplinary action, up to and including termination.

### A. SOURCE

Complaints about the conduct of a County employee can be made by any other employee or any member of the public. The process of review and action will not differ based on the source. A complaint may initially be raised verbally or in writing. Anonymous complaints may be accepted, but no action will be taken without sufficient information to be able to determine whether the alleged conduct occurred.

### B. EMPLOYEE PARTICIPATION

Employees, including Complainants, Alleged Actors, witnesses, or any other roles are expected to cooperate with all employment investigations. Cooperation includes: meeting with investigators, answering questions completely and truthfully, and providing any documents or other materials requested.

### C. CONFIDENTIALITY

The investigator will be discreet with information received during an investigation. However, there may be times where the identity of a complainant can be inferred as a result of following up on the allegations. Reports of unlawful or improper conduct will be kept confidential to the extent allowed by law and consistent with the need to conduct an impartial and efficient investigation. Investigators will make reasonable attempts to ensure that all discussions regarding employee performance is conducted in a private and confidential manner, and that final reports are designed to preserve the confidentiality of communications provided to the investigator.

### D. INVESTIGATIONS

If Human Resources determines a potential serious violation of policy has occurred, a thorough formal investigation shall be conducted in order to provide an objective process for identifying inappropriate behavior, conductor performance problems, the protection of employees wrongly

accused, and a protection for complainants, and a procedure to limit civil liability of the County from false or exaggerated claims. All formal investigations will include a Notice of Investigation issued by or pre-approved by Human Resources and provided to the employee under investigation at the onset of any formal investigation.

#### E. INVESTIGATOR

1. A member of the public raising a complaint about the conduct of a County employee should contact the County employees Department Head, Human Resources or the Board of County Commissioners. If a complaint is brought to the Board of County Commissioners, it will be forwarded to the employees Department Head, or Human Resources, for review and action pursuant to this policy.
2. Where the Complainant is a County employee, the Complainant should contact their own supervisor regarding the complaint, unless their own supervisor is the Alleged Actor. If the complaint relates to the conduct of an Alleged Actor in another department, the Complainants supervisor will coordinate with the Alleged Actor's supervisor to review and act pursuant to this policy.
3. Complaints regarding the conduct of a Department Head (with the exception of Human Resources) or County Commissioner should be reported or directed to Human Resources. Complaints regarding the conduct of the Human Resources Director should be reported or directed County Legal Counsel or Board of County Commissioners.
4. The Human Resources Director may refer any investigation into other Department Heads or employees to an independent investigation source at their discretion.
5. All County personnel that may act as an Investigator shall complete training on the handling of complaints but may not begin an investigation that could possibly result in discipline action without a formal notice of investigation issued in coordination with Human Resources.
6. At any time, Investigators may seek guidance or assistance from Human Resources.
7. The Investigator should either:
  - a. have a neutral witness in the room during an investigation meeting, who shall take notes and prepare the summary; or
  - b. record the meeting.
8. Only Human Resources Director or County Legal Counsel shall reach out for external assistance in investigating or addressing complaints or disciplinary action.

## F. INITIAL REVIEW

1. Upon receipt of a complaint, the Investigator will promptly evaluate the allegations to determine which of the following processes would be the most appropriate response.
  - Informal Conversation. For complaints that are interpersonal in nature and/or do not involve policy violations, and which are not raised by an employee's supervisor.
  - Informal Complaint Process. For interpersonal disputes, minor policy violations, and other allegations where it appears unlikely that demotion or dismissal may be appropriate if the allegations are sustained.
  - Formal Complaint Process. Significant policy violations or allegations where demotion or dismissal may be appropriate if the allegations are sustained.

## SECTION 6 – INFORMAL CONVERSATION

Where an informal conversation is appropriate, complaints will first be addressed through informal conversation between, the Investigator and the complainant and, if appropriate, the alleged actor and/or other employees or witnesses. Such conversations may occur individually or in groups. The goal of the informal conversations is to resolve interpersonal issues and resume a professional working environment.

The informal conversation path does not include an investigation into any allegations of conduct and may not result in disciplinary action. Where the informal conversation suggests potential violation of County policy that should be reviewed further, the complaint will be escalated to an informal or formal complaint process, depending on the potential outcome if the allegation were to be sustained.

If a complainant is not satisfied with the outcome of the informal conversation and believes that an informal or formal complaint process should be initiated, the complainant shall provide a written complaint to the Investigator and Human Resources within seven (7) days of the informal conversation. The Investigator shall then handle the complaint through the informal or formal complaint process, depending on the policies alleged to be violated and the potential disciplinary action for such violations.

## SECTION 7 – INFORMAL OR FORMAL COMPLAINT PROCESS

The complaint process involves some investigation by the Investigator, notification to the alleged actor, and potential disciplinary action. In the informal complaint process, the Department Head may be both the complainant and Investigator if the Department Head themselves discovered or observed the policy violation.

## A. INVESTIGATION

Throughout the complaint process the Investigator may work with Human Resources to determine the most appropriate course of action. The Investigator may also request that Human Resources handle the complaint. In a complaint process, employees can expect the following:

1. The Investigator will meet with the complainant to discuss the complaint and will follow up with written communication describing the complaint, complainant's rights, and any key procedural information.
2. The Investigator will also meet with any witnesses and gather any documentation relating to the complaint.
3. If the complaint involves a violation of County policy, the Investigator will notify the alleged actor that a complaint has been raised and is under investigation and meet with the alleged actor to discuss the complaint. This will be done with a formal Notice of Investigation issued in conjunction with Human Resources.

Once the investigation is complete, the Investigator or Human Resources Director will contact the alleged actor and the complainant with an update. The complainant will only be notified whether the complaint was determined sustained or unfounded. If the complaint is sustained, the actor will be notified regarding what they can expect next.

1. The Investigator should maintain a file with the investigation information, but a formal investigation report is not required.

## B. DISCIPLINARY ACTION

Where a policy violation is sustained through the complaint process, the Department Head and Human Resources Director shall determine the appropriate recourse. Available outcomes from the complaint process include non-disciplinary actions and corrective actions. Demotion or dismissal requires a full investigation report with sustained allegation, as well as a concurrence between the Department and Human Resources on the level of discipline to be imposed.

With an informal investigation, documentation that a complaint was sustained and of any non-disciplinary or corrective action taken will be forwarded to Human Resources and placed in the actor's personnel file.

## C. ESCALATION

If an informal investigation suggests a more serious policy violation occurred, that demotion or dismissal may be appropriate if the allegations were to be sustained Human Resources should be contacted before moving forward. Although formal investigations may be investigated at the Department level Human Resources must be engaged at this point.

A Notice of Investigation outlining the policies being investigated will be provided to the employee. Either the Department or Human Resources may write the letter, but at no time

should a Notice of Investigation be issued without Human Resources approving the letter.

If Paid Administrative Leave is deemed by both the Department Head and Human Resource Director the paid administrative leave verbiage will be included in the Notice of Investigation. A separate Paid Administrative Leave Letter may be provided by Human Resources if during the investigation it is deemed warranted.

At the conclusion of the investigation a formal report will be drafted that must be signed off by both the Department and Human Resources. This report is not released, but the employee may request a copy of it at the conclusion of the process.

If the findings of the report sustain allegations of a serious violation of a policy a Due Process letter will be provided to the employee for a meeting that will include the employee, Union Representation if the employee chooses, Human Resources Director, and Department Head giving the employee a final chance to provide evidence regarding the findings documented in the Due Process Letter. The employee is given no less than 3 days to prepare for the Due Process meeting.

The Due Process letter will include

1. That dismissal is being considered.
2. The allegations against the employee and such supporting facts that are necessary to inform the employee of the nature of the allegations.
3. The date, time, and place of the pre-dismissal meeting, which is the employee's opportunity to refute the charges or present mitigating circumstances.

Non-Response by Employee. If the employee does not offer any refutation of the charges or present mitigating circumstances, either by not appearing at the pre-dismissal meeting or by not responding to the charge in writing, a decision shall be made without input from the employee. Failure of the employee to appear or respond in writing shall not be construed as an admission or a denial of any charges.

If new facts are discovered during the pre-dismissal meeting, the new information shall be taken into account (and further investigation conducted, if warranted) before a final discipline decision is made.

After the Due Process meeting and any warranted subsequent investigation as a result of the Due Process Meeting and with a fully approved investigation report, a decision will be made on the appropriate level of discipline warranted by the finding. This decision will be made and agreed to by the Department Head and Human Resources and the results of this decision will be communicated with the employee by Human Resources (unless otherwise agreed by the decision team).

Generally, a final discipline decision shall be made no less than 2 hours or more than twenty-one (21) calendar days after the completion of the Due Process meeting.

Human Resources shall communicate with Legal Counsel on any matters that appear reasonably likely to result in litigation, involve significant liability risk. Where dismissal is a likely outcome of a sustained complaint Human Resources will communicate with insurance company or employment attorney as needed.

## **SECTION 8 –DUTY STATUS**

During the investigation of serious allegations, an employee’s duty status may be changed, with the approval of Human Resources. Changes in duty status are neither punitive nor suggestive of a presumed outcome of the disciplinary investigation. If a decision is made to make a change in duty status, the details of the change will be communicated to the employee in a notice approved by Human Resources. The following are duty status options:

- A. Regular Duty Status: No change in present employment status.
- B. Modified Duty Status/Administrative Reassignment: An employee may be assigned alternative duties or a different shift during an investigation.
- C. Duty Stationed at Home: An employee may be assigned to work from home during an investigation. When placed on this status, the following conditions will apply:
  - b. The employee shall remain at their residence during work hours unless otherwise directed and shall receive advance authorization to leave the residence on a case-by case basis (including leaving for lunch and extending work hours). Advance authorization is not necessary if there is an emergency, but the employee shall notify their supervisor as soon as practicable.
  - c. Peace officers shall not exercise officer authority and shall promptly surrender badges and commission cards.
- E. Administrative Leave: An employee may be placed on paid administrative leave and be restricted from performing any work when the nature of an investigation requires a separation from employment in order to limit potential risks and/or liability to the County, or to ensure that an unbiased investigation is completed. While on administrative leave, the employee’s network access shall be suspended. Employees on administrative leave must be available to the County by phone at any time during regular work hours and must be able to meet with County personnel with two (2) hours’ notice, unless advanced authorization for unavailability is obtained.

## **SECTION 9 – DISCIPLINARY ACTION**

Employees shall not be disciplined for insufficient cause. Discipline shall be timely, appropriate to the offense, and generally progressive in nature. The County shall make reasonable efforts to impose such discipline in a confidential manner that will not unduly embarrass the employee. When disciplinary action is contemplated, the employee shall have an opportunity to respond to

the charges as part of the investigation before final disciplinary action is imposed. When demotion or dismissal is considered, the employee shall be notified of the contemplated action and have the opportunity to respond as part of the investigation before final disciplinary action is imposed. Unless they are already involved in the process, Human Resources, should be consulted to assist in the process and determining the appropriate level of discipline.

#### A. PROGRESSIVE DISCIPLINE

Where the County deems appropriate, progressive discipline and corrective action shall be utilized. Specific warning and reasonable opportunity to correct the problem shall generally be given to an employee prior to the imposition of further discipline. However, the variety and complexity of behavior and performance issues does not always permit a set system of progressive discipline and corrective action steps to be applied to every situation. The seriousness of the sustained allegation(s) will be reviewed on a case-by-case basis and then a determination will be made on whether or not progressive discipline and corrective action will be followed. Some acts, particularly those that are intentional or serious, warrant more severe action (including termination) on the first offense.

#### B. EMPLOYEE REPRESENTATION

Where an employee may be subject to disciplinary action they may request the presence of a union representative or their attorney during a meeting on the subject.

#### C. NON-DISCIPLINARY ACTIONS

##### 1. Employee Counseling and Letters of Instruction

Generally, employee behavior, conduct, and/or performance problems can be resolved and corrected with a brief discussion of the issues between the supervisor and the employee. This approach should be the first step where circumstances warrant. Employee counseling and letters of instruction are not considered disciplinary action but copies will be placed in the employee's HR file.

##### 2. Performance Improvement Plans

A Performance Improvement Plan can be utilized in conjunction with discipline but is not considered discipline. A Performance Improvement Plan is a written document signed by the supervisor and employee, with a copy placed in the employees personnel file. The plan may identify job related skills and performance that needs correction within a reasonable time frame. The plan may include references to previous occurrences and/or warnings, and specific standards or goals that are measurable. The plan may include specific training or corrective plans that are required of the employee. The plan is to be reviewed on an ongoing basis to determine if correction is occurring and is to be used during performance reviews. Failure to successfully complete a work improvement plan may lead to disciplinary action.



#### D. ELECTED OFFICIALS

Where a complaint against an elected official is sustained, it is presumed that public interest requires public disclosure of a summary of the report and findings. The elected official shall have three (3) days after receipt of notice of the findings to request that the report be exempt from disclosure. County Legal Counsel shall then determine whether public disclosure is required.

#### E. DOCUMENTATION

All disciplinary actions shall be documented in writing and approved by Human Resources before they are delivered to the employee. The employee must sign for the document, indicating acknowledgment of receipt of the document, not the employee's agreement or disagreement with the content of the document. An original, signed copy of the disciplinary action must be included in the employee's personnel file.

### **SECTION 10 –APPEAL**

If the complainant or actor believes that the matter was not resolved or that appropriate investigation did not occur, they may submit the complaint to Human Resources within seven (7) days of any notice from the Investigator. Human Resources shall have a meeting with the complainant or actor to discuss the complaint, discuss the investigation and process with the Investigator, conduct further investigation, and/or respond to the complainant or actor within fourteen (14) days.

If the appeal remains unresolved after the Human Resources response, the complainant or actor may, within seven (7) days, submit the appeal to the Board of County Commissioners. The Board of County Commissioners shall notify the complainant or actor, Department Head, and Human Resources/Risk Manager of the appeal and allow fourteen (14) days for any written positions and supporting documentation to be submitted to the Board. Upon receipt of the written positions, the Board shall review the complaint and any submissions, without a hearing, and shall affirm, modify, or reverse the action or decision which is the subject of the complaint by written findings and order. The Board shall make its written decision within fourteen (14) days from the date of the last submission. The written decision of the Board is final.

## ARTICLE 12 – DRUG & ALCOHOL TESTING PROGRAM

### SECTION 1 – COMMERCIAL VEHICLE OPERATORS

#### A. PURPOSE

The purpose of this policy is to set forth the alcohol and drug testing program for Josephine County employees as required by the Federal Motor Carrier Safety Administration, Department of Transportation under 49 CFR 382 and 49 CFR 40 as amended. In addition, this policy contains County requirements and procedures which are not required by 49 CFR 382 and 49 CFR 40.[49 CFR 382.101]

#### B. APPLICABILITY

1. This policy applies to employees who hold the following positions [49 CFR 382.103]:

LiUNA- Local 737

Mechanic

Journeyman Mechanic

Lead Mechanic

Vehicle Service Worker

Road Surface Coordinator

Roadworker I\*

Roadworker II

Roadworker III

Roadworker IV

Vegetation Foreman

AFSCME – Local 3694

Park

Rangers\*

Senior Park

Ranger

\* This position does not require a CDL, but it is recommended. If an employee in this position, holds CDL, then they will be included.

2. Prior to the beginning of each calendar year, the County shall provide LiUNA Local 737 and AFSCME Local 3694 with a list of its members who are covered by this policy as employees listed in those job classifications above. If such member has not performed any safety-sensitive duties within the preceding calendar year, LiUNA or AFSCME may appeal to have the employee removed from the list by submitting a written request and any supporting documentation to the Alcohol and Drug Program Manager. If the County determines that the employee has not performed any safety-sensitive functions within the preceding calendar year, the employee's name may be removed from the list of employees covered by this policy, and the County shall change the employee's job classification to a position not listed in Section B(1) of this policy. This requirement is not based on 49 CFR 382.

C. GENERAL POLICY

All employees who operate commercial motor vehicles shall submit to testing for alcohol and controlled substances in accordance with this policy. Participation in this testing program is a requirement of each employee who holds those applicable positions described in section 2.1 of this policy and is a condition of employment under federal regulations.

D. CONTACT PERSON

The following person shall perform the duties as the Alcohol and Drug Program Manager for Josephine County, and is designated to answer questions regarding this policy:

Human Resources Analyst  
Josephine County Human  
Resources

Josephine County Courthouse,  
Room 162 500 NW 6<sup>th</sup> Street,  
Dept. 11

Grants Pass, OR 97526  
(541) 474-5217

E. DEFINITIONS

1. **“Alcohol”** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.
2. **“Alcohol and Drug Program Manager”** means the Josephine County Human Resources Technician listed in Section 4.0, or her designee or successor.
3. **“CFR”** means the United States Code of Federal Regulations.
4. **“Commercial Motor Vehicle”** means a motor vehicle used to transport passengers or property if the vehicle:
  - a. Has a gross combination weight rating 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 rating of 26,001 or more pounds; or
  - c. Is designed to transport 16 or more passengers, including the driver; or
  - d. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 USC 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

5. **“Controlled substances”** means marijuana, cocaine, amphetamines, opiates, and phencyclidine (PCP).
6. **“County”** means Josephine County, its officers, agents, and employees.  
**“Disabling Damage”** means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. “Disabling damage” includes damage to a motor vehicle that could have been driven but would have been further damaged if so driven. “Disabling damage” does not include damage which could be remedied temporarily at the scene of the accident without special tools or parts; tire damage without other damage even if no spare tire is available; headlight or taillight damage; or damage to turn signals, horn or windshield wipers which make them inoperative.
7. **“Employee”** means any County employee in any of the classifications listed in Section 2.1 of this policy.
8. **“Driver”** means any employee who operates a commercial motor vehicle.
9. **“Medical Review Officer”** or **“MRO”** is a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by this Alcohol and Drug Testing Program and evaluating medical explanations for certain drug test results.
10. **“Reasonable Suspicion”** is the observation of an employee’s condition or performance that indicates possible alcohol or drug use. This suspicion must be made by a trained County representative, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.
11. **“Refusal to Submit”** is the refusal to provide a urine or breath specimen after receiving notice of the requirement to be tested, or any of those acts specified in Section 8.1 of this policy.
12. **“Regular employee”** is an employee of Josephine County who is not a temporary employee, a casual/seasonal employee, or a probationary employee.
13. **“Safety-Sensitive Function”** means all time from the time an employee begins to work or is required to be in readiness to work (reporting time) until the time the employee is relieved from work and all responsibility for performing work (quitting time). Safety-sensitive functions include:
  - a. All the time at a work site, terminal, facility or other property, or on any public property, waiting to be dispatched, unless the employee has been relieved from duty by the County;
  - b. All the time inspecting equipment or inspecting, servicing, or conditioning any commercial motor vehicle at any time;

- c. All time spent at the driving controls of a commercial motor vehicle in operation (driving time);
- d. All time, other than driving time, in or upon any commercial motor vehicle (except time spent resting in a sleeper berth);
- e. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

In addition, safety-sensitive functions include all time performing other work when the employee is a "driver" who performs the safety-sensitive functions listed above on an occasional or intermittent basis. *This requirement is not based on 49 CFR 382.*

14. **"Safety-Sensitive Position"** means those positions of employment listed in Section

2.1 of this policy.

15. **"Split Sample"** means a part of a urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

16. **"Substance Abuse Professional" or "SAP"** is a person who evaluates employees who have violated this Policy and who makes recommendations concerning education, treatment, follow-up testing, and aftercare. [49 CFR 382.107]

#### F. PROHIBITIONS

- 1. *Alcohol Concentration:* No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. [49 CFR 382.201]
- 2. *On-duty Use:* No employee shall use alcohol while performing safety-sensitive functions. [49 CFR 382.205]
- 3. *Pre-duty Use:* No employee shall perform safety-sensitive functions within four (4) hours after using alcohol. [49 CFR 382.207]
- 4. *On Call Employees:* Employees who are on call for safety-sensitive duties are prohibited from consuming alcohol during on-call hours. If an on-call employee is called to report to duty within four (4) hours after consuming alcohol, the employee must report the use of alcohol during the call. If the

employee has acknowledged the use of alcohol but claims the ability to perform safety-sensitive functions, then the employee shall take an alcohol test prior to performing safety-sensitive functions to demonstrate that the alcohol level is below 0.02. *This requirement is not based on 49 CFR 382.*

5. *Use Following an Accident:* No employee who is required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until undergoing a post-accident alcohol test, whichever occurs first. [49 CFR 382.209]
6. *Refusal to Submit to a Required Alcohol or Controlled Substances Test:* No employee shall refuse to submit to a post-accident alcohol or controlled substances test; a random alcohol or controlled substances test; a reasonable suspicion alcohol or controlled substances test; or a follow-up alcohol or controlled substances test. [49 CFR 382.211]
  - a. An employee's refusal to submit to testing is deemed to constitute a verified positive alcohol or controlled substances test result, and such refusal shall result in immediate removal from duty. *This requirement is not based on 49 CFR 382.*
7. *Controlled Substances Use:* No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the employee uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to safely operate a commercial motor vehicle. [49 CFR 382.213]
8. *Controlled Substances Testing:* No employee shall report to duty, remain on duty, or perform any safety-sensitive functions if the employee tests positive or has adulterated or substituted a test specimen for controlled substances. [49 CFR 382.215]
9. *Medical Marijuana:* No employee shall use or be under the influence of marijuana for medicinal purposes while performing safety-sensitive functions. *This requirement is not based on 49 CFR 382.*

#### G. TESTS REQUIRED

1. Pre-employment Testing for Controlled Substances
  - a. All applicants for employment in safety-sensitive positions, and all employees requesting to be transferred or promoted to safety-sensitive positions, must submit to, and pass, testing for controlled substances prior to performing any safety-sensitive functions. An applicant or employee shall not be placed into a position with safety-sensitive functions unless the County has received a controlled substances test result from the Medical Review Officer indicating a verified negative result. [49 CFR 382.301(a)]

- b. The County may waive the requirement for pre-employment testing if:
  - i. The applicant has participated in a controlled substances testing program that meets the requirements of 49 CFR Part 382 within the previous thirty (30) days; and
  - ii. While participating in that program, either was tested for controlled substances within the six (6) months prior to the date of application for employment with the County or participated in the random controlled substances testing program for the previous twelve (12) months prior to the date of application for employment with the County; and
  - iii. The County verifies that no prior employer of the applicant has records of a violation of controlled substances use within the six (6) months prior to the date of application for employment. [49 CFR 382.301(b)]

Applicants or employees with a positive test result are disqualified for employment in or transfer to a position with safety sensitive functions. An applicant who has failed a pre-employment test for controlled substances shall not be eligible for evaluation by the County's designated Substance Abuse Professional. Unless otherwise provided by law, an applicant who has failed a pre-employment test for controlled substances shall not be eligible to submit another application for employment in a position with safety-sensitive functions for a period of six (6) months from the date of the test. *This requirement is not based on 49 CFR 382.*

- c. The inability of an applicant to provide an adequate specimen for a pre-employment alcohol or drug test shall be considered and deemed to be a failure of the test. The applicant shall not be eligible for a referral by the County's designated Medical Review Officer for a medical evaluation to determine if the inability to provide a specimen is for a valid medical reason. *This requirement is not based on 49 CFR 382.*
- d. All applicants for employment in safety-sensitive positions shall be subject to pre-employment testing for controlled substances whether or not they are initially expected to perform safety-sensitive functions. In addition, all applicants for employment as temporary or casual/seasonal help will be subject to pre-employment testing for controlled substances. *This requirement is not based on 49 CFR 382.*
- e. If more than ninety (90) days have elapsed between the time of successfully completing pre-employment tests and the assignment of safety-sensitive functions, then the employee shall be required to submit

to another pre-employment test for controlled substances prior to being assigned to perform safety-sensitive functions. *This requirement is not based on 49 CFR 382.*

- f. Employees with safety-sensitive functions who have been off-duty for ninety (90) days or more for any reason, and have been out of the random testing pool, must successfully pass a pre-employment test for controlled substances prior to the performance of any safety-sensitive functions. *This requirement is not based on 49 CFR 382.*

2. Post-accident Testing

- a. *Alcohol Testing:* As soon as practicable following an accident involving a commercial motor vehicle operating on a public road, the County shall test for alcohol for each of its surviving employees:

- i. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of a human life; or
- ii. Who receives a citation within eight (8) hours of the accident under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - b) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. [49 CFR 382.203(a)]

If the alcohol test is not administered within two (2) hours following the accident, the County shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If an alcohol test required by this section is not administered within eight (8) hours following the accident, the County shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the Federal Motor Carrier Safety Administration upon request. [49 CFR 382.303(d)(1)]

- b. *Controlled Substances Testing:* As soon as practicable following an accident involving a commercial motor vehicle operating on a public road, the County shall test for controlled substances for each of its surviving employees:
  - i. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
  - ii. Who receives a citation within thirty-two (32) hours of the accident



under State or local law for a moving traffic violation arising from the accident, if the accident involved:

- a) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- b) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. [49 CFR 382.303(b)]

If a controlled substance test is not administered within thirty-two (32) hours following the accident, the County shall cease attempts to administer a controlled substances test and shall prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the Federal Motor Carrier Safety Administration upon request. [49 CFR 382.303(d)(2)]

- c. An employee who is subject to post-accident testing shall remain readily available for such testing or the employee shall be deemed to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care. [49 CFR 382.303(e)]
  - d. The results of a breath or blood test for the use of alcohol, or the results of a urine test for the use of controlled substances, conducted by Federal, State or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to applicable Federal, State, or local testing requirements, and that the results of such tests are obtained by the County. [49 CFR 382.303(g)]
  - e. The County shall provide employees with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the post-accident testing requirements of this section. [49 CFR 382.303(f)]
3. Random Testing
- a. Every employee in a safety-sensitive position shall submit to random alcohol and controlled substance testing as required by this section. [49 CFR 382.305(a)]
  - b. Annual Percentage Rates:

- i. *Alcohol Testing:* The minimum annual percentage rate for random alcohol testing shall be ten percent (10%) of the average number of driver positions, unless otherwise required by the Federal Motor Carrier Safety Administration as noticed in the Federal Register. [49 CFR 382.305(b)(1), (c)]
- ii. *Controlled Substances Testing:* The minimum annual percentage rate for random controlled substances testing shall be fifty percent (50%) of the average number of driver positions unless otherwise required by the Federal Motor Carrier Safety Administration as noticed in the Federal Register. [49 CFR 382.305(b)(2), (c)]

The Alcohol and Drug Program Manager shall have the authority to change the annual percentage rates for random drug and alcohol testing according to any new minimum percentage rate published in the Federal Register. *This requirement is not based on 49 CFR 382.*

- c. The selection of employees for random alcohol and controlled substances testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. The random selection and testing process shall be unannounced and shall be carried out on an approximate quarterly basis, and each employee shall have an equal chance of being tested each time the random selections are made. Each driver selected for testing shall be tested during the selection period. [49 CFR 382.305(i), (k)]

Each employee who is notified of selection for random testing shall proceed to the test site immediately. However, if that employee is performing a safety-sensitive function other than driving a commercial motor vehicle at the time of notification, then the employee shall cease performing the safety-sensitive function and proceed to the testing site as soon as possible. [49 CFR 382.305(l)]

- d. If randomly selected for testing, employees shall be tested whether or not they are performing safety-sensitive work on the day of the test. With respect to employees represented by AFSCME 3694 or LiUNA Local 737 who perform safety-sensitive work on an occasional or intermittent basis, this requirement exists because the employees are expected to perform safety-sensitive work on demand by the County. This requirement is not based on 49 CFR 382.
- e. If an employee is subject to random testing under the testing rules of more than one DOT agency, the employee shall be subject to testing at the annual percentage rate established for the calendar year by the DOT agency that regulates more than 50% of the employee's functions. [49

CFR 382.305(n)]

4. Reasonable Suspicion Testing

- a. An employee shall submit to testing for alcohol and/or controlled substances whenever the employee's supervisor or other trained County representative has reasonable suspicion to believe that the employee has violated the prohibitions of Section 6.0 of this policy. The determination that reasonable suspicion exists to require the employee to undergo an alcohol and/or controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. In the case of controlled substances, the observations supporting a reasonable suspicion may also include indications of the chronic and withdrawal effects of controlled substances. [49 CFR 382.307(a), (b)]
- b. The required observations for reasonable suspicion testing shall be made by a supervisor who is trained in accordance with Section 16.1 of this policy. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the employee. [49 CFR 382.307(c)]
- c. Alcohol testing is authorized only if the required observations are made during, just preceding, or just after the performance of safety-sensitive functions. An employee may be directed to undergo reasonable suspicion testing while performing safety-sensitive functions, just before performing safety-sensitive functions, or just after performing such functions. [49 CFR 382.307(d)]
- d. If an alcohol test based on reasonable suspicion is not administered within two (2) hours following the determination of reasonable suspicion, the County shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test based on reasonable suspicion is not administered within eight (8) hours following a determination of reasonable suspicion, the County shall cease attempts to administer an alcohol test and maintain a record of the reasons for not administering the test. [49 CFR 382.307(e)(1)]
- e. No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall the employee perform or continue to perform safety-sensitive functions, until:
  - i. An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or

- ii. Twenty-four (24) hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated the prohibitions of this policy concerning the use of alcohol. [49 CFR 392.307(e)(2)]
- f. The County shall not take any action against an employee based solely on the employee's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. [49 CFR 382.305(e)(3)]
- g. A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or trained County representative who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier. [49 CFR 392.305(f)]

5. Return-to-duty Testing

Before returning to duty requiring the performance of safety-sensitive functions, any employee who has tested positive for alcohol and/or controlled substances must be evaluated by a Substance Abuse Professional and must successfully comply with the Substance Abuse Professional's recommendations. The employee must follow all procedures provided in 49 CFR 40 Subpart O and must have a negative test result for controlled substances and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties. [49 CFR 382.309, 40.305]

6. Follow-up Testing

Employees who are returning to duty shall be subject to follow-up testing, which shall be conducted pursuant to the recommendations of the Substance Abuse Professional and in conformance with 49 CFR 40.307. Follow-up testing shall require, at a minimum, six (6) unannounced follow-up tests in the first twelve (12) months of safety-sensitive duty following the employee's return to safety-sensitive functions. [49 CFR 382.311, 40.307]

H. REFUSAL TO SUBMIT TO BE TESTED

- 1. An employee violates this policy and is deemed to have refused to be tested for alcohol or controlled substances by any of the following:
  - a. Failing to appear for any test (except a pre-employment test) within a reasonable time, as determined by the County, after being directed to do so;
  - b. Failing to remain at the testing site until the testing process is complete;

- c. Failing to provide a urine specimen for any drug test;
- d. Failing to permit observation or monitoring of the provision of a urine specimen;
- e. Failing to provide a sufficient amount of urine when directed, and it having been determined that there was no adequate medical explanation for the failure;
- f. Failing or declining to take a second test as directed by the County;
- g. Failing to undergo a medical examination or evaluation, as required;
- h. Failing to cooperate with any part of the testing process, including but not limited to refusing to empty pockets when directed to do so by the collector, or behaving in a confrontational way that disrupts the collection process;
- i. Having a verified adulterated or substituted test result as reported by the MRO [49 CFR 382.107];
- j. Making any verbal or written declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test within the specified time frame, including but not limited to telling the supervisor, other Authorized County Representative or the person conducting
- k. Tests or collecting urine specimens that the employee is refusing to be tested;
- l. Failing to report to or leaving a specified on-site location for transportation to the testing site before the required testing or collection is completed;
- m. Failing to provide adequate breath or saliva for testing without a valid medical explanation;
- n. Engaging in any other conduct which obstructs the testing process, including but not limited to failing or refusing to sign any required part of any testing form, or providing false information;
- o. Failing to follow the observer's instructions during an observed collection, including instructions to raise clothing above the waist, lower clothing and underpants, or to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.

*Requirements J – N are not based on 49 CFR 382.*

- 2. Any employee who refuses to be tested for alcohol and/or controlled substances shall be prohibited from performing safety-sensitive functions and shall be required to obtain evaluation and testing by a Substance Abuse Professional in accordance Section 11.0 of this policy. *This requirement is not based on 49 CFR 382.*

I. CONSEQUENCES OF AN ALCOHOL TEST RESULT 0.02 OR GREATER BUT LESS THAN 0.04

1. Any employee who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed from the job. The employee may not return to work until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test. [49 CFR 382.505(a)]
2. The County shall not provide non-safety sensitive work for an employee who is tested under this testing program and found to have an alcohol concentration of 0.02 or greater but less than 0.04. Employees may use applicable paid leave benefits for the time off required in order to comply with the requirements of this section. *This requirement is not based on 49 CFR 382.*
3. For the first instance only within any thirty-six (36) month period, any employee who has an alcohol test result of 0.02 or greater but less than 0.04 shall not be subject to discipline unless there are other, aggravating circumstances in addition to their absence from the job due to the test result. Thereafter, any employee who has an alcohol test result of 0.02 or greater but less than 0.04 may be subject to discipline for the job disruption associated with their absence from the job in the manner provided in the appropriate labor agreement or personnel rules. Such discipline may start with a written warning. *This requirement is not based on 49 CFR 382.*

J. TESTING PROCEDURES

1. *General:* The procedures for specimen collection, chain of custody, laboratory analysis, and quality control shall be conducted in accordance with the provisions set forth in 49 CFR 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, a copy of which is available on request or at [http://www.access.gpo.gov/nara/cfr/waisidx\\_08/49cfr40\\_08.html](http://www.access.gpo.gov/nara/cfr/waisidx_08/49cfr40_08.html) .
2. *Negative Dilute:* Any drug or alcohol test with the result of negative dilute shall be retested. Should this second test result in a negative dilute result, the test shall be considered negative with no additional testing unless directed to do so by the MRO. *This requirement is not based on 49 CFR 382.*
3. *Observed Collections:* Observed Collections are required in the following circumstances:
  - a. All return-to-duty tests;
  - b. All follow-up tests;
  - c. When an employee is directed to provide a second specimen because the first specimen was out of the accepted temperature range;
  - d. When an employee is directed to provide a second specimen because the

first specimen appeared to be tampered with;

- e. When a collector observes materials brought to the collection site or behavior that indicates an attempt to tamper with a specimen;
- f. When a laboratory reports to the MRO that the original specimen was invalid, and the MRO determines that there is no adequate medical explanation for the result; or
- g. When the MRO determines that the original specimen was positive, adulterated or substituted but had to be cancelled because the test of the split specimen could not be performed. *This section is not based on 49 CFR 382.*

4. Loss of Urine Samples

- a. In the event that a primary urine sample is not available for laboratory analysis due to leaking from the container or other loss during the collection or testing process, the split urine sample shall be divided into new primary and split samples, and the new primary sample shall be analyzed for controlled substances.
- b. In the event that the primary sample tests positive, the employee may request a confirmation test using the split sample. If the split sample is not available for laboratory analysis due to leaking from the container or other loss during the collection or testing process, the County shall require collection of another urine sample from the employee on the basis of reasonable suspicion. The complete testing sequence shall be performed on the new urine sample and the results of analysis of the new sample shall be the final "official" test results. *This section is not based on 49 CFR 382.*

K. CONSEQUENCES OF PROHIBITED CONDUCT

No employee shall perform safety-sensitive functions if the employee has engaged in conduct prohibited by this policy. [49 CFR 382.501]

- 1. Any temporary employee, casual/seasonal employee, or probationary employee listed in Section 2.1 who violates any of the provisions of this policy shall be terminated immediately. *This requirement is not based on 49 CFR 382.*
- 2. Any regular employee who has a verified positive controlled substances test result, who has an alcohol concentration of 0.04 or greater, or who refuses to submit to a test must be evaluated by a substance abuse professional in accordance with 49 CFR 40 and shall immediately be removed from the job. [49 CFR 382.501]
- 3. Any regular employee who has violated the provisions of this policy may not return to work until successfully completing the evaluation, referral, and

treatment process set forth in 49 CFR 40 Subpart O, summarized as follows:

- a. The County shall provide the employee with a list of Substance Abuse Professionals (SAP), with names, addresses, and telephone numbers.
  - b. The employee shall undergo a clinical assessment and evaluation by an SAP to determine what assistance is needed to resolve problems associated with use of alcohol and/or controlled substances.
  - c. If determined necessary by SAP, the employee shall properly follow any education or treatment program referral by the SAP.
  - d. The employee shall undergo a follow-up evaluation by the SAP to determine whether the employee has actively participated in the education or treatment program and has demonstrated successful compliance with the initial assessment and evaluation recommendations.
  - e. SAP shall provide the County with a follow-up drug and/or alcohol testing plan for the employee and shall provide the employee and the County with recommendations for continuing education or treatment.
  - f. The employee shall undergo Return-to-Duty testing and shall have an alcohol test result of less than 0.02, and/or a verified negative test result for controlled substances. [49 CFR 40]
4. The County shall not provide non-safety-sensitive work for an employee who has violated this policy. Employees may use applicable paid leave benefits, which may include paid time off, accrued comp time, time management leave (if available), sick leave, or vacation leave for the time off required to comply with the requirements of this section.
  5. Any violation of this policy shall be considered a severe offense by the County. Any employee who has violated any of the provisions of this policy may be subject to discipline in the manner provided in the appropriate labor agreement or personnel rules. Discipline for any employee who has an alcohol test result of 0.04 or greater, or a verified positive controlled substances test result may start at suspension without pay. Violations of an extremely serious nature, such as involvement in an accident resulting in a fatality or in substantial property damage or bodily injury may result in discipline up to and including termination, even for a first offense.
  6. Before being permitted to return to work, any employee who is off the job for seven (7) days or longer due to a violation of any of the provisions of this policy shall be required to enter into a Return-to-Work Agreement between the County, the employee, the appropriate bargaining unit, if any, and SAP, if any. The Return-to-Work Agreement shall provide that a subsequent violation may result in the employee's termination. The Return-to-Work Agreement shall also include any plan of assistance or treatment developed by the SAP.



7. Return-to-Work agreements may not expand the scope of testing required by this policy, waive rights under this policy or under any applicable collective bargaining agreement (e.g., just cause for discipline and discharge), or allow the County to require follow-up testing not required by the SAP.
8. Return-to-Work agreements shall be limited in duration to the period of follow-up testing required by the SAP, or to one (1) year, whichever is greater.
9. If an employee is off work for thirty (30) days or longer due to a violation of this policy, the employee may be terminated even for a first offense. However, this provision shall not apply if the employee has satisfied all of the requirements of this policy with regard to returning to work, and has successfully passed a Return-to-Duty test with a verified negative result or fails a Return-to-Duty test, but it is determined by the MRO that the failure results from the use of a controlled substance prior to initiation of a prescribed treatment or rehabilitation program. In order to exercise this exception, the employee must authorize the MRO to release information to the County to substantiate such a determination.

*Paragraphs 4 to 9 are not based on 49 CFR 382.*

L. EMPLOYEE'S RESPONSIBILITY FOR TIMELINESS

1. Any employee who violates any of the provisions of this policy shall vigorously pursue all requirements for returning to work as quickly as possible. The employee is responsible for keeping the Alcohol and Drug Program Manager closely informed of the progress in complying with the return to work requirements of this policy.
2. Failure of the employee to make meaningful progress toward satisfying the requirements of Section 11 of this policy within five (5) workdays following the violation, or failure to continue meaningful progress for a period of five (5) work days once started, may be cause for the employee's employment with the County to be terminated. If the employee is a union member and the County becomes concerned that the employee may not be making meaningful progress toward returning to work, the County shall notify the employee's union representative, in writing, and include any relevant information supporting the cause for concern. *This requirement is not based on 49 CFR 382.*

M. PAYMENT OF PROGRAM COSTS

1. The County shall pay all costs, including paid time, for random testing, reasonable suspicion testing, post-accident testing, and the initial SAP evaluation and assessment. A job candidate shall pay for pre-employment testing, but the County shall reimburse the candidate for testing costs if the candidate is hired following a negative test result. The candidate's time for

pre-employment testing shall not be considered County paid time.

Employees who violate the prohibitions of this policy shall be responsible for making all arrangements and paying all costs for any required education and treatment programs, return-to-duty testing and the first follow-up test, unless such costs are covered by insurance or covered by any County program for which the employee is eligible. If an employee's first follow-up test has a positive test result, the employee shall pay the costs of any subsequent follow-up tests but shall be reimbursed by the County for each subsequent test which has a negative test result. An employee who has a test performed on a split sample following a positive drug test must make the testing arrangements and pay for the test. The County shall reimburse the employee for the testing cost if the test result refutes the positive test result. *This section is not based on 49 CFR 382.*

#### N. CONFIDENTIALITY AND RELEASE OF INFORMATION

The County shall strictly adhere to all standards of confidentiality throughout the testing process. Testing records and results shall be released only to those persons authorized by federal regulations to receive such information. Employee information contained in records maintained pursuant to this policy shall not be released, except as required by law, or as follows:

1. An employee is entitled, upon written request, to obtain copies of records pertaining to the employee's tests for alcohol or controlled substances. The County shall promptly provide the records requested by the employee.
2. The County shall make available copies of all results when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the County or any of its drivers.
3. Records shall be made available to a subsequent employer upon receipt of a written request from the employee.
4. Records may be released to another identified party only as directed by the specific, written consent of the employee authorizing release of the information to that party. The release must specifically identify the individual to whom the information may be released. [49 CFR 382.405]

#### O. RECORDS RETENTION

The County shall maintain the following records in a secure location with controlled access. The records shall be maintained for the following specified minimum periods of time as measured from the date of the creation of the record as follows:

1. *Five Years:*
  - a. Records of employee test results indicating an alcohol concentration of 0.02 or greater;

- b. Records of verified positive controlled substances test results;
  - c. Documentation of refusals to take required alcohol and/or controlled substances test results;
  - d. Employee evaluation and referrals;
  - e. Calibration documentation;
  - f. Records related to the administration of alcohol and controlled substances testing programs; and
  - g. A copy of each annual calendar year summary.
2. *Two Years*: Records related to the alcohol and controlled substances collection process (except calibration of breath testing devices).
  3. *One Year*: Records of negative and cancelled controlled substances test results, and alcohol test results with a concentration of less than 0.02.
  4. *Indefinite Period*: Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and employees shall be maintained by the County while the individual performs the functions which require the training and for two (2) years after ceasing to perform those functions. [49 CFR 382.401]

P. TRAINING & ADDITIONAL INFORMATION

1. The County, AFSCME, and LiUNA shall provide training on this policy for all supervisors and all employees covered by this policy. All persons designated to supervise employees covered by this policy shall receive at least sixty (60) minutes of training on alcohol abuse and receive at least an additional sixty (60) minutes of training on controlled substances abuse. Such training is to be used by the supervisors to determine whether reasonable suspicion exists to require an employee to undergo testing based on reasonable suspicion, and shall include the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. [49 CFR 382.603]
2. AFSCME and LiUNA union officers shall be permitted to attend "reasonable suspicion" training provided to supervisors per 49 CFR 382.603. *This section is not based on 49 CFR 382.*
3. Information concerning: 1) The effects of alcohol and controlled substances use on an individual's health, work, and personal life; 2) Signs and symptoms of an alcohol or a controlled substances problem; and 3) Available methods of intervening when an alcohol or a controlled substances problem is suspected is attached to this policy as Exhibits 1, 2, and 3, respectively. [49 CFR 382.601(a)(11)]
4. As part of County labor/management meetings, the County and union

representatives may review the processes involved in this policy, determine the need for any additional training, and attempt to resolve any apparent problem areas. *This section is not based on 49 CFR 382.*

Q. SAVINGS CLAUSE

The provisions of 49 CFR 382 and 49 CFR 40 as amended are adopted and incorporated herein. In the event that any provision of this policy conflicts with any term or provision of 49 CFR 382 or 49 CFR 40, the applicable provisions of the CFR shall control. [49 CFR 382.109]

1. Either the County, AFSCME, or LiUNA may suggest modifications on any portion of this policy. The County reserves the right to modify, change or delete from this policy as required by law or at management discretion. *This section is not based on 49 CFR 382.*

R. CERTIFICATE OF RECEIPT

As a condition of employment, each employee subject to this policy shall sign the attached statement certifying that the employee has received a copy of this policy and has read and understood the policy. The original of the signed acknowledgement shall be maintained in the employee's personnel file. [49 CFR 382.601(d)]

**ACKNOWLEDGMENT OF ALCOHOL AND DRUG TESTING POLICY**

Pursuant to 49 CFR 382.601(d), I acknowledge that I have received a copy of Josephine County's Alcohol and Drug Testing Program policy required by the Federal Motor Carrier Safety Administration, U.S. Department of Transportation, for employees who perform safety-sensitive functions.

I understand that receipt of this policy constitutes legal notification of the contents, and that it is my responsibility to become familiar with and adhere to all provisions contained in this policy. I will seek and get clarifications for any questions from the Alcohol and Drug Program Manager. I also understand that compliance with all provisions contained in this policy is a condition of my employment.

I understand that the information contained in this policy is subject to change, and that any such changes shall be provided to me in writing.

---

Printed Name of Employee

---

Signature of Employee

---

Date

**EXHIBIT 1**  
**ALCOHOL**

**Classification:** Depressant

**Common or street names:** Booze, cocktails, nightcaps, highballs, beer, wine, wine coolers, hard liquor (whiskey, scotch)

**Description / comments:**

- A. Easily obtained and highly abused
- B. Alcohol is the most abused drug in the workplace
- C. Alcoholism affects 2 in 10 Americans of all ages and backgrounds
- D. Teenagers and pre-teens usually steal alcohol from their parents' liquor cabinet or have it purchased by legal drinking aged friends

**Effects on user:**

- A. Physical effects
  - 1. Slight increase in heart rate, sweating, dilation of blood vessels, moderately lower blood pressure, appetite stimulation, increased production of gastric secretion, and increased urine production
  - 2. Levels of fat-protein affected
- B. Symptoms of abuse
  - 1. Person smells of alcohol
  - 2. Loss of inhibitions and worries less
  - 3. Poor judgment, slowed reactions, slurred speech, staggering, disoriented
  - 4. Loss of control over behavior; may be aggressive or violent
- C. Possible results of long term use
  - 1. Personality changes
  - 2. Physical addiction and damage to heart, liver, and other organs
  - 3. Psychological addiction and uncontrollable drinking; depression
  - 4. Death from overdose, withdrawal or related accidents (e.g. auto)

**Work and family related problems:**

- A. Create excessive safety problems at the workplace
  - 1. Unfit for duty
  - 2. Increased risk to co-workers
  - 3. Frequent accidents

4. Absenteeism and tardiness
  5. Unreliability and declining performance
- B. Emotions / upset caused by alcoholic's drinking behavior
1. Suspicion
  2. Insecurity
  3. Guilt and fear
  4. Disappointment and isolation
  5. Embarrassment and resentment

## MARIJUANA

**Classification:** Narcotic and hallucinogen, but does not fit well in either category

**Common or street names:** Pot, grass, reefer, dope, weed

**Description / comments:**

- A. Comes from the hemp plant (cannabis sativa)
- B. Made from dried leaves; hashish comes from the pressed resin of the plant
- C. Can be used by oral consumption or smoking
- D. Most widely used illicit drug in U.S. among adolescents and young adults
- E. Principle psychoactive ingredient: tetrahydrocannabinol (THC)
- F. Currently 14-18 times more potent than 50 years ago  
1960's: 1% THC                      1980's: 4-10% THC                      1990's: 14-18% THC
- G. One of the largest cash crops in Oregon. Some of the most potent marijuana in the world is grown in Oregon. It's the second largest cash crop in the U.S.
- H. 7 to 20 times the tar of cigarettes
- I. Second most abused drug in the workplace

**Effects on user:**

- A. Immediate effects:
  - 1. Increased heart rate with little change in blood pressure
  - 2. Dilated blood vessels in eyes (blood shot)
  - 3. Dizziness, minor tremors, decrease in hand steadiness Short-term and long-term memory impairment
  - 4. Short attention span
- B. Long-term use can lead to serious health problems:
  - 1. Respiratory
    - Sinusitis, sore throat, chronic cough, bronchitis, emphysema
  - 2. High tar content, high cancer risk
- C. Cardiovascular
  - 1. Heart beats faster and works harder
    - Hazard for anyone with heart disease
    - May contain harmful bacteria or chemical contaminants
- D. Reproductive



1. Disrupts sperm production
  - Possible changes in ovulation and fertility
  - Can lead to intrauterine growth retardation
  - Difficult labor, low birth weight, birth defects (fetal marijuana syndrome)
- E. Psychological
  1. Amotivational syndrome
    - General lack of concern and motivation lasting long after effects have worn off
    - Apathy - numbed emotions
    - Retarded psycho-emotional development
- F. Tolerance and dependence:
  1. With frequent use, tolerance develops; the user must increase dosage to experience same effects experienced at lower doses; THC can stay in the body for up to 45 days after usage
  2. Dependence can occur with heavy use
  3. Marijuana is fat soluble and remains in the body for long periods; stored in brain and reproductive organs

**Work and family related problems:**

- A. Absences due to illness
- B. Personality problems
- C. Slowed work performance, decrease in motivation
- D. Poor social skills
- E. Poor learning skills
- F. Possible deterioration in personal hygiene

## COCAINE

**Classification:** Stimulant

**Common or street names:** Coke, Snow, Blow, Toot, Flake, Crack, Rock

**Description / comments:**

- A. Cocaine is an alkaloid found in the leaves of the coca shrub grown in South America
- B. Leaves are mixed with kerosene, sulfuric acid, and an alkali to form a coca base
- C. Can be processed further by addition of hydrochloric acid to provide the salt; Cocaine hydrochloride, with purity of 90-100%
- D. Looks like white flakes or rocks and feels powdery when crushed
- E. This powder is “cut” (other substances are added) before it’s sold on the street
- F. Can be used by snorting, injecting, swallowing, and smoking

**Effects on User:**

- A. Physical effects on regular cocaine users  
Insomnia - anxiety – irritability
  - 1. Fatigue - depression - weight loss
  - 2. Headaches - chest pains - nasal problems
- B. Heavy cocaine use (chronic)
  - 1. Experience hallucinations
  - 2. High degree of paranoia
  - 3. Paranoid psychosis, similar to schizophrenia
  - 4. Death due to convulsion or cardiovascular and respiratory failure
- C. Tolerance and dependence
  - 1. Tolerance can develop from snorting, smoking, and intravenous injection
  - 2. Strong psychological dependence takes place in many users
  - 3. Physical dependence is a real possibility
  - 4. Severe depression, known as a “crash” results when use is stopped. This makes discontinuing cocaine difficult
  - 5. Special dangers
    - a. Acute cocaine poisoning - abdominal pain, nausea, vomiting, rapid heartbeat, irregular breathing, convulsions, coma, and death
    - b. Harm from impure cocaine

- c. Death from combining with other drugs - e.g. cocaine and heroin (speedball)

**Work and family related problems**

- A. Great financial expense / advance draws on paycheck
- B. Agitation and fatigue
- C. Isolation
- D. Absences due to illness / unexplained absences
- E. Legal difficulties
- F. Manic-depressive symptoms

## OPIATES

### Classification:

- A. Sometimes referred to as narcotics; a group of drugs used medically to relieve pain, but also have a high potential for abuse
- B. Includes opium, morphine, heroin, and codeine
- C. Manufactured or synthesized opiates include meperidine (Demerol)

**Common or street name:** Opium, morphine, codeine  
Heroin: Smack, Horse, Junk

### Description / comments:

- A. Opium appears as dark brown chunks or as a powder and is usually smoked or eaten. Often diluted or “cut” (mixed) with other substance such as sugar or quinine
- B. Other opiates come in the form of capsules, tablets, syrups, solutions, and suppositories

### Effects on User:

- A. Physical effects
  - 1. Lethargic, not moving, daydreaming, silly grin, vacant stare, pin-point pupils
  - 2. Over time, may develop infections of the heart lining and valves, skin abscesses, and congested lungs
  - 3. Unsterile solutions, syringes, and needles can cause illnesses such as liver disease, tetanus, and serum hepatitis
- B. Tolerance and dependence
  - 1. High physical and psychological dependence
  - 2. Withdrawal symptoms: runny nose, teary eyes, reactive gastrointestinal disturbance
- C. Special dangers
  - 1. Involved in illegal activities
  - 2. Associated danger of IV use
  - 3. Overdose and financial problems

### Work and family related problems

- A. Effects on the family
  - 1. Financial difficulties

2. Suspicion and insecurity
  3. Resentment and disappointment
- B. Effect at the workplace
1. Unreliable
  2. Difficulty with co-workers
  3. Absenteeism and tardiness

## METHAMPHETAMINES

**Classification:** Stimulant

**Common or street names:** Crank, Meth, Crystal Meth, Go

**Description / comments:**

- A. Available in prescription (Brand name Desoxyn)
- B. Pharmaceutical preparations are white, odorless, crystalline, water soluble powders
- C. Illicit preparations are off-white or yellowish powders, crystals, capsules, or tablets in various sizes and colors
- D. Can be used by snorting, swallowing, or injecting
- E. Willamette Valley is a leader in illegal manufacture of Methamphetamine in the U.S.

**Effects on User:**

- A. Short-term from moderate dose (up to 60 mg)
  - 1. Restlessness
  - 2. Euphoria
  - 3. Insomnia
  - 4. Reduced appetite
  - 5. Increased heartbeat
  - 6. Dry mouth
- B. Short-term from higher dose (over 60 mg)
  - 1. Intense exhilaration
  - 2. Rapid thought pattern
  - 3. Irritability
  - 4. Paranoid thinking
  - 5. Confusion
  - 6. Excessive sweating
  - 7. Potential for violent behavior

Very high doses will cause coma, cerebral hemorrhage (death)
- C. Long-term effects
  - 1. Chronic sleeping problems
  - 2. Anxiety and tension
  - 3. High blood pressure
  - 4. Skin rash
  - 5. Paranoid thinking
  - 6. Severe agitation
  - 7. Potential for violent behavior
- D. When mixed with other stimulants
  - 1. Increased stimulating effects on nervous system
  - 2. Synergetic effects when mixed with other stimulants
- E. Tolerance and dependence

1. Tolerance can start occurring within four weeks with frequent use
2. Chronic high doses result in physical dependence and withdrawal sickness such as sleep disturbances and apathy
3. Strong psychological dependence results even in low dose users
4. Severe medical problems can develop from impure batches of the drug

**Work and family related problems**

- |                                   |                              |
|-----------------------------------|------------------------------|
| A. Very often away from work area | C. Excessive absences        |
| B. Agitation                      | D. Manic-depressive symptoms |

## **PHENCYCLIDINE (PCP)**

**Classification:** Both a hallucinogen and a stimulant

**Common or street names:** Angel Dust, Killer Weed, Embalming Fluid, Rocket Fuel, Crystal, Wet, Water, Wack, Fry, Amp, Formaldehyde, Zoot, Hog

**Description / comments:**

- A. White, tan, or brown powder; gummy blob
- B. Sold in tablets, capsules, or liquid
- C. Commonly added to marijuana, cigarettes, cigars, or other leaves rolled in cigarette papers
- D. Can be used by snorting, smoking, or eating

**Effects on user:**

- A. General:
  - 1. Feelings of strength
  - 2. Feelings of power
  - 3. Feelings of invulnerability
  - 4. Numbing
  - 5. Violent
  - 6. Irrational
  - 7. Suicidal
- B. Low Doses:
  - 1. Slight increase in breathing rate
  - 2. Pronounced rise in blood pressure
  - 3. Shallow respiration
  - 4. Flushing profuse
  - 5. Sweating occurs
  - 6. Generalized numbness of extremities
- C. High Doses:
  - 1. Drop in blood pressure, pulse rate, and respiration
  - 2. Nausea
  - 3. Vomiting



4. Blurred vision
5. Flicking up and down of the eyes
6. Drooling
7. Loss of balance and dizziness
8. Seizures, coma, and death
9. Hallucinations, delusions, and illusions

**Work and family related problems**

- A. Irrational
- B. Suicidal
- C. Violent
- D. Possibility of arrest

## EXHIBIT 2

### **WARNING SIGNS OF SUBSTANCE ABUSE/ADDICTION**

Substance abuse or dependence can be difficult to identify. Typically, it is surrounded by avoidance and denial . . . and there is no single, clear test to assess abuse or dependence.

If a person is abusing or is dependent on any mood-altering substance, you will observe several of the following symptoms:

- Increased sick leave
- Leaving work early/arriving late
- Frequent, unscheduled absences
- Escalated conflicts (work or home)
- Physical/verbal abusiveness
- Excessive amount of personal telephone time
- Mood swings, high and low
- Alternate periods of high and low productivity
- Borrowing money/financial problems
- Over-reaction to criticism
- Increased irritability
- Temper outbursts/argumentativeness
- Fatigue/lethargy
- Increased accidents on the job
- Withdrawal from co-workers

These are the hallmark symptoms of substance abuse. If there is a pattern of these symptoms at work, or at home, a professional evaluation can determine if substance abuse/dependence is present.

Problems associated with substance abuse/dependence are complex. Various types of treatment are appropriate, depending on the severity and longevity of abuse or dependence.

### EXHIBIT 3

#### **AVAILABLE METHODS OF INTERVENING WHEN AN ALCOHOL OR DRUG PROBLEM IS SUSPECTED**

Employees in Josephine County have the following options for intervening when they suspect that a co-worker experiencing a problem regarding alcohol or drugs:

1. Confrontation

The employee may choose to confront the co-worker regarding their suspicions on a personal level. While this may sometimes be effective when the individuals have a very personal and supportive relationship, it is also a very risky approach to the situation. If the confrontation goes badly, physical violence could be a possibility, and future personal and working relationships could be severely strained. Except in cases when an employee is concerned over an immediate and serious danger because a co-worker is obviously impaired and a supervisor is not available, the County does not encourage personal confrontation between co-workers as a means of addressing suspicions of alcohol or controlled substance problems.

2. Referral to a Professional Counselor or a Substance Abuse Professional (SAP)

An employee who suspects that a co-worker has a problem with alcohol or drugs (or other problems) may choose to suggest that the co-worker contact a professional counselor or a SAP. However, when done on a personal level, such suggestions could be considered a form of confrontation by the co-worker and should be carefully considered. It is important to note that a subordinate or peer cannot require a co-worker to seek the help of or visit a professional counselor or a SAP. While the suggestion may be made, there can be no direct consequences if the co-worker chooses not to visit a professional counselor or SAP.

A supervisor may be working with a subordinate employee to correct performance deficiencies and come to suspect that the deficiencies result from personal problems, possibly including a problem with alcohol or drugs. In such cases, the supervisor should suggest that the employee contact a professional counselor or SAP even if the performance concerns have not yet progressed to the point of discipline. At this stage, there can be no direct consequence if the employee chooses not to visit a professional counselor or SAP. Once performance deficiencies have progressed to the point of discipline, the supervisor may consider referral to a professional counselor or SAP in lieu of or as partial mitigation of the discipline which would otherwise be considered. At this stage, if the employee chooses not to visit a professional counselor or SAP when the option is offered, the supervisor should enact the full measure of discipline appropriate to the performance deficiencies.

Referral of an employee to a professional counselor or SAP is not, by itself, an acceptable alternative when a supervisor finds that reasonable suspicion exists that the employee has violated any provision the County's Alcohol and Drug Testing

Policy. In such cases, the provisions of the County's Alcohol and Drug Testing Policy must be followed.

### 3. Referral to Management or Union

The County's preferred approach when an employee suspects that a co-worker is experiencing a problem regarding alcohol or controlled substances is to report their concerns to management. In most cases where the concern involves a co-worker in the same work unit or crew, the County's preference is that the report be made to the employee's immediate supervisor. However, if the suspicion involves the employee's supervisor, manager, or co-worker from another work unit or crew, or if the employee is uncomfortable with reporting to an immediate supervisor for any reason, the employee may report his or her suspicions and concerns to:

Human Resources Director  
Josephine County Courthouse  
541-474-5216

Any report from an employee who suspects that a co-worker is experiencing a problem regarding alcohol or controlled substance shall be fully investigated. The report and all subsequent investigation shall be treated in a manner that is highly confidential. An employee who reports suspicions or concerns that a co-worker is experiencing a problem regarding alcohol or controlled substance is not entitled to any follow-up reporting except the most general indication that the investigation is on-going or has been concluded.

No testing shall occur based solely on a report of suspicions or concerns. In order for such testing to be required, a supervisor or manager who has received training required by this policy must also find that a reasonable suspicion exists to believe that the employee has violated the provisions of this policy. The determination that reasonable suspicion exists to require the employee to undergo an alcohol or controlled substance test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. In the case of controlled substances, the observations supporting a reasonable suspicion finding may also include indications of the chronic and withdrawal effects of controlled substances. If a Union employee is uncomfortable reporting concerns regarding a co-worker to County management, the employee may want to consider reporting concerns to a Union officer or steward instead. Union representatives may be able to work with the co-worker, with or without involving County management, as appropriate, in order to intervene with respect to the employee's suspicions or concerns.

## SECTION 2 – SAFETY SENSITIVE POSITIONS UNDER FTA AUTHORITY

### A. PURPOSE

Josephine County provides public transit and paratransit services for the residents of Josephine County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Josephine County declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

1. Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. Covered employees shall abide by the terms of this policy statement as a condition of employment. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the Federal Transit Administration (FTA) of the U.S. Department of Transportation as published 49 CFR Part 655 as amended that mandates drug and alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test and 49 CFR part 40, as amended, that sets standards for the collection and testing of specimens for drug and alcohol testing.
2. Any provisions set forth in this policy that are included under the sole authority of Josephine County and are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of Josephine County Transit will be performed on non USDOT forms and will be separate from USDOT testing in all respects. [49 CFR Part 655.15(j)]

### B. APPLICABILITY

1. This Drug and Alcohol Testing Policy applies to all safety-sensitive employees under the FTA authority (full- or part-time) when performing safety sensitive duties and any person applying for such positions. See list below of positions covered by this policy:

AFSCME - Local 3694

Dispatch Scheduler - Transit

Transit Operator

Transit Operator-Assistant

LiUNA- Local 737

Vehicle Service Worker Mechanic, Public Works  
Journeyman Mechanic, Public Works  
Lead Mechanic, Public Works

Non-Union

Transit Operations Supervisor  
Fleet Program Supervisor

2. Under FTA (Part 655), you are a covered employee if you perform any of the following:

(1) operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), (2) maintenance of a revenue service vehicle or equipment used in revenue service, (3) (4) persons controlling the dispatch or movement of revenue service vehicles and (4) any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above -mentioned duties as listed in section 2.1. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL or receive remuneration for service in excess of actual expense.

C. GENERAL POLICY

All covered employees shall submit to drug and alcohol testing in accordance with this policy. Participation in this testing program is a requirement of each employee who holds those applicable positions described in section 2.1 of this policy and is a condition of employment under federal regulations.

D. CONTACT PERSON

The following individual shall perform the duties as the Drug and Alcohol Program Manager for Josephine County, and is designated to answer questions regarding this policy:

Human Resources Director  
Josephine County Courthouse  
500 NW 6<sup>th</sup> St  
541-474-5216

E. DEFINITIONS

1. **"Accident"**: An occurrence associated with the operation of a vehicle (bus, electric bus, van, or automobile) even when not in revenue service, if as a result:

- a. An individual dies;
  - b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
  - c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle.
2. **“Adulterated Specimen”**: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.
- “Alcohol”**: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.
3. **“Alcohol Concentration”**: Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.
4. **“Aliquot”**: A fractional part of a specimen used for testing; it is taken as a sample representing the whole specimen.
5. **“Alternate Specimen”**: An authorized specimen, other than the type of specimen previously collected or attempted to be collected.
6. **“Authorized County Representative”**: A management employee who has been trained on the facts, circumstances, physical evidence, physical signs and symptoms, or patterns of performance and behavior associated with alcohol misuse and drug use, in order to determine reasonable suspicion to believe an employee has violated the prohibitions of this policy.
7. **“Cancelled Test”**: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.
8. **“Collection Site”**: Is the designated clinic or facility where applicants or employees must present themselves for the purpose of providing specimens to be analyzed for the presence of drugs.
9. **“Confirmatory Drug Test”**: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify a specific drug or drug metabolite.
10. **“Confirmatory Validity Test”**: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.
11. **“County”**: Josephine County, its officers, agents, and employees.
12. **“Covered Employee under FTA Authority”**: Any person, including an applicant or transferee who performs or will perform a safety sensitive

function for an entity subject to this part. A volunteer is a covered employee if:

- a. The volunteer is required to hold a Commercial Driver License to operate the vehicle; or
- b. The volunteer performs a safety sensitive function for an entity subject to this part and receives remuneration in excess of their actual expenses incurred while engaged in the volunteer activity.

13. **“Cutoff”**: The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

**“Designated Employer Representative (DER)”**: An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive *Josephine County Personnel Policy Manual (2024)* duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs.

14. **“Dilute Specimen”**: A urine sample with creatinine and specific gravity values that are lower than expected for human urine.

15. **“Disabling Damage”**: Damage which precludes departure of a motor vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. “Disabling damage” includes damage to a motor vehicle that could have been operated but would have been further damaged if so operated. “Disabling damage” does not include damage which could be remedied temporarily at the scene of the accident without special tools or parts; tire damage without other damage even if no spare tire is available; headlight or taillight damage; or damage to turn signals, horn or windshield wipers which make them inoperative.

16. **“DOT”**: The United States Department of Transportation.

17. **“Drug and Alcohol Program Manager”**: Shall be the Josephine County Human Resources Director listed in Section 4, or their designee or successor.

18. **“Employee”**: Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under 49 CFR Part 40, the term employee has the same meaning as the term “donor” as found on CCF and related guidance materials produced by the Department of Health and Human Services.



19. **“Evidential Breath Testing Device (EBT)”**: A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations and appears on ODAPC’s Web page for “Approved Evidential Breath Measurement Devices” because it conforms with the model specifications available from NHTSA.
20. **“FTA”**: The Federal Transit Administration, an agency of the U.S. Department of Transportation.
21. **“Initial Drug Test”**: The first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.
22. **“Initial Specimen Validity Test”**: The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid.
23. **“Invalid Result”**: The result reported by an HHS-certified lab in accordance with the criteria established by HHS when a positive, negative adulterated, or substituted result cannot be established for a specific drug or specimen validity test.  
**“Laboratory”**: Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of HHS; or, in the case of *Josephine County Personnel Policy Manual (2024)* foreign laboratories, a laboratory approved for participation by DOT under 49 CFR Part 40.
24. **“Limit of Detection (LOD)”**: The lowest concentration at which the analyte (e.g., drug or drug metabolite) can be identified.
25. **“Limit of Quantification (LOQ)”**: For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.
26. **“Medical Review Officer (MRO)”**: A person who is a licensed physician (medical doctor or doctor of osteopathy) and who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result, together with their medical history, and any other relevant bio-medical information.
27. **“Negative Dilute”**: A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.
28. **“Negative Test Result”**: Result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug, or the concentration of the drug is less than the cutoff concentration for the drug or drug class, and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a

negative test result.

29. **“Non-Negative Specimen”**: A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and /or invalid.
30. **“On Duty Time”**: All time from the time an employee begins to work or is required to be in readiness to work (reporting time), until the time the employee is relieved from work and all responsibility for performing work (quitting time).
31. **“Oral Fluid Specimen”**: A specimen that is collected from an employee’s oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is considered to be a direct observation collection for all purposes of 49 CFR Part 40, as amended.
32. **“Oxidizing Adulterant”**: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites or affects the reagents in either the initial or confirmatory drug test.
33. **“Performing (a safety-sensitive function)”**: A covered employee is considered to be performing a safety-sensitive function and includes any period in which they are actually performing, ready to perform, or immediately available to perform such functions.
34. **“Positive Result”**: A result reported by an HHS-Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations. An alcohol concentration of 0.02 or greater is a positive test result.
35. **“Primary specimen”**: In drug testing, the specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in their system; and for the purpose of specimen validity testing. The primary specimen is the portion of the donor’s subdivided specimen designated as the primary (“A”) specimen by the collector to distinguish it from the split (“B”) specimen, as defined in 49 CFR Part 40, as amended.
36. **“Prohibited drug”**: Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration, as specified in 49 CFR Part 40, as amended.
37. **“Random Testing”**: A scientifically valid method of random selection of employees for drug and alcohol testing in which each person in the database has an equal chance of selection each time a selection occurs.
38. **“Reasonable Suspicion”**: The determination of detecting the signs and symptoms of drug use and alcohol misuse based on specific,

contemporaneous, articulable observations concerning the covered employee's appearance, behavior, speech, or body odors. A supervisor(s) or other company official who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.

39. **"Reconfirmed"**: The result reported for a split (Bottle B) specimen when the second HHS-certified laboratory corroborates the original result reported for the primary (Bottle A) specimen.
40. **"Refuse to Submit"**: The refusal to provide a specimen after receiving notice of the requirement to be tested, or any of those acts specified in this policy which are deemed to constitute a refusal to submit to testing.
41. **"Rejected for Testing"**: The result reported by an HHS-Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.
42. **"Revenue Service Vehicles"**: All transit vehicles that are used for passenger transportation service.
43. **"Safety-Sensitive Functions"**: Any of the following duties:
  - a. Operating a revenue service vehicle, including when not in revenue service;
  - b. Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver License;
  - c. Controlling dispatch or movement of a revenue service vehicle;
  - d. Maintaining a revenue service vehicle or equipment used in revenue service; or
44. **"Service Agent"**: Person or agency who provides drug testing services on behalf of the County in accordance with the requirements of 49 CFR 655 and 49 CFR 40.
45. **"Specimen"**: Fluid, breath, or other material collected from an employee at the collection site for the purpose of a drug or alcohol test.
46. **"Specimen Bottle"**: The bottle that, after being sealed and labeled according to the procedures in 49 CFR Part 40, is used to hold a primary ("A") or split ("B") specimen during the transportation to the laboratory. In the context of oral fluid testing, it may be referred to as a "vial," "tube," or "bottle."
47. **"Split Specimen"**: In drug testing, the specimen that is sent to a first laboratory and stored with its original seal intact, and which is transported to a second laboratory for retesting at the employee's request following MRO verification of the primary specimen as positive, adulterated, or substituted.
48. **"Substance Abuse Professional" or "SAP"**: Person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and

aftercare. A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed, or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

49. **“Substituted specimen”**: An employee’s specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen, with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).
50. **“Test Refusal”**: The following are considered a refusal to test if the employee:
- a. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
  - b. Fails to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to take the test.
  - c. Fails to attempt to provide a specimen. An employee who does not provide a specimen because they have left the testing site before the testing process commenced for a pre-employment test has not refused to test.
  - d. In the case of a directly observed or monitored urine collection in a drug test, fails to permit monitoring or observation of the employee’s provision of a specimen.
  - e. Fails to provide a sufficient quantity of specimen without a valid medical explanation.
  - f. Fails or declines to take an additional test as directed by the collector or the employer for drug testing.  
  
Fails to undergo a medical evaluation as required by the MRO or the employer’s Designated Employer Representative (DER).
  - g. Fails to cooperate with any part of the testing process.
  - h. Fails to follow an observer’s instructions to raise and lower clothing and turn around during a directly observed urine collection.
  - i. Possesses or wears a prosthetic or other device used to tamper with the collection process.
  - j. Admits to the adulteration or substitution of a specimen to the collector or MRO.
  - k. Refuses to sign the certification at Step 2 of the Alcohol Testing Form (ATF).

- l. Fails to remain readily available following an accident.
- m. Refuses to take a drug test after the MRO reports that the employee has a verified adulterated or substituted test result.

- 51. **“Undiluted (neat) oral fluid”**: An oral fluid specimen to which no other solid or liquid has been added. For example: A collection device that uses a diluent (or other component, process, or method that modifies the volume of the testable specimen) must collect at least 1 mL of undiluted (neat) oral fluid.
- 52. **“Urine specimen”**: Urine collected from an employee at the collection site for the purpose of a drug test.
- 53. **“Vehicle”**: A bus, electric bus, van, automobile, or other vehicle used for transit or transportation by the County. A public transit vehicle is a vehicle used for public transportation or for ancillary services.
- 54. **“Verified negative test”**: A drug test result reviewed by a Medical Review Officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).
- 55. **“Verified positive test”**: A drug test result reviewed by a Medical Review Officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.
- 56. **“Validity testing”**: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the specimen, if the specimen was diluted, or if the specimen was altered.

F. PROHIBITED SUBSTANCES

Prohibited substances addressed by this policy include the following.

*Illegally Used Controlled Substances or Drugs Under the Drug-Free Workplace Act of 1988*: Any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug

testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.

1. USDOT drug testing regulations (49 CFR Part 40) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.
2. *Legal Drugs*: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited.
3. *Alcohol*: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

#### G. PROHIBITED CONDUCT

1. Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended, is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in this policy or 49 CFR Part 40, as amended.
2. Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of their on-call responsibilities.
3. The Josephine County Transit department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if the Transit Director or an Authorized County Representative has reasonable suspicion or actual knowledge that the employee is using alcohol or is under the influence of alcohol.
4. Covered employees are prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions with an alcohol concentration level of 0.04 or greater regardless of when the alcohol was consumed.
  - a. An employee with an alcohol concentration of 0.02 or greater but less than 0.039 is not considered to have violated the USDOT drug and alcohol regulations provided the employee consumed alcohol more than four (4) hours prior to performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT regulations require the employee to be removed from the performance of

safety-sensitive duties until:

- i. The employee's alcohol concentration measures less than 0.02 as determined by a non-DOT alcohol test and,
  - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
5. No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until the employee submits to the post-accident drug/alcohol test, whichever occurs first.
  6. No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
  7. Consistent with the Drug-free Workplace Act of 1988, all Josephine County employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including County premises and County vehicles.

#### H. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify Josephine County management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in this policy.

#### I. TESTING REQUIREMENTS

1. All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended. Unless otherwise described herein, the following tests specified in 49 CFR Part 40, as amended, and Part 655, as amended, shall be required for all covered employees prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, randomly as defined in this policy, and upon return to duty/follow-up.
2. A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Josephine County authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.
3. All covered employees will be subject to drug testing and alcohol testing as a condition of ongoing employment with Josephine County. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy.

#### J. DRUG TESTING PROCEDURES

1. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities

which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

2. The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine and/or oral fluid specimen will be collected as described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at an HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the confirmatory test are at or above the minimum thresholds established in 49 CFR Part 40, as amended.
3. The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to Josephine County. If a legitimate explanation is found, the MRO will report the test result as negative.
4. If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.

Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as



amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Josephine County will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however, Josephine County will seek reimbursement for the split sample test from the employee.

5. If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
6. Observed collections.

Consistent with 49 CFR Part 40, as amended, collection under direct observation with no advance notice will occur if:

- a. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Josephine County that there was not an adequate medical explanation for the result;
  - b. The MRO reports to Josephine County that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
  - c. The laboratory reported to the MRO that the urine specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the urine specimen as negative-dilute and that a second collection must take place under direct observation (see 49 CFR §40.197(b)(1)).
  - d. The collector observes materials brought to the collection site or the employee's conduct indicates an attempt to tamper with a specimen;
  - e. The temperature on the original urine specimen was out of range (See 49 CFR 40.65(b)(5));
  - f. The employee is directed to provide another specimen because the original specimen appeared to have been tampered with (See §40.65(c)(1)).
  - g. The test is a follow-up-test; or
  - h. The test is return-to-duty test.
7. Urine collections that are required to be directly observed will be conducted by a person of the same gender as the donor as required by 49 CFR Part

40.67.

K. ALCOHOL TESTING PROCEDURES

1. Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on the Office of Drug and Alcohol Policy and Compliance's (ODAPC) Web page for "Approved Evidential Breath Measurement Devices" <https://www.transportation.gov/odapc/Approved-Evidential-Breath-Measurement-Devices>.
2. Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA- approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.
3. A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the workday whichever is longer and will be subject to the consequences described in this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
4. Josephine County affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
5. The alcohol testing form (ATF) required by 49 CFR Part 40 as amended shall

be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

L. PRE-EMPLOYMENT TESTING

All applicants for FTA covered positions shall undergo drug testing prior to performance of a safety-sensitive function. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results. All finalists for employment with the County in any of the job classifications listed in Section 2.1 shall be subject to pre-employment testing as described in this policy, whether or not they are initially expected to perform safety-sensitive functions.

1. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or County authority until the employee takes a drug test with verified negative results.
2. Applicants with a positive pre-employment drug test result are disqualified for employment in, or transfer to, a position with safety-sensitive functions and the conditional offer of employment shall be rescinded. A verified positive result on a drug test or failure to submit to a drug test is considered to be a failure of the test. An applicant who has failed a pre-employment drug test shall be given a list of readily available Substance Abuse Professionals (SAP). Any cost for the SAP services will be at the applicant's expense. Unless otherwise provided by law, an applicant who has failed a pre-employment test for prohibited drugs shall not be eligible to submit another application for employment in a position with safety-sensitive functions for a period of one (1) year from the date of the test. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in 49 CFR section

655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

- a. If a pre-employment drug test is canceled, the applicant must reschedule and pass a test before being allowed to perform safety-sensitive functions.
- b. An applicant that is unable to provide an adequate specimen for a pre-employment drug test shall be eligible for a referral by the County's designated MRO for a medical evaluation to determine whether the inability to provide a specimen is for a valid medical reason.
- c. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will

be considered a negative and no additional testing will be required unless directed to do so by the MRO.

- d. If more than ninety (90) days have elapsed between the time of successfully completing a pre-employment drug test and the assignment of safety-sensitive functions, and during that period the employee is not in the random testing pool, the employee shall be required to submit to another pre-employment test for prohibited drugs prior to being assigned to perform safety-sensitive functions.
- e. Covered employees who have not performed a safety-sensitive function for ninety (90) consecutive days or more for any reason, and who have been out of the data base of employees subject to random testing, must successfully pass a pre-employment drug test prior to the performance of any safety-sensitive functions.
- f. Applicants are required (even if ultimately not hired) to provide Josephine County with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. All applicants for positions with safety-sensitive functions shall report previous employers' Drug and Alcohol test results as stipulated in 49 CFR Part 40.25. Failure to do so shall result in the employment offer being rescinded. If the applicant has tested positive or has refused to test on a previous employer's test, the applicant shall provide the County Drug and Alcohol Program Manager with proof of having successfully completed a referral, evaluation and treatment plan as described in 49 CFR section 655.62. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
- g. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA or County authority, and that employee submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with this policy.

M. REASONABLE SUSPICION TESTING

- 1. All Josephine County FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test whenever a supervisor or other Authorized County Representative, who has been trained in detecting the signs and symptoms associated with prohibited drug use and alcohol misuse, has made the required observations, and believes the employee may be adversely affected or impaired in their work performance due to possible prohibited drug use or alcohol misuse. Determination that reasonable suspicion exists

to require the employee to undergo an alcohol or drug test shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee.

A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty. However, under Josephine County authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty.

After a covered employee has been notified, they are required to submit to reasonable suspicion testing, and the employee shall immediately report to the collection site designated by the County. Transportation to and from the collection site shall be provided by the County. Supervisors should avoid placing themselves and/or others in a situation which might endanger the physical safety of those present. The covered employee shall not be permitted to use rest room facilities, consume beverages, or smoke until specimen collection is completed. The employee shall be placed on administrative leave pending disciplinary action described in this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish their shift and shall immediately be placed on administrative leave pending disciplinary action as specified in this policy.

2. In the case of a reasonable suspicion test for alcohol, if alcohol testing is not performed within two (2) hours of the decision to test, the County shall document the reason for the delay using the Reasonable Suspicion Incident Checklist, attached as Exhibit 4. If required testing is not performed within eight (8) hours of the decision to test, the County shall cease attempts to have the employee tested for alcohol and shall document the reason for failure to test using the Reasonable Suspicion Incident Checklist attached as Exhibit 4.
3. Whether or not an alcohol test can be performed, if an Authorized County Representative believes that a covered employee is under the influence of alcohol, as shown by behavioral, speech or performance indicators of alcohol misuse, the Authorized County Representative shall remove the employee from safety-sensitive functions for eight (8) hours from the time of the determination or the duration of the workday, whichever is longer.
4. The supervisor, DER, Drug and Alcohol Program Manager, or other Authorized County Representative responsible for initiating the reasonable suspicion test shall document in writing the reasons for the suspicion and the facts and circumstances of the incident which caused the reasonable suspicion testing, using the Reasonable Suspicion Incident Checklist attached as Exhibit 4. Completed documentation shall be submitted to Josephine County.
5. When there are no specific, contemporaneous, articulable objective facts

that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with this policy. Josephine County shall place the employee on administrative leave in accordance with the provisions set forth under this policy. Testing in this circumstance would be performed under the direct authority of Josephine County. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in this policy or the associated consequences.

N. POST-ACCIDENT TESTING

*Fatal Accidents* - as soon as practicable following the accident involving the loss of human life, the employer shall conduct drug and alcohol tests on each surviving covered employee operating the public transportation vehicle (bus, electric bus, van, or automobile) at the time of the accident whether or not the vehicle is in revenue service at the time of the accident. The County shall also conduct drug and alcohol tests for any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

1. *Non-Fatal Accidents* - A post-accident test of the employee operating the public transportation vehicle (bus, electric bus, van, or automobile) will be conducted if an accident occurs and at least one of the following conditions are met:
  - a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
  - b. One or more vehicles incur disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
2. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.
3. As soon as it is practicable following an accident, as defined in this policy, the supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information

available at the time of the decision.

4. *General Accident Procedures* – The appropriate supervisor shall ensure that covered employees involved in accidents shall be tested for alcohol as soon as practicable, within two (2) hours, if at all possible, but no later than eight (8) hours after the accident, and shall be tested for prohibited drugs as soon as possible, but no later than thirty-two (32) hours following the accident. If the tests are not conducted within the timelines listed here, attempts to conduct the test must cease and the reasons for the failure to test documented.
  - a. If a post-accident alcohol test is not administered within two (2) hours following the accident, the County Transit Manager or designee shall document the reasons the alcohol test was not promptly administered using the Decision Documentation Form attached as Exhibit 5. If an alcohol test is not administered within eight (8) hours following the accident, the County shall cease attempts to administer an alcohol test and shall document the reasons the alcohol test was not administered, using the Decision Documentation Form attached as Exhibit 5.
  - b. Any covered employee involved in an accident must remain readily available for testing following an accident. The covered employee is responsible for notifying the County of their location if the employee leaves the scene of the accident prior to submission to testing. Failure of the covered employee to remain readily available shall be deemed a refusal to submit to testing.
  - c. Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until they undergo a post-accident alcohol test.
  - d. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of their location if they leave the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
5. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
  - a. In the rare event a FTA post-accident drug and alcohol test is unable to be performed (i.e., employee is unconscious, employee is detained by law enforcement agency), the County may use drug and alcohol post-accident test results administered by Federal, State, or local officials having independent authority for the test, provided such test conforms to the applicable Federal, State, or local testing requirements and the results are

obtained by the County.

6. Any alcohol or drug tests performed for accidents that do not meet the definition of “accident” under this policy or under 49 CFR 655.4 must be performed under the County’s own authority, using non-DOT forms.
7. As soon as possible following the accident, the Josephine County Transit Manager or Authorized County Representative shall document the reasons why a post-accident test was or was not conducted, using the Decision Documentation form attached as Exhibit 5.

O. RANDOM TESTING

1. The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.
2. The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with the employees' employee numbers, payroll identification numbers, or other comparable identifying numbers. The random selection and testing process shall be unannounced and shall be carried out randomly on a quarterly basis, and each employee shall have an equal chance of being tested each time the random selections are made.
3. The random selection and testing process shall be unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day and days of the week when safety-sensitive functions are performed.
4. Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection process.
5. USDOT covered employees will be included in one random pool maintained separately from testing pools of non-safety-sensitive employees that are included solely under Josephine County authority.
6. Random tests can be conducted at any time during an employee’s shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety-sensitive duty. However, under Josephine County authority a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur



during the beginning, middle, or end of an employee's shift.

7. Each covered employee who is notified of selection for random drug or random alcohol testing must proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of the notification, the employer shall ensure that the employee ceases to perform the safety-sensitive function and proceed to the testing site immediately.
8. With respect to employees represented by AFSCME Local 3694 and LiUNA local 737 who perform safety-sensitive functions on an occasional or intermittent basis, this requirement exists because the employees are expected to be able to perform safety-sensitive functions on demand by the County.

P. PROCEDURES FOR NOTIFICATION AND SPECIMEN COLLECTION AND TESTING

1. The Service Agent shall maintain a secure database of covered employees as provided by the Drug and Alcohol Program Manager and/or DER. Prior to each quarter's random selection of employees, the Drug and Alcohol Manager or DER will submit to the Service Agent a comprehensive list of current covered employees who should be in the consortium. The Service Agent will then confirm the list in writing via email or fax and adjust, as necessary.
2. The Service Agent shall transmit a coded list of employees who have been selected for testing to the Drug and Alcohol Program Manager and DER. It is the responsibility of the Drug and Alcohol Program Manager and DER to keep this list confidential and secure pending employee notification.
  - a. The Drug and Alcohol Program Manager and/or DER shall notify the employee's supervisor in person or by telephone that the employee has been selected to provide a specimen for testing. The date and time of notification shall be noted.
  - b. Immediately after being notified, each employee selected for testing shall proceed directly to the specimen collection site or testing facility.

Q. RETURN TO DUTY TESTING

Where a covered employee refuses to submit to a test, has a verified positive drug test result, and/or has a confirmed alcohol test result of 0.04 or greater, before returning to duty to perform any DOT safety-sensitive function, the employee shall be referred to a SAP and undergo a SAP evaluation, referral, and education/treatment process.

1. Upon successful completion of the SAP process and there being no undue concerns for public safety, and before returning to the performance of any safety sensitive function, the covered employee must take a Return-to-Duty test. The employee must have a negative drug test result and/or an alcohol

test result with an alcohol concentration of less than 0.02 before resuming safety-sensitive duties. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

R. FOLLOW-UP TESTING

1. Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.
  - a. When a covered employee has been notified that they have been selected for testing, the employee shall report immediately to the collection site designated by the County. Transportation to and from the collection site may be provided by the County. The covered employee shall not be permitted to use rest room facilities, consume beverages, or smoke until specimen collection is completed.
2. In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement, which were not precipitated by a positive test result (or refusal to test), do not constitute a violation of the Federal regulations will be conducted under County authority and will be performed using non-DOT testing forms.

S. RESULT OF DRUG/ALCOHOL TEST

1. Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be immediately removed from their safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer.
2. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

3. Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in discipline, up to and including termination of employment, and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:
  - a. Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
  - b. Failure to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
  - c. Failure to attempt to provide a specimen. An employee who does not provide a specimen because they have left the testing site before the testing process commenced for a pre-employment test has not refused to test.
  - d. In the case of a directly observed or monitored urine collection in a drug test, failure to permit monitoring or observation of the employee's provision of a specimen.
  - e. Failure to provide a sufficient quantity of specimen without a valid medical explanation.
  - f. Failure or declining to take additional tests as directed by the collector or the employer for drug testing.
  - g. Failure to undergo a medical evaluation as required by the MRO or the employer's DER.
  - h. Failure to cooperate with any part of the testing process.
  - i. Failure to follow an observer's instructions to raise and lower clothing and turn around during a directly observed urine collection.
  - j. Possessing or wearing a prosthetic or other device used to tamper with the collection process.
  - k. Admitting to the adulteration or substitution of a specimen to the collector or MRO.
  - l. Refusal to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
  - m. Failure to remain readily available following an accident may be deemed a refusal by employer.
  - n. Refusal by a covered employee to take a drug test, after the MRO reports that the employee has a verified adulterated or substituted test result.

T. CONSEQUENCES OF PROHIBITED CONDUCT OR TREATMENT/FOLLOW-UP VIOLATIONS

1. Any covered employee who is a temporary employee or casual/seasonal

employee who violates this policy shall be terminated immediately. The following provisions shall apply to all other covered employees.

2. For the first instance of a verified positive test from a sample submitted as the result of a random drug/alcohol test, disciplinary action against the employee shall include:
  - a. Mandatory referral to Substance Abuse Professional (SAP) for assessment, formulation of a treatment plan, and execution of a return to duty agreement.
  - b. Failure to execute or remain compliant with the return-to-duty agreement shall result in termination from Josephine County employment.
    - i. Compliance with the return-to-duty agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP the employee is cooperating with their SAP recommended treatment program; and the employee has agreed to periodic unannounced follow-up testing as defined in this policy.
  - c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in discipline up to and including termination.
  - d. A periodic unannounced follow-up drug/alcohol test which results in a verified positive shall result in termination from Josephine County employment.
3. The first instance of a verified positive post-accident drug and/or alcohol test shall result in termination.
4. The second instance of a verified positive drug or alcohol test result for any category of testing shall result in termination from Josephine County employment.
5. An alcohol test result of  $>0.02$  to  $< 0.039$  BAC shall result in the removal of the employee from duty for eight hours or the remainder of the workday, whichever is longer. The employee will not be allowed to return to safety-sensitive duty for their next shift until the employee submits to a non-DOT alcohol test with a result of less than 0.02 BAC.
6. The County shall not provide non-safety-sensitive work for an employee who is tested under this testing program and found to have an alcohol concentration of 0.02 or greater but less than 0.04. Employees may use applicable paid leave benefits, which include Vacation, Sick, Personal, Comp, and Time Management Leave, for the time off required to comply with the requirements of this section.

7. A covered employee who has an alcohol test result of 0.02 or greater but less than 0.04 may be subject to discipline as provided in the appropriate labor agreement or personnel rules.
8. The County shall not provide non-safety-sensitive work for an employee who has violated this policy. Employees may use applicable paid leave benefits, which may include Paid Time Off, accrued Comp Time, Time Management Leave (if available), Sick Leave, or Vacation Leave for the time off required to comply with the requirements of this section.
9. Any violation of this policy or 49 CFR Parts 40 and 655 is prohibited. An employee who has violated any of the provisions of 49 CFR Parts 40 and Part 655 or this policy may be subject to discipline in the manner provided in the appropriate labor agreement or personnel rules. Discipline for any employee who has an alcohol test result of 0.04 or greater or a verified positive drug test result may start at a suspension without pay. Violations of an extremely serious nature, such as involvement in an accident resulting in a fatality or in substantial property damage or bodily injury, may result in discipline up to and including termination, even for a first offense.
10. Before being permitted to return to work, any employee who is off the job for two (2) work shifts or longer due to a violation of any of the provisions of this policy shall be required to enter into a Return-to-Work Agreement to be developed jointly between the County, the employee, the appropriate bargaining unit, if any, and the SAP, if any. The Return-to-Work Agreement shall provide that a subsequent violation may result in the employee's termination. The Return-to-Work Agreement shall also include any plan of assistance or treatment developed by the SAP.
11. Return-to-Work Agreements may not expand the scope of testing provided herein, waive rights under this policy or under any applicable collective bargaining agreement (e.g., just cause for discipline and discharge), or allow the County to require any follow-up testing not required by the SAP.
12. Return-to-Work Agreements shall be limited in duration to the period of follow-up testing required by SAP, or to one (1) year, whichever is greater.
13. If an employee is off work for thirty (30) days or longer due to a violation of any of the provisions of 49 CFR Parts 40 and 655 or this policy, the employee may be terminated even for a first offense. However, this provision shall not apply if the employee has satisfied all of the requirements of this policy with regard to returning to work, and has successfully passed a Return-to-Duty test with a verified negative result (or fails a Return-to-Duty test, but it is determined by the MRO that the failure results from the use of a controlled substance prior to initiation of a prescribed treatment or rehabilitation program.) In order to

exercise this exception, the employee must authorize the MRO to release information to the County to substantiate such a determination.

14. Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

U. EMPLOYEE'S RESPONSIBILITY FOR TIMELINESS

Any covered employee who violates any of the provisions of 49 CFR Parts 40 and 655 or this policy shall vigorously pursue all requirements of this policy in a manner which allows the employee to return to work as quickly as possible. The employee is responsible for keeping the DER and/or Drug and Alcohol Program Manager closely informed of their progress in complying with this policy.

1. Failure of the employee to make meaningful progress toward satisfying the requirements of this policy within five (5) workdays following the violation, or failure to continue meaningful progress for a period of five (5) workdays once started, may be cause for the employee's employment with the County to be terminated. If the employee is a union member and the County becomes concerned that the employee is not making meaningful progress toward returning to work, the County shall notify the employee's union, in writing, and include any relevant information supporting the cause for concern.

V. PAYMENT OF PROGRAM COSTS

1. The County shall pay all costs, including paid time, for random testing, reasonable suspicion testing, post-accident testing, and the initial SAP evaluation and assessment for regular employees. The County shall pay for pre-employment testing; the candidate's time for a pre-employment testing shall not be considered County paid time.
2. Employees who violate this policy shall be responsible for making all arrangements and for paying all costs for any required education and treatment programs. An employee who has a test performed on a split sample following a positive drug test shall make the request for testing the split specimen to the MRO. The County will pay for the test. The County shall seek reimbursement from the employee for the testing cost if the test result confirms the positive test.

W. GRIEVANCE AND APPEAL

The consequences specified by this policy and 49 CFR Part 40 for positive test or test refusal are not subject to arbitration.

X. PROPER APPLICATION OF THE POLICY

Josephine County is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use

and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

Y. CONFIDENTIALITY AND RELEASE OF INFORMATION

1. Employee information contained in records maintained for this Drug and Alcohol Testing Program shall be confidential medical information, and shall not be released, except as required by law, or as provided by the provisions of 49 CFR Parts 40 and 655.73 or the following:
2. A covered employee is entitled, upon written request, to personally obtain copies of records pertaining to the employee's misuse of alcohol or prohibited drugs, including any records pertaining to alcohol or drug tests. Following such a written request, copies of the records shall be promptly provided to the employee. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
3. Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other management personnel on a need-to-know basis.
4. Records shall be made available to a subsequent employer upon receipt of a written request from the employee.
5. Records may be released to another identified party only as directed by the specific, written consent of the employee authorizing release of the information to the party. The release request must specifically identify the individual to whom the information may be released and must specify the terms of the employee's consent for use of the information.
6. Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceedings.
7. Records will be released to the National Transportation Safety Board during an accident investigation.
8. Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker

in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

9. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
10. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Josephine County or the employee.
11. If a party seeks a court order to release a specimen or **part** of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.
12. In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

#### Z. RECORDS RETENTION

1. The County shall maintain the following records in a secure location with controlled access. The records shall be maintained for the following specified minimum periods of time as measured from the date of the creation of the record:
  - a. Records of negative alcohol test results or drug test results below 0.02: One (1) year.
  - b. Records related to the specimen collection process and employee training: Two (2) years.
  - c. Records provided by the previous employer during the hiring process: Three (3) years.
  - d. Records of verified positive drug test results; alcohol test results of 0.02 or above; Documentation of refusals to be tested for alcohol and/or drugs; SAP evaluations and referrals; Copies of annual Management Information System reports to FTA; and Calendar year record of total number of employees tested and the results of tests: Five (5) years.
2. The County shall maintain all required records in accordance with 49 CFR 655.71.

#### AA. TRAINING & ADDITIONAL INFORMATION

1. The County will provide a copy of these materials to each covered employee prior to the start of alcohol and controlled substances testing and to each driver subsequently hired or transferred into a safety sensitive position.
2. Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 40 and



655, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of prohibited drug use including the effects and consequences of prohibited drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.

3. All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.
4. Information concerning the above topics is attached to this policy as Exhibits 1, 2, and 3.
5. AFSCME and LiUNA union officers shall be permitted to attend "reasonable suspicion" training provided to supervisors.
6. As part of County labor/management meetings, the County and union representatives may review the processes involved in this policy, determine the need for any additional training, and attempt to resolve any apparent problem areas.

**BB. SAVINGS CLAUSE**

1. The provisions of 49 CFR 40 and 49 CFR 655 are adopted and incorporated herein. In the event that any provision of this policy and procedure conflicts with any term or provision of 49 CFR 40 or 49 CFR 655, the applicable provisions of the CFR shall control.
2. Either the County, AFSCME, or LiUNA may suggest modifications to any portion of this policy and procedures. The County reserves the right to modify, change, or delete sections from this policy and procedures as required by law or at management discretion.

**CC. ACKNOWLEDGMENT OF EMPLOYER'S DRUG & ALCOHOL TESTING PROGRAM**

As a condition of employment, each employee subject to the requirements of 49 CFR Parts 40 and 655 and this policy shall sign the attached statement certifying that the employee has received a copy of this policy and has read and understood the policy. The original of the signed acknowledgment shall be maintained in the employee's official Personnel File.

ACKNOWLEDGMENT OF EMPLOYER'S DRUG & ALCOHOL TESTING POLICY

I, \_\_\_\_\_, the undersigned employee of Josephine County, hereby acknowledge that I have received a copy of the anti-drug and alcohol misuse program policy mandated by the U.S. Department of Transportation, Federal Transit Administration for all covered employees who perform safety-sensitive functions. I understand this policy is required by 49 CFR Part 655, as amended, and has been duly adopted by the governing board of the employer. Any provisions set forth in this policy included under the sole authority of Josephine County and are not under the authority of the above-named Federal regulations are underlined.

I further understand receipt of this policy constitutes a legal notification of the contents, and it is my responsibility to become familiar with, and adhere to, all provisions contained herein. I will seek and get clarifications for any questions from the employer contact person listed in the policy. I also understand that compliance with all provisions contained in the policy is a condition of my employment.

I further understand that the information contained in the approved policy dated \_\_\_\_\_, is subject to change, and that any such changes, or addendum, shall be given to me in a manner consistent with the provision of 49 CFR Part 655, as amended.

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

## EXHIBIT 1

### ALCOHOL

**Classification:** Depressant

**Common or street names:** Booze, cocktails, nightcaps, highballs, beer, wine, wine coolers, hard liquor (whiskey, scotch)

**Description / comments:**

- A. Easily obtained and highly abused
- B. Alcohol is the most abused drug in the workplace
- C. Alcoholism affects 2 in 10 Americans of all ages and backgrounds
- D. Teenagers and pre-teens usually steal alcohol from their parents' liquor cabinet or have it purchased by legal drinking aged friends

**Effects on user:**

- A. Physical effects
  - 1. Slight increase in heart rate, sweating, dilation of blood vessels, moderately lower blood pressure, appetite stimulation, increased production of gastric secretion, and increased urine production
  - 2. Levels of fat-protein affected
- B. Symptoms of abuse
  - 1. Person smells of alcohol
  - 2. Loss of inhibitions and worries less
  - 3. Poor judgment, slowed reactions, slurred speech, staggering, disoriented
  - 4. Loss of control over behavior; may be aggressive or violent
- C. Possible results of long term use
  - 1. Personality changes
  - 2. Physical addiction and damage to heart, liver, and other organs
  - 3. Psychological addiction and uncontrollable drinking; depression
  - 4. Death from overdose, withdrawal or related accidents (e.g. auto)

**Work and family related problems:**

- A. Create excessive safety problems at the workplace
  - 1. Unfit for duty
  - 2. Increased risk to co-workers

3. Frequent accidents
  4. Absenteeism and tardiness
  5. Unreliability and declining performance
- B. Emotions / upset caused by alcoholic's drinking behavior
1. Suspicion
  2. Insecurity
  3. Guilt and fear
  4. Disappointment and isolation
  5. Embarrassment and resentment

## MARIJUANA

**Classification:** Narcotic and hallucinogen, but does not fit well in either category

**Common or street names:** Pot, grass, reefer, dope, weed

**Description / comments:**

- A. Comes from the hemp plant (cannabis sativa)
- B. Made from dried leaves; hashish comes from the pressed resin of the plant
- C. Can be used by oral consumption or smoking
- D. Most widely used illicit drug in U.S. among adolescents and young adults
- E. Principle psychoactive ingredient: tetrahydrocannabinol (THC)
- F. Currently 14-18 times more potent than 50 years ago  
1960's: 1% THC                      1980's: 4-10% THC                      1990's: 14-18% THC
- G. One of the largest cash crops in Oregon. Some of the most potent marijuana in the world is grown in Oregon. It's the second largest cash crop in the U.S.
- H. 7 to 20 times the tar of cigarettes
- I. Second most abused drug in the workplace

**Effects on user:**

- G. Immediate effects:
  - 1. Increased heart rate with little change in blood pressure
  - 2. Dilated blood vessels in eyes (blood shot)
  - 3. Dizziness, minor tremors, decrease in hand steadiness Short-term and long-term memory impairment
  - 4. Short attention span
- H. Long-term use can lead to serious health problems:
  - 1. Respiratory
    - Sinusitis, sore throat, chronic cough, bronchitis, emphysema
  - 2. High tar content, high cancer risk
- I. Cardiovascular
  - 1. Heart beats faster and works harder
    - Hazard for anyone with heart disease
    - May contain harmful bacteria or chemical contaminants
- J. Reproductive
  - 1. Disrupts sperm production

- Possible changes in ovulation and fertility
  - Can lead to intrauterine growth retardation
  - Difficult labor, low birth weight, birth defects (fetal marijuana syndrome)
- K. Psychological
1. Amotivational syndrome
    - General lack of concern and motivation lasting long after effects have worn off
    - Apathy - numbed emotions
    - Retarded psycho-emotional development
- L. Tolerance and dependence:
1. With frequent use, tolerance develops; the user must increase dosage to experience the same effects experienced at lower doses; THC can stay in the body for up to 45 days after usage
  2. Dependence can occur with heavy use
  3. Marijuana is fat soluble and remains in the body for long periods; stored in brain and reproductive organs

**Work and family related problems:**

- A. Absences due to illness
- B. Personality problems
- C. Slowed work performance, decrease in motivation
- D. Poor social skills
- E. Poor learning skills
- F. Possible deterioration in personal hygiene

## COCAINE

**Classification:** Stimulant

**Common or street names:** Coke, Snow, Blow, Toot, Flake, Crack, Rock

**Description / comments:**

- A. Cocaine is an alkaloid found in the leaves of the coca shrub grown in South America
- B. Leaves are mixed with kerosene, sulfuric acid, and an alkali to form a coca base
- C. Can be processed further by addition of hydrochloric acid to provide the salt; Cocaine hydrochloride, with purity of 90-100%
- D. Looks like white flakes or rocks and feels powdery when crushed
- E. This powder is “cut” (other substances are added) before it’s sold on the street
- F. Can be used by snorting, injecting, swallowing, and smoking

**Effects on User:**

- A. Physical effects on regular cocaine users  
Insomnia - anxiety – irritability
  - 1. Fatigue - depression - weight loss
  - 2. Headaches - chest pains - nasal problems
- B. Heavy cocaine use (chronic)
  - 1. Experience hallucinations
  - 2. High degree of paranoia
  - 3. Paranoid psychosis, similar to schizophrenia
  - 4. Death due to convulsion or cardiovascular and respiratory failure
- C. Tolerance and dependence
  - 1. Tolerance can develop from snorting, smoking, and intravenous injection
  - 2. Strong psychological dependence takes place in many users
  - 3. Physical dependence is a real possibility
  - 4. Severe depression, known as a “crash” result when use is stopped. This makes discontinuing cocaine difficult
  - 5. Special dangers
    - a. Acute cocaine poisoning - abdominal pain, nausea, vomiting, rapid heartbeat, irregular breathing, convulsions, coma, and death
    - b. Harm from impure cocaine
    - c. Death from combining with other drugs - e.g. cocaine and heroin (speedball)

**Work and family related problems**

- A. Great financial expense / advance draws on paycheck
- B. Agitation and fatigue
- C. Isolation
- D. Absences due to illness / unexplained absences
- E. Legal difficulties
- F. Manic-depressive symptoms



## OPIATES

### Classification:

- A. Sometimes referred to as narcotics; a group of drugs used medically to relieve pain, but also have a high potential for abuse
- B. Includes opium, morphine, heroin, and codeine
- C. Manufactured or synthesized opiates include meperidine (Demerol)

**Common or street name:** Opium, morphine, codeine  
Heroin: Smack, Horse, Junk

### Description / comments:

- A. Opium appears as dark brown chunks or as a powder and is usually smoked or eaten. Often diluted or “cut” (mixed) with other substance such as sugar or quinine
- B. Other opiates come in the form of capsules, tablets, syrups, solutions, and suppositories

### Effects on User:

- A. Physical effects
  - 1. Lethargic, not moving, daydreaming, silly grin, vacant stare, pin-point pupils
  - 2. Over time, may develop infections of the heart lining and valves, skin abscesses, and congested lungs
  - 3. Unsterile solutions, syringes, and needles can cause illnesses such as liver disease, tetanus, and serum hepatitis
- B. Tolerance and dependence
  - 1. High physical and psychological dependence
  - 2. Withdrawal symptoms: runny nose, teary eyes, reactive gastrointestinal disturbance
- C. Special dangers
  - 1. Involved in illegal activities
  - 2. Associated danger of IV use
  - 3. Overdose and financial problems

### Work and family related problems

- A. Effects on the family
  - 1. Financial difficulties
  - 2. Suspicion and insecurity

3. Resentment and disappointment
- B. Effect at the workplace
1. Unreliable
  2. Difficulty with co-workers
  3. Absenteeism and tardiness

## METHAMPHETAMINES

**Classification:** Stimulant

**Common or street names:** Crank, Meth, Crystal Meth, Go

**Description / comments:**

- A. Available in prescription (Brand name Desoxyn)
- B. Pharmaceutical preparations are white, odorless, crystalline, water soluble powders
- C. Illicit preparations are off-white or yellowish powders, crystals, capsules, or tablets in various sizes and colors
- D. Can be used by snorting, swallowing, or injecting
- E. Willamette Valley is a leader in illegal manufacture of Methamphetamine in the U.S.

**Effects on User:**

- A. Short-term from moderate dose (up to 60 mg)
  - 1. Restlessness
  - 2. Euphoria
  - 3. Insomnia
  - 4. Reduced appetite
  - 5. Increased heartbeat
  - 6. Dry mouth
- B. Short-term from higher dose (over 60 mg)
  - 1. Intense exhilaration
  - 2. Rapid thought pattern
  - 3. Irritability
  - 4. Paranoid thinking
  - 5. Confusion
  - 6. Excessive sweating
  - 7. Potential for violent behavior.
  - 8. Very high doses will cause coma, cerebral hemorrhage (death)
- C. Long-term effects
  - 1. Chronic sleeping problems
  - 2. Anxiety and tension
  - 3. High blood pressure

4. Skin rash
  5. Paranoid thinking
  6. Severe agitation
  7. Potential for violent behavior
- D. When mixed with other stimulants
1. Increased stimulating effects on nervous system
  2. Synergetic effects when mixed with other stimulants
- E. Tolerance and dependence
1. Tolerance can start occurring within four weeks with frequent use
  2. Chronic high doses result in physical dependence and withdrawal sickness such as sleep disturbances and apathy
  3. Strong psychological dependence results even in low dose users
  4. Severe medical problems can develop from impure batches of the drug

**Work and family related problems**

- A. Very often away from work area
- B. C. Excessive absences
- C. Agitation
- D. D. Manic-depressive symptoms

## **PHENCYCLIDINE (PCP)**

**Classification:** Both a hallucinogen and a stimulant

**Common or street names:** Angel Dust, Killer Weed, Embalming Fluid, Rocket Fuel, Crystal, Wet, Water, Wack, Fry, Amp, Formaldehyde, Zoot, Hog

**Description / comments:**

- A. White, tan, or brown powder; gummy blob
- B. Sold in tablets, capsules, or liquid
- C. Commonly added to marijuana, cigarettes, cigars, or other leaves rolled in cigarette papers
- D. Can be used by snorting, smoking, or eating

**Effects on user:**

- A. General:
  - 1. Feelings of strength
  - 2. Feelings of power
  - 3. Feelings of invulnerability
  - 4. Numbing
  - 5. Violent
  - 6. Irrational
  - 7. Suicidal
- B. Low Doses:
  - 1. Slight increase in breathing rate
  - 2. Pronounced rise in blood pressure
  - 3. Shallow respiration
  - 4. Flushing profuse
  - 5. Sweating occurs
  - 6. Generalized numbness of extremities
- C. High Doses:
  - 1. Drop in blood pressure, pulse rate, and respiration
  - 2. Nausea
  - 3. Vomiting
  - 4. Blurred vision

5. Flicking up and down of the eyes
6. Drooling
7. Loss of balance and dizziness
8. Seizures, coma, and death
9. Hallucinations, delusions, and illusions

**Work and family related problems**

- E. Irrational
- F. Suicidal
- G. Violent
- H. Possibility of arrest

## EXHIBIT 2

### WARNING SIGNS OF SUBSTANCE ABUSE/ADDICTION

Substance abuse or dependence can be difficult to identify. Typically, it is surrounded by avoidance and denial . . . and there is no single, clear test to assess abuse or dependence.

If a person is abusing or is dependent on any mood-altering substance, you will observe several of the following symptoms:

- Increased sick leave
- Leaving work early/arriving late
- Frequent, unscheduled absences
- Escalated conflicts (work or home)
- Physical/verbal abusiveness
- Excessive amount of personal telephone time
- Mood swings, high and low
- Alternate periods of high and low productivity
- Borrowing money/financial problems
- Over-reaction to criticism
- Increased irritability
- Temper outbursts/argumentativeness
- Fatigue/lethargy
- Increased accidents on the job
- Withdrawal from co-workers

These are the hallmark symptoms of substance abuse. If there is a pattern of these symptoms at work, or at home, a professional evaluation can determine if substance abuse/dependence is present.

Problems associated with substance abuse/dependence are complex. Various types of treatment are appropriate, depending on the severity and longevity of abuse or dependence.

### EXHIBIT 3

#### **AVAILABLE METHODS OF INTERVENING WHEN AN ALCOHOL OR DRUG PROBLEM IS SUSPECTED**

Employees in Josephine County have the following options for intervening when they suspect that a co-worker experiencing a problem regarding alcohol or drugs:

##### A. Confrontation

The employee may choose to confront the co-worker regarding their suspicions on a personal level. While this may sometimes be effective when the individuals have a very personal and supportive relationship, it is also a very risky approach to the situation. If the confrontation goes badly, physical violence could be a possibility, and future personal and working relationships could be severely strained. Except in cases when an employee is concerned over an immediate and serious danger because a co-worker is obviously impaired and a supervisor is not available, the County does not encourage personal confrontation between co-workers as a means of addressing suspicions of alcohol or controlled substance problems.

##### B. Referral to a Professional Counselor or a Substance Abuse Professional (SAP)

An employee who suspects that a co-worker has a problem with alcohol or drugs (or other problems) may choose to suggest that the co-worker contact a professional counselor or a SAP. However, when done on a personal level, such suggestions could be considered a form of confrontation by the co-worker and should be carefully considered. It is important to note that a subordinate or peer cannot require a co-worker to seek the help of or visit a professional counselor or a SAP. While the suggestion may be made, there can be no direct consequences if the co-worker chooses not to visit a professional counselor or SAP.

A supervisor may be working with a subordinate employee to correct performance deficiencies and come to suspect that the deficiencies result from personal problems, possibly including a problem with alcohol or drugs. In such cases, the supervisor should suggest that the employee contact a professional counselor or SAP even if the performance concerns have not yet progressed to the point of discipline. At this stage, there can be no direct consequence if the employee chooses not to visit a professional counselor or SAP. Once performance deficiencies have progressed to the point of discipline, the supervisor may consider referral to a professional counselor or SAP in lieu of or as partial mitigation of the discipline which would otherwise be considered. At this stage, if the employee chooses not to visit a professional counselor or SAP when the option is offered, the supervisor should enact the full measure of discipline appropriate to the performance deficiencies.

Referral of an employee to a professional counselor or SAP is not, by itself, an acceptable alternative when a supervisor finds that reasonable suspicion exists that the employee has violated any provision the County's Alcohol and Drug Testing



Policy. In such cases, the provisions of the County's Alcohol and Drug Testing Policy must be followed.

C. Referral to Management Or Union

The County's preferred approach when an employee suspects that a co-worker is experiencing a problem regarding alcohol or controlled substances is to report their concerns to management. In most cases where the concern involves a co-worker in the same work unit or crew, the County's preference is that the report be made to the employee's immediate supervisor. However, if the suspicion involves the employee's supervisor, manager, or co-worker from another work unit or crew, or if the employee is uncomfortable with reporting to an immediate supervisor for any reason, the employee may report his or her suspicions and concerns to either:

Human Resources Director  
Josephine County Courthouse,  
Rm 162 500 NW 6<sup>th</sup> St  
541-474-5216

Any report from an employee who suspects that a co-worker is experiencing a problem regarding alcohol or controlled substance shall be fully investigated. The report and all subsequent investigation shall be treated in a manner that is highly confidential. An employee who reports suspicions or concerns that a co-worker is experiencing a problem regarding alcohol or controlled substance is not entitled to any follow-up reporting except the most general indication that the investigation is on-going or has been concluded.

No testing shall occur based solely on a report of suspicions or concerns. In order for such testing to be required, a supervisor or manager who has received training required by this policy must also find that a reasonable suspicion exists to believe that the employee has violated the provisions of this policy. The determination that reasonable suspicion exists to require the employee to undergo an alcohol or controlled substance test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. In the case of controlled substances, the observations supporting a reasonable suspicion finding may also include indications of the chronic and withdrawal effects of controlled substances. If a Union employee is uncomfortable reporting concerns regarding a co-worker to County management, the employee may want to consider reporting concerns to a Union officer or steward instead. Union representatives may be able to work with the co-worker, with or without involving County management, as appropriate, in order to intervene with respect to the employee's suspicions or concerns.

EXHIBIT 4

**CONFIDENTIAL**  
**REASONABLE SUSPICION INCIDENT CHECKLIST**

Employee Name \_\_\_\_\_ Date and Time of Observation \_\_\_\_\_

Supervisor's Full Name and Phone # \_\_\_\_\_

Date of Supervisor's DOT Reasonable Suspicion Training \_\_\_\_\_

Nature of Incident/Cause for Suspicion

- 1. Observed Reported possession or use of prohibited substance (including passenger complaint)
- 2. Apparent drug or alcohol intoxication
- 3. Observed drug or alcohol intoxication
- 4. Arrest for drug related offense
- 5. Other (e.g. flagrant violation of safety or serious misconduct, accident or near miss, fighting or

argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job. Please specify:

<input type="checkbox"/>	agitated or aggressive	<input type="checkbox"/>	sleepy	<input type="checkbox"/>	eyes bloodshot	<input type="checkbox"/>	alcohol
<input type="checkbox"/>	abusive, combative	<input type="checkbox"/>	staggering	<input type="checkbox"/>	eyes watering, tearing	<input type="checkbox"/>	marijuana
<input type="checkbox"/>	breathing labored	<input type="checkbox"/>	tremors, shakes	<input type="checkbox"/>	grooming unkempt	<input type="checkbox"/>	metallic
<input type="checkbox"/>	breathing rapid	<input type="checkbox"/>	withdrawn, depressed	<input type="checkbox"/>	nose runny sniffing	<input type="checkbox"/>	sickly sweet
<input type="checkbox"/>	coordination poor			<input type="checkbox"/>	nose sores	<input type="checkbox"/>	exaggerated
<input type="checkbox"/>	confused, disoriented			<input type="checkbox"/>	pupils dilated	<input type="checkbox"/>	incoherent
<input type="checkbox"/>	crying			<input type="checkbox"/>	pupils pinpoint	<input type="checkbox"/>	laughing excessively
<input type="checkbox"/>	dizziness or fainting			<input type="checkbox"/>	skin cold clammy, wet	<input type="checkbox"/>	loud, boisterous
<input type="checkbox"/>	forgetful			<input type="checkbox"/>	skin flushed	<input type="checkbox"/>	silly, nonsensical
<input type="checkbox"/>	frequent swallowing			<input type="checkbox"/>	skin pale	<input type="checkbox"/>	slurred, thick
<input type="checkbox"/>	highly excited or nervous			<input type="checkbox"/>	staring gaze	<input type="checkbox"/>	swearing excessively
<input type="checkbox"/>	nausea, vomiting			<input type="checkbox"/>	sweating heavily	<input type="checkbox"/>	talking excessively

Other observations: \_\_\_\_\_

Notifications

Human Resources Date \_\_\_\_\_ Time \_\_\_\_\_

Testing Site Name: \_\_\_\_\_ Time \_\_\_\_\_

- Reasonable Suspicion BAT  
[Note: just before, during, or after Safety Sensitive duty]
- Reasonable Suspicion Drug Test
- Employee transported for collection

to \_\_\_\_\_  
by \_\_\_\_\_  
date \_\_\_\_\_  
time \_\_\_\_\_

No test required explain: \_\_\_\_\_

Employee Refused Test  Employee Informed of Refusal Consequences

**CONFIDENTIAL**  
**REASONABLE SUSPICION INCIDENT CHECKLIST**

**Written Summary**

Please summarize the facts and circumstances surrounding the incident. The observations must be specific, contemporaneous, and articulable regarding the appearance, behavior, speech, or body odors of the safety sensitive employee. Attach additional sheets as needed.

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\_\_\_\_\_  
Signature of Supervisor

\_\_\_\_\_  
Date

FORWARD THIS DOCUMENT TO THE DRUG AND ALCOHOL PROGRAM MANAGER

**EXHIBIT 5**

**POST ACCIDENT TESTING DECISION REPORT**

**\*\* A separate sheet must be filled out for each covered employee that contributed to the accident\*\***

FTA

System Name: Josephine County Transit  
 Time of Accident \_\_\_\_\_ Time Employer was notified \_\_\_\_\_  
 Location of Accident \_\_\_\_\_  
 Safety Sensitive Employee \_\_\_\_\_  
 ID # and Position \_\_\_\_\_

	YES	NO	Non-DOT
1) Did the accident involve a public transit vehicle?			
2) Did the accident involve the operation of the vehicle?			
3) Was there loss of life as a result of the accident?			
4) Did any individual suffer bodily injury and immediately receive medical treatment away from the scene?			
5) Was there disabling damage to any vehicle involved in the accident?			
6a) Did you perform a drug and/or alcohol test?			
6b) If No, why not? _____			

	YES	NO	NA
6c) For a non-fatal accident, can the covered employee(s) performance be completely discounted as a contributing factor to the accident?			

	YES	NO	NA
7) Was a BAT performed within 2 hours			

8) If no, why not? \_\_\_\_\_  
 9) If no alcohol test occurred, and more than 8 hours elapsed from the time of the accident, please explain:  
 \_\_\_\_\_  
 \_\_\_\_\_

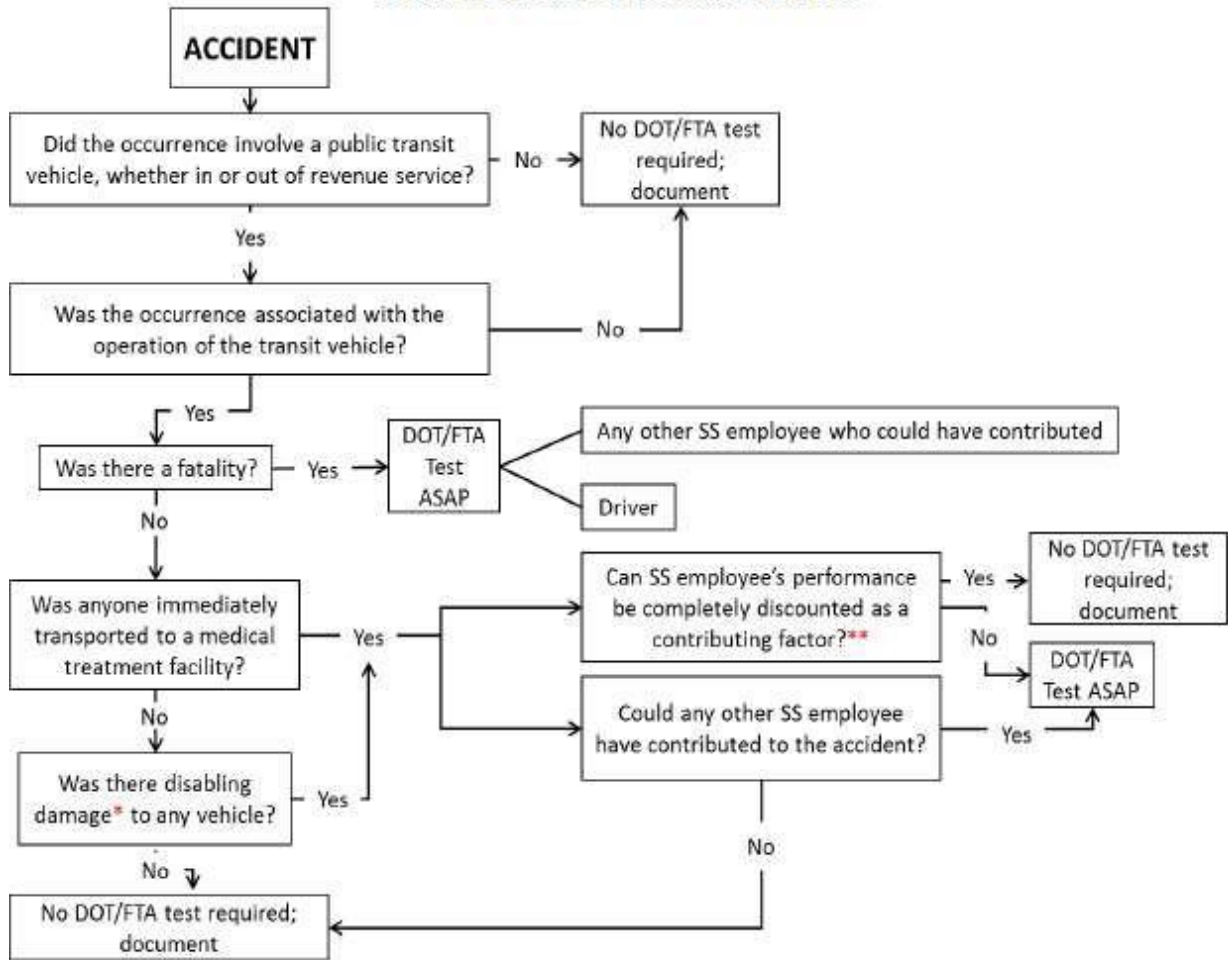
	YES	NO	NA
10) Was a drug test performed within 32 hrs?			
11) If NO, why? _____			

	YES	NO	
12) Did the employee leave the scene of the accident without a reasonable explanation?			
13) If YES, please explain _____			

14) Test determination:  
 Name of supervisor making determination \_\_\_\_\_  
 Title of Supervisor \_\_\_\_\_  
 Time employee was informed of determination \_\_\_\_\_

\_\_\_\_\_  
 Supervisor Signature & Title Date

### Post Accident Decision Tree



**\* Disabling Damage:** Damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(1) **Inclusion:** Damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven.

(2) **Exclusions:**

A. Damage that can be remedied temporarily at the scene of the accident without special tools or parts.

B. Tire replacement without other damage even if no spare tire is available.

C. Headlamp or tail light damage.

D. Damage to turn signals, horn, or windshield wiper, which makes the vehicle inoperable.

**\*\* Contributing Factor:** The determination of whether or not a safety-sensitive employee's performance was a contributing factor should be the decision of the company official investigating the accident; not based on the police officer's accident fault determination. This decision should not be made hastily. The company official's determination must be based on the best available information at the time of the accident.