

# SMITH COUNTY EMPLOYEE HANDBOOK



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**Employee Handbook Acknowledgement**

I have received a copy of the Smith County Employee Handbook with revisions effective **October 1, 2020** that outlines my benefits and obligations as a County employee. I understand that I am responsible for reading and familiarizing myself with the information in this manual and understand that it contains general personnel policies of the County. If I need clarification on any of the information in this manual, I will contact my immediate supervisor.

I further understand that the Smith County Employee Handbook is not a contract of employment. I understand that I am an at-will employee and that my employment may be terminated by either myself or the County, at any time, with or without cause, and with or without notice.

I understand that this employee handbook is intended to provide guidance in understanding Smith County’s policies, procedures, practices and benefits. I understand that Smith County retains the right to change this handbook at any time, and to modify or cancel any of its employee benefits when the need for change is recognized.

I further understand that as a Smith County employee, I am expected to provide quality service to the public, to work towards the highest degree of safety possible for my fellow workers, to continually make suggestions for improvements and to display a spirit of teamwork and cooperation.

I understand that I will be granted compensatory time off in lieu of payment of overtime to the extent provided by law and I may be required to take earned compensatory time off at the County’s discretion.

I understand that I may be subject to reasonable suspicion or post-accident drug and alcohol testing. If I am required to have a Commercial Driver’s License (CDL) for my County position, I will be subject to random, reasonable suspicion, post-accident and follow-up drug and alcohol testing.

I have read these policies and understand these policies and I agree to abide by and adhere to these policies.

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

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

\_\_\_\_\_  
Date Signed

## **Mission Statement**

Our mission is to manage the affairs of the County, which includes the efficient and judicious use of available County resources and the stewardship of public funds.

## **Vision Statement**

Smith County functions as a coordinated team to provide outstanding, professional services to all our citizens. We promote sound financial practices to ensure that the use of County resources is responsive to community priorities. Public confidence in the fiscal affairs of Smith County is integral to our vision.

## **Our Core Values – “Striving for Excellence”**

These values define whom and what we are striving to become, and set forth guiding principles and goals regarding our shared values and commitment to serving the citizens of Smith County.

### ***Honesty and Integrity***

We meet the world head-on as upright, honest, sincere public servants. Integrity is our guiding principle.

### ***Concern for Others***

We value strong teams built on caring relationships.

### ***Positive Attitude***

We know a positive attitude is the foundation for excellence.

### ***Professional Conduct***

We each make a unique and positive contribution.

### ***Excellence in Service***

We search for ways to exceed expectations.

## **Statement of Ethics**

Through our “Striving for Excellence” initiative, the Smith County Commissioners Court desires to cultivate the characteristics of a high-performing team within its employee organization. One that values people, that is united in singleness of purpose, that is known for its integrity, that values and provides outstanding service to its citizens, that

builds strong internal and external relationships, that exercises the concepts of working hard and smart, that is constantly looking for ways to improve its performance, and that retains great employees by allowing people to make a difference in the way business is conducted.

The Smith County Commissioners Court recognizes that it is essential to the proper governance and administration of Smith County that its Elected Officials, Appointed Officials and Employees perform their duties impartially, in the best interest of the people, the community and the government; with the understanding that public office is not to be used for personal gain and that the public's trust and confidence must be earned.

Therefore, Smith County has established in and throughout this Employee Handbook clear and appropriate ethical principles and standards of conduct that apply to all County Officials and Employees (collectively, "Personnel") unless otherwise specified.

### **Ethical Principles**

In addition to our core values, certain broad principles apply to the standards of conduct that we expect from all Smith County personnel. Certain of these ethical principles are best expressed as positive statements: actions which should be taken; courses which should be followed; goals which should permeate both public and private conduct. Other principles are expressed as negative statements: actions to be avoided and conduct to be condemned.

While the following lists of expected standards of conduct and behavior are not exhaustive, we have listed these principles as guidance for personnel in the execution of their positions as public servants.

The ethical County Official/Employee should:

- Properly administer the affairs of the County;
- Promote decisions which only benefit the public interest;
- Actively promote public confidence in county government;
- Conduct and perform the duties of the office diligently and promptly;
- Maintain a positive image to pass constant public scrutiny;
- Evaluate all decisions so that the best service or product is obtained at a minimal cost without sacrificing quality fiscal responsibility;

- Maintain a respectful attitude toward citizens, other public officials and all employees;
- Effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interest of the County; and
- Faithfully comply with all laws and regulations applicable to the County and impartially apply them to everyone.

The ethical County Official/Employee should not:

- Engage in outside interests that are not compatible with the impartial and objective performance of his or her duties;
- Improperly influence or attempt to influence other officials, employees or members of the public to act in his or her own benefit; and
- Accept anything of value from any source which is offered to influence his or her own action as a County Official/Employee.

The ethical County Official/Employee accepts the responsibility that his or her mission is that of servant and steward to the public.

To report violations of this policy, you may contact your supervisor, the Human Resources department, a County Official, any member of the Commissioners Court, or submit an anonymous report to: <https://www.smith-county.com/i-want-to/report/fraud>.

These ethical standards are consistent with the ethical standards for public service that have been published by the National Association of Counties.

# Chapter 1: Introduction

## 1.1 Order of Approval

**ORDER OF APPROVAL**

At a regularly called meeting of the Smith County Commissioners Court held at the Smith County Courthouse Annex, Tyler, Texas, at which a quorum was present, the following Order was approved:

It is hereby ORDERED that the Smith County Employee Handbook shall be designated as the Official Employee Handbook for the County of Smith, Texas for all Smith County Employees and Departments under the direction of the Smith County Commissioners Court.

WITNESS OUR HANDS this 29th day of September, A.D. 2020.

  
Nathaniel Moran, County Judge

  
Jeff Warr  
Commissioner, Pct. 1

  
Cary Nix  
Commissioner, Pct. 2

  
Terry Phillips  
Commissioner, Pct. 3

  
JoAnn Hampton  
Commissioner, Pct. 4



## 1.2 Purpose

It is the purpose of this handbook to establish and maintain a uniform system for managing personnel matters; to comply with applicable employment laws and to provide for the standards, terms and conditions of employment with Smith County in a clear and comprehensive fashion; and to maximize the efficiency and orderliness of the operations of the County. It is further intended, by adoption and periodic amendment of these policies and procedures, that they serve as a guide for employees of Smith County in their routine work activities and relationships to the extent that the objectives of both Smith County and individual employees can be achieved.

For us to be successful, all departments must work together to achieve the team concept. Everyone must be a team player in their individual department.

It is my desire that this handbook serve not only as a reference, but as a guide to each employee, rendering us the type of public servants our taxpayers deserve. It is my hope that each Elected Official adopts these policies to the extent that they are consistent with the mission and goals of that office to ensure consistency across the County as an organization.

Sincerely,

County Judge

Footnote: Each Department or Office may have additional policies or procedural requirements specific to that department or office. Ask your immediate supervisor, Department Head or Elected Official if additional policies apply. Elected Officials have the discretion to adopt the policies contained in this Employee Handbook in part or in whole, and are not bound by the policies adopted by the Commissioners Court.

### **1.3 History of Smith County**

Smith County was created by the legislature of the new State of Texas on April 11, 1846. The first Commissioners Court meeting was held in December of that year. The first two floors of the original courthouse were completed in 1851 on the courthouse square. Another beautiful courthouse was built in 1908, and was replaced by our present structure in the mid-1950's. To meet population growth, the courthouse was remodeled and additional buildings were purchased to provide more courtrooms and more office space for expanding departments.

County government plays an important part in the history of County residents as we provide services throughout their lives by recording births, adoptions, marriages, divorces, providing healthcare to indigents, certifying deaths and probating wills of the deceased. Texans depend upon counties to record land records, register voters, hold elections and maintain rural roads. The counties in Texas also maintain the important historical documentation of the state's past.

Smith County personnel carry out responsibilities in the justice system of the various courts, law enforcement, probation and housing of inmates awaiting trial or punishment, public safety, health, welfare, veteran and agricultural services as well as various administrative functions.

Approximately 900 full-time and part-time employees work for Smith County in thirty-eight separate departments, performing these functions and documenting the collective memory that our civilization requires.

### **1.4 How County Government Works**

The basic structure of Smith County Government and the functions it performs are prescribed by the State of Texas. The County itself, and many of its offices, are created by the State Constitution and by State Law.

#### **1.4.1 The Commissioners Court**

The Smith County Commissioners Court is the one body with authority and responsibilities which allow it to affect all areas of County operation. It is composed of five elected officials; the County Judge who is elected County-wide, and four County Commissioners who are each elected by a different geographical area within the County – known as a Precinct.

As a group, the Commissioners Court is the chief policy and administrative branch of County government.

Among its many functions, the Court:

- Sets the tax rate.
- Adopts the annual budget.
- Approves new programs or changes existing ones.
- Adopts regulations and policies.
- Approves and manages County facilities.

The Court carries out these and other specific duties by meeting in regular sessions or special sessions. Regular sessions usually take place each Tuesday. Decisions of the Court require a majority vote.

#### 1.4.2 Independent Elected Offices

While the Commissioners Court has the wider range of authority in some areas, state law gives greater authority to other Elected Officials. These Elected Officials – whether they are Judges, the Tax Assessor-Collector, the Sheriff, etc. – are directly responsible to the voters for performing the duties assigned to their offices. In these areas, while the Court may influence the functions through the budget, the Elected Officials have the policymaking and administrative responsibility for their respective offices.

#### 1.4.3 Appointed Offices

State law also prescribes some offices whose Directors are appointed by Elected Officials and allows the Commissioners Court to create some departments and appoint personnel to run them. The Auditor, who is appointed by District Judges, is an example of a state appointed officer.

The Records Service Director is an example of a position created and filled by the Commissioners Court.

#### 1.4.4 Law Enforcement

Another example is shown when the Sheriff or Constables who are elected and charged to investigate crimes and arrest lawbreakers, but the District Attorney must prosecute them, and independently elected Judges preside over their trials. If

convicted, they may be supervised by appointed probation officers or be sentenced to the County Jail – supervised by the Sheriff.

#### 1.4.5 Coordination and Cooperation

The mixture of independent and group authority, Elected and Appointed Officials, and exclusive and shared power require intra-County cooperation and coordination. To function effectively, Smith County activities require the various offices and the people in them to work as a team. An example of coordination, cooperation and control can be seen in planning and administering the budget.

#### 1.4.6 The Budget

Each year, the County Budget Officer prepares a budget to cover all proposed expenditures of County government for the next fiscal year. Development of a budget involves estimating revenues from various sources and working with department heads to determine County needs for the next year. The preliminary budget may include a suggested tax rate to generate adequate revenue to meet estimated expenses. Texas counties are required by the constitution to operate on a cash basis except for bonded indebtedness. The budget is submitted to the Commissioners Court and after discussion, evaluation, and public hearings, a final budget is adopted. No money may be spent without certification by the Auditor to assure the funds are available in the budget item for which they are drawn. The fiscal year for Smith County is October 1 through September 30.

#### 1.4.7 Purchasing

State law governs all purchases made in the name of the County.<sup>1</sup> No employee is authorized to make purchases without first obtaining a purchase order. Smith County has centralized purchasing located in the Purchasing Department. Copies of the purchasing procedure may be obtained from the purchasing agent.<sup>2</sup>

### **1.5 Implementation and Administration of Personnel Policies**

These policies are established and approved by the Commissioners Court of Smith County. They replace all previously approved policies to the extent of any conflict. Amended, revised or new policies must be approved by a majority vote of the Commissioners Court. In cases where federal or state law or regulations supersede

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<sup>1</sup> *Purchasing Agents*. Texas Local Government Code § 262.011(d)

<sup>2</sup> Smith County Purchasing Department. <https://www.smith-county.com/government/departments/purchasing>

local policy for specific groups of employees, such laws or regulations will substitute for these personnel policies only insofar as necessary to comply. Each of these policies and parts of policies are intended to stand independently. Therefore, if any policy or part of a policy becomes invalid because of federal or state law or other authority, it shall not affect the validity or application of other policies or parts of policies.

These policies apply to all employees of Smith County which report directly to the Commissioners Court or who work in departments or agencies directly responsible to the Commissioners Court.

They shall also apply to employees of Elected Officials to the extent that they are affirmatively adopted by such Elected Official. All Elected Officials of Smith County are encouraged to adopt these policies to the fullest extent possible in order for uniformity of personnel administration to exist.

Insofar as the Commissioners Court has fiscal responsibility or authority which relates to the employer-employee relationship of Smith County employees, these policies set forth the position of the Commissioners Court as guidelines for the information of employees, Department Heads and Elected Officials regarding such matters as payroll, vacation, sick leave, holidays and holiday pay, overtime, retirement insurance, travel, etc. All Elected Officials are expected to follow these guidelines for their employees, and their failure to do so could result in the Commissioners Court taking appropriate legal action.

Reminder – The Smith County Employee Handbook does not constitute any type of contract, employment or otherwise, between the County and any employee. All Smith County employees are at-will employees, unless otherwise specifically designated in writing.

## **1.6 Definitions**

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Accrued leave – paid time off from work which is earned but not yet used.

At-will employment – the employee is not under an employment contract. This doctrine simply means that either the employee or the employer can terminate the employment relationship at any time for any or no reason.

However, under no circumstances will an employee's constitutional rights be violated in the process.

Compensation – a financial benefit; usually thought of as wages, pay or salary; as monetary benefit. Compensation or remuneration may also be a gift or special favors which have a monetary value.

Department Head – includes elected officials, heads of departments appointed by the Commissioners Court, all officials appointed to elected offices, and all heads of departments appointed by the District Judges.

Drug – includes all illegal drugs or derivatives thereof, illegal inhalants, all drug paraphernalia, alcohol and prescription drugs when not taken as directed by the employee's doctor.

Exempt Employee – an employee who is Exempt from the Fair Labor Standards Act (FLSA) minimum wage and maximum hour requirements. Department Heads, in consultation with Human Resources and Legal, determine whether an employee's job duties qualify for an FLSA exemption. Department Heads with questions about an employee's exemption status should contact Human Resources. An exempt employee can be either "excluded" or "non-excluded". An exempt employee who is also excluded does not accrue PTO or sick leave, but are granted those benefits at the discretion of their supervisor. The most common example of this is an individual who is a member of a Judge's staff. Any exempt employee who does not meet the narrow definition or excluded is classified as an exempt non-excluded employee.

Human Resources – County department responsible for administering a comprehensive human resource program for Smith County that includes: providing recruitment of applicants, processing and testing of applicants, conducting new employee orientation, administering benefit programs, developing and ensuring compliance with policies and procedures, maintaining compliance with federal and state rules and regulations regarding employment, administering workers' compensation and unemployment compensation.

Insubordination – failure or unwillingness to accept or recognize the authority of a superior. Also includes failure to follow the directions or procedures of their department or supervisor.

Intoxication – to be under the effect of alcohol or drugs.

New Employee Onboarding – consists of the federal and state required paperwork for new employees as well as Smith County specific information. These include personnel data forms, insurance, retirement, and any other required forms.

Non-Exempt Employee – employees whose functions entitle them to the Fair Labor Standards Act (FLSA) minimum wage and maximum hour requirements.

Reportable Accident – an accident that meets any of the following criteria: occurs on County property, causes damage to County-owned property, or causes bodily injury to a County employee or a private citizen.

Retiree – a person who is no longer employed by Smith County and meets the definition of retirement in Chapter 5 of the Employee Handbook.

TCDRS – Texas County and District Retirement System.

## Chapter 2: County Employment

### 2.1 Equal Employment Opportunity

Smith County is an equal opportunity employer. The County will not discriminate on the basis of race, color, religion, national origin, sex, age, genetic information, pregnancy, veteran status, and disability, or any other condition or status protected by law in hiring, promotion, demotion, raises, termination, training, discipline, use of employee facilities or programs, or any other benefit, condition, or privilege of employment except where required by state or federal law, or where a bona fide occupational qualification exists. If an employee needs an accommodation as a result of a condition or status protected by law, please advise the Elected Official, Appointed Official or Department Head, and to the Human Resources department.

### 2.2 Americans with Disabilities Act Amendments Act

It is the policy of Smith County to prohibit any harassment of, or discriminatory treatment of employees on the basis of a disability or because an employee has requested a reasonable accommodation. If an employee feels he or she has been subject to such treatment, or has witnessed such treatment, the situation should be reported to the Elected Official, Appointed Official or Department Head. All Elected Officials, Appointed Officials, Department Heads and employees with responsibilities requiring knowledge are instructed to treat the employee's disability with confidentiality.

It is the policy of Smith County to reasonably accommodate qualified individuals with disabilities, unless the accommodation would impose an undue hardship on the County. In accordance with the Americans with Disabilities Act<sup>3</sup>, as amended (ADAAA), reasonable accommodations may be provided to qualified individuals with disabilities when such accommodations are necessary to enable them to perform the essential functions of their jobs, or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment and all employees. If you require accommodation, please contact the Elected Official, Appointed Official or Department Head, and the ADA Coordinator in the Human Resources department. Reasonable accommodation shall be determined through an interactive process of consultation.

### 2.3 Employment At-Will

All employment with Smith County shall be considered “*at-will*” employment. No contractual obligations shall exist by any reason of any policy, handbook or promise

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<sup>3</sup> *Americans with Disabilities Act*. Code of Federal Regulations, Title 29 §1630



unless specifically provided in writing by the Commissioners Court or the appropriate Elected Official.

All employees should be aware that placement on the payroll does not constitute a contractual relationship of a specific length of time of employment. Employment with Smith County is considered “*at will*”. That is, either the employee or employer can sever the employment relationship at any time without notice, for any legal reason, or for no reason at all. Employment “*at will*” has been the County’s employment policy in the past and will continue to be until changed by official order of the Commissioners Court. Employment “*at will*” supersedes all other policies contained in the Smith County Employee Handbook.

## 2.4 Employee Status

Each Smith County position has an employee status that identifies how the position is paid and how benefits are granted by Commissioners Court. This policy defines both health insurance and retirement benefits. The status of an employee cannot be changed without the approval of the Commissioners Court.

There are four (4) categories of employment with Smith County.

- **Regular Full-Time**: A full-time employee shall be any employee in an authorized, budgeted position who has a normal work schedule of at least forty (40) hours per week. Full-time employees are eligible for County health insurance and retirement benefits. Other County policies will dictate eligibility for other benefits. Employees may be non-exempt or exempt employees. Non-exempt employees are eligible for overtime compensation. Exempt employees are not eligible for overtime compensation. Smith County makes exempt status determination based on the Fair Labor Standards Act.
- **Regular Part-Time**: A part-time employee shall be any employee in a position who has a normal work schedule of less than thirty (30) hours per week or 130 hours per month, and who maintains continuous employment status on a regular basis. All regular part-time employees must be placed on TCDRS retirement regardless of the number of hours worked per week. Other County policies will dictate eligibility for other benefits.

- Supervisors are strongly advised not to work their part-time staff in excess of 28 hours per week, as doing so may result in creating a liability for the County.
- **Temporary Part-Time**: A temporary part-time employee shall be any employee hired into a position for a specified project or timeframe, or who works on an as-needed basis for a non-specified period of time. Temporary part-time employees are not entitled to any benefits under the Affordable Care Act<sup>4</sup> and are not eligible for retirement benefits under TCDRS. Other County policies will dictate eligibility for other benefits.
- **Temporary Seasonal**: A seasonal employee shall be any employee who is hired into a position that lasts six (6) or less months and begins at approximately the same time each year. Seasonal employees can be either part-time or full-time, and they do not qualify for health insurance through the County under the Affordable Care Act. Temporary seasonal employees are not eligible for retirement benefits under TCDRS. Other County policies will dictate eligibility for other benefits.

## 2.5 Selection and Transfer Policy

Employee vacancies in the County are filled on the basis of merit, whether by promotion from within or by external hire. Smith County has three methods of recruiting and selecting persons to fill vacancies. Advertisement of known vacancies to County employees and the public will be made by the Human Resources department. Current employees will be permitted to apply for positions for which they believe themselves to be qualified. The Texas Workforce Commission may be advised and advertising, or other methods, may be utilized.

An applicant is disqualified from employment by the County if they do not meet the minimum qualifications for performance of the duties of the position involved, fail the *drug* test, are unable to perform the essential functions of the position with or without a reasonable accommodation based on the results of the physical examination if required for the position, knowingly have made a false statement on the application form, have committed fraud during the selection process, or are not legally permitted to hold the position.

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<sup>4</sup> Patient Protection and Affordable Care Act § 4980H(c)(2)(B)

Employees who wish to apply for a position in another department should notify their supervisor or Elected Official or Department Head of their intent. In order to ensure a smooth transition, if an employee is accepted for transfer between departments, the respective supervisors, Elected Officials or Department Heads shall confer and agree upon an effective date of transfer which generally should provide for a two-week notice period. An employee who transfers from one department to another is subject to the provisions of the three-month introductory period beginning on the first day of transfer. Transferring will not change the anniversary date of the employee. All accrued time will transfer with the employee to his or her new department with the exception of an employee whose classification changes. The supervisors, Elected Officials or Department Heads may waive the notice period by mutual agreement.

### 2.5.1 Promotions

Promotions are changes in the duty assignment of an employee from a position in one classification to a position in another classification of a higher pay range. It is the policy of Smith County to provide current employees with advancement opportunities whenever reasonably possible. While the County's policy is to fill each position with the best, qualified applicant, preference shall be given to current County employees where, in the County's opinion, all other qualifications are equal.

Promotions are approved by the Elected Official or Department Head within the staffing pattern and budget limits approved by the Commissioners Court.

All promoted employees shall be required to complete a 90-day introductory period in the new position before the promotion is considered to be fully approved. If an employee cannot meet the required standards of the new position, the employee may be restored to the position from which they were promoted or to a comparable position if such a position is available and with the approval of the Elected Official or Department Head.

### 2.5.2 Lateral Transfers

Lateral transfers are movements of an employee between positions in the same pay level. Lateral transfers may be made within the same department or among other departments of the County, with the approval of the affected Elected Officials or Department Heads.

### 2.5.3 Demotions

A demotion is a change in duty assignment of an employee from a position at one pay level to a position at a lower pay level. A demoted employee will have his or her pay reduced. Demotions may be made for the purpose of voluntary assumption of a less responsible position, as a disciplinary measure or because of unsatisfactory performance in a higher position.

## **2.6 Post-Retirement Employment Policy**

Smith County may re-hire retirees without a suspension of their monthly annuity if the following criteria is met.

- The retiree's separation was a bona fide separation; that is, there was no prior agreement or understanding between the employer and the employee that the employee would be re-hired after retirement.
- The retiree must have had a break in service of at least one full calendar month.

A retiree who resumes employment with Smith County and does not have a break in service of at least one full calendar month, or who resumes employment with Smith County in essentially the same job as was previously held, will not be considered to have retired from the TCDRS. Thus, the employee's service retirement annuity will be discontinued and the employee must return payments received.

Any retiree who is re-hired consistent with the policy will establish a new membership with TCDRS and will be considered a new member for the purposes of beneficiary determination and benefit selections.

Any County department or office that is considering hiring a retiree should first consult the Human Resources department.

Effective April 29, 2013, the following policies and procedures related to re-hiring a Smith County retiree must be followed in order to safeguard the County's retirement system as well as the employees and retirees.

- 1) The County Auditor and the Human Resources department are to see that an executed affidavit from the retiree and an executed affidavit from the requesting Department Head/Official are completed.

- 2) The County Auditor's office and the Human Resources department will verify retirement dates, etc.
- 3) A re-hired retiree may not begin employment until the Human Resources department and County Auditor's office (Payroll division) have received the two fully executed affidavits.

## Chapter 3: Employee Practices and Standards

### 3.1 Introductory Period

Each new Smith County employee shall be subject to a 90-day introductory period, unless otherwise stated. New employees of the Smith County Sheriff's Department shall be subject to a 180-day introductory period. During the introductory period, sick leave, vacation leave, administrative holiday, or funeral days cannot be used by the employee.

At any time during the introductory period, the department or employee may choose to initiate a "no fault" separation which will not adversely affect the employee's personnel records. However, nothing in this section shall limit or restrict the "*at-will*" employment status of an employee. Smith County retains the right to terminate the employee at any time, either during or after the introductory period for any reason or no reason, and no right to employment for a specific period of time shall be implied by the introductory period.

New employees shall not be eligible for paid vacation time nor shall they receive pay for accrued vacation if their employment is terminated for any reason during the introductory period. The employee shall be credited for vacation time and sick time accrued from the date of employment upon successful completion of the introductory period.

### 3.2 Starting Pay

Starting pay for all positions will be set by the department head or elected official for the appropriate department in accordance with the adopted budget that has been approved by the Commissioners Court.

### 3.3 Hours, Schedules and Alternative Programs

#### 3.3.1 Office Hours

A Department Head, with the approval of the Commissioners Court, has the right to establish and schedule reasonable work hours, rules and working conditions in a manner most advantageous to the County in accomplishing its service and work requirements. Compensatory time is also scheduled by the Elected Official or Department Head, according to appropriate County policies. County offices are expected to remain open between the hours of 8:00 a.m. to 5:00 p.m., including the

noon hour, unless otherwise approved by the Commissioners Court. Employees should verify office and work hours with their supervisor.

### 3.3.2 Breaks and Lunches

A Department Head may establish breaks and lunch periods for their employees in accordance with their service and work requirements. Employees may be granted one fifteen (15) minute break for each four (4) hours worked. Employees are paid while on break. A lunch period may be thirty minutes or one hour depending on the work schedule approved by the Elected Official or Department Head. Lunch periods are in addition to the regular eight-hour work period. Employees are not paid during their lunch period; therefore, they should be relieved of all duties and be free to leave their posted workstation.

### 3.3.3 Nursing Mothers

Smith County supports breastfeeding mothers by accommodating their desire or need to practice of expressing breast milk during the workday.<sup>5 6</sup>

Smith County will provide reasonable amount of break time and provide the nursing mother with a private location, other than a bathroom. The location will be shielded from view, free from intrusion and appropriate for expressing breast milk. The specific location will be determined on a case-by-case basis.

Smith County does not allow any retaliation against a nursing mother for asking for this break. Nursing mothers are entitled to this break for the duration of the time they are expressing breast milk. A reasonable accommodation will be given for the needs of employees who express breast milk. An employee of the County who needs to express breast milk may not be discriminated against.

### 3.3.4 Flex Time

If an employee is required by his/her Department Head to work more than their regular workday, the Department Head is encouraged to reduce work hours another day during the same work week, without using any of the employee's available leave. This will ensure that the employee does not exceed 40 hours in their regular workweek. Department Heads are strongly encouraged to "flex" their employees' time to avoid their working overtime and/or accruing miscellaneous time.

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<sup>5</sup> *Fair Labor Standards Act*. United States Code, Title 29, Chapter 8 § 207

<sup>6</sup> *Breast-Feeding Rights and Policies*. Texas Health & Safety Code § 165.004

### 3.3.5 Miscellaneous Time

Miscellaneous time is accrued when an employee has a combination of time worked and leave time (time off) resulting in total time over 40 hours in a workweek, or over their full-time scheduled hours in a pay period if the employee falls under the FLSA 207(k) overtime exemption. The employee does not physically work more than 40 hours, so the hours over 40 are accrued at straight time and added to the miscellaneous leave balance. Miscellaneous time is the result of time granted from an employer benefit (the leave time used) and not actual time worked.

An example of how miscellaneous time is earned is when an employee takes an 8-hour sick day during the workweek, but works an extra hour at some other point in the same week. The employee will have 41 hours for the week but only physically worked 33 hours. The employee will be compensated for the 33 hours worked plus 7 hours of sick leave. The remaining hour does not qualify as overtime or compensatory time, so the hour is added to the employee's miscellaneous leave balance for the employee to use at a later date. The leave time used by an employee in excess of their full-time schedule will be deducted from the available balance of the leave time used, will be added to miscellaneous time, and will not be included in employee compensation.

The following types of leave time shall not be used to accrue miscellaneous time: Paid Administrative Leave, HB2073 Quarantine Leave, and Emergency County Closure. Leave time for these types of time off should only be recorded, within their designated purpose, to the extent necessary to fulfill the employee's total full-time scheduled hours.

Exempt employees are not eligible to accrue miscellaneous time. Miscellaneous time is not paid out upon termination.

## **3.4 Overtime and Compensatory Time Policy**

### **I. PURPOSE**

Employees may be required to work overtime in addition to the hours worked during their regularly scheduled work periods. This policy will establish how pay will be administered when employees work overtime.



## II. POLICY

Compensatory time is the method of payment for time worked in lieu of overtime payment. In such cases, when employees work overtime, employees will be given time and one-half compensatory time in lieu of overtime payment.

Non-exempt employees **must have prior approval** from their Elected/Appointed Official or Department Head before working overtime. Any non-exempt employee who works overtime without obtaining prior approval may be subject to disciplinary action.

### **FLSA 207(k) overtime exemption - Sheriff's Department**

The Smith County Commissioners Court adopted the FLSA Section 207(k)<sup>7</sup> exemption for all eligible law enforcement personnel working for the Sheriff's Department.

Section B. of this policy, concerning non-exempt law enforcement personnel, only applies to eligible law enforcement personnel working for the Sheriff's Department and will be in force with the pay period beginning July 13, 2014.

## III. PROCEDURE

### A. COMPENSATION FOR OVERTIME WORKED: (NON-LAW ENFORCEMENT)

1. All non-exempt employees, other than law enforcement personnel, may accumulate up to 240 hours of compensatory time. After this time, they must be paid for overtime worked.

Example: An employee actually works forty-five (45) hours. The employee is granted five (5) hours overtime at time and one-half rates ( $5 \times 1.5 = 7.5$  hours).

2. When an employee uses benefit time as well as time worked to accumulate more than forty (40) hours of straight time, the hours shall be accumulated at miscellaneous time.

Example: 36 hours worked + 8 hours holiday = 44 hours.  
Miscellaneous time would be four (4) hours.

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<sup>7</sup> *Fair Labor Standards Act*. United States Code, Title 29, Chapter 8 § 207(k)

B. COMPENSATION FOR OVERTIME WORKED:  
(NON-EXEMPT LAW ENFORCEMENT)

1. This section of the policy only applies to eligible law enforcement personnel working for the Sheriff's Department and will be in force with the pay period beginning July 13, 2014.
2. Overtime will be paid in either compensatory time or pay when required.
3. All hours worked up to eighty (80) hours during a 14-day work period shall be compensated at straight time.
4. Hours worked from eighty-one (81) through eighty-six (86) during the 14-day work period shall be compensated with compensatory time on a straight time basis.
5. Hours worked in excess of eighty-six (86) hours shall be compensated with compensatory time on a time and one-half basis.
6. Time not worked but compensated, such as sick leave, holiday, vacation, etc., shall be calculated at straight time.
7. Paid overtime is authorized at the discretion of the Smith County Commissioners Court, subject to annual budgetary funding. If funding for paid overtime for any department or office is exhausted prior to the end of a fiscal year, beginning at the start of the next pay period after such funding for paid overtime is exhausted, all time worked for the remainder of that fiscal year that would have otherwise been compensated with paid overtime shall be compensated with compensatory time, unless otherwise specifically authorized by action of the Commissioners Court.

C. COMPENSATORY TIME BALANCES

1. When a non-exempt employee accumulates 240 hours of compensatory time, all time in excess of 200 hours shall be paid on the next paycheck.

2. When a non-exempt law enforcement employee accumulates 480 hours of compensatory time, all time in excess of 400 hours shall be paid on the next paycheck.
3. Elected/Appointed Officials and Department Heads are strongly encouraged to allow their employees to use their accrued compensatory time to avoid the 240 and 480 hour ceilings.
4. Elected/Appointment Officials and Department Heads may require employees to use any part of their compensatory time balance for budgetary reasons and for the best interest of the department.
5. All compensatory time shall be carried over from year to year.
6. All accrued compensatory time shall be paid to an employee upon separation of employment, as well as transfer to an exempt, excluded, or elected position, including a transfer to the supervision of another Department Head or Elected/Appointed Official.

### **3.5 Temporary Assignment Compensation**

To facilitate the operations of and minimize the disruption of a County department, the Commissioners Court may designate an employee to act as interim Department Head. Temporary assignments of this nature in excess of one month may be eligible for additional temporary compensation as determined by the Commissioners Court. Upon completion of the temporary assignment, the employee's compensation shall return to his or her former rate of pay.

Factors that shall be considered when determining eligibility for additional temporary compensation are:

- Estimated length of temporary assignment
- Circumstances resulting in absence of Department Head
- Scope of additional responsibilities
- Availability of funding

### 3.6 Safe Harbor Policy

It is the policy and practice of Smith County to accurately compensate employees and to do so in compliance with all applicable state and federal laws.<sup>8</sup> To ensure that all employees are paid properly for all time worked and that no improper deductions are made, employees must correctly record all time worked and review their paychecks promptly to identify and report all errors. In addition, employees must not engage in “off-the-clock” or unrecorded work.

An employee’s salary may be reduced for certain types of deductions, such as:

- Employee’s portion for health, dental, vision or life insurance premiums.
- State, Federal or local taxes, and Social Security.

In any workweek in which an employee performed any work, an employee’s salary will not be reduced for any of the following reasons:

- Absence because the facility is closed on a scheduled workday.
- Absences for jury duty, attendance as a witness, or military leave in any week in which an employee performed any work.
- Any other deductions prohibited by state or federal law.

#### 3.6.1 Non-Exempt Employees

If an employee is eligible for overtime pay or extra pay, the employee must maintain a record of the total hours worked each day. Each employee submitting his or her time should verify that the reported hours worked are complete and accurate, and that there is no unrecorded or “off-the-clock” work. An employee’s electronic timesheet must accurately reflect all regular and overtime hours worked, any absences, early or late arrivals, early or late departures, and meal breaks. At the end of each pay period, the employee should submit his or her completed electronic timesheet. When the employee receives each paycheck, he or she should verify immediately that they were paid correctly, or properly granted compensatory time, for all regular and overtime hours worked each workweek.

#### 3.6.2 Exempt Employees

If an employee is classified as an exempt, salaried employee, he or she will receive a salary which is intended to compensate for all hours that the employee worked. This

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<sup>8</sup> *Wage and Hour Division, Department of Labor. Code of Federal Regulations, Title 29 §541.602*

salary will be established at the time of hire or when the employee becomes classified as an exempt employee.

Employees will receive their full salary for any workweek in which work is performed. However, under federal law, an exempt employee's salary is subject to certain deductions. For example, an employee's salary may be reduced for the following reasons in a workweek in which work was performed:

- Full day disciplinary suspensions for infractions of safety rules of major significance (including those that could cause serious harm to others).
- Unpaid disciplinary suspensions for significant infractions of major workplace conduct rules set forth in written policies.
- Family and Medical Leave absences (either full or partial day absences).
- The first or last week of employment in the event you work less than a full week.

**Please Note:** Employees will be required to use accrued vacation, personal or other forms of paid time off for full or partial day absences for personal reasons, sickness or disability. Additionally, the possible reasons outlined in this section for deductions and their related examples should not be construed to be an exhaustive list.

### 3.6.3 Review Pay Stubs

Smith County makes every effort to ensure employees are paid correctly. Occasionally, however, inadvertent mistakes can happen. When mistakes do happen and are called to the County's attention, Smith County will attempt to make any correction that is necessary by the end of the following pay period, after the mistake is reported and verified. Employees are advised to please review their pay stub when it is received in order to make sure it is correct. If any employee believes a mistake has occurred or has a question, they are asked to please use the reporting procedure outlined below.

***To report violations of this policy, communicate concerns or obtain more information:***

It is a violation of Smith County policy for any employee to falsify an electronic timesheet or to alter another employee's timesheet. It is also a serious violation of Smith County policy for any employee or manager to instruct another employee to incorrectly or falsely report hours worked, or alter another employee's timesheet to under- or over-report hours worked.

***If any manager or employee instructs any employee to perform any of the following, employees are advised not to do so and should, instead, report it immediately to the Human Resources department.***

- (1) Incorrectly or falsely under- or over-report hours worked;**
- (2) Alter another employee's time records to inaccurately or falsely report that employee's hours worked; or**
- (3) Conceal any falsification of time records or to violate this policy.**

Employees should not work any hours outside of their scheduled workday unless their supervisor has authorized the unscheduled work in advance. Employees should not start work early, finish work late, work during a meal break or perform any other extra or overtime work unless they are authorized to do so, and that time is recorded on their electronic timesheet. Employees are prohibited from performing any "off-the-clock" work. "Off-the-clock" work means work an employee may perform but fail to report on their electronic timesheet. Any employee who fails to report or inaccurately reports any hours worked will be subject to disciplinary action, up to and including discharge.

If employees have questions about deductions from pay, please contact the County Auditor's office immediately. If any employee believes their wages have been subject to any improper deductions or their pay does not accurately reflect all hours worked, that employee should report concerns to a supervisor immediately. If a supervisor is unavailable or if the employee believes it would be inappropriate to contact that person (or if an employee has not received a prompt and fully acceptable reply within three business days), the employee should immediately contact: **Payroll at (903) 590-4703.**

If an employee has not received a satisfactory response within five business days after reporting his or her concern to the County Auditor's Office, and is unsure who to contact to correct the problem, please immediately contact: **Human Resources at (903) 590-4645.**

Every report will be fully investigated and corrective action will be taken, up to and including discharge of any employee(s) who violates this policy.

In addition, Smith County will not allow any form of retaliation against individuals who report alleged violations of this policy or who cooperate in the County's investigation of such reports. Retaliation is unacceptable. Any form of retaliation in violation of this policy will result in disciplinary action, up to and including discharge.

### **3.7 Health and Safety**

#### **3.7.1 Workplace Violence**

It is Smith County's policy to promote a safe environment for its employees. The County is committed to working with its employees to maintain a work environment free from violence, threats of violence, harassment, intimidation and other disruptive behavior. Smith County will not tolerate such acts when directed at an employee. Neither will Smith County tolerate an act of workplace violence committed by an employee toward a citizen or co-worker.

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

Your cooperation is required to implement this policy and to maintain a safe working environment. Do not ignore violent, threatening, harassing, intimidating or other disruptive behavior. If you observe or experience such behavior by anyone on County property, whether he or she is a County employee or not, report it immediately to your supervisor or Department Head. You may also report the circumstances to the Human Resources Director or the Administrative Assistant to the Commissioners Court. Employees may also go to any member of the Commissioners Court. Failure to report these described behaviors or a related situation is a violation of the County's personnel policies.

Individuals who receive such reports should seek advice from the Sheriff's Department, or the Human Resources department, in regards to investigating the incident and initiating appropriate action.

#### **3.7.2 Safety Policy**

It is the policy of Smith County to ensure adequate provision is made for the safety and health of all employees and other users of County facilities, and that appropriate risk management and loss control strategies are employed.

The Commissioners Court and the appointed Safety Coordinator are responsible for overseeing the assignment of responsibilities for an effective safety and health

program. Specific goals will be established to ensure that all employees are made aware of safety standards and procedures. This will be accomplished through safety meetings, safety training, safety inspections, accident investigations and any corrective actions that may be necessary to ensure safe working conditions.

This policy maintains safety as a standard of conduct required by all County employees. The overall success of the safety and health program requires the participation and support of all employees. Note that violations of a standard of conduct, including safety, may result in disciplinary action, including termination.

Each employee must share in following safety and health procedures. By reporting any unsafe practices to your Department Head or the Human Resources department, you can help prevent accidents and losses for a better Smith County.

### **3.8 Nepotism**

A Public Official of Smith County is prohibited from hiring a relative related within the third degree of consanguinity (blood) or within the second degree of affinity (marriage) to work in a department that he or she supervises or exercises control over.<sup>9</sup>

Persons related within the third degree of consanguinity or the second degree by affinity to an employee may not work in the same department due to potential conflicts. Likewise, applicants related within the third degree of consanguinity or the second degree by affinity to an employee may not be hired for a position in the same department as a relative. Failure to disclose such a relationship at the time of application is grounds for termination.

Current employees, as of May 26, 2009, related to other employees in the same department will not be subject to this provision, unless such person leaves and is seeking to be re-hired after the effective date of this provision.

Elected Officials, Appointed Officials or any employee with questions about the nepotism statute or definitions of degrees are encouraged to direct their questions to the Human Resources department.

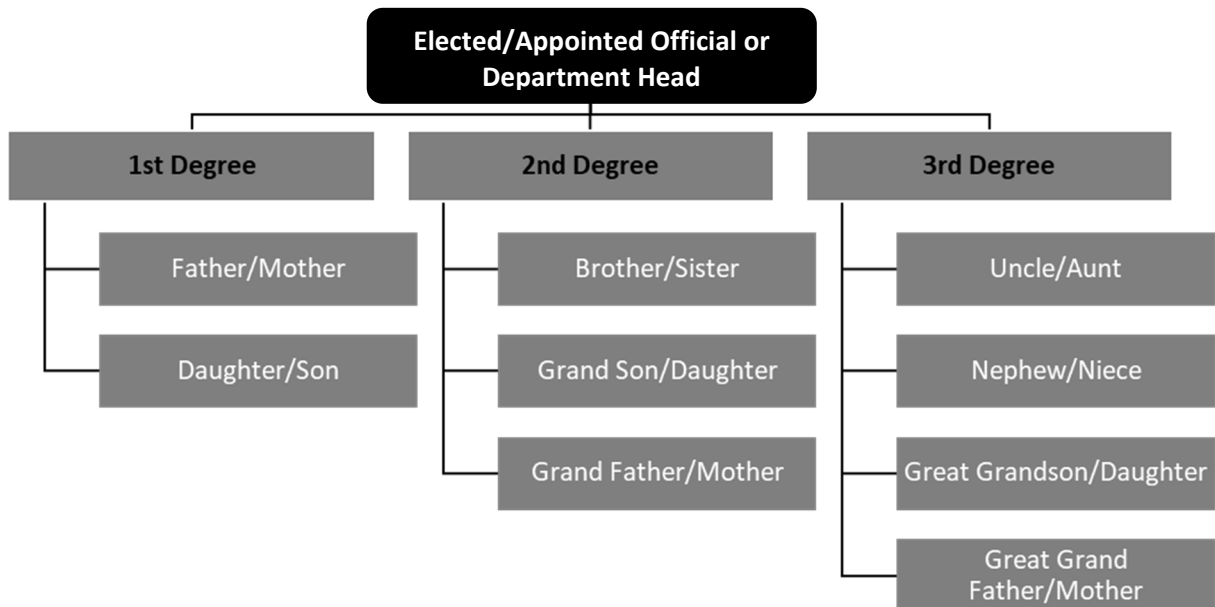
A degree of relationship is determined under the Texas Government Code. See the charts on the following page.

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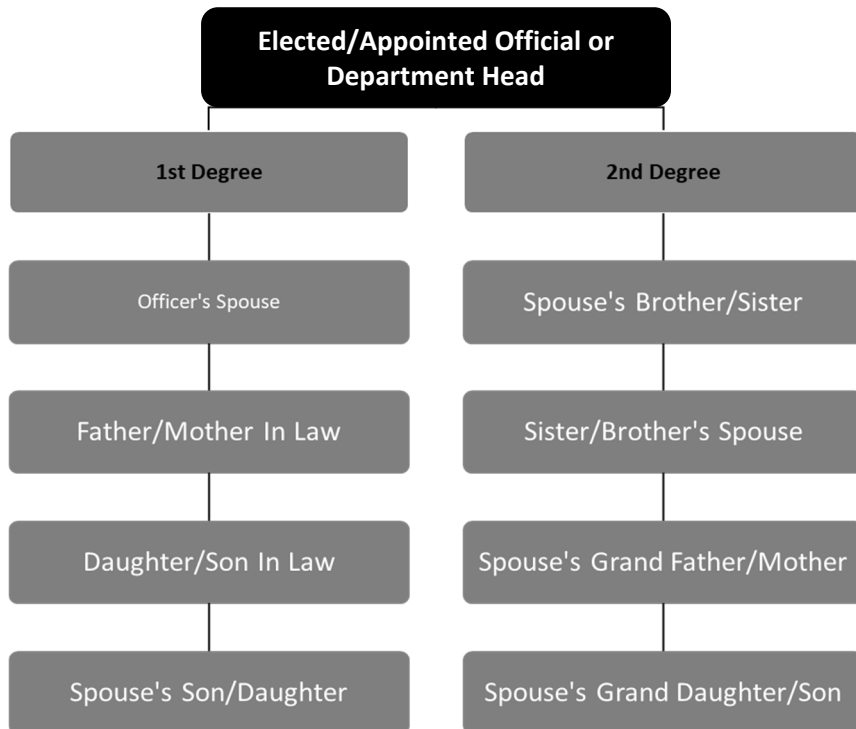
<sup>9</sup> *Degrees of Relationship; Nepotism Prohibitions*. Texas Government Code, Title 5 § 573



**CONSANGUINITY KINSHIP CHART**  
(Relationship by Blood)



**AFFINITY KINSHIP CHART**  
(Relationship by Marriage)



### **3.9 Physical Standards**

Certain job classifications within the County require physical examinations to determine if an individual can perform the essential job functions with or without a reasonable accommodation.

These physical examinations will be required of each individual who receives a conditional job offer in certain job classifications.

Determination of reasonable accommodation for otherwise qualified individuals shall be made in accordance with the provisions of the policy on equal employment opportunity, and in keeping with the Americans with Disabilities Act.

### **3.10 Drug and Alcohol – All Employees**

The policy of Smith County is to require a drug-free workplace. Illegal drugs, substance abuse (including alcohol) and abuse of legal drugs will not be tolerated. Employees will be terminated if found to be in violation of this policy.

- Test results which demonstrate positive findings (zero tolerance) for illegal drugs are grounds for termination.
- Test results which demonstrate positive findings (zero tolerance) for alcohol when reporting to work or during work are grounds for termination.
- Test results and conduct, or behavior indicating abuse of legal prescriptions or therapeutic medications are grounds for termination.

#### 3.10.1 Policy

It is the intent of Smith County to maintain a work environment free from the use, exchange or presence of illegal or illicit drugs, and to prevent the misuse of legal drugs or alcohol by Smith County employees while working in County offices, facilities, worksites or wherever their duties require them to be. Smith County recognizes that drugs and alcohol impair employee judgment, which may result in increased safety risks, hazards to the public, employee injuries, faulty decision-making and reduced productivity. Therefore, the County requires all employees to be in a state of mind and physical condition fit to complete their assigned duties safely and competently.

In the interest in providing a drug-free workplace, the following applies:

- Employees are required to refrain from the use, manufacture, procurement, distribution, sale, dispensing or possession of any controlled substance without a lawful prescription;
- Employees are required to refrain from the use or possession of alcohol while on duty and the use of alcohol for a sufficient time prior to the performance of duty so that none of the effects (including positive test results) of the use of alcohol remain during job performance;
- Employees are required to refrain from the use or misuse of legal drugs, chemicals or substances containing elements having a potential for abuse while on duty and for a sufficient time prior to the performance of duty so that none of the effects (including positive test results) of the use or misuse of legal drugs, chemicals or substances containing elements having a potential for abuse remain during job performance;
- Employees are required to refrain from the use of, misuse of or exposure to substances and materials available in the workplace which may result in physical or mental impairment; and
- Any employee who is convicted under a criminal statute relating to illegal drugs, alcohol or misuse of legal drugs or a controlled substance shall notify their immediate supervisor no later than five (5) days after the conviction. Within thirty (3) days after receiving notice from an employee of a conviction of a criminal statute, the Elected Official or Department Head shall take appropriate personnel action up to and including termination of that employee.

Elected Officials or Department Heads shall not allow any employee to remain on duty who is found to use, manufacture, distribute, procure, sell, dispense or possess any controlled substance without proper legal authority or who is found to use or misuse legal drugs, chemicals or substances containing elements having a potential for abuse or use of alcohol when the effects (including positive test results) remain during job performance and may result in physical or mental impairment and shall initiate action to remove such employee from employment.

This drug-free workplace program establishes that illegal drugs, substance abuse and abuse of legal drugs will not be tolerated. Failure of the drug test for illegal drugs is any positive result (zero tolerance). Failure of the test for alcohol is a positive result

(zero tolerance) when reporting to or during working hours. Employees will be terminated if found to be in violation of this policy.

All drug test results and other documents relating to it will be held and treated in confidence. Any employee who has a problem with the use of illegal drugs, alcohol or abuse of legal substances is encouraged to come forward and speak with their Elected Official, Department Head or the Human Resources Director. An employee who voluntarily admits to being a user of any controlled substance without proper legal authority or an abuser of alcohol PRIOR to being identified through other means and who obtains counseling or rehabilitation and, thereafter, refrains from such abuse in accordance with the provisions of this policy will not be subject to disciplinary action. All medical evaluations and treatments are confidential unless authorized specifically in writing by the employee.

Smith County will drug test employees who are **NOT** CDL holders under the following conditions:

### 3.10.2 Pre-Employment Drug Testing

Smith County has a pre-employment drug testing requirement that must be passed post-offer before an employee starts their first day of work. All offers of employment are conditional upon passing a drug and alcohol test. The employee will sign a consent waiver.

Any applicant who refuses to sign the consent waiver or refuses to undergo the drug/alcohol testing will not be considered for employment, since drug/alcohol testing is an integral part in determining suitability for employment.

If an applicant fails the drug/alcohol test, a second test on the same sample will be administered immediately. If the second test proves positive, the applicant will not be hired.

### 3.10.3 Suspicion-Based Testing

When a supervisor has reasonable suspicion to believe that an employee, at work or when reporting to work, appears to be impaired or unfit for duty due to the influence of alcohol or any controlled substance, the employee will be required to consent to a drug/alcohol test. Impairment is defined as being unable to perform their duties safely and competently due to the use of alcohol or controlled substances.

If the employee refuses to sign the consent release or refuses to undergo the drug/alcohol test, they will be advised that unless they consent to the drug/alcohol test and sign the consent release form, they will be terminated.

Effective immediately, the County may conduct unannounced searches or inspections where there is reasonable cause to believe alcohol or illegal drugs are present. This may include, but is not limited to, searches of employee personal effects, which includes requiring the employee to empty the contents of pockets, lockers, lunchboxes, purses, briefcases, containers and desks located on County property, in worksites and in County-owned or operated vehicles. Private vehicles located in County parking lots are also subject to search.

Reasonable suspicion is a belief that the employee has violated the alcohol or controlled substances prohibitions based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

#### 3.10.4 Post-Accident Testing

All employees directly involved in an on-the-job accident or incident resulting in property damage and/or medical treatment shall be required to be tested.

Each employee is expected to cooperate and consent to a drug/alcohol test when requested under the terms of this policy. Refusal to consent to a drug/alcohol test when requested is cause for termination.

### **3.11 Drug and Alcohol – CDL Employees**

Employees and/or applicants for employment in job positions requiring a Commercial Driver's License are subject to specific federal laws and regulations regarding drug and alcohol testing, including post-accident and random requirements. A post-accident drug/alcohol test shall be required on any reportable accident involving a County employee. However, these requirements do not change the County's policy of termination for testing positive (zero tolerance) on any use of illegal drugs, abuse of legal drugs, substance abuse or testing positive (zero tolerance) for alcohol concentration level when reporting to or during working hours.

Testing for use of alcohol or controlled substances is required by written regulation of the Federal Highway Administration.<sup>10</sup> This regulation applies to every person who operates a commercial motor vehicle in interstate or intrastate commerce, and who is subject to the Commercial Driver's License requirements.<sup>11</sup>

Testing of Smith County employees other than drivers required to hold Commercial Driver's Licenses is not based upon the Federal Highway Administration regulations, but rather is based upon the independent authority of Smith County. All test results and other documents relating to administration of this policy will be confidential.

### **3.12 Communicable Diseases Policy**

Smith County's decisions involving persons who have communicable diseases shall be based on current and well-informed medical judgment concerning the disease, the risks of transmitting the illness to others, the symptoms and special circumstances of each individual who has a communicable disease, and a careful weighing of the identified risks and the available alternative for responding to an employee with a communicable disease.

The Centers for Disease Control and Prevention (CDC) defines "communicable disease" as an illness caused by an infectious agent or its toxins that occurs through the direct or indirect transmission of the infectious agent, or its products from an infected individual or via an animal, vector or the inanimate environment to a susceptible animal or human host.

This includes but are not limited to: measles, influenza, viral hepatitis-A (infectious hepatitis), viral hepatitis-B (serum hepatitis), human immunodeficiency virus (HIV infection), AIDS, AIDS-related complex (ARC), leprosy, Severe Acute Respiratory Syndrome (SARS) and tuberculosis. Smith County may choose to broaden this definition within its best interest and in accordance with information received through the CDC.

Smith County will not discriminate against any job applicant or employee based on the individual having a communicable disease. Applicants and employees shall not be denied access to the workplace solely on the grounds that they have a communicable disease. Smith County reserves the right to exclude a person with a communicable disease from the workplace facilities if, based on medical determination, such

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<sup>10</sup> Code of Federal Regulations 49, Part 382

<sup>11</sup> Code of Federal Regulations 49, Part 383

restriction is necessary for the welfare of the person who has the communicable disease and/or the welfare of others within the workplace.

Smith County will comply with all applicable statutes and regulations that protect the privacy of persons who have a communicable disease. A breach of confidentiality by any employee, Elected Official or Department Head of Smith County may be cause for litigation, which could result in civil and criminal penalties and disciplinary action, including discharge, against such person.

### 3.12.1 Paid Quarantine Leave due to a Communicable Disease

Smith County shall provide paid quarantine leave for peace officers, detention officers and emergency medical technicians employed by Smith County and ordered by a supervisor or the health authority to quarantine or isolate due to a possible or known exposures to a communicable disease while on duty.

Under this policy, an eligible employee is defined as:

- “Detention officer” means an individual appointed or employed by a county as a county jailer or other individual responsible for the care and custody of individuals incarcerated in a county jail.
- “Emergency medical technician” means an individual who is certified as an emergency medical technician under Chapter 773, Health and Safety Code and employed by the county.
- “Peace officer” means an individual described by Article 2.12, Code of Criminal Procedure, who is elected for, employed by or appointed by the county.

Eligible employees who are on paid quarantine leave shall receive all employment benefits and compensation, including leave accrual, retirement and health benefits for the duration of the leave; and, if applicable, shall be reimbursed for reasonable costs related to the quarantine, including lodging, medical and transportation. An employee on qualifying paid quarantine leave will not have their leave balances reduced. Off duty exposures will not be covered under this policy.

### **3.13 Donations**

Although Smith County encourages all employees to be good County citizens by participation in and support of charitable drives, no employee shall be forced to contribute or make donations to any fund or collection.

The only County-wide recognized drive is the United Way. Before any other office collection can be started, it must be approved by the Elected Official or Department Head.

### **3.14 Travel**

Smith County employees or officials required to travel in the performance of County business shall be reimbursed as provided for in this policy. All funds that are to be used for reimbursement will have been previously budgeted by the Commissioners Court.

All travel reimbursements will be made in accordance with the regulations and procedures as presented in the Smith County Travel Manual, which is approved by the Commissioners Court and is available through the County Auditor's office. Distribution of these manuals is made to all Department Heads and Elected Officials and, at their request, to any other County employee that they designate to receive one. The forms related to travel are also available from the County Auditor's office.

When travel on County business is necessary for employees without a travel budget, a Travel Request Summary Form needs to be authorized by the Elected Official or Department Head and sent to the Commissioners Court prior to travel. If an advance payment is being requested, a copy of the form needs to be submitted to the County Auditor's office at least fourteen days prior to travel.

All employees or Officials wishing to be reimbursed for travel must present a Travel Reimbursement Form to the County Auditor's office for expense verification and then submit it to the Commissioners Court for approval.

An employee or Official using a private motor vehicle for transportation shall be reimbursed at a rate that is established by the Commissioners Court. This rate shall be paid on a 'per mile' basis. When two or more employees or officials travel in the same vehicle, only one may claim mileage reimbursement.

An employee or Official shall be reimbursed for accommodations (hotel room and meals) pursuant to the Smith County Travel Policy, which are supported and verified by submitting all receipts to the County Auditor's office, along with the approved request form. Only after verification will reimbursement occur.



### 3.14.1 Reimbursement of Travel/Conference Expenses Policy

#### **I. POLICY**

Smith County realizes the benefits that accrue to the County when their employees attend conferences, seminars and professional training activities. The County will bear expenses incurred by County Officials and full-time County employees to attend such activities, provided that the following procedures are followed. Smith County will only pay for conferences, seminars, training and travel for expenses directly related to the work of the County office involved.

#### **II. PROCEDURE**

- A. Attendance by County employees at conferences and seminars shall be at the discretion of the County Officials and Department Heads. The travel expense must be related to the duties and responsibilities of the County office incurring the expenses, and there must be adequate funds budgeted to cover the expenses to be reimbursed.
- B. Although no specific prior approval by Commissioners Court is required for travel expenses, the Commissioners Court reserves the right to deny payment for any travel reimbursement that they deem to be improper or unnecessary. Additional justification for reimbursement or expenses may also be required for all County employees and Department Heads.
- C. Registration fees will be paid in advance by the County. The request for payment of registration fees must be submitted to the County Auditor's office, along with the completed registration form and a course schedule or agenda. If a request for prepaid fees is not received in time for regular processing by the County Auditor's office, then the registration fees must be paid by the County Official or employee, and reimbursed by the County.
- D. Lodging expenses (including applicable taxes and other surcharges) will be reimbursed for actual expenses, supported by receipts. The employee must try to take advantage of any reduced rates available (e.g. government rate, group rate, tax exempt status, etc.)
- E. Meal expenses will be reimbursed at a maximum rate of \$60 per day

beginning October 1, 2024. Per diem reimbursement will be approved only when an overnight stay has occurred. Meal reimbursement will not be allowed for training that does not result in an overnight stay. The per diem rate will be allowed for each full day of conference or training, and one day of per diem may be added to the length of the conference to cover travel-related days to and from. The conference or training agenda must be included with the reimbursement request.

- F. Personal automobile expenses are reimbursed at the current State of Texas mileage rate in effect at the time of travel. Acceptable mileage calculations include the Texas Mileage Guide from Tyler to the destination city or a computer-generated document, such as MapQuest, showing the starting location as the address of the appropriate Smith County office requesting the travel and the ending location being the hotel of your destination. Officials or employees receiving a fixed car allowance will only receive reimbursable mileage for training-related travel outside of Smith County.
- G. All reimbursements will be made according to the County's usual and customary procedures for processing claims.
- H. Request for Travel Reimbursement forms must be signed by the County employee and the Department Head for reimbursement to be made. Such signatures serve as an affidavit that the claim for reimbursement is valid.
- I. Smith County will not refund education-related travel expenses or any tuition fees for courses taken which could apply toward a college degree or for which academic credit hours are granted. College tuition may be reimbursed to eligible County employees according to the terms of the Smith County Tuition Reimbursement Policy.
- J. All claims for travel expenses must be submitted to the County Auditor's office for processing by accounts payable no later than three (3) months after being incurred. Payment will be denied on any reimbursement claims presented after this time limit.
- K. Any training/conference expenses requested for an employee that does not have full-time status will require **express** Commissioners Court approval of 30 days in advance of the scheduled training.

- L. Some expenses may be advanced per the Travel Advance Policy.

### 3.14.2 Travel Advance Policy

Travel advance checks will be issued to employees traveling on County business by following the policy below.

#### **I. POLICY**

- A. If lodging cannot be direct billed to the County, a check to the hotel can be issued in the amount of the daily charge multiplied by the number of days included in the trip. Travel advance checks will not be issued under the employee's name for lodging.
- B. Registration fees for conferences will continue to be paid through the Auditor's office per the Reimbursement of Travel/Conference Expenses Policy, 3.14.1 (C).
- C. Travel advance check requests must be received in the County Auditor's office and placed on the bill report prior to payment. Requests must be received by 8:00 a.m. on Tuesday morning to be on the next scheduled bill report for Commissioners Court approval.
- D. Additional expenses incurred over and above advanced amounts (i.e., taxi fare, shuttle fare, airport and hotel parking, tax on hotel rooms not included in the lodging advance, and mileage within the destination city to and from meetings) will be reimbursed per the Reimbursement of Travel/Conference Expenses Policy. Unused or unaccounted for funds must be remitted back to the County.

#### **II. PROCEDURE**

Employees must complete the Request for Advance Payment form and submit it to their Department Head for approval. Completed forms should be submitted to the County Auditor's office in accordance with paragraph C of this policy.

## Chapter 4: Employee Responsibilities

### 4.1 Harassment Policy

Smith County is committed to a workplace that is free of harassment. Harassment includes unlawful, unwelcome words, acts or displays based on sex, race, color, religion, national origin, age, genetic information, pregnancy, disability, family or military leave status or veteran's status. Such conduct becomes harassment when:

- (1) the submission to the conduct is made a condition of employment;
- (2) the submission to, or rejection of, the conduct is used as the basis for an employment decision; or
- (3) the conduct creates an offensive, intimidating or hostile working environment or interferes with work performance.

Sexual harassment shall include, but are not be limited to, unwanted sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature, which includes slurs, jokes, statements, gestures, touching, pictures, emails or cartoons

Harassment is strictly prohibited by Smith County, whether committed by an Elected Official, Appointed Official, Department Head, co-worker or non-employee with whom the County does business.

Employees who feel they have been harassed should immediately report the situation to the Department Head or Officials who are responsible for the department in which they work. If, for any reason, the employee feels that reporting the harassment to the Department Head may not be the best course of action, the report should be made to the Human Resources Director.

Every reported complaint will be investigated promptly and thoroughly. The Official or Department Head to which a claim has been reported shall be responsible for seeing that prompt action is taken to investigate the claim.

#### 4.1.1 Complaint Procedures

- All employees may report harassment of any type directly to their supervisor, Department Head or Official, or the Director of Human Resources. Employees

should report such complaints as soon as possible after the incident precipitating the complaint. County departments may forward such complaints to the Human Resources department.

- Department managers and supervisors should make every effort to allow the complainant and other employees' time, with pay, to meet with the investigating officer when the meeting is requested by the staff assigned to investigate the complaint.
- This procedure shall be available to all applicants and/or employees except those who have utilized another Smith County grievance or appeal procedure for the same or closely related issue. Nothing in this procedure shall restrict the right to file a complaint with any state or federal agency responsible for the enforcement of civil rights laws.
- Investigations of all complaints will be handled as confidentially as possible.

#### 4.1.2 Investigation Procedures

Complaints received by the Human Resources department or the Civil Division of the Criminal District Attorney's office shall be reviewed in the following manner:

##### **I. INFORMAL REVIEW PROCESS**

Upon receipt of a complaint, the Human Resources department shall notify the Civil Division of the Criminal District Attorney's office and the Department Head or Official of the complaint. The Human Resources department or the Civil Division of the District Attorney's office shall investigate the complaint promptly. The investigation shall include the right to all necessary information to conduct a thorough review. This includes, but is not limited to, the right to interview witnesses and to request the complainant and the respondent to join in discussions of the complaint. Investigations will be completed within thirty (30) days from the date the discrimination is reported. If this is not possible, the investigating party will explain the delay to the parties involved and obtain approval from both sides for an extension.

Complaints may be administratively closed for various reasons, such as, but not limited to, the following:

- The complainant withdraws the complaint;
- The complainant does not cooperate in the investigation; or
- The complainant cannot be reached after repeated efforts.

## **II. NO PROBABLE CAUSE FINDING**

After the appropriate review process, if there is insufficient evidence to support the charge of discrimination, the complaint shall be closed with a finding of no probable cause to believe there was discrimination.

## **III. CONCILIATED SETTLEMENT**

If a finding of probable cause is made, the Human Resources department or the Criminal District Attorney's office will attempt to reach an agreeable resolution of the complaint. If a mutually acceptable conciliation is achieved, the case shall be closed. A written notice shall indicate the agreement reached and shall be provided to the complainant, the respondent and the appropriate management Officials.

## **IV. FAILURE TO CONCILIATE**

If conciliation efforts fail, the Human Resources department or the Criminal District Attorney's office shall provide the appropriate authorities with a recommendation regarding appropriate remedial action. Remedial action may include apologies, training, warnings, reprimands, demotions, unpaid suspensions, reassignment, termination or a combination of the above actions.

Once the investigation is complete, the employee making the claim shall be notified of the result of the investigation and any actions which are to be taken.

Retaliation against an employee who reports harassment, or who cooperates in the investigation, is prohibited by law as well as this policy. Employees who feel they have been subjected to illegal retaliation should immediately report the situation to the Elected or Appointed Official who is responsible for the department in which they work. If, for any reason, the employee feels that reporting the retaliation to the Department Head may not be the best course of action, the report should be made to the Human Resources department. Remedial action will be taken in accordance with the circumstances when the County determines unlawful harassment or retaliation has occurred, up to and including termination.

### **4.2 Personal Conduct**

Smith County is a public, tax-supported organization. Employees must adhere to high standards of public service that emphasize professionalism, courtesy and avoidance of even the appearance of illegal or unethical conduct. Employees are expected to efficiently carry out the work items assigned as their responsibility, to maintain good

relationships with the public, with other governmental employees and Officials, with their supervisors and with fellow employees.

Employees are to be punctual in maintaining work hours, keeping appointments and meeting schedules for completion of work. Regular attendance is important to the overall operation of the department. If, for any reason, an employee is unable to report for work, they shall notify their supervisor, Elected Official or Department Head immediately or prior to the start of the workday. If, due to extenuating circumstances, an employee is unable to make the notification, a family member or friend should contact the supervisor, Elected Official or Department Head.

Each employee's personal appearance and conduct represents Smith County to the public and to other County employees. Employees should maintain a neat, well-groomed appearance at all times and avoid extremes in clothing. It is important that each employee try to make the best possible impression at all times by setting high standards in appearance and conduct.

#### 4.2.1 Employee Conduct Violations

The Elected Official or Department Head shall be responsible for maintaining a proper work environment and to enforce discipline on violations.

In order to assure understanding of the seriousness of proper conduct by County employees, a list of violations follows. Possible violations are not limited to this list and committing any violation will be grounds for disciplinary action, ranging from reprimand to immediate dismissal.

- Falsification of official documents or records, including employment application or payroll sheet.
- Failure to wear presentable and appropriate clothing or required uniform.
- Absence without reasonable cause.
- Repeatedly reporting late for work.
- Leaving the job during working hours without permission.
- Creating or contributing to unsanitary conditions.
- Accepting bribes in the course of work.
- Possession of weapons on County premises, except as required in official capacity.

- Insubordination or refusal to obey lawful orders of supervision.
- Refusal or failure to do assigned work.
- Gross misconduct, threatening, intimidating, coercing or interfering with employees, supervisors or the public.
- Fighting or gambling on County premises.
- Engaging in outside employment without receiving approval authorization.
- Allowing the use of a County vehicle or other property by a non-County employee, except in either an emergency or for repairs.
- Negligent or willful damage of public property.
- Abusive language to employees, supervisors or the public.
- Unauthorized use, theft or misappropriation of property of employees or of the County.
- Use or possession of illegal drugs or narcotics; or abuse of legal drugs.
- Possession of, or drinking of, liquor or any alcoholic beverage on County premises at any time; or reporting for work under the influence of alcohol.
- Unauthorized use or the intentional or reckless disclosure of information which is restricted by law.
- Sabotage.
- Conviction of a felony or of a crime relating to drugs or alcohol, or of any other crime involving moral turpitude.
- Immoral conduct or indecency.
- Conscious or negligent indifference for the safety of self or others.
- Sexual harassment
- Sleeping on-the-job.
- Failure to report an on-the-job injury or illness immediately or promptly thereafter if immediacy is not possible.
- Failure to comply with the County's Code of Conduct.

Should an employee be arrested for any offense Class B or above, he or she must report the arrest to the Human Resources department within five days of the arrest.



### **4.3 Electronic Information and Technology Policy**

#### **4.3.1 No Expectation of Privacy**

Smith County expects its employees and any authorized users to exercise good judgment in the use of all County assets, including telecommunications equipment and information systems, which include, but are not limited to, personal computers, tablets or other County devices, local or hosted electronic County data servers and systems, telephones, telecommunications internal and external electronic networks such as the Intranet and Internet, voice mail, e-mail, business and fax machines, software, electronic media storage devices, electronic records, tapes, discs, CD ROMS, work areas, storage locations or facilities, and the like which are collectively referred to as "Information Systems". Information Systems are intended to be used for proper business purposes consistent with all County policies. Smith County reserves the right without prior notification to access, monitor, read, review, delete and audit all usage or content of Information Systems. There is no expectation of personal privacy or confidentiality with respect to any use or content of Information Systems. By virtue of this policy statement, Smith County does not intend to waive any confidentiality or privilege it may have with respect to Information Systems including content. Users should not disclose passwords or access authorizations to other persons. Users should not use unauthorized access authorizations or passwords to gain access to other users' files or communications. Users should not use their County email address to register for non-business related websites or services, or transmit Smith County data to non-County devices by electronic means (i.e. personal storage drives or emailing to a personal email address).

#### **4.3.2 Games and Non-Business Related Programs**

Non-business related programs should not be installed or accessed via the Internet on personal computers, tablets or other County devices. Computer games, for example, may not be used on County-owned equipment.

#### **4.3.3 Prohibited Activities**

Material that is fraudulent, harassing, sexually explicit, profane, obscene, intimidating, defamatory, inappropriate, offensive (including offensive material concerning sex, race, color, national origin, religion, age disability or other characteristic protected by law), or otherwise unlawful may not be downloaded from the Internet, viewed, stored in, or distributed from County-owned equipment. Violation of this policy may result in disciplinary action up to and including termination.

#### 4.3.4 Public Information Compliance

Emails, texts, data stored on a computer, device or the network, and other electronic communications, including social media, related to official County business are subject to the Public Information Act (PIA), regardless of where they are stored.<sup>12</sup> Thus, if an employee uses their personal cell phone or tablet to conduct County business, or their personal email account to send or receive messages related to County business, that personal device or email account may be subject to inspection in order to respond to a request for information under the PIA.

A current or former officer, or employee of a governmental body who maintains public information on their privately-owned device shall preserve the public information in its original form, on and in a backup or archive for the required record retention schedule of two (2) years.<sup>13</sup>

#### **4.4 Social Media Policy**

Smith County recognizes the prevalence and benefits that social media provides in our society. However, certain social media activities, even if conducted off-duty, may become a problem if they affect the employee's work. An employee's online presence can reflect on Smith County. The lines between public and private, personal and professional information, are blurred in this context. Be aware that comments, posts or actions captured via digital or film images can affect the image of Smith County.

If an employee is posting on personal networking sites and speaking about job-related content regarding the County, the employee should identify themselves and use a disclaimer to make it clear that these views are not reflective of the views of the County.

Subject to the restrictions below, generally, employees may use personal social media any way that they choose. With these goals in mind, employees must follow these rules in their use of social media, both on and off-duty:

- Employees are prohibited from publishing any personal information about another employee of Smith County, applicants or an associate of Smith County in any public medium (print, broadcast, digital or online) in any format (written, video or image) that:

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<sup>12</sup> *Public Information Act*. Senate Bill 944 Amendment

<sup>13</sup> *Public Information Act*. Texas Local Government Code § 552.004(b)

- Has the potential or effect of involving themselves, co-workers or Smith County in any kind of dispute or conflict with other employees or third parties.
  - Interferes with the work of any employee.
  - May create a harassing, demeaning or hostile working environment for any employee.
  - Disrupts the smooth and orderly flow of work within the office, or the delivery of services to Smith County taxpayers or customers.
  - Harms the reputation of Smith County among its taxpayers or in the community at large.
  - States, falsifies or is defamatory of others and/or the County.
  - Reveals information that should be treated as confidential (by law) and/or information regarding the personal or private conduct, health information, and affairs of that person and interaction with other people that is unrelated to the person's job performance or official duties for Smith County.
- Employees must follow workplace personal conduct standards, including but not limited to, equal opportunity, anti-harassment, anti-discrimination and acts that ridicule, malign, disparage or otherwise express bias against any race, religion, disability, ethnic origin, sexual orientation or any other protected class of individuals.
  - Employees may not use County equipment or facilities for non-work-related activities or business including social media. Personal social media activities should not be conducted while working or on the clock.
  - Employees may not conduct themselves in such a way that his or her actions and relationships with others could cause a disruption with County operations, or create a hostile work environment.

- Unless previously authorized by a Department Head or Elected Official, no employee shall make a comment, statement or post claiming to represent official Smith County statements for views.
- All information published shall comply with Smith County confidentiality and disclosure policies.
- This policy applies to comments, original posts, writings, photographs, depictions and other forms of communication posted on other social networking sites, blogs, forums or other forms of social media sites.

The Commissioners Court strongly recommends for all County Departments and Offices to abide by the Social Media Policy. Any violations of this policy are subject to disciplinary action, up to and including termination.

#### **4.5 Handling Legal Matters**

From time to time, Smith County employees are called upon by attorneys to provide information related to pending or on-going legal issues and/or litigation. The Civil Division of the Smith County District Attorney's office represents the County in legal matters. In some cases, employees may receive a subpoena or a summons to appear in court to testify and, in other cases, they may be asked to produce documents or simply to answer questions. The purpose of this policy is to provide guidelines to our employees in handling such matters.

##### **4.5.1 Subpoenas, Lawsuits and Other Legal Documents**

If an employee receives, either through mail or personal service, a subpoena, summons, lawsuit, or other legal document related to his or her employment, they must immediately forward that document to the Civil Division of the District Attorney's office. The preferred method of transmitting documents is either by hand-delivery or by email. However, the employee should refrain from discussing the details of the case in the body of the email. This is better handled by direct conversation.

If the employee is subpoenaed to appear in court or to provide a deposition, typically someone in the legal department will contact the employee beforehand to advise them. The employee is advised to refrain from engaging in speculation or stating personal opinions.

Failure to comply with this procedure could result in jeopardizing County liability

coverage for certain legal matters.

#### 4.5.2 Contact from Attorneys (other than through Written Documents)

In some cases, an employee may be contacted by an attorney, either by phone or by email. As soon as the employee becomes aware that the request relates to a legal matter, they should refer the individual to the Civil Division of the District Attorney's office. The employee may answer basic questions or provide printed materials that are available in the public domain. If the information requested relates to specific clientele or the attorney requests documents that would not normally be available to the public, they should be referred to the Civil Division of the District Attorney's office. In addition to referring the individual(s) to the Civil Division of the District Attorney's office, the employee should also notify the head of their department/office and make them aware of the contact.

#### **4.6 Parking**

Smith County employees perform their work at many locations in the County. Parking is generally available for all locations. For employees working in the downtown area (Courthouse, Annex, Smith County Office Building, Jail, etc.), the County leases a lot and parking is available on a controlled basis.

Employees should not park in metered spaces during controlled hours as it is illegal to park beyond the initial parking time allotted and it would be a loss of work time to the County for an employee to have to go out and move their vehicle several times a day.

#### **4.7 Outside Employment**

County employees shall not engage in other employment during the hours they are scheduled to work for Smith County.

Employees wanting to engage in outside employment must complete and submit an Outside Employment Request Form to their immediate supervisor prior to starting such employment. If the supervisor concurs that it will not conflict with the County's interests, the Department Head or Elected Official or their designee is notified and notes the final approval decision on the Outside Employment Request Form. Any change in the outside employment as to employer, hours or the nature of work performed must also be approved.

#### **4.8 County-Owned Property**

The utmost care shall always be exercised in using Smith County property to minimize damage to equipment or waste of supplies. County-owned property and equipment shall be used for County business only.

#### **4.9 County-Owned Vehicles**

Smith County utilizes a large number of County-owned vehicles in accomplishing the day-to-day business of the County. Only authorized County employees who have proven insurability and the appropriate Texas Driver's License shall be allowed to operate a County Vehicle. The operators of these cars, trucks and other equipment have the responsibility to operate them in a proper and safe manner.

The personal use of County-owned vehicles is not allowed. The operation of County-owned vehicles by non-employees is not allowed. The use of a County-owned vehicle to transport political campaign materials or participate in a political campaign is not allowed.

County-owned vehicles are to be used for conducting official County business only. Smith County reserves the right to inspect and/or search its vehicles at any time, for any purpose. County employees should have no expectation of privacy in County-owned vehicles.

Employees assigned to County take-home vehicles shall ensure that their residence has adequate and safe parking for such vehicles. Toolboxes, hand tools, cargo or any other items of value must be locked and secured out of sight in the vehicle, or removed to a secure location while the vehicle is parked. Keys and remote-entry devices for the vehicle must be in the possession of the employee at all times or secured in a separately locked location in their residence.

Employees on vacation or on a leave of absence for an extended period of time should make arrangements to leave their County take-home vehicle at a work location designated by their supervisor.

Employees authorized to utilize County-owned vehicles should be aware that the operation and appearance of the vehicle directly reflects upon the professionalism of the driver, their department and Smith County. As such, employees must be aware of their vehicle condition, driving habits and actions toward others to ensure that their behavior, appearance and operation of the vehicle will demonstrate the highest degree of professionalism and courtesy.

No additional equipment of any kind may be added to the County-owned vehicle without first obtaining written approval from the appropriate Elected Official or Department Head. A copy of the approval document must be kept in the vehicle at all times.

No weapons of any kind, with the exception of those carried by Certified Peace Officers, are allowed in any County owned vehicle.

#### 4.9.1 Smith County Vehicle Policy

##### **I. PURPOSE**

To increase efficiency in County governmental operations, the Smith County Commissioners Court has formulated a policy, which will maximize the County's vehicle resources. The purpose of this policy is to establish the County's guidelines in the use of County-owned vehicles.

##### **II. ROLE OF THE COMMISSIONERS COURT**

The Commissioners Court, being the policy development and budgetary control unit of County government, shall be the final authority in determining the utilization of the County's vehicle resources. The policy is subject to revision at any time by the Commissioners Court.

##### **III. CATEGORIES OF VEHICLES**

This policy shall apply to all Smith County vehicles. Additional rules or statutory requirements may apply to certain vehicles including vehicles requiring a Commercial Driver's License (CDL), vehicles acquired with grant funds, vehicles legally seized and forfeited to law enforcement agencies or vehicles used exclusively for law enforcement purposes.

##### **IV. ASSIGNMENT OF VEHICLES**

The acquisition and assignment of fleet vehicles shall be controlled by the policies of Commissioners Court and administered by the Fleet Administrator. Upon acquisition, the Purchasing Director will reflect the vehicle's acquisition in the County's fixed asset inventory records.

Certain employees may be identified by the Commissioners Court, the appropriate Elected Official and/or Department Head as requiring a County-owned vehicle on a twenty-four hour basis. The criteria as followed is used for determining if the assignment of a take-home vehicle is appropriate.

- The employee responds to on-call emergencies or critical situations as a primary responder.
- The vehicle carries specialized equipment utilized in response to emergencies, and the employee assigned to said vehicle has special skills and knowledge concerning the operation of the equipment. Vehicles assigned to individual Officials/employees may be taken to their primary residence only if the Department Head has approved the assignment.
- All such assignments must be considered temporary subject to review and revocation at any time.

Each department shall maintain a listing of those Officials/employees authorized to take a County-owned vehicle to the employee's primary residence and a copy shall be furnished to the Smith County Auditor. Vehicles may be used only for work-related duties and to drive to and from work. They may be used for no other purpose except in an emergency or for trips completely incidental to County employment while driving to and from a County-related job site. These Officials/employees will be assessed "taxable mileage" in accordance with IRS guidelines. All other vehicles must be parked on County property at the end of the day.

In no instance shall an individual be approved for a take-home vehicle if that person resides more than 25 miles outside of the County line in any direction. Only County Officials/employees, duly commissioned reserve officers authorized by the County Sheriff or Constable, or officers assigned to special operations and/or task force units approved by Commissioners Court, or pursuant to the policies of the Commissioners Court, are authorized to drive a County-owned vehicle. A list of duly commissioned reserve officers, including all relevant necessary information, authorized by the County Sheriff or Constable to drive a County vehicle shall be maintained by the respective Elected Official and approved by the Commissioners Court, and a copy kept by the Purchasing Department and Human Resources department.

Allowed passengers in County vehicles are:

- Anyone in the care and custody of a law enforcement official;
- County employees; or
- Non-employee on County-related business.

## **V. PERSONAL USE**

The Commissioners Court or Elected Officials may authorize the use of off-duty Smith County law enforcement vehicles during off-duty security employment to promote public safety and preserve peace. County-owned vehicles may not be used for



personal gain, personal business or to drive to a place of secondary or part-time employment not related to County business or public safety at any time. In the event a County-owned vehicle is damaged by an employee while not in the furtherance of an authorized use, the employee shall be responsible for the cost of repairs. Any County department whose employee knowingly violates the provisions of this section shall surrender that County-owned vehicle, in which the violation occurred, to the Road and Bridge main barn facility. However, prior to the department surrendering the vehicle, the Commissioners Court may authorize the department to maintain temporary control of the vehicle until the review process is completed.

The Commissioners Court, or the appropriate Elected Official, may consider violations of this section on a case-by-case basis to determine if the vehicle should be permanently removed from the violating department's inventory. While conducting the review to determine the final disposition of the vehicle, the Commissioners Court may consider what action has been taken against the individual employee who violated this section, what restrictions have been placed on the future use of the vehicle by the employee, what the overall impact would be to the department's operations if the vehicle were removed from their inventory and any other criteria which the Commissioners Court believes is relevant to their review.

A County law enforcement Official/employee working undercover and assigned an unmarked vehicle may use the assigned vehicle for personal reasons during normal work hours, when called in to work and/or during the commute to and from a work site. Unmarked vehicles shall not be used as transportation to a secondary job.

A Department Head may be assigned a department vehicle and use it as a take-home vehicle if the Commissioners Court determines that the vehicle is an essential tool needed to perform his or her duties, and/or the Department Head is subject to a continuous on-call status, or it is in the best interest of the County for a take-home vehicle to be assigned.

Departments may request the installation of a Global Positioning System (GPS) telematics device on a County-owned vehicle for operational, safety and routing efficiencies. The device is a tool that provides information on trip routes, location of vehicle, fuel consumption, idle time, and safe operation of the vehicle. The tool enhances employee safety and security, lowers maintenance costs through better preventative and predictive maintenance schedules, improves fuel economy, no idle compliance, and optimizes a customer service and vehicle utilization. If an employee's supervisor has a compelling issue with an employee's behavior while operating a County-owned vehicle, the GPS telematics information may assist in resolving the

issue with the employee, by correcting unsafe driver behavior and ensuring employee accountability.

## **VI. MVR CHECKS AND DRIVER QUALIFICATIONS**

Motor vehicle records (MVR) checks will be performed on the following basis:

- Employees where vehicle operation is a requirement of the job.
- Position change where vehicle operation is required.
- All existing drivers annually.

Employees must meet minimum qualifications to operate Smith County vehicles in order to protect the County from liability and to ensure that Smith County is represented with safe and courteous drivers.

At a minimum:

- Employee must have a valid Texas Driver's License for the type of vehicle to be operated.
- Employee must be at least 18 years of age with two years minimum driving experience.
- Employee cannot have any combination of more than three (3) moving violations or at-fault accidents in the last 36 months.
- Employee cannot have any of the following convictions in the previous 36 months:
  - Alcohol- and drug-related violations, including operating under the influence of intoxicating liquor, narcotics, dangerous drugs or implied consent violations, including BAC (Blood Alcohol Content).
  - Vehicle used in commission of a felony.
  - Eluding or attempting to elude a law enforcement officer.
  - Operating with revoked or suspended license.
  - Homicide or manslaughter with a vehicle.

County employees who operate County-owned vehicles must comply with all applicable State and Local laws. If an employee receives a traffic citation while in a County-owned vehicle, it is the employee's responsibility to inform his or her supervisor as soon as possible, but no later than 24 hours from the time the citation was issued. Any and all costs associated with the adjudication of such a citation shall be the sole responsibility of the employee.

Employees involved in accidents in a County-owned vehicle while not engaged in the 'course and scope of their employment' shall be responsible for all liabilities arising from the accident, and shall be subject to future forfeiture of their use of a County-owned vehicle.

## **VII. ACCIDENTS AND ACCIDENT REVIEW BOARD**

Whenever a County vehicle is involved in an accident, the driver of the County vehicle shall immediately notify his supervisor and/or Department Head. The Department Head shall notify the Purchasing Department and Civil Division. The Department Head shall forward comprehensive written report to the Civil Division within 48 hours of the accident. This report shall include a full narrative, from the driver, of all conditions of the accident, including the name, Driver's License number, insurance company, vehicle description, license plate number, assessment of damage to all vehicles involved and assessment of injuries sustained by all parties, if any. It must be signed and dated by the driver of the County-owned vehicle as soon as practical. A copy of the police report covering the accident must also be submitted as soon as available. The Sheriff's Department should be notified immediately after the accident to come to the accident scene to take pictures, when possible.

The Road and Bridge Shop Foreman, or designated repair facility, shall prepare a report which includes the vehicle information, an evaluation of the extent of damage and a determination regarding whether the vehicle should be repaired or sold. This report shall be made available to the respective Department Head and the Fleet Administrator.

Whenever there is an accident, the first priority is to call 9-1-1 for help to assist with medical emergencies, which should be followed by immediately contacting the employee's supervisor and/or Department Head. No witness statements shall be given at or after an accident without authorization. Employees must not make any verbal comments or give written statements to third parties or any statements to others, unless it is to assist emergency service workers or law enforcement in the performance of their duties, or to answer basic questions by law enforcement. Under no circumstances should there be any statement that could be construed as an admission of liability by the employee (e.g., stating "I am sorry" or "I did not see your vehicle").

If there are either personal injuries and/or substantial personal property damages, then the Civil Legal Division of the District Attorney's office should be notified as soon as possible. Additionally, it may be necessary to send out a photographer to document the scene and/or contact the County's insurance carrier immediately. If there is any doubt about taking any actions at an accident scene, please contact the Civil Legal Division of the District Attorney's office immediately.

If the vehicle has been disabled to the point that repairs are necessary for its safe operation, Fleet Administration will coordinate the repairs with the department that the vehicle is assigned to and the appropriate repair facility.

Commissioners Court shall appoint an Accident Review Board to review all Motor Vehicle Accidents (MVA) and incident reports of County-owned vehicles and/or equipment where property damage, personal injury or death occurs.

Facts that should be presented to the Accident Review Board include:

- Driver's report of the accident.
- Law enforcement investigation reports.
- County investigation facts.
- Statement of witnesses.
- Diagrams, photographs and any other available evidence.
- Past County accident history.

Any person involved in a preventable accident while driving a County-owned vehicle shall be required to attend a defensive driving class within ninety (90) days from the date of accident.

#### **VIII. VEHICLE SAFETY**

- Each person assigned to a County-owned vehicle shall maintain a copy of this policy for reference.
- Employees shall operate all County-owned vehicles in accordance with its designed use, taking into consideration traffic and conditions surrounding the use of the vehicle, and the safety of others.
- All drivers of County-owned vehicles shall comply with all State, County and local rules and regulations, governing the safe and legal operation of vehicles.
- Seat belts shall be worn and secured by all occupants at all times when the vehicle is moving.
- The use of tobacco is prohibited in all County-owned vehicles.
- The driver shall be responsible for assuring that all passengers are seated and properly secured before moving the vehicle. Under no circumstances shall passengers ride on fenders, running boards, the tops of vehicles or any place not designed for passengers. Employee drivers are responsible to secure all doors and check seat belts prior to moving the vehicles. Note that a driver is held responsible for the vehicle he or she is driving, including the passengers riding and the load he or she is carrying.

- Trucks used to transport materials shall secure said material tightly to prevent movement in transport. All cargo must comply with current transportation code.
- Lights, brakes and all safety equipment shall be checked before use to verify proper working order. Any malfunction of a County-owned vehicle shall be reported to the immediate supervisor and arrangements for repairs shall be made immediately. If a County-owned vehicle is found to be unsafe, no matter how urgent the need for such vehicle, proper repairs shall be made before it is placed back in service.
- Flashing lights shall be turned on and traffic cones in place whenever a County-owned vehicle or piece of equipment is stopped, or where work is being performed, in accordance with departmental guidelines and Texas Manual on Uniform Traffic Control Devices.
- Whenever backing up, be sure about what is behind you, even if it requires getting out of the vehicle to look. When possible, backing should be avoided.
- Operators must constantly be aware of surrounding conditions (i.e. ground personnel, overhead lines, pedestrians and other hazardous conditions).
- All County-owned vehicles shall be properly parked and secured before being left unattended. Keys shall not be left in any unattended County-owned vehicle.
- Smith County prohibits the use of cell phones or other mobile devices that may interfere or cause distractions to the driver while operating a County-owned vehicle or personal vehicle on County business. Additional care should be taken to remain attentive and avoid distractions in situations where there is traffic, inclement weather, road hazards, or if the employee is driving in an unfamiliar area.
- Smith County has a zero tolerance policy regarding operation of a vehicle while under the influence of alcohol or drugs which may impact the employee's ability to safely operate a vehicle. Therefore, the consumption of alcohol or drugs by any employee during 'duty hours' is strictly prohibited. Duty hours consist of all working hours, including break periods and on-call periods, whether on or off company premises. The consumption of alcohol or drugs prior to 'duty hours' which may impact the employee's ability to safely operate a vehicle while performing company business or while in a company vehicle is also prohibited.
- Drive defensively and always be courteous to your fellow drivers.

## **IX. USE OF PERSONAL VEHICLES**

The use of personal vehicles by County officials/employees in conducting official County business may be necessary on occasion. However, because County-owned vehicles are assigned to County departments performing law enforcement duties, the Commissioners Court neither encourages or condones the use of any personal

vehicles by law enforcement personnel (including cars, vans, trucks, sports utility vehicles, motorcycles, all-terrain vehicles, boats, aircrafts, or trailers) in conducting official County business. The use of any personal vehicle, excluding cars and trucks, is expressly prohibited without prior approval. Vehicles that are not County-owned may not display any markings which indicate County affiliation without prior authorization.

The use of personal vehicles for County officials on travel status or on County business should be carefully weighed to determine the least expensive method of travel. The County has provided a Rental Car vs. Mileage Reimbursement Calculator to determine the least expensive method of automobile travel. The County reserves the right to pay the lesser of calculated rates when travel reimbursement is requested.

#### **X. VEHICLE MAINTENANCE AND SAFETY**

Maintenance logs are kept in each County-owned vehicle. County-owned vehicles are serviced and checked per manufacturer recommendations. It is the responsibility of the appropriate Elected Official and/or Department Head, or assigned personnel, to ensure scheduling for maintenance is completed in a timely manner.

Vehicle safety equipment should be inspected daily, prior to the vehicle's use. Vehicle inspections are a vital part of maintaining a safe and highly functional fleet of vehicles. Drivers are the eyes and ears that will detect issues as early as possible and provide information about potential issues to their Department Head or the Fleet Administrator. The Smith County Vehicle Inspection Report (VIR) shall be completed at a minimum of once a week for vehicles assigned to a particular staff member or whenever a vehicle changes control from one driver to another.

All drivers are required to take a road or performance test using the vehicle they are to drive. Elected Officials and/or Department Heads shall document the results of the test.

Annual safety meetings shall be conducted by the Human Resources department. Supervisors should talk to drivers on a monthly basis about safety.

#### **XI. CONSEQUENCES**

Employees involved in County-owned vehicle collisions shall be subject to drug and alcohol testing immediately following the occurrence. The Elected Official or Department Head is responsible for ensuring that the employee completes the drug and alcohol testing immediately after a County-owned vehicle collision. The Human Resources department and Fleet Administrator shall be available to assist in the coordination and scheduling of drug and alcohol testing for employees involved in County-owned vehicle collisions.

Drivers holding a Commercial Driver's License (CDL) will comply with all regulations and requirements necessary and applicable to their CDL status.

## **XII. PROGRESSIVE DISCIPLINARY POLICY**

Employees and supervisors who fail to comply with the requirements of this policy shall be subject to disciplinary action, including but not limited to verbal or written warning, mandatory defensive driving class within ninety (90) days, suspension, demotion or termination.

Specifically, preventable vehicle collisions, as determined by the Accident Review Board, will result in the following progressive disciplinary action – unless extenuating circumstances justify a different amount of unpaid leave or range of punishment expressly approved by the Department Head or the Elected Official. Elected Officials reserve the right to terminate or provide harsher penalties as applicable.

Timeframes will be a rolling 36-month timeframe.

**First Offense:** Written warning and the employee must take and complete a defensive driving class within ninety (90) days from the date of the Accident Review Board determination at the employee's own expense. The employee must submit a certificate of completion to his or her supervisor; a copy of which shall be kept in the employee's file in the Human Resources department. Failure to complete the defensive driving course timely will count as a "second offense" as outlined below, and will result in further disciplinary action.

Collisions or fleet occurrences resulting from reckless or negligent behavior may also result in unpaid leave for one to three (1-3) business days.

**Second Offense:** Written warning with unpaid leave for three to five (3-5) business days. The receipt of a second warning under this policy means that a third accident or offense under this policy will result in termination of employment. If more than one year has passed since the employee's last defensive driving class, the employee must also take defensive driving training upon receipt of a second offense as outlined above for a first offense. If the second offense is based on the employee's failure to complete the defensive driving class within ninety (90) days under a first offense, then the employee shall only have sixty (60) days to finish the course. If the employee has not completed the defensive driving class after the sixty (60) day period under a second offense, then the employee shall be terminated.

**Third Offense:** Mandatory termination; although demotion may be considered in extreme circumstances where there are mitigating factors that justify consideration of demotion in lieu of termination.

In the event that a violation poses a risk to public or employee safety, the Elected Official or Department Head may choose to accelerate the progressive discipline process as deemed appropriate.

#### 4.9.2 Road and Bridge Vehicle/Equipment Operators

Road and Bridge employees involved in a traffic accident in a County-owned vehicle shall observe the following procedure:

1. Immediately notify the office or a foreman if the office is closed. Remain at the scene unless instructed otherwise.
2. If possible, unless a fatality or serious injury is involved, move the vehicle out of the roadway. Make the scene as safe as practical.
3. If possible, render first aid to other injured parties, if any exist.
4. Make no statement to anyone other than your supervisor, County Official or police officer investigating the scene.
5. Drivers required to drug test shall not consume any alcohol for twenty-four (24) hours following the accident or until they are tested, whichever occurs first.

The procedure for the Road and Bridge Office or foreman is as follows:

1. Notify local or State police officials in the case of death, injury or damage to County-owned property or vehicle which exceeds \$1,000.00.
2. Notify the County Engineer and the Risk Management Coordinator of all accidents involving County-owned property, whether they occur on-site in the Road and Bridge Department or off-site.
3. Post-accident drug/alcohol testing is required for CDL drivers involved in an accident as described above.
4. A copy of the accident report will be placed in the Safety Committee file by the Office Manager. All accidents described above will be reviewed by the Safety Review Committee.



## 4.10 Smoking/Tobacco Policy

### I. PURPOSE

Smith County acknowledges that there are studies by the Surgeon General of the United States, the National Academy of Sciences, and other health organizations which link passive exposure to tobacco smoke, referred to as secondhand smoke, to a variety of negative health conditions. Smith County also recognizes that tobacco use is one of the most preventable causes of life-threatening diseases. Therefore, it is Smith County's responsibility to establish a tobacco-free work environment for our employees. Smith County further acknowledges that there are studies by the United States Food and Drug Administration, finding detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze, in samples of electronic nicotine delivery systems (ENDS), commonly referred to as electronic cigarettes. Smith County recognizes that e-cigarettes produce a vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions.

The objective of this policy is to promote the health and well-being of Smith County employees and the public we serve.

### II. POLICY

- A. Smith County adopts this policy prohibiting smoking or use of any Tobacco Products on Smith County Premises, as defined below.
- B. Employees who violate this policy, including employees of Elected Officials, are subject to appropriate disciplinary action. The disciplinary actions for employees of the Smith County Commissioners Court shall be as follows:
  1. A written formal warning for the first and second violations.
  2. On the third violation, the employee can either be suspended for five (5) workdays with no pay, or the employee can be terminated.

- C. This policy applies to all Smith County employees, regardless of position, and includes all temporary and part-time employees.
- D. This policy shall become effective as of April 15, 2014. Employees who are employed as of the effective date will be notified of changes in this policy. Employees will also be informed of Smith County's Tobacco Cessation Programs, when available.

### III. **DEFINITIONS**

**Smith County Premises** – Except for premises that are otherwise specifically excluded herein below, Smith County Premises shall mean and include all Smith County offices, all buildings leased or owned by Smith County, the attached protective coverings, the entrances, exits or other parts of such buildings, interior spaces of Smith County owned or rented vehicles, and all exterior properties owned or leased by Smith County, including the grounds, parking lots and garages that are situated on Smith County property.

**Smith County Offices** – Any enclosed area which employees normally frequent during the course of employment, including but not limited to work areas, employee lounges, employee restrooms, conference rooms and private offices.

**Tobacco Use** – Tobacco Use shall mean and include the lighting, holding, carrying of, inhaling and exhaling of the smoke, vapor or other byproduct of a Tobacco Product, which includes but is not limited to the carrying or holding of a lighted or otherwise activated pipe, cigar, cigarette, electronic nicotine delivery systems (ENDS), electronic cigarettes or any other lighted smoking equipment or device. Tobacco Use shall also mean the oral use of any type of Tobacco Product.

**Tobacco Product** – The product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a Tobacco Product. Tobacco Product includes but is not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic nicotine delivery systems (ENDS), electronic cigarettes, smokeless tobacco, snuff and chewing tobacco.

### IV. **RESERVATION OF RIGHTS**

Smith County reserves the right to interpret, suspend, cancel or dispute, with or without notice, all or any part of this policy or procedures discussed herein. Employees will be notified before implementation of any change. Nothing in this policy alters an

employee's at-will employment status and shall not constitute or be deemed a contract or promise of employment at any time for any or no reason, without notice, and Smith County retains the right to terminate any employee at any time, for any reason, with or without notice.

## **V. OTHER LAWS AND REGULATIONS**

The provisions of this policy shall apply in addition to, and shall be subordinate to any requirements imposed by applicable Federal, State or local laws, regulations or judicial decisions. Unenforceable provisions of this policy, as imposed by applicable law, shall be deemed to be deleted.

## **VI. EXCLUDED PREMISES**

The only excluded premises from this policy shall be County roads within Smith County, sidewalks that are adjacent to public streets or sidewalks that are not owned by Smith County.

## **VI. TOBACCO USE BY THE PUBLIC**

Except for premises that are otherwise specifically excluded herein above, smoking or the use of any tobacco product by any member of the public shall also be strictly prohibited on Smith County premises. Signs will be posted on all Smith County premises that explain the policy. This policy will also be posted on Smith County's website.

### **Enforcement Order – effective 4/15/2014 by order of the Commissioners Court**

Pursuant to the Laws and Rules of the State of Texas, the Texas Constitution<sup>14</sup> (providing that Commissioners Court shall “exercise such powers and jurisdiction over all County business), the Texas Local Government Code<sup>15</sup> (mandating Commissioners Court to “maintain the courthouse, offices and other public buildings”), the Texas Health and Safety Code<sup>16</sup> (authorizing Commissioners Court to “enforce any law that is reasonably necessary to protect the public health”), and the common law granting the County authority to regulate the public health and safety, the Commissioners Court of Smith County finds that it is necessary to impose policies regulating smoking and tobacco use within and on County facilities and property.

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<sup>14</sup> *Division of Counties*. Texas Constitution, Article V, § 18

<sup>15</sup> *Providing and Maintaining County Buildings*. Texas Local Government Code § 291.001

<sup>16</sup> *Powers of Municipalities and Counties*. Texas Health and Safety Code § 121.003(a)

**IT IS THEREFORE ORDERED THAT** the following policies are adopted:

- No smoking and/or use of tobacco products of any kind on all County-owned and/or leased property, including vehicles, within all County-owned and/or leased buildings, or within fifty (50) feet of any public entrance to any County facility.
- Outdoor areas may be designated for smoking and/or use of tobacco products. However, any outdoor areas designated for smoking and/or use of tobacco products cannot be within fifty (50) feet of any public entrance.
- All Smith County Department Heads are directed to immediately strictly enforce the County's Smoking/Tobacco Use policies and to take disciplinary action against all employees who violate County policies.
- All Smith County Elected Officials, Department Heads, employees and the general public shall refrain from smoking and/or use of tobacco products of any kind in accordance with County policies.
- The Smith County Sheriff shall enforce these policies as mandated by Texas Local Government Code.<sup>17 18</sup>

**IT IS FURTHER ORDERED THAT** the Smith County Physical Plant shall place proper notice of Smith County's Smoking/Tobacco Use policies to inform the general public of the restriction or prohibition.

**IT IS FURTHER ORDERED THAT** that any person violating a rule adopted under this order commits an offense, which is a Class C misdemeanor, pursuant, punishable by fine not to exceed \$200.00 for each violation.

#### **4.11 Conflicts of Interest**

##### 4.11.1 Gifts, Favors, Remuneration, etc.

An employee may not solicit, accept or agree to accept any financial benefit, other than from the County, that might reasonably tend to influence his or her performance of duties for the County.

An employee may not solicit, accept or agree to accept a financial benefit from another person in exchange for performing duties as a County employee.

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<sup>17</sup> *Control of Courthouse*. Texas Local Government Code § 291.003

<sup>18</sup> *Auxiliary County Buildings*. Texas Local Government Code § 292.001

#### 4.11.2 Private Business Activities

Employees shall not engage in private business activities during their working hours and shall not use County property, equipment or facilities during their working hours or at any time for such purposes.

#### 4.11.3 Contracting and Purchasing

The County will not enter into any contract to purchase any item from an Elected County Official or an employee, without proper authorization and disclosure by law.<sup>19</sup>

The County will not “do business” with any business owned by an Elected County Official or who has a partnership, is a shareholder, officer or director who is an Elected County Official, unless there is proper authorization and disclosure by law.

### **4.12 Political Involvement**

Smith County employees are encouraged to vote on Election Day for the person or party of their choice.

County employees will not be allowed to perform or be involved in political campaigning or related activities during the employee’s normal working hours, unless personal leave has been approved by the Department Head. No employee will be allowed to perform or be involved in political campaigning or related activities while in County uniform or while using County vehicular equipment.

Additionally, no Smith County employee shall be required to participate in political campaigns or related activities as a condition to obtain or retain employment, nor be disciplined, deprived of their rights, demoted or terminated for refusing to do so.

County resources, including but not limited to equipment and supplies shall not be used for campaign purposes.

### **4.13 Employee Identification Badges**

Identification badges will be utilized by all Smith County employees while on the County payroll. These will be issued at the time of placement on the payroll, and returned to the County when leaving employment prior to receiving final paycheck.

Badges will be color-coded to facilitate security purposes. Employees working in, and certain others who frequently access, the Courthouse will be issued a color to expedite

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<sup>19</sup> *Disclosure of Interest in Property*. Texas Government Code § 553.002

entrance security as security personnel determine. The other employee badge color will identify County employees as such. Employees will be required to show their identification badges at any time when requested by security personnel or appropriate officials.

Badges are to be worn in plain view while entering, on the premises and leaving the various County buildings and places of business. These include: Smith County Courthouse and Annex Building, Smith County Office Building, Smith County Cotton Belt Building, Juvenile Center, Justice of the Peace Offices, Constables Offices, Pre-Trial Release Office, etc.

Department Heads will determine and advise employees on badge requirements at their workstations.

Badges remain the property of Smith County. They are to be used appropriately by the employee only, maintained in good condition and not to be altered in any manner. If some change occurs, such as a name change, that requires a new badge, the supervising Department Head will arrange for a new badge to be issued and the old one returned.

In the event of an employee's badge being lost or stolen, the employee is to inform their supervisor immediately who will advise the Sheriff's Department and make arrangements for a replacement badge to be issued. The cost to replace a lost badge will be paid by the employee at a rate of \$15.00. If a claim for a replacement badge is based on the badge being stolen, the badge will be replaced at no cost. A stolen badge claim must be supported by a copy of a police report indicating the badge stolen.

#### **4.14 Work Ethics Policy**

Smith County will comply with all applicable laws and regulations, and expects its employees, Department Heads and Elected Officials to conduct business in accordance with the letter and the spirit of relevant laws and refrain from dishonest, illegal or unethical conduct.

To ensure ethical and impartial business, Smith County employees are prohibited to:

- Offer, accept or solicit money, property, service or other items of value by way of gift, favor, inducement or loan with the intent that the offer would influence, or the recipient would be influenced, by such conduct in the discharge of duties.

- Use their official position, uniform or badge to secure special advantage in business, personal gain or other benefit derived from such relationship.
- Use any County-owned facility, building, equipment, materials or vehicles for their personal use or benefit, or for the personal use or benefit of any other individual. No employee shall have unauthorized possession of County property.
- Invest or hold a financial interest, directly or indirectly, in any business entity, transaction or business endeavor that would create a conflict between the employee's duties and the individual's private interest.
- Engage in any conduct which is in violation of Federal, State or local laws.

An employee who has knowledge of or a concern of dishonest, illegal or unethical activity must report said activity to the Director of Human Resources promptly. The Director of Human Resources will be responsible for coordinating an investigation and a determination of corrective action. Corrective action includes, but is not limited to, disciplinary action up to and including termination of employment.

An employee who knowingly and intentionally files a false report of wrongdoing may be subject to disciplinary action up to and including termination of employment.

#### **4.15 Cellular Phone Policy**

While at work, employees are to exercise the same discretion in using personal cellular phones as they do for County phones. Excessive personal calls during the workday, regardless of the phone used, can interfere with employee productivity and be distracting to others. The County encourages a reasonable standard of limiting personal calls during work time to no more than one per day as needed. Employees are asked to make any other personal phone calls on non-work time and to ensure that friends and family members are aware of the County's policy.

The County will not be liable for the loss of cellular phones brought into the workplace.

#### **4.16 Dress Code Policy**

The purpose of the dress code outlined below is to ensure that Smith County employees present a professional image to the public. Smith County will observe the guidelines below as standards for professional appearance at all times. Every Elected Official and Department Head has the discretion in determining a higher standard of dress. In designated departments, employees shall wear clothes or uniforms appropriate for their job responsibilities.

#### 4.16.1 Attire

1. All garments shall be properly fitted and convey a dignified and professional appearance.
2. Jeans shall not be worn, except on Fridays or when wearing jeans is consistent with the type of work being performed by the employee.
3. Jewelry accessories shall be appropriate.
4. Warm-ups, sweats or gym attire shall not be worn, unless the employee is on an unpaid break and engaged in physical exercise at an allowed location on- or off-campus, such as attending a workout class.
5. Tights or leggings may not be worn as pants.
6. Clothing may not be low-cut.
7. No offensive attire such as racial, sexual, religious, ethnic or other characteristics or attributes of a sensitive or legally protected nature.

#### 4.16.2 Hair

1. Employees should keep their hair clean and neatly trimmed.
2. Hair that is styled, cut and/or colored in a manner that calls undue attention to you will be considered inappropriate.
3. Employees who choose to wear beards and/or mustaches must keep them well-groomed and neatly trimmed.
4. For those working around office or mechanical equipment, hair should not be worn in such a style as to create a safety hazard, i.e. hair should not block vision or have the potential of getting caught in equipment.

If an employee requires a reasonable accommodation regarding their dress for medical or bona fide religious reasons, they should contact their supervisor or the Human Resources Director.

Employees who refuse to comply with these policies, if endorsed by their Elected Official or Department Head, can be sent home to change into more appropriate attire.

Repeated violation of this policy can lead to disciplinary action, up to and including termination.



## Chapter 5: Benefits

### 5.1 Fair Labor Standards Act (FLSA)

In administering its wage and salary program, the minimum standards of Smith County shall be the basic standards set forth in the Fair Labor Standards Act (FLSA) and its amendments as it applies to County governments. This policy shall apply to all employees of Smith County who are not specifically exempt from the provisions of the FLSA and are subject to the following:

- The base salary is established on the basis of a forty (40) hour workweek and will be paid straight time up to and including forty (40) hours, except for those under the 207(k) exemption.
- Non-exempt employees who work less than forty (40) hours per week shall be paid according to the hours as recorded on timesheets and approved by the appropriate supervisor. Those under the 207(k) exemption can work less than 80 hours per work period.
- Time and one-half will be calculated for all hours actually worked in excess of forty (40) hours in standard workweek, or after 86 hours in a work period for those under the 207(k) exemption.
- Time not worked but allowed for pay under policy such as vacation, sick leave, compensatory time and other authorized absences must be shown in hours for each day absent. Time not worked that is non-compensable must also be shown in hours for absences.
- Employees are required to keep accurate time records and are responsible for their own timesheets and shall not complete another employee's time records.
- The employee must electronically submit and approve each time record, then the Elected Official or Department Head must approve it afterwards.
- Employees are to be compensated only for hours actually worked or hours allowed under policy when absent.

#### 5.1.1 Exempt Employees

The following employees are considered exempt in accordance with the criteria set forth by the Fair Labor Standards Act.<sup>20</sup>

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<sup>20</sup> *Wage and Hour Division, Department of Labor. Code of Federal Regulations, Title 29 §541*

- Executive Employee
- Administrative Employee
- Professional Employee
- Computer Professional Employee
- Excluded Employee<sup>21</sup>
- Elected Official

Any questions concerning employee classification may be directed to the Payroll Department in the County Auditor's Office or the Human Resources department.

## **5.2 Payroll Adjustments and Options**

Employees are not to start work before their scheduled starting time or to work after their scheduled quitting time, without the prior approval of their supervisor.

Each department is required to submit approved time records and time records for verification and payment of hours worked to the Payroll division of the County Auditor's office. Time records must reflect actual hours worked by the employee. Falsification of a time record may result in disciplinary action up to and including termination. This retention in one central location insures compliance with regulations and provides documentation in the event of dispute relative to compensation.

Employees on a leave of absence for two (2) to four (4) weeks shall have any allowance, including but not limited to travel and cell phone allowance pro-rated for that period of time.

Employees on a leave of absence for four (4) or more weeks shall have allowance, including but not limited to travel and cell phone allowance suspended until such time that they return to work.

### **5.2.1 Wage Overpayment/Underpayment Policy**

Smith County takes all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck, and that employees are paid promptly on the scheduled paydays.

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<sup>21</sup> *Wage and Hour Division, Department of Labor. Code of Federal Regulations, Title 29 § 553.1 3(e)(2)(c)*

In the unlikely event that there is an error in the amount of pay, the employee should promptly bring the discrepancy to the attention of the Payroll Supervisor so that corrections can be made as quickly as possible. If the employee has been underpaid, the County will pay the employee the difference on the next pay cycle or as soon as reasonably possible. If the employee has been paid in excess of what he or she has earned, the employee will need to return the overpayment to the County as soon as possible.

No employee is entitled to retain any pay in excess of the amount he or she has earned, according to the agreed-upon rate of pay. If a wage overpayment occurs, the overpayment will be regarded as an advance of future wages payable and will be deducted in whole or in part from the next available paycheck(s) unless the employee has entered into a reimbursement agreement with the County.

### **5.3 Health and Life Insurance**

Smith County offers group health insurance for regular full-time employees and their eligible dependents. The insurances provided are Medical, Dental, Vision, Life and Accidental Death and Dismemberment.

Regular full-time employees will complete a Benefits Enrollment Form upon hire. Coverage selections made by the employee will be effective the first of the month following 60 days of employment. Premiums for coverage selected by the employee will be deducted from the employee's paycheck on a semi-monthly basis. Premium deductions are made in advance and, as such, shall start in the month prior to the employee's effective date of coverage.

Employees do have the option of declining medical and dental benefits provided by Smith County. To deny medical coverage, an employee must sign a Waiver of Health Insurance Coverage form. To deny dental coverage, an employee must sign a Waiver of Dental Insurance Coverage form. These forms can be obtained through the Human Resources department.

Employees are responsible for cost of insurance coverage and/or supplementary insurance premiums upon the first month of which no paycheck is received, or the amount of the paycheck does not suffice to satisfy the payroll deduction required.

If an employee is on a leave of absence or suspension and has not received a paycheck from the County for two (2) consecutive pay periods, such employee may be eligible to continue health insurance coverage under the terms of the Consolidated Omnibus Budget Reconciliation Act (COBRA) until the employee returns to work.

Upon termination of an employee, at the time the final paycheck is issued, the Human Resources department will assure County compliance with Consolidated Omnibus Budget Reconciliation Act (COBRA) requirements.

Group health insurance booklets are available in the Human Resources department and each employee is urged to obtain a copy and read it carefully, as the booklet explains in detail all coverages of the group health insurance plan.

#### 5.4 Retirement

Smith County participates in the Texas County and District Retirement System (TCDRS) and has belonged since January 1, 1968. This retirement system was established by legislative act in 1967 under the Texas State Constitution. Under the system, employees contribute 7% of gross salary and the County funds the amount necessary to meet plan obligations and benefits. Interest is credited annually. For details, read the official TCDRS handbook.

Some basic information about plan participation is:

- All regular full-time employees of the County **SHALL** become a member of the Retirement System upon their effective date of employment.
- Effective January 1, 2007, all regular part-time employees of the County **SHALL** become members of the retirement system.
- Participants are vested after eight (8) years in the system.
- According to the official TCDRS handbook, employees are eligible for retirement benefits if:
  - At least eight (8) years of credited service and have attained the age of at least sixty (60); or,
  - Attained age and total accumulated service (both individually rounded down to whole years) equals seventy-five (75); or,
  - Years of credited service equals or exceeds twenty (20).
- When a member is eligible for retirement, selection of any one of several optional plans for retirement must be made and an application for service retirement completed **at least 45 days before effective date of retirement**. The application paperwork can be completed with a TCDRS representative by calling 1 (800) 823-7782 or on the member profile online at [www.tcdrs.org](http://www.tcdrs.org).

- There are several disability retirement benefits available to eligible employees.
- Should a participating employee leave the employment of the County prior to qualifying for retirement benefits, that employee shall have the right to apply for refund of their contributions to the system along with interest earned on such contributions. The employee shall not be entitled to the County's portion contributed to the system on their behalf nor the interest thereon.

A "retiree" is defined as: (1) a person retiring from active County service under the provisions of TCDRS, or (2) a person retiring from active County service who has qualified for retirement under the disability retirement provisions and who is actually receiving retirement benefits from TCDRS.

#### 5.4.1 Continued Insurance Coverage

A "retiree" hired prior to June 1, 2005 shall generally be eligible to continue, at County expense, as a participant in a group health insurance plan selected by the County. Effective August 21, 2012, a "retiree" must have:

- (1) been hired prior to June 1, 2005; and**
- (2) be eligible with Texas County & District Retirement System (TCDRS) for retirement; and**
- (3) have at least twenty (20) years of Smith County employment at the time of retirement to be eligible to continue, at County expense, as a participant in a group health insurance plan selected by the County.**

Employees hired on or after June 1, 2005 shall not be eligible to continue, at County expense, as a participant in a group health insurance plan selected by the County at such time when they retire. Said employees will be advised of their rights to continue insurance under the Consolidated Omnibus Budget Reconciliation Act (COBRA) at the time of their retirement from the County. However, continued coverage under the County's group health insurance plan is contingent upon the retiree enrolling under Medicare coverage concurrent with becoming Medicare-eligible. At this occurrence, the heretofore primary insurance as provided by the County will become secondary to Medicare coverage, and be considered as Medicare Supplemental Insurance only; as such, it will continue to be provided at County expense for the life of the retiree.

#### 5.4.2 Dependent Insurance Coverage

An **eligible** retiree who has presently elected to include their eligible dependents under the County group health insurance plan upon retirement will be allowed to maintain dependent coverage provided that:

- Retiree bears total expense of the dependent coverage.
- There is continuous enrollment, i.e. retiree's dependent(s) is enrolled prior to retirement.
- Concurrent with becoming Medicare-eligible, retiree's spouse enrolls under Medicare plan, thereby causing County coverage to become Medicare Supplemental Insurance only.
- The spousal coverage as offered by the County is for the life of spouse herein identified.

#### 5.4.3 Disability Retirement

An employee, who is eligible to apply for disability retirement but has not received determination status at the time their pay from the County ceases (i.e. sick leave, vacation, etc.), shall be placed on a leave of absence without pay as an employee eligible to participate for group insurance. Up to three (3) months, premiums will be paid as a regular employee participant if eligibility has not been determined. When determination is made:

- Ineligible employee is advised of status, terminated and advised about COBRA rights.
- Eligible employee is advised of status, placed on disability retirement and receives the rights of all retired employees.

All other vested employees terminating but not retiring from the County are not eligible under retiree provisions, but will be advised about their rights under the Consolidated Omnibus Budget Reconciliation Act (COBRA) at the time of termination from the County.

#### 5.4.4 Supplemental Death Benefit

A Supplemental Death Benefit was established effective January 1, 1995, for all employees participating in the Texas County and District Retirement System. The payment amount of one (1) year wage shall be paid to the person designated as

beneficiary in the event of the employee's death. This benefit is for employees only and ceases immediately upon the employee leaving County employment for any reason such as retirement, resignation or termination.

Additional details about retirement can be found in the Texas County and District Retirement System handbook. These handbooks are available in the Human Resources department and all employees are urged to obtain a copy and read it carefully.

## **5.5 Holidays**

All regular full-time employees, including those in their introductory period, are eligible for paid time off on official Smith County holidays. The official holidays and dates are designated on a yearly basis by the Commissioners Court.

Holidays and "Administrative Day" must be taken in full day increments. Compensation for Administrative Day will be equal to eight (8) hours.

Prior to the beginning of each calendar year, the official holidays and dates designated will be posted on the first floor of the Smith County Courthouse, and will also be distributed to all Elected Officials and Department Heads.

Generally speaking, if a holiday falls on a Saturday, it will be observed on the Friday before; if a holiday falls on a Sunday, it will be observed on the Monday following.

## **5.6 Service Recognition**

Smith County appreciates employees who serve the County. In an effort to display this appreciation, the County has established a program to award service recognition pins based on longevity for regular full-time employees. The Human Resources department is responsible for the coordination of this program. They will supply the Commissioners Court with appropriate pins to be awarded to the recipients in a timely manner.

## **5.7 Credit Union**

All Smith County employees and their families are eligible to join the County and State Employees (CASE) Federal Credit Union. Information regarding the Credit Union is available from the Human Resources department.

## 5.8 Longevity Pay

Smith County wants to recognize service and time with the County with the monetary value of longevity. All regular full-time employees, Elected Officials and Department Heads shall be eligible for longevity pay except where it conflicts with State law or code superseding the County's normal rate of longevity pay.<sup>22</sup>

Longevity pay will be awarded for continuous regular full-time service, as follows:

<u>Years of Service</u>	<u>Longevity Pay</u>
5-9	\$20.00 per month
10-14	\$40.00 per month
15-19	\$60.00 per month
20+	\$80.00 per month

## 5.9 Pay Practices

Smith County pays employees bi-weekly. Timesheets are completed and sent to the Payroll division of the County Auditor's Office for preparation. Timesheets are due to Payroll by 9:00 a.m. on Monday preceding a Friday payday. If a Federal holiday falls on a pay date, payday will be on Thursday of that week.

### 5.9.1 Holiday Pay

In order to be credited for County holiday time, an employee must be on paid status on the last full normally scheduled workday before and after the holiday, to qualify for pay for the holiday. Paid status is regular work, vacation, sick leave, compensatory time off or another holiday including "Administrative Day". Employees, not available for work, who have exhausted authorized absence pay (sick pay, vacation pay, administrative holiday pay, compensatory time pay) on a day the County observes as an official holiday, will not receive credit for pay purposes for the holiday, unless that day is the return-to-work day from the unpaid leave or absence, and the employee works the remainder of the pay period.

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<sup>22</sup> *Longevity Pay for Commissioned Deputies and County Jailers*. Texas Local Government Code § 152.074



If employees work on a designated holiday and receive double time pay (e.g., 1 for time worked, plus 1 for approved holiday pay) for such work, then they are not entitled to additional time off. Employees that work on a designated holiday and receive regular pay, as in no special rate for working on the holiday, will be entitled to take an equal amount of time off at a later date credited to the employee as Miscellaneous time.

If an employee is scheduled to work on a holiday but is ill and does not work, the employee will receive regular pay and show the day as a holiday.

If a holiday falls during a period when an employee is on vacation or sick leave, the day will be paid as a holiday and the day will not be charged as vacation or sick leave.

Employees in their initial introductory period are not eligible to take the “Administrative Day” holiday. Once they have successfully completed the introductory period, they may schedule it with their supervisor to be taken prior to the end of the calendar year.

#### 5.9.2 Adult Probation

To make sure that employees understand how benefits are administered once a decision is made by an employee to transition from a Smith County employee to an Adult Probation employee or, conversely, from an Adult Probation employee to a Smith County employee, the following rules apply:

- Employees will be terminated by the department that they are leaving and treated as a new employee by the receiving department.
- Upon termination of employment, transitioning employees will not be compensated for any unused sick leave hours, nor will transitioning employees be eligible to transfer unused sick leave hours to their hiring department.
- Upon termination of employment, transitioning employees will be paid all accrued vacation up to the maximum number of eligible carryforward days prior to assuming their new position.

#### 5.9.3 Law Enforcement Officials (Constitutional Provision)

The Texas Constitution<sup>23</sup> authorizes that each County shall pay all medical costs and continue to pay their maximum salary to law enforcement officials (Sheriffs, Deputy Sheriffs, Constables, Deputy Constables or any other County or precinct law enforcement officials) injured in the course of their official duties while incapacitated

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<sup>23</sup> *Payment of Medical Expenses of Law Enforcement Officials.* Texas Constitution, Article 3 § 52c

due to such injury. This means that the County will make up the difference between what the incapacitated employee receives from workers' compensation up to their usual maximum pay. This will continue as long as the employee is incapacitated or until such time as they return to work or upon the expiration of the term of office to which such official was elected or appointed. If the employee is terminated during the term of office the employee was elected or appointed to, benefits will no longer be provided.

#### 5.9.4 Final Checks

When an employee gives notice or is terminated, the Elected Official or Department Head needs to advise the Payroll division of the County Auditor's office with a New Employee/Employee Change form so preparations can be made in determining final pay, especially for computing any compensatory pay due or if vacation pay is to be paid, etc., and also because of legal requirements pertaining to benefits. Final paychecks are deposited to the employee's designated bank account(s) on the normal payday following termination, provided separation procedures have been followed.<sup>24</sup>

Upon termination of employment, whether voluntary or involuntary, employees will not be compensated for any unused miscellaneous time.

#### 5.9.5 Workweek / Work Period

Smith County's official workweek begins Sunday at 12:01 a.m. and ends the following Saturday at midnight. Unless otherwise noted by the Overtime and Compensatory Time policy, an employee must work 80 hours on each work period timesheet, or they must use sick, vacation, compensatory or miscellaneous time in order not to have their salary reduced for the hours they have not accounted for in actual hours worked.

#### 5.9.6 Hours Worked Less than 40

Any non-exempt employee who does not work a full 40 hours in a workweek will have his or her compensation reduced by the value of the hours not worked or will charge such time not worked to accrued leave such as compensatory time, sick leave, vacation, holiday pay, administrative holiday or other leave as provided in this handbook.

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<sup>24</sup> *Payment of Wages*. Texas Labor Code § 61.014

### 5.9.7 Payroll Deductions

Deductions will be made in accordance with state or federal statutes and as approved by the Commissioners Court.

### 5.9.8 Salary Administration

The Commissioners Court establishes policies and procedures that provide County employees with a salary administration system.

The goals of this policy are:

- To attract and retain high quality employees.
- To provide uniform pay arrangements throughout the County.
- To provide total compensation (salary and benefits) that is market-driven and competitive.
- To maintain control on expenses during the budget process.

Smith County's Compensation Plan defines a set level of compensation for each County position, according to classification/pay grade and experience.

The in-hire rate of pay grade will be the entry-level salary (step 01) paid to all newly hired County employees. This is true whether the position is newly budgeted or vacated through attrition, transfer or promotion.

If an employee transfers to a position that is in the same pay grade as his or her previous position, that employee's salary will remain unchanged. If an employee transfers to a position that is in a different pay grade as his or her previous position, that employee will be paid at the entry-level salary (step 01) for the new pay grade.

All certified and commissioned law enforcement officials (other than Elected Officials) will be paid according to the Law Enforcement scale. The maximum advancement rank for non-Sheriff employees is Deputy IV.

## **5.10 Direct Deposit**

Effective January 1, 2009, direct deposit is mandatory for all County employees.

## 5.11 Workers' Compensation

Workers' Compensation insurance is provided for all employees to protect the employee from damages or expenses resulting from a work-related injury or illness.

**FOR AN ON-THE-JOB INJURY OR WORK RELATED INJURY TO BE ELIGIBLE FOR COVERAGE UNDER WORKER'S COMPENSATION, A WRITTEN INJURY REPORT MUST BE RECEIVED BY THE INSURANCE CARRIER WITHIN 7 DAYS.**

### 5.11.1 Reporting On-the-Job Injuries

Employees shall report all job-related injuries and illnesses at the time they occur to the Department Head or supervisor, no matter how minor the injury or illness appears. It is the responsibility of the Workers' Compensation insurance carrier to determine if benefits are allowable. Failure to provide notification to the Human Resources department may result in rejection of claim, placing the healthcare expense solely onto the employee.

### 5.11.2 Medical Attention

When an on-the-job injury has occurred, an accident report form must be filled out completely by the employee and/or their Department Head or supervisor, and returned to the Human Resources department within two (2) business days after the accident.

Healthcare providers typically contact the Human Resources department to verify coverage and eligibility. Therefore, it is helpful if the employee's Department Head or supervisor notifies the Human Resources department when an employee seeks medical attention for an on-the-job injury.

Effective May 1, 2008, Smith County will participate in the Political Subdivision Workers Compensation Alliance to manage the healthcare and treatment employees may receive if they are injured on the job. If an employee sustains an on-the-job injury or illness, he or she may seek medical attention from a healthcare facility or provider in the Alliance network. Choosing a healthcare provider from the Alliance network is required in order for the cost of the medical care to be covered. In an event where the employee's injury is a life-threatening emergency, he or she should go to the nearest emergency room. The County may require statements of medical condition and release to return to work from the attending physician.

### 5.11.3 Salary Continuance

If an employee sustains an on-the-job injury or illness that renders him or her temporarily unfit to perform the essential functions of the job, the employee will receive salary continuance as follows:

- For up to seven (7) days, the employee receives his or her regular pay for that period with the time charged to accrued sick leave, vacation time or compensatory time unless the employee chooses to be off without pay.
- Beginning on the 8<sup>th</sup> day, and for any days thereafter, that the employee is unfit for duty, the employee receives weekly benefits from the insurance carrier in accordance with the Worker's Compensation Law.
- Exception: All law enforcement personnel must be paid salary continuance in accordance with the Constitution of the State of Texas

Further information on Worker's Compensation coverage is available in the Human Resources department or from the Texas Worker's Compensation Commission.

## **5.12 Tuition Reimbursement**

### **I. PURPOSE**

Smith County provides a Tuition Reimbursement Program in order to enhance the qualifications and improve the productivity of County employees, motivate employees to improve their job-related knowledge and skills, and encourage the hiring, retention and promotion of qualified, well-trained personnel.

The Commissioners Court believes that the County, the employee and the taxpayers will benefit by expanding educational, professional and vocational development under appropriate circumstances.

### **II. SCOPE**

The Tuition Reimbursement Program is designed to encourage County employees to improve their skills and job performance by enrolling in post-secondary courses related to their assigned responsibilities. The program is subject to the availability of funds as appropriated by the Commissioners Court through the annual budget process.

### III. COURSE POLICY

- A. Courses must meet the following to be eligible for reimbursement:
1. Relates directly to the duties of the position currently held by the employee;
  2. Enhances job effectiveness/performance and is not offered in-house;
  3. Relates to the duties of a position to which the employee may reasonably be expected to advance within the County; or
  4. Offered by an accredited junior college, college, university, technical or trade school.
- B. The Tuition Reimbursement Program is for tuition costs only and does not provide reimbursement for any fees, books or supplies.
- C. Tuition costs are reimbursed on a percentage basis contingent upon the employee's final grade using the following schedule:

Undergraduate and All Graded Courses

100% for a grade of A  
 75% for a grade of B  
 50% for a grade of C  
 0% for a grade of D or below

Graduate

100% for a grade of A  
 75% for a grade of B  
 0% for a grade of C or below

Courses taken on a pass/fail basis must be passed and are reimbursed at 50% of the course cost.

- D. A **maximum of seven (7) credit hours per semester** and **fifteen (15) credit hours per calendar year** may be submitted for reimbursement. Tuition costs will be reimbursed based on the tuition cost for a Texas resident attending the University of Texas at Tyler, taking similar courses.
- E. An employee will not be eligible to repeat courses which he or she has previously received tuition reimbursement for, except for courses in which the content changes substantially and for which the institution itself

grants credits for subsequent completion, such as a seminar for college credit.

- F. Review, “CLEP” and auditing courses are not eligible for reimbursement.
- G. The Tuition Reimbursement Program does not cover entrance or qualifying exams such as the ACT, SAT, GMAT, GRE or LSAT.
- H. Courses offered via Internet access from accredited colleges, universities and trade schools will be eligible for reimbursement, if all other qualifying criteria are in place. The course must be completed within the allotted semester.

#### **IV. GENERAL POLICY**

- A. All regular full-time County employees who have completed one (1) year of continuous service with Smith County, unless made ineligible by the rules below, are eligible to participate in the Tuition Reimbursement Program.
- B. Employees receiving financial assistance from other sources such as GI Bill, Veteran’s programs, scholarship, grants, student loans or other subsidies are eligible for the Tuition Reimbursement Program, but reimbursement can only be applied to the amount not covered by other sources of financial aid. Employees who fail to report alternative sources and amounts of financial aid on the application may be liable for return of the reimbursement award.
- C. The completion of a course does not obligate the County to promote the employee to a higher pay range or different position. The benefits derived from the successful completion of course(s) may be considered when opportunities for advancement occur.
- D. Any employee who resigns or is terminated (voluntarily or involuntarily) prior to completion of a course shall not receive tuition reimbursement.
- E. Elected Officials are not eligible for tuition reimbursement.
- F. The County is under no obligation to allow employees to take a course during work hours. If a course is available during, after or before regular

working hours, the employee should attend the course after or before working hours. If the approved course is only available during work hours, the following procedure may be applied:

1. With prior approval of the Elected Official or Department Head, the employee may use vacation time, personal leave, leave without pay, or compensatory time in order to attend the class;
  2. Work schedules may be rearranged with prior approval of the Elected Official or Department Head; and
  3. The County will not compensate employees, or make allowances, for tardiness resulting from participating in the Tuition Reimbursement Program.
- G. Approval will be granted only for specific courses for the current semester. Any course changes made at registration should be submitted to the Director of Human Resources within ten (10) days of the registration date for re-approval.
- H. Tuition reimbursement funds are appropriated on a fiscal year basis. Funding approved by the Commissioners Court for the fiscal year, beginning October 1 of each year, will apply to education courses beginning subsequent to that date.
- I. All grade reports and receipts will be held until the final cut-off date for submission at the end of the semester (see section VII, D.). A total budget impact will be calculated for the semester.
- J. Reimbursement for courses at a private institution will be limited to an amount equal to what the cost would have been at the University of Texas at Tyler for similar courses for a Texas resident (see section III, D.).
- K. Employees of grant programs will be eligible for the same tuition reimbursement rate as County employees whose positions are established in the General Fund. Tuition reimbursement for these employees will be allocated from their funding source, provided the grant recipient is able to budget this funding. There will be no fiscal impact to



the County since other funding sources will pay for the tuition reimbursement of employees of grant programs.

## V. ADMINISTRATION

- A. The Director of Human Resources, herein after referred to as “Director,” under the supervision of the Commissioners Court, shall supervise the implementation of this program.
- B. The Director shall devise all necessary forms for the administration of the Tuition Reimbursement Program. Employees shall submit the application form along with:
  - 1. Copy of the course description from the class syllabus,
  - 2. Copy of the employee’s current job description,
  - 3. Description of the employee’s career goals and how the course directly relates to those goals,
  - 4. Copy of the school calendar published by the school, showing the starting and ending dates for the semester requested, and
  - 5. Degree plan, if applicable.
- C. The Director shall endeavor to notify applicants prior to the deadline for regular registration concerning the status of their application. The Director will bring any issues resulting from unanticipated circumstances to the attention of Commissioners Court members for their consideration.
- D. The employee is responsible for registering for a course and paying all fees in accordance with the rules, regulations and deadlines of the institution.
- E. Only approved course(s) taken during the current semester will be eligible for reimbursement. Reimbursement will be made at the end of each semester for the course(s) of study completed by an employee who meets the reimbursement criteria.
- F. Upon completion of approved course(s), the employee must submit to the Director: 1) a copy of a grade slip or other appropriate proof of grade and 2) a copy of the bill showing the amount of fees paid. The employee will be responsible to submit any additional information if requested by the Director. No payment will be made unless the employee has

furnished the evidence of having successfully completed the course within the due date set by the Director. Since each school has a different completion date and grade submission date for the semester, calendar submission dates will be issued for all paperwork as stipulated in this policy (see section VII).

- G. After the Director has determined that an employee is eligible for reimbursement, a request for reimbursement in the form of a check request shall be submitted by the Director to the County Auditor for certification of available funds and payments. The County Auditor will prepare the reimbursement for the employee.
- H. Employees in grant-funded departments must have the approval of the Grant Administrator and County Auditor for the courses to be funded. The Human Resources department will notify grant-funded departments upon receipt of an application.
- I. Employees may request blank applications/forms and a copy of the policy in e-mail format. However, all required support documentation (see section V, B.) must be submitted within the required deadlines. E-mailing the forms will not constitute a completed application without support documentation.

## **VI. ELIGIBLE FEES AND EXPENSES**

The Tuition Reimbursement Program will reimburse only the eligible employee's direct tuition fees if the approved course is successfully completed and is contingent upon available funds.

Other fees and expenses are expressly excluded from reimbursement. These fees include, but are not limited to: registration fees, late fees, change of class fees, parking fees, books and supplies, transcript fees, deposits, uniform fees, photo ID fees, health insurance fees, room and/or boarding fees, laboratory or other similar supplemental fees, and travel-related expenses.

## **VII. SUBMISSION OF APPLICATIONS, GRADE REPORTS, DOCUMENTATION**

- A. All application forms and support documentation must be submitted to the Human Resources department in the Smith County Annex Building prior to the last day of timely registration according to school guidelines.

Should the calendar due date fall on a Saturday, Sunday or holiday, the cut-off date will roll to the next regular business day by 5:00 p.m.

- B. Students will be required to provide a copy of the school calendar as published in the institution's catalog or calendar of events. The first day of class for the semester as published will be considered the beginning date, regardless of the day of week the courses meet during the semester.
- C. Receipts or proof of payment for tuition must be itemized by the school showing tuition, fees, etc., separately.
- D. Submission of receipts and grades will be due no later than thirty (30) days after the conclusion of the course. Should the calendar due date fall on a Saturday, Sunday or holiday, the cut-off date will roll to the next regular business day by 5:00 p.m.

#### **VIII. REIMBURSEMENT RATES**

The Director, or designee, will identify the published tuition rates for graduate and undergraduate hours as of September 1st for the University of Texas at Tyler. Students will be reimbursed at these rates or the rates of their own institution, whichever is less. However, if it is necessary to pro-rate funds, reimbursement may be less.

The reimbursement rate is subject to change as rates change or as adjustments need to be made in the Tuition Reimbursement Policy.

## Chapter 6: Leave and Emergency Situations

### 6.1 Administrative Leave of Absence

To be eligible for consideration, an employee must be a regular full-time employee who has successfully completed their introductory period.

An administrative leave of absence may be appropriate for the following reasons:

- Educational purposes when successful completion will contribute to the benefit of the County.
- The undertaking of a public service assignment.
- Attending to important, personal business.

To request for administrative leave, the employee shall:

- Complete and submit a Leave of Absence Request Form to their Department Head or Elected Official at least ten (10) working days prior to the first day of leave, unless emergency conditions exist.
- Provide a written statement indicating that they intend to return to work with the County on a full-time basis and when they will return.
  - If the employee does not return from leave on the date approved, the employee will be separated from the payroll.

#### 6.1.1 Leave of Absence Without Pay (LOA)

The Department Head may approve up to sixty (60) days of unpaid leave but may deny it until the employee has used all earned vacation and compensatory time, if applicable. Employees who have exhausted their Vacation Leave, Compensatory Time and FMLA Leave, if applicable, or who have extenuating circumstances may requested an unpaid Leave of Absence (LOA) for up to 60 days. Department Heads may place an employee who has exhausted available paid leave and is unable to return to work, on LOA.

Granting a leave of more than sixty (60) days is at the sole discretion of the Commissioners Court, Elected Official or governing board.

Employees on an administrative leave of absence receive no compensation or County contributions to their retirement or various insurances, and accrue no benefits such as

vacation or sick leave. During the LOA, you may be eligible to continue health insurance coverage under the terms of COBRA. If an employee chooses COBRA during their LOA and returns to Active Duty, the employee will not have a two-month waiting period for Group Health and related benefits. The employee is responsible for insurance premiums upon the first month for which no paycheck is received or the amount of the paycheck does not suffice to satisfy the payroll deduction required. However, previously accrued benefits are retained during leave of absence unless otherwise prohibited by the terms or provisions of the benefit programs.

If an employee is on a leave of absence without pay for over ninety (90) days, their continuous service shall be interrupted and reduced by time absent accordingly upon termination or return to work unless applicable laws or regulations supersede this policy.

Employees on LOA must return all County equipment (e.g. keys, badges, laptops) before their leave.

## **6.2 Family and Medical Leave Act**

To be eligible for Family Medical Leave,<sup>25</sup> an employee must have been employed by Smith County for at least 12 months and for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

Eligible employees are entitled to a total, not to exceed 12 workweeks, of job protected, unpaid leave, during a 12-month period. The substitution of paid leave for unpaid leave does not extend the 12 workweek leave period.

The 12-month period will be calculated on a rolling 12-month period forward from the first day of FMLA leave.

### 6.2.1 Utilization

FMLA leave may be used for one or more of the following reasons:

- Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.
- Because of the placement of a son or daughter with the employee for adoption or foster care.

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<sup>25</sup> *Family and Medical Leave Act*. United States Code, Title 29, Chapter 28

- In order to care for the spouse, son, daughter or parent of the employee, if such spouse, son, daughter or parent has a serious health condition. Note the term “parent” does not include a parent “in-law”. The terms “son” or “daughter” do not include individuals age 18 or over, unless they are “incapable of self-care” because of mental or physical disability that limits one or more of the “major life activities” as those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the American with Disabilities Act (ADA).
- Because of a serious health condition that makes the employee unable to perform the function of the position of such employee.
- Because of military family leave entitlements for eligible specified family members.
  - Up to 12 weeks of leave for certain qualifying exigencies arising out of a covered military member's active duty status, or notification of an impending call or order to active duty status, in support of a contingency operation; and
  - Up to 26 weeks of leave in a single 12-month period to care for a covered service member recovering from a serious injury or illness incurred in the line of duty on active duty. Leave may also be used to care for a veteran family member who is undergoing medical treatment, recuperation or therapy for serious injury or illness that occurred in the line of duty any time during the five years preceding the date of treatment. Eligible employees are entitled to a combined total of up to 26 weeks of all types of FMLA leave during the single 12-month period.

### 6.2.2 Paid and Unpaid Leave

If an employee has accrued leave, the employee shall be required to use the appropriate paid leave first, with the remainder of the 12-week period as unpaid leave.

- An employee who is taking leave because of the employee’s own serious health condition, or the serious health condition of an eligible family member, will be required to first use all paid sick leave, vacation leave, compensatory time and miscellaneous time with the rest of the 12-week leave period being unpaid.
- An employee taking leave for the birth of a child will be required to take all paid sick leave, vacation leave, compensatory time and miscellaneous time prior to going on an unpaid status.

- An employee taking leave for a medical recovery period, including after the birth of a child, will be required to take all paid sick leave, vacation leave, compensatory time and miscellaneous time prior to going on an unpaid status.
- After the recovery period from giving birth to a child, if the employee requests additional time for bonding, then the employee shall be required to use vacation leave, prior to going on an unpaid status.
- An employee who is taking leave for the placement of a child in the employee's home for adoption or foster care shall be required to use all vacation leave, prior to going on an unpaid status.

### 6.2.3 Certification Requirements

Employees are required to submit a request for leave to Human Resources as soon as possible, and no less than thirty days prior to the first leave date, unless emergency conditions exist. Employees shall provide Department Heads with updates at least every two weeks as to the conditions of progress of leave status. An employee requiring medical leave may be required to provide medical certification and be re-certified every thirty days.

Smith County has the right to ask for certification of the serious health condition of the employee or the employee's eligible family member when the employee requests or is using leave under this policy.

Smith County may send a request for medical certification to an employee who has been out of work for three or more days to determine the employee's FMLA eligibility. The employee is requested to have his or her physician complete and return the medical certification within fifteen (15) days of the employee's receipt of the form to be eligible for FMLA. An employee's failure to return the medical certification may result in denial of FMLA by the County.

The employee must respond to the County's request for certification within 15 days of receipt of the request or provide a reasonable explanation for the delay in writing before the 15<sup>th</sup> day after receipt of the request. If an employee does not provide certification or otherwise respond, Smith County may deny leave under this policy.

- Smith County may choose to exercise its option of requiring 2<sup>nd</sup> and 3<sup>rd</sup> opinions as to the medical necessity of leave. The 2<sup>nd</sup> and 3<sup>rd</sup> opinions will be at Smith County's expense. In cases of conflicting opinion, the 3<sup>rd</sup> opinion shall stand.

- Department Heads, whose employees request leave under FMLA, must notify the Human Resources department as soon as possible for notification and recordkeeping purposes required by FMLA.
- Department Heads must also contact the Human Resources department when an employee has requested leave that is covered under FMLA, even when the employee has not specifically requested that the leave be FMLA leave.

#### 6.2.4 Restrictions

- Benefit time and seniority time will be accrued or earned during the unpaid portion of leave under FMLA. Vacation, sick leave and holidays will accrue during the paid portion of Family Medical Leave, and will be paid as leave time during the paid portion of the leave.
- A married couple who both work for the County are entitled to a maximum combined leave of 12 weeks in any 12-month period for the birth or placement of a child, or care for a parent with a serious health condition. The combined limit for a married couple employed by the County is 26 weeks in a single 12-month period, if leave is to care for a covered service member or veteran with a serious injury or illness.
- For non-emergency surgeries and similar leave, the employee must cooperate with their department head and allow input on the timing of the leave – subject to a doctor's approval.

#### 6.2.5 Intermittent or Reduced Leave

Intermittent leave under FMLA shall be allowed only where it is necessary for the care and treatment of a serious health condition of the employee or the employee's eligible family member.

A reduced schedule under FMLA shall be allowed only where it is necessary for the care and treatment of the serious health condition of the employee or the employee's eligible family member.

Smith County may require the employee to transfer temporarily, during the period of intermittent or reduced schedule, to an available position for which the employee is qualified and which better accommodates recurring periods of absence than the employee's regular position. The temporary position will have equal pay and benefits. When the employee is no longer on intermittent or reduced leave schedule, the employee will be returned to the same or an equivalent position.



Certification from a healthcare professional is required for intermittent or reduced schedule leave. The certification must state the reasons why an intermittent or reduced schedule is necessary.

#### 6.2.6 Work-Related Injuries

Smith County will always designate work-related injuries with lost time as FMLA-qualifying.

#### 6.2.7 Health Benefits

During FMLA leave, an employee is entitled to continued group health insurance coverage under the same conditions as if the employee had continued to work. To the extent that an employee's FMLA leave is paid, the employee's portion of health insurance premiums will be deducted from the employee's paycheck. For the portion of FMLA leave which is unpaid, the employee must make arrangements with the Benefits department in the County Auditor's office to remit their portion of group health insurance premiums. Smith County may cancel unpaid coverage by providing the employee with advanced notice.

At the end of the 12-week leave period, or the 26-week leave period in a single 12-month period to care for an injured covered military member, an eligible employee will be offered COBRA if they are unable to return to work.

#### 6.2.8 Employment Protection

An employee, supervisor, Department Head or Elected Official shall not directly or indirectly intimidate, threaten, coerce or attempt to intimidate, threaten or coerce another employee for the purpose of interfering with the exercise of any employee's rights under FMLA.

Upon returning to work, employees will be restored to their former position, or an equivalent position with equivalent benefits. Employees are required to submit a Return to Work Certification Form to their supervisor, Department Head or Elected Official upon returning to work. A copy of the Return to Work Certificate Form should be submitted to the Human Resources department.

The County has no obligation to reinstate an employee who takes more than the 12 weeks of leave allowed under this policy, or who elects not to return to work after using

the maximum leave allowed, including an employee with available sick or vacation leave.

If the period of leave exceeds 12 workweeks, the Elected Official or Department Head has the option to terminate the employee for department staffing purposes. The employee will be notified in writing of the intent to terminate, prior to termination. If extended leave is needed under the ADA, Smith County may request medical documentation to substantiate the existence of an ADA-qualifying disability and engage in the interactive process.

### 6.2.9 Return to Work

Employees are required to provide a fitness-for-duty certification before returning to work.

## **6.3 Sick Leave**

Sick leave will accrue at a rate of eight (8) hours per month while an employee is actually employed by the County on a regular full-time basis. Temporary employees, part-time employees or regular full-time employees on a leave of absence without pay shall not receive the benefit of sick leave accruals.

Employees will be given 4 hours of sick time on two (2) pay periods each month.

The maximum number of accrued sick hours, which may accumulate to the employee, shall not exceed 640 hours at the end of the calendar year. However, for every 32 hours of sick leave accumulated over the 640 hour maximum, eight (8) hours of vacation time shall be granted to that employee.

### 6.3.1 Utilization of Sick Leave

Sick leave shall be authorized when an employee is physically incapacitated from performance of duties due to non-employment related illness, injury, maternity condition, illness or death in the employee's immediate family<sup>26</sup> or medical appointments in an employee's immediate family.

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<sup>26</sup> An employee's immediate family is defined as: spouse, children, stepchildren, foster children or any other ward legally placed by the State of Texas, parent, stepparent, sibling, stepsibling, grandparent, grandchild, parents of spouse, and spouse of children.

The Elected Official or Department Head may request, and employees must provide, a physician's written statement of medical disability to substantiate a request for three (3) days or more of sick leave benefits, or if abuse of sick leave is indicated by a poor attendance record or has exhibited a pattern of absences. The physician's written statement should identify the nature and extent of the incapacitation, and when the employee may be expected to return to work on a regular basis.

Employees can also utilize available sick leave in the event of illness or medical appointments for individuals related to the employee's immediate family, adoption or marriage, or totally dependent upon the employee for personal care or services on a continuing basis.

In the event that the sick leave utilized for the care of a person authorized by this section other than the employee, exceeds three (3) days, the employee must provide a "Sick Leave Affidavit" to substantiate the request. The Elected Official or Department Head may approve or disapprove the request based on the circumstances, the length of time requested and the effect the employee's absence will have on the work in the department.

Extensive or questionable use of sick leave shall be reviewed by the employee's supervisor and/or Department Head. Upon a finding of misuse of sick leave, disciplinary action up to and including termination of employment may occur.

To receive paid sick leave, an employee shall personally communicate with their immediate supervisor, Department Head or Elected Official **on a daily basis**, at the normal start of work time and no later than one (1) hour after the time set for beginning work, except in cases where the employee is physically unable to communicate.

Sick leave will not be paid to an employee during a time they are on any other status such as vacation, holiday, compensatory time, leave of absence without pay or if they miss work due to an accident or injury received in the performance of duty and are receiving workers' compensation insurance.

Regular full-time employees will be given accrual credit for their normally scheduled work hours during authorized paid absences under Smith County policy, such as sick leave, vacation or compensatory time, or while being paid under workers' compensation insurance.

If an employee has exhausted all credited sick leave time and other accrued forms of pay such as vacation, compensatory time, etc., and has not returned to work, there will be no additional sick leave accrued or credited during any payroll period until the

employee returns to work and works a minimum one (1) week of scheduled hours in a payroll period. Payment for accrued leave, paid to an employee on a payday after the exhaustion of benefits, does not constitute pay for time worked in that pay period and does not qualify as a return to work.

On the date an employee gives notice of intent to terminate (not including retirement), no additional sick leave pay will be paid.

Upon termination of employment, whether voluntary or involuntary, employees will not be compensated for any unused sick leave hours.

## **6.4 Sick Leave Pool**

### **I. PURPOSE**

The Smith County Commissioners Court approved the establishment of the Sick Leave Pool Program within the County to allow an employee to voluntarily transfer sick leave time earned by the employee to a County Sick Leave Pool.<sup>27</sup>

### **II. SCOPE**

The Smith County Sick Leave Pool is designed to provide additional sick leave hours to an eligible employee who has, because of a catastrophic injury or illness, exhausted all of his or her accrued paid leave and compensatory time to which the employee is otherwise entitled.

### **III. DEFINITIONS**

Administrator – the person designated by the Smith County Commissioners Court to administer the County’s Sick Leave Pool program.

Employee – a County employee with twelve (12) or more months of continuous employment in a full-time position with the County.

Catastrophic Injury or Illness – a severe, personal illness, injury or physical or mental condition suffered by the employee that involves continued treatment by a medical care provider for chronic or long-term medical conditions that are incurable, or so serious that the employee has been absent from his or her place of work on paid leave, accrued

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<sup>27</sup> *Matters Affecting Public Officers and Employees*. Texas Local Government Code § 157

compensatory time or leave without pay for a period of five (5) consecutive working days due to the catastrophic injury or illness.

#### **IV. ADMINISTRATION OF THE COUNTY SICK LEAVE POOL**

The Human Resources Director shall be responsible for administration of the Sick Leave Pool. These responsibilities include:

- Development and maintenance of the Smith County Sick Leave Pool policy.
- Development and maintenance of the Sick Leave Pool procedures, forms and other materials.
- Adhering to the Texas Local Government Code regarding employee contributions and requests for withdrawals from the County Sick Leave Pool.
- Maintenance of the County Sick Leave Pool balance.
- Serving as the Sick Leave Pool Administrator.

#### **V. POOL MEMBERSHIP**

In order to become a member of the Smith County Sick Leave Pool, an employee shall contribute a minimum of eight (8) hours of accrued sick leave when they first join and a minimum of eight (8) hours each year after, in order to maintain eligibility.

#### **VI. CONTRIBUTIONS TO THE POOL**

- All contributions to the Sick Leave Pool are strictly voluntary.
- Yearly enrollment is conducted in January.
- An employee may contribute a minimum of one (1) day, up to a maximum of five (5) days accrued sick leave each fiscal year.
- An employee may contribute sick leave to the Sick Leave Pool by submitting a completed Sick Leave Pool Donation Request form to the Administrator.
- Days donated to the Sick Leave Pool will not reflect as “sick days used” on personnel attendance records.

- “Days Donated” become the property of the Smith County Sick Leave Pool. **Note that all donations will remain in force and cannot be returned, even upon cancellation of membership.**

## VII. REQUESTING FROM POOL

- A. An employee who meets the eligibility requirements outlined in this policy is eligible to receive Sick Pool leave.
- B. A request for sick leave from the Sick Leave Pool must be submitted to the Administrator in writing using the prescribed forms.
- C. To apply for use of time from the Sick Leave Pool, an eligible employee must complete a Withdrawal Application form and a Statement of Illness/Injury form, and submit the completed forms to the Administrator. The Statement of Illness/Injury form must be completed by both the employee and a physician, or other licensed medical practitioner.
- D. The Administrator may require the employee to provide additional information or documentation to determine whether to approve a request for withdrawal of sick leave from the Sick Leave Pool.
- E. All documents submitted to the Administrator for the purpose of evaluating eligibility for sick leave from the Sick Leave Pool are confidential and will be maintained as such in the Administrator’s files.
- F. If an eligible employee is critically ill and unable to file an application for sick leave from the Sick Leave Pool, a representative may submit the application on the employee’s behalf.
- G. If the Administrator determines an employee to be eligible to receive sick leave from the Sick Pool, the Administrator shall request the transfer of time from the Sick Pool to the employee. The time credited to the employee may be used in the same manner as accrued sick leave. The maximum number of days granted each fiscal year to an employee will not exceed the lesser of one-third (1/3) of the total amount of time in the Sick Leave Pool or ninety (90) days.
- I. Sick leave from the Sick Leave Pool requested for stress-related illness will be granted for hospitalized days only.

- J. Sick leave from the Sick Leave Pool will not be granted when an employee is receiving workers' compensation insurance or long-term disability benefits.

### **VIII. CATASTROPHIC INJURIES AND ILLNESSES**

The Smith County Commissioners Court has express authority to determine what injuries and illnesses are classified as catastrophic.

Examples of injuries and illnesses generally considered severe enough to be catastrophic include but are not limited to:

- Stroke with residual paralysis or weakness.
- Incapacity due to complications from pregnancy or childbirth.
- Major surgery (i.e., hysterectomy, mastectomy, heart bypass, prostate).
- Cancer.
- Hepatitis.
- Broken hip.

For the purposes of this policy, examples of injury or illness **not** classified as catastrophic include, but are not limited to:

- Elective surgery.
- Broken limb.
- Cold or allergies.
- Pregnancy with minor or no complications.

### **IX. REASONS WHY REQUESTS MAY BE DENIED**

The Administrator will notify the employee in writing as to whether the use of Sick Pool Leave is approved or denied. If denied, the reason for denial will be indicated. Reasons why use of sick leave from the Sick Leave Pool may be denied include, but are not limited to, one or more of the following:

- Employee has not been continuously employed with Smith County for at least twelve (12) months.

- Employee has not been absent for a period of five (5) consecutive working days due to the catastrophic event.
- Employee still has accrued time in his or her paid leave and compensatory time balance.
- Employee has not suffered a catastrophic injury or illness as specified in this policy.
- Employee did not contribute to the pool.
- Employee has already used the maximum sick leave from the Sick Leave Pool allowable for the current fiscal year.
- The injury, illness or condition was obtained in the course of employment with an organization other than Smith County.
- Employee was injured in the course of Smith County employment and is currently receiving workers' compensation insurance.
- Employee is currently receiving long-term disability benefits.
- Insufficient leave time is available in the Sick Leave Pool.

#### **X. GRANTED LEAVE**

Any granted, unused Sick Pool leave reverts to the Sick Leave Pool in the event of:

- Employee's return to work in a full-duty status.
- Employee's return to work in a light-duty, modified-duty or alternate-duty status.
- Employee's non-disability or disability retirement.
- Employee's death.

Use of sick leave from the Sick Leave Pool is not intended for postponing retirement or separation from County employment.



An employee absent on Sick Pool leave is treated for all purposes as if the employee is absent on earned sick leave, and will continue to accrue vacation leave, sick leave and longevity, provided the employee returns to work following the Sick Pool leave.

The estate of a deceased employee is not entitled to payment for unused Sick Pool leave transferred to the employee from the Smith County Sick Leave Pool.

The Commissioners Court may terminate the County Sick Leave Pool Program at any time for any reason.

## 6.5 Vacation

Smith County desires eligible employees to take advantage of their earned vacation for rest, relaxation and change of pace. Vacations play a valuable part in maintaining the health and well-being of each individual. Each Department Head is responsible to ensure that their employees schedule and take vacations, and to administer the department's vacation schedule so as to assure such time off does not adversely affect the department's operations throughout the year. To make sure that employees understand how vacation is accrued and administered, the following rules apply:

- Regular full-time employees are eligible. Temporary employees, part-time employees or regular full-time employees who are on a leave of absence without pay are not eligible for vacation benefits.
- Employees will initially be given four hours of vacation time on each of the two pay periods every month. The accrual rate is as follows for every month of continuous, regular full-time service with the County.

<u>Years of Service</u>	<u>Accrual Rate</u>
Less than 5 years	8 hours per month
5+ years	10 hours per month
10+ years	12 hours per month
15+ years	14 hours per month

- New employees in the introductory period are not eligible for vacation benefits.

- If an employee has exhausted all credited vacation time and other accrued forms of pay such as sick leave accrued, compensatory time, etc., and has not returned to work, there will be no additional vacation time accrued or credited during any payroll period until the employee returns to work and works a minimum of five (5) full days in a payroll period. Payment for accrued leave, paid to an employee on a payday after the exhaustion of benefits, does not constitute pay for time worked in the pay period and does not qualify as a return to work.
- Employees must submit a Vacation Request to their Elected Official or Department Head at least one (1) week prior to the time they desire their vacation time to start. The final decision for vacation schedules rests with each Elected Official or Department Head.
- At the end of the calendar year, employees may accrue a maximum of vacation days according to the following. Note that one vacation day is equal to eight (8) hours.

<u>Years of Service</u>	<u>Maximum Vacation Time Carried Forward</u>
Less than 10 years	144 hours
10 years up to 20 years	192 hours
20 years or more	240 hours

- Up to the maximum number of eligible carryforward hours, all vacation accrued as of employee's last day will be paid on employee's last paycheck.
- An official County Holiday occurring during an employee's vacation time shall not be charged against vacation time.
- No employee will be entitled to take unearned vacation time nor will any employee take vacation time in advance of earning said vacation credit.
- Regular employees will be given accrual credit for their normally scheduled work hours during authorized paid absences under Smith County policy, such as sick leave, vacation, holidays, compensatory time or while being paid under workers' compensation insurance.
- Sick leave may not be used for vacation purposes.
- Employees who voluntarily resign their employment with Smith County must provide two (2) weeks' notice in order to receive their vacation pay, unless

Human Resources receives, in writing, a statement from their Elected Official or Department Head, waiving the two (2) weeks' notice requirement.

- Employees who transfer into an Elected Official position or an Excluded position will be paid all accrued vacation up to the maximum number of eligible carryforward days prior to assuming their new position. All accrued time, including vacation, transfers with an employee who moves from one department to another department, with no change to his or her employment classification.

## **6.6 Military Leave**

### 6.6.1 Reserve or National Guard Duty

All Smith County employees who are members of the National Guard or active reserve components of the United States Armed Forces shall be allowed up to 120 hours off per Federal fiscal year with pay to attend authorized training sessions and exercises.<sup>28</sup> The 120 hours paid military leave shall apply to the Federal fiscal year of October 1 to September 30, and shall not exceed 120 hours. Any unused balance at the end of the year shall not be carried forward into the next Federal fiscal year. Pay for attendance at Reserve or National Guard training sessions or exercises shall be authorized only for periods which fall within the employee's normal work schedule. An employee may use annual leave, earned compensatory time or leave without pay if he or she must attend Reserve or National Guard training sessions or exercises, in excess of the 120 hours maximum.

### 6.6.2 Disaster Leave

Any Smith County employee who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team called to state active duty by the governor or another appropriate authority in response to a disaster is entitled up to seven (7) days of paid disaster leave per fiscal year. This leave is in addition to the paid leave provided for authorized training or duty otherwise authorized or ordered. During disaster leave under these provisions, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave or vacation time.<sup>29</sup>

An employee going on military leave shall provide their supervisor with a set of orders within two (2) business days after receiving them.

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<sup>28</sup> *Texas Military*. Texas Government Code §437.202

<sup>29</sup> Texas House Bill 1589

Upon request of the employee, Smith County will provide a statement that contains the number of workdays used for military leave in the fiscal year, as well as a statement of the number of workdays left for use during the fiscal year.

### 6.6.3 Active Duty

Smith County employees who leave their positions as a result of being called to active military service or who voluntarily enter the Armed Forces of the United States shall be granted leave as required to fulfill their military obligations. In general, military leave shall be limited to a cumulative period of five (5) years, which may be extended as required by law. Smith County shall restore an employee who returns from military leave to the position the employee would have attained if continuously employed or a position of like seniority, status, pay and the duties of which the employee is qualified to perform, provided the employee receives a satisfactory discharge and returns to or re-applies for work within the time period required by law.

During a military leave of less than 31 days, an employee is entitled to continued group health insurance plan coverage under the same conditions as if the employee had continued to work. For military leaves of more than 30 days, an employee may elect to continue his or her health coverage for up to 24 months of uniformed service, but may be required to pay the entire premium for the continuation coverage.

## **6.7 Citizenship Leave**

Smith County considers jury duty an important aspect of our democracy. Employees are encouraged to serve when called. An employee must notify his or her supervisor as soon as possible if a summons is received.

Regular full-time employees will be granted leave with pay for jury duty, for serving as a subpoenaed witness, and for the purpose of voting.

Employees are expected to return to work upon completion or release from citizenship duties. Upon returning to work, employees must submit a work statement to their supervisor, stating the time that they served on jury duty.

## **6.8 Funeral Leave**

A regular full-time employee may take funeral leave after their introductory period, not to exceed three (3) scheduled days and to be taken consecutively, for the purpose of attending the funeral of a member of their immediate family. Immediate family

members are those specifically listed on the following page, plus any relative who was actually residing in the employee's household.

For all other relatives and friends, or if more than three (3) days are needed, time off away from work may be granted at the discretion of the Elected Official or Department Head. This additional time off may be charged to accrued compensatory time, earned vacation time, administrative holiday or time off without pay.

These covered relationships to the **EMPLOYEE** are as follows:

- |                       |                        |                 |
|-----------------------|------------------------|-----------------|
| ▪ Spouse              | ▪ Mother               | ▪ Father        |
| ▪ Step-parent         | ▪ Mother-in-Law        | ▪ Father-in-Law |
| ▪ Son                 | ▪ Daughter             | ▪ Step-Child    |
| ▪ Son-in-Law          | ▪ Daughter-in-Law      | ▪ Sister        |
| ▪ Brother             | ▪ Brother-in-Law       | ▪ Sister-in-Law |
| ▪ Grandparent         | ▪ Spouse's Grandparent | ▪ Grandchild    |
| ▪ Spouse's Grandchild | ▪ Aunt                 | ▪ Uncle         |
|                       | ▪ Niece                | ▪ Nephew        |

In the event of the death of a County employee or someone closely associated with Smith County, an Elected Official or Department Head may approve representation at the funeral. Those who attend, by discretion of their Elected Official or Department Head, are representing the County; therefore, hours so spent will be reported as working hours.

The Elected Official or Department Head may require employee to provide proof of death and/or family relationship. Funeral leave must be taken within five (5) days of the funeral or date of death. Furthermore, it shall be within the discretion of the Elected Official, Department Head or the designated department representative to limit such leave to any amount less than three (3) days.

## **6.9 Emergency and Inclement Weather Conditions**

### **6.9.1 Authority to Close Governmental Operations**

The Commissioners Court has the authority to close general governmental operations due to emergency conditions, including inclement weather conditions that cause a serious hazard for employees such as road conditions due to flooding, ice or snow.

General governmental operation in the following facilities will close or delay opening based on the County's independent analysis of the inclement weather and the decision of the County Judge or the Commissioners Court, whichever the case may be depending on the timeframe before the needed closing:

- Smith County Court House
- Smith County Courthouse Annex Building
- Cotton Belt Building
- Road and Bridge
- Animal Control Facility
- Elections Administration Office
- Facility Services Office

The Smith County facilities referenced above are not closed or delayed opening based on any other governmental entity's decision to do so. Smith County facilities not noted above may choose to not close or delay opening at the discretion of the respective Elected or Appointed Official.

Such action, unless specified, does not close essential emergency, residential and detention operations. These operations are defined in the section following this one.

In the event that an emergency closing is ordered by the Commissioners Court, regular full-time employees shall be paid their regular wage as the day will be recorded as an official closed day. This time off is not considered time worked and will not be used to determine eligibility for overtime.

An employee who is off or is scheduled to be off on sick leave, vacation, holiday, compensatory time, personal leave, FMLA or leave without pay during a period of emergency closure shall have their leave recorded as such.

#### 6.9.2 Communication of Closures

The County Fire Marshal or the Communications Director, at the direction of the County Judge, shall communicate with Elected Officials, Department Heads and media outlets if there are office closings or delayed openings due to inclement weather conditions. Whenever possible, notification will be made before 6:00 a.m. to local radio and television stations.

### 6.9.3 Departmental Closings

Each Elected Official or Department Head has the discretion to decide if conditions warrant an emergency closure of departmental operations, and if such employees are excused. However, until such time as the Commissioners Court has officially closed County operations, Department Heads shall require their employees to use accrued leave or time without pay. The Elected Official or Department Head is encouraged to follow the announcement methods. It is each employee's responsibility to determine the status of their department as employees are expected to work unless their Elected Official or Department Head declares an emergency closing.

### **6.10 Emergency Service, Residential and/or Detention Operations**

Employees in essential emergency, residential and/or detention operations are required to work as scheduled to meet the needs of the operation and/or emergency condition. Essential emergency, residential and/or detention departments include but are not limited to: building Security, facilities management, road and bridge, fire marshal, juvenile residential operations, sheriff's detention and patrol services.

Essential emergency, residential and/or detention employee's compensation during emergency conditions, or during periods that general governmental services are closed, is the same as during non-emergency conditions. The Elected Official or Department Head may determine payment of compensation during this period for hours not worked, as approved time off with pay, compensatory time, vacation or may dock the employee's pay.

### **6.11 Natural Disasters and Other Emergencies**

Employees of Smith County may be required to work during any natural disaster or emergency. These emergencies may require separation from family members and each employee is encouraged to prepare and provide for their family accordingly. Refusal to work during such emergencies may result in disciplinary action, up to and including termination. This is a formal condition of employment with Smith County. The determination to which positions or natural disaster and the designation of personnel who shall be required to work during such emergencies shall be made by each Department Head or Elected Official and is incorporated in Smith County's Emergency Operations Plan.

## 6.12 Public Health Emergencies

Use of accrued sick leave may be used as required during emergencies concerning public health pandemics upon order from Commissioners Court. When an employee or a member of the employee's immediate family are known to have been exposed to the underlying cause of the pandemic, the individual shall not attend work until cleared to do so by a treating physician. Proper documentation from a treating physician will be required upon request. A maximum number of days while awaiting results will be determined by the information received from the Emergency Services Director or Coordinator, who will make the determination consistent with recommendations from the Department of Health or other official agency.

Use of accrued sick leave may be used for employees as a result of schools or childcare-type facilities closing due to public health emergencies. Employees who do not have any other means to care for their child and, therefore, are unable to report for duty during their normal work schedule, may use their accrued sick leave time to care for their child. Use of sick leave time under this provision must be reasonable. Employees may be asked to provide verification that there are no other alternative means for childcare.

Department Heads are encouraged to be flexible with scheduling arrangements when operating under emergency conditions.

Sick Leave Pool may not be used under this section of the policy.

## 6.13 Mental Health Leave

### I. PURPOSE

The purpose of this policy is to provide guidance in accordance with the Texas Local Government Code regarding mental health leave for peace officers who experience a traumatic event in the scope of that employment.<sup>30</sup>

### II. SCOPE

This policy applies to all Peace Officers employed by Smith County.

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<sup>30</sup> *Mental Health Leave for Peace Officers*. Texas Local Government Code § 614.015



### III. **DEFINITIONS**

**Traumatic Event** – An event which occurs in the peace officer’s scope of employment when the officer is involved in the response to, or investigation of, an event that causes the officer to experience unusually strong emotional reactions or feelings which have the potential to interfere with their ability to function during or after the incident. These events may include but are not limited to the following:

- Major disasters which may include response to weather-related events involving one or more casualties; or explosions with one or more casualties; or search and recovery missions involving one or more casualties;
- Incidents involving one or more casualties which may include shootings, violence or accidents;
- Line of duty death or suicide of a department member;
- Officer(s) involved in shooting of a person.

**Mental Health Leave** – Administrative leave with pay granted in response to a traumatic event that occurred in the scope of the peace officer’s employment.

**Mental Health Professional** – A licensed social or mental health worker, counselor, psychotherapist, psychologist or psychiatrist.

**Peace Officer** – A person elected, employed or appointed as a peace officer under Article 2.12 of the Texas Code of Criminal Procedure, or other law.

### IV. **POLICY**

An officer directly involved in a traumatic event may request the use of mental health leave. An officer shall be allowed up to three (3) days of paid mental health leave per fiscal year, subject to the following conditions.

The leave is:

- Approved by the Elected Official or designee, in consultation with the Human Resources department; or
- Ordered by a mental health professional; and
- Taken as a result of a traumatic event that occurred while on duty.

The request shall be made by the employee or their supervisor through the chain of command, or through the Human Resources department. The request shall be treated

as a priority matter and a decision on granting the leave shall be made no later than 24 hours following the submission of the request. The request shall be granted, unless the chain of command can articulate specific compelling reasons to deny granting the leave.

#### **V. CONFIDENTIALITY OF REQUEST**

Any request for mental health leave shall be treated as strictly confidential by all parties involved and shall not be discussed or disclosed outside of the officer's chain of command, and only as necessary to facility the use of the leave. Any officer or supervisor who becomes aware of behavioral changes and suggests the officer seek mental health leave shall not discuss that matter with any third party. Any breach of this confidentiality shall be grounds for discipline.

Confidentiality may be waived by the officer seeking mental health leave. Confidentiality may be waived under circumstances which indicate the officer is a danger to himself or herself or others, and department personnel must confer with mental health professionals.

#### **VI. COMMUNICATION AND IMPLEMENTATION**

The employee's office should coordinate with the Human Resources department to ensure this policy is implemented as applicable. Upon notification, Human Resources will follow appropriate steps to ensure applicable leave is communicated to the employee, and will ensure any and all ADA, FMLA and/or Workers' Compensation provisions are applied when necessary. This policy is effective September 1, 2021.

#### **VII. EFFECT ON PAID LEAVE BALANCES**

The department will not reduce an eligible employee's sick leave, vacation leave, holiday or other paid leave balance for mental health leave taken under this policy.

**VIII. AVAILABLE MENTAL HEALTH SERVICES**

<b>Service</b>	<b>Details</b>	<b>Phone Number</b>
Andrews Center	Local Mental Health Authority	(903) 597-1351
MyTelemedicine	Telephonic Counseling	(833) 483-0831
Safe Call Now	Confidential, comprehensive, 24-hour crisis referral service for all public safety employees and their family members	(206) 459-3020
National Suicide Prevention Lifeline	24/7 free and confidential support for distress, prevention and crisis resources	(800) 273-TALK (8255)

## Chapter 7: Discipline and Separation

### 7.1 Discipline Policy

#### I. POLICY

The purpose of this Progressive Discipline Process is to ensure that discipline is imposed consistently and equitably, with the intention of correcting deficient performance and securing compliance with the working rules. This policy applies to all departments which report to the Commissioners Court, and to those departments in which the Officials choose to adopt it. Except for dismissals during the introductory period, all disciplinary actions taken will be taken in compliance with and under the provisions of this policy.

#### II. PROCEDURES

An employee may be subject to disciplinary action up to and including termination for any of the following causes depending on the severity of the offense(s).

- Incompetence.
- Insubordination.
- Violation of the provisions of the rules and regulations of the Commissioners Court, Elected Official or Department Head.
- Inability to perform his or her job duties properly.
- The employee, through negligence or willful misconduct has caused damage to public property or excessive waste of public supplies.
- Has been guilty of any conduct unbecoming of an officer or employee of the County while performing his or her job duties.
- The employee has been convicted of a capital felony, a first-degree felony or a felony related to serious bodily injury, indecency with a child or arson, or when the nature of the felony is directly related to the job.
- The employee has failed to report to work for three (3) days without notification to the supervisor, or has failed to report for three (3) days after the leave of absence has expired.
- Misuse of sick leave privileges.
- Is seriously and/or consistently negligent in the performance of duties.

- Seriously and/or consistently failed to meet the written standards of job performance.
- Has lied about or concealed a material fact: a) concerning a matter under internal or criminal investigation, and b) for the purpose of obtaining a benefit for himself or herself, or another.
- Has made a false statement of or has misrepresented a material fact in the employee's application for employment, or on other work records.
- Has seriously and/or consistently endangered the health and/or safety of employees or the general public.
- The employee violates a County Substance Abuse Policy.
- The employee violates a County Purchasing Policy.
- Fails to submit requested documentation to the Elected Official or Department Head concerning a medical condition of the employee which may present contradiction to continued employment.
- Unauthorized removal of County property, misuse or damage resulting from neglect of County-owned property.
- The employee violates the privacy regulates of the Health Insurance Portability and Accountability Act (HIPAA).

Note: The above list is not mean to be either all-inclusive or exhaustive.

### **III. PROGRESSIVE DISCIPLINARY ACTION**

Prior to a suspension, demotion or termination, the approving authority, depending on the severity of the employee's actions, may use lesser forms of disciplinary action. However, nothing in this policy shall prohibit the Department Head or Elected Official from beginning the disciplinary process at Level One, Level Two or Level Three, which includes suspension, termination or demotion, if the employee commits a major offense that warrants such discipline.

Verbal Warning – The least severe form of disciplinary action which is designed to advise the employee of the problem which has resulted in unsatisfactory behavior or performance. This is appropriately used as a response to initial and minor offenses. The supervisor should retain documentation of the verbal warning, which is signed by the employee. A copy should be given to the employee, but no copy should be placed in their file.

Level One Reprimand – The first formal step in progressive discipline. This level deals with continuation of minor offenses; when verbal warnings do not result in the correction of the problem by the employee. This level of discipline should be documented and signed by the supervisor and employee, and the employee should be allowed to respond in writing. This response will be placed in the employee's personnel file in the Human Resources department. Documentation should be distributed to the employee, the immediate supervisor and the Human Resources department.

Level Two Reprimand – This level of discipline deals with serious offenses or continuation of minor offenses that were not corrected in the first normal step. The second written reprimand may be used without the use of the first written reprimand or verbal warning when the offense is serious enough to warrant it. This level of discipline should also be documented in writing and include the signatures of the supervisor and the employee. The employee should also be allowed to respond in writing to the discipline. This response will be placed in the employee's personnel file in the Human Resources department. Documentation should be distributed to the employee, the immediate supervisor and the Human Resources department.

Level Three Discipline – This level of discipline deals with major offenses or a continuation of serious or minor offenses which were not corrected by verbal or written warnings. This level may be used without prior issuance of warnings when the severity of the offense makes this level of discipline appropriate. Discipline that may be administered at this level includes:

- A. Demotion – The movement of the employee from his or her present position to one with a lower starting salary. A demotion also results in a salary reduction. Demotion is only available as an option when a department has a vacancy in a position with a lower grade for which employee meets the requirements. If no such position is available, the department may consider downgrading a position.
- B. Suspension without Pay – This is an ordered absence from duty without pay for a prescribed period of time. Employees who are exempt from the Fair Labor Standards Act may not be suspended without pay for periods of less than one (1) workweek, unless the offense precipitating the suspension involves a serious safety violation.
- C. Termination – This is the most severe action of all; removal from the public service for misconduct or unsatisfactory job performance.

### 7.1.1 Mandatory Administrative Leave

This is an ordered absence from duty while in full pay status for no more than thirty (30) days. This allows for immediate response to a suspected, but not fully substantiated, offense as well as a period in which an investigation can be thoroughly pursued. The employee shall be available to the department until the investigation is completed. The employee will participate in the investigation as directed by the department.

### 7.1.2 Documentation of Disciplinary Action

All disciplinary actions shall be documented and such documentation should include:

- The cause for the discipline;
- The specific reason supporting the cause;
- The discipline to be imposed; and
- The effective date.

Documentation of third-level disciplinary actions given to employees should include notification of their right to appeal.

Elected Officials and Department Heads are encouraged to consult with the Human Resources Director throughout the disciplinary process. Department Heads must consult with the Human Resources Director prior to terminating the employment of an employee in their department.

## **7.2 Definitions**

All separations from employment are designated as one of the following types.

Resignation – Employees are encouraged to give notice to their Department Head prior to resigning their position. A notice of two weeks is encouraged. Vacation days and/or personal holidays may not be included in the notice period.

Retirement – Employees who plan to retire with the Texas County and District Retirement System (TCDRS) must submit an application for retirement benefits to the office of the TCDRS.

Abandonment of Position – Failure of an employee to notify their Department Head or supervisor when they are absent from work for three or more days.

Dismissal/Termination – All employees of the County are “*at-will*” employees, which mean that they are not employees under an employment contract. The employment at-will doctrine simply means that either the employee or the employer can terminate the employment relationship at any time for any or no reason. Smith County recognizes the right of a Department Head to discharge any employee, at any time, in accordance with this doctrine. However, under no circumstances will an employee’s constitutional rights be violated in the process.

Disability – An employee will be separated for health reasons whenever he or she cannot perform the essential functions of the job and no reasonable accommodations can be made.

Death – If a County employee dies, his or her estate receives all earned pay and earned payable benefits.

Reduction in Force – An employee may be separated when his or her position is abolished, or when there is either a lack of funds or lack of work. Whenever possible, an employee terminated from a County department may apply for an available position within the County. Whenever possible, at least two (2) weeks’ notice shall be given to an employee prior to separation.

### **7.3 Separation Procedures**

The Department Head of an employee whose employment with Smith County is ending shall document, using the appropriate forms, all information pertinent to the separation of the employee. In instances of involuntary dismissal, the Department Head must include information and documentation relating to the reasons for the termination. The separation forms and other documentation must be sent to the Human Resources department.

An employee will not receive his or her final check until all forms have been completed through the Human Resources department, and all Smith County property is returned to their Department Head. This would include keys, equipment, credit cards, uniforms, etc. It is the responsibility of each Elected Official or Department Head to receive a signed acknowledgement of understanding of this policy from each employee.



## 7.4 Unemployment

When an employee leaves employment or is otherwise terminated, it is Smith County's policy to contest the terminated employee's application for unemployment benefits.

In some circumstances, Smith County may choose to grant an exception to this policy, upon approval of the County Judge or his or her designee.

## 7.5 Grievance Policy

It is the policy of Smith County insofar as possible to prevent the need for employee grievances and to deal promptly with those which do occur, in an attempt to settle the matter at as low an administrative level as possible to assure efficient operation.

No adverse action will be taken against an employee by reason of the exercise of the right to file a grievance.

Actions or results which occur, and which are beyond the control of the County, shall not be considered grounds for grievance.

Terminations resulting from actions under the Discipline Policy are **not** grievable under this policy if all three (3) steps have been followed as per that policy procedure.

**NOTE: An employee must file their grievance within five (5) working days of the occurrence which is the basis for the grievance or it will not be considered under this policy.**

### 7.5.1 Grounds for Grievance

- Unfair treatment by a supervisor.
- Illegal discrimination based on race, age, religion, color, disability, national origin, sex, political affiliation or belief.
- Sexual harassment.
- Disciplinary action taken without a valid reason.
- Direction by a supervisor to do something which may present a danger to the employee or others, or to operate equipment which is unsafe.

### 7.5.2 Grievance Committee

The Grievance Committee will be made up of County personnel with two (2) non-voting members and five (5) voting members, plus one (1) alternate. The Human Resource Director and the Assistant District Attorney for the Commissioners Court will be the non-voting members and will act as advisors to the committee. The five voting members will be selected by the Commissioners Court. The employees will be selected out of departments under the Court and from the other departments that have agreed to act under the policy and its provisions. Terms will be two (2) years and will begin on the first regular Commissioners Court meeting after January 1.

Qualifications of employees by member position to be considered by the Court are:

- 1<sup>st</sup> Member Position – Minimum of five (5) years of service with Smith County as a regular, full-time employee in good standing.
- 2<sup>nd</sup> Member Position –Minimum of ten (10) years of service with Smith County as a regular, full-time employee in good standing.
- 3<sup>rd</sup> Member Position –Employee in supervisory position.
- 4<sup>th</sup> Member Position –Department Head.
- 5<sup>th</sup> Member Position –Elected Official.

If the employee filing the grievance is in the same department as one of the committee members, the alternate committee member will substitute.

### 7.5.3 Grievance Procedure

#### **FIRST STEP**

The first step is the employee having an informal discussion of the grievance with the supervisor. This discussion must take place within five (5) full working days of the occurrence, which is the basis for the grievance. The supervisor decides what action, if any, will be taken in regards to the grievance. If a resolution is not reached in the first step, the employee may proceed to the second step within five (5) working days after the first step discussion.

NOTE: If the employee fails to meet the time limits imposed in any part of this procedure, the employee waives the right to the next step and to a hearing.

**SECOND STEP**

The employee prepares a written statement giving the details of the grievance and stating the specific remedial action requested. The employee gives the grievance statement to the supervisor. A copy is also sent to the Human Resources Director.

The Human Resources Director reviews the employee's written statement to determine whether or not the basis of the grievance is covered to be handled under the grievance procedure. If not covered, the Human Resources Director advises the employee and the supervisor of the decision, and the procedure is stopped. If covered, the Director of Human Resources advises the supervisor to continue the grievance procedure. The supervisor reviews the facts of the grievance, makes a decision as to what action, if any, is to be taken to resolve the grievance and communicates the decision in writing to the employee within five (5) working days after having received the grievance. If the employee is not satisfied with the decision in the second step, or if the supervisor fails to respond within five (5) working days, the employee may take the grievance to the third step within five (5) working days.

NOTE: If the employee's immediate supervisor is the Department Head or Elected Official, the third step may be eliminated and the employee may go to the fourth step.

**THIRD STEP**

The employee submits a copy of the grievance to the Department Head or Elected Official, along with a copy of the decision made by the supervisor or a statement that the supervisor failed to provide a decision within the five (5) working day limit, if such is the case. A copy is also sent to the Human Resources Director. The Department Head or Elected Official reviews the details of the grievance and, within five (5) working days, provides the employee with a written statement of what action, if any, is to be taken to resolve the grievance. If the employee is not satisfied with the decision of the Department Head or Elected Official, or if the Department Head or Elected Official fails to respond within five (5) working days, the employee may take the grievance to the fourth step within five (5) working days.

**FOURTH STEP**

The employee submits eight (8) copies of the grievance file to the Director of Human Resources for the Hearing by the Grievance Committee. The file shall contain copies of any decisions made in previous steps or statements of a failure of the supervisor or Department Head to respond where such is the case. The Human Resources Director schedules a Hearing, advises all appropriate parties and distributes a grievance file copy to each of the members of the Grievance Committee. Grievance Committee Hearings are not judicial in nature; therefore, rules of a court of law will not be followed.

The Hearing will be limited to the grievance subject matter only and, during the course of the hearing, both parties will be given equal time in presenting their cases to the Grievance Committee. Loud or abusive language or behavior that is disruptive by anyone attending the Hearing will be grounds for immediate removal of that person from the proceedings. After the presentations, the Grievance Committee then has a discussion and makes a decision. The Human Resources Director provides the employee and the supervisor with a written copy of the Grievance Committee's decision within five (5) working days after the hearing. This will complete the fourth step and is the end of the grievance process.

#### 7.5.4 Stopping the Grievance Procedure

The grievance procedure once started can be stopped only by the employee who has filed the grievance by either action or inaction of the following:

- Employee indicates satisfaction with the action to resolve the grievance at any level of the grievance procedure;
- Employee fails to take action to continue with the next step of the procedure within five (5) working days following completion of the prior step;
- Employee receives decision from the Human Resources Director that the basis of the grievance is not a covered subject area under this policy;
- Employee, for any reason, indicates no interest in pursuing the grievance procedure further; or
- Employee receives the fourth step, final decision from the Grievance Committee.