

ORDINANCE NO. 2323

AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY GOVERNING SUSSEX COUNTY PERSONNEL TO CONFORM TO AND COMPLY WITH FEDERAL LAW, STATE LAW AND CURRENT PERSONNEL PRACTICES.

WHEREAS, Chapter 29 of the Sussex County Code governs personnel practices for all Sussex County employees; and

WHEREAS, Sussex County desires to update Chapter 29 in its entirety to conform to and comply with Federal and State law and current personnel practices as set forth herein.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 29, is hereby restated in its entirety and is hereby amended by deleting the language in brackets and inserting the underlined language as follows:

CHAPTER 29. PERSONNEL

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[HISTORY: Adopted by the County Council of Sussex County 1-25-1972 by Ord. No. 6. Amendments noted where applicable.]

GENERAL REFERENCES

Pensions — See Ch. 26.

Salaries and compensation — See Ch. 35.

ARTICLE I.

General Policy and Procedures

§ 29-1. Statutory authority; title.

This chapter is adopted pursuant to and in compliance with 9 Del. C. § 7006[(b)]. It shall be known as the "Personnel Ordinance."

§ 29-2. Policy statement.

It is hereby the declared personnel policy of Sussex County that:

- A. Employment in the county government shall be based on merit and fitness, free of personal and political considerations.**
- B. Just and equitable compensation and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the county government.**
- C. Positions having similar duties and responsibilities shall be classified and compensated on a uniform basis.**
- D. Appointments, promotions and other actions requiring the application of the merit principle shall be based on systematic tests and evaluations.**
- E. [Tenure of employees covered by this chapter] Continued employment of classified employees as defined in this chapter shall be subject to good behavior, the satisfactory performance of work, compliance with work rules and standards of conduct, necessity for the performance of work and the availability of funds.**
- F. Employment in the county government shall be free from discrimination, harassment, or retaliation based on race, sex, sexual orientation, gender identity, religion, national origin, age (40 and above), disability, genetic information, marital status, political affiliation or any other characteristic or activity protected by state or federal law. Equal employment opportunities shall be provided in all aspects of county government employment including but not limited to recruiting, hiring, promotion, discipline, layoffs or termination from employment, compensation, benefits, educational assistance, and training.**

§ 29-3. Service divisions.

Employment in the Sussex County government shall be divided into three services: classified, unclassified and excluded.

A. Excluded service.

(1) The excluded service shall include the following:

(a) All elected officials.

(b) Members of appointed boards, commissions and advisory committees.

- (c) The Civil Defense Director and members of the Civil Defense Agency covered under the State of Delaware personnel system.
 - (d) [Employees] Persons hired by the county government to perform services on a fee or fixed-cost basis, including but not limited to [to include] consultants [,] and the County Attorney[, court reporters and the liaison to OEDP.]
 - (e) Employees hired under the Emergency Employment Act of 1971 and other similar programs of this nature subsidized by the federal government.
- (2) Employees placed in the excluded service shall not be included in the provisions of the personnel system, except that the county government shall keep appropriate personnel records on the persons in this service.

B. Unclassified service.

- (1) The unclassified service shall include the following:

[Amended 3-6-1973 by Ord. No. 12; 6-3-1975 by Ord. No. 18; 8-26-1975 by Ord. No. 21; 7-31-1990 by Ord. No. 706]

- (a) The County Administrator.
- (b) The Director of Finance.
- (c) The County Engineer.
- (d) [The County Planner.] The Deputy Administrator.
- (e) The [Director] Department Head of Planning and Zoning.
- (f) [The Finance and Property Specialist.] The Department Head of Assessment.
- (g) [Deputies and] Chief Deputies of Recorder of Deeds, Marriage Bureau, Register of Wills and Sheriff.
- (h) The Clerk of the County Council.
- (i) [The secretary-administrative.] The Department Head of Emergency Operations.
- (j) [The Personnel, Manpower and Safety Director.] The Department Head of Human Resources.

(k) **[The Industrial Developer.] The Department Head of Economic Development.**

(l) **The County Librarian.**

(m) **[The Civil Engineers.] The Department Head of Emergency Medical Services.**

[(n) The Chief Construction Inspector.]

[(o) The Landfill Supervisor.]

(2) Subject to the provisions set in 9 Del. C. § 7006, [E]employees in the unclassified service shall serve at the pleasure of the county government and be exempt from provisions requiring competitive examinations and other merit system procedures as specifically stated in the employee rules and shall not be subject to the position classification plan and pay plan developed as part of the personnel system; but employment in these positions shall be subject to [placed under] the Sussex County personnel [rules] ordinance and employees holding these positions shall also be eligible for such employee benefits as are in effect during the time of their employment.

(3) The Chief Deputy or, if there is no chief deputy, the deputy employed by each elected officer of the County, shall be possessed of all of the authority of their respective offices, and in the absence, disability or death of the duly elected officer, the chief deputy, or if there is no chief deputy, the deputy employed by the elected officer, shall perform the duties of the office until any vacancy created by the absence, disability or death of the elected officer shall be filled as required by the Constitution or statutes of the State of Delaware.

[Added 4-6-2004 by Ord. No. 1676]

C. Classified service.

(1) The classified service shall include all county employees not included under Subsections A and B.

(2) Employees in the classified service are subject to all provisions of the county personnel [system] policies as set forth in the Personnel Ordinance and elsewhere.[, such that] [t]Their [employment,] hiring and promotion[, demotion and removal] shall be on the basis of open, advertised competitive procedures [and according to the procedures] as set forth in this chapter; their position will be in accordance with the approved classification plan; and their remuneration will be as established by the Council-approved pay plan as the basis for wage

and salary decisions[; and they will be governed by all employee rules and regulations approved by the County Council].

- D. Upon the effective date of this chapter, any employee of the county holding a position in the classified service shall have permanent status if he or she has held the present position for at least six months immediately preceding the effective date of this chapter or shall complete a probationary period of six months before acquiring permanent status if the position has been held for a period of less than six months immediately preceding the effective date of this chapter. Employment immediately preceding the effective date of this chapter shall be included as part of the probationary period. Employees who have not completed six months of service immediately preceding the effective date of this Chapter shall be subject to an extension of their probationary period as provided in §29-12.
- E. The class in which each employee shall have status shall be determined in the manner provided in § 29-8.
- F. The following sections of this chapter apply only to the classified service unless otherwise specifically provided.

§ 29-4. Administrative official.

- A. The personnel [system] ordinance established by this chapter shall be administered by the County Administrator as provided in 9 Del. C. § 7006. The County Administrator shall take such actions as necessary to ensure that all appointments, promotions, demotions and reductions in force concerning employees in the classified service are made solely on the basis of merit principles and in accordance with the provisions of § 29-15 of this chapter. The County Council may reserve approval/disapproval authority over personnel actions at its discretion.
- B. The County Administrator shall perform those specific duties assigned him or her in 9 Del. C. § 7006 and any additional duties which may be required and are authorized by this chapter or the County Council.

§ 29-5. Personnel Board.

- A. A Personnel Board shall be created in accordance with 9 Del. C. § 7006. The Board shall:
- (1) Advise the County Administrator and Director of Human Resources on matters of personnel policy and problems of personnel administration, including the development of personnel rules, a job classification plan and a uniform pay plan.

- (2) Represent the public interest in the improvement of personnel administration in the county.**
- (3) Make any inquiry which it may consider desirable concerning personnel administration in the county government and make recommendations to the County Administrator and/or Council with respect thereto. In this regard, the Board, each member of the Board and the Administrator shall have the power to administer oaths, subpoena witnesses and compel the production of papers and records pertinent to any investigation authorized by this chapter.**
- (4) Hear appeals presented by county employees or their representatives and may render advisory opinions, based on its findings, to the County Administrator with a copy to the employee concerned. The County Attorney or his or her designee shall represent the Personnel Board at appeals presented by County employees. The Personnel Board shall adopt and follow hearing procedures that are consistent with this ordinance and due process requirements of state and federal law.**
- (5) Review, hold hearings and make recommendations to the Administrator on the personnel rules and other matters at the discretion of the Administrator or Council.**

B. The members of the Board shall be compensated, for each hearing which they attend, in the amount of \$150 per member per hearing. The Board shall not receive compensation for more than 10 hearings in any year without the prior approval of the County Council.

[Amended 3-21-1995 by Ord. No. 1015]

C. One of the members of the Board shall be elected Chairman by the members of the Board and shall serve a term of one year.

D. Meetings and other proceedings shall be in accordance with rules adopted by the Board, which shall be consistent with the provisions of this chapter. Two members shall constitute a quorum.

§ 29-6. Reserved [Contracts with outside persons or firms.

The Council may contract with any qualified person, agency or firm for the performance of services considered to be outside the current capabilities of county personnel during their normal workweek but which are deemed to be necessary in the establishment and operation of the personnel system.]

§ 29-7. Preparation of pay and personnel rules.

- A. The County Administrator shall prepare such pay and personnel rules and amendments thereto as may be necessary to carry out the provisions of this chapter and 9 Del. C. § 7006(c). Such rules shall be referred to the Personnel Board for its review and recommendation.**
- B. Within 30 days following the receipt of proposed rules or amendments, the Personnel Board shall hold a public hearing for the purpose of discussing and receiving comments upon the proposed rules or amendments. Such public hearing shall be advertised by placing notices in prominent places in the [courthouse.]Sussex County Administration Building. In addition, a notice of the public hearing shall be placed in a newspaper having county-wide distribution at least 10 days prior to the date of the hearing. Within 10 days after the hearing, the Personnel Board shall return the proposed rules or amendments to the Administrator with the recommendations of the Board.**
- C. When approved by the Administrator, but within 30 days of their return from the Personnel Board, the rules shall be submitted to the Council, which may adopt them by ordinance, with or without amendment.**

§ 29-8. Job classification plan.

- A. The Administrator shall cause an analysis to be made of the duties and responsibilities of all positions in the classified service, and he or she shall recommend a job classification plan. Each position in the classified service shall be assigned to a job class on the basis of the kind and level of its duties and responsibilities, to the end that all positions in the same class shall be sufficiently alike to permit the use of a single title, the same qualifications requirements, the same test of competence and the same pay scale.**
- B. The initial classification plan and all revisions thereto which involve the addition or deletion of classes shall be submitted to the County Council by the Administrator. Revisions may consist of the addition, abolishment, consolidation, division or amendment of existing classes.**
- C. Within 60 days after receiving the initial classification from the Administrator, the Council shall approve a classification plan.**

§ 29-9. Preparation of pay plan.

- A. The County Administrator, in consultation with the Director of Finance and the Director of Human Resources, shall prepare a pay plan consisting of a listing of pay grades, ranges for each grade [and consecutive steps within each range]. The rate or range for each class shall be such as to reflect fairly the differences in duties and**

responsibilities and shall be related to compensation for comparable positions in other places of public and private employment.

- B. The Administrator shall submit the pay plan and the rules for administration to the County Council after these rules have been referred to the Personnel Board for its review and recommendation.
- C. Within 60 days after receiving the initial pay plan from the Administrator, the Council shall adopt a pay plan and the rules for administration. The Administrator shall assign each job class to one of the pay ranges provided in the pay plan adopted by the Council.
- D. The Administrator shall include a report of the suitability of the pay plan in his or her annual budget recommendations to the Council. Amendments either through adjustment of rates or by reassignment of job classes to different pay ranges may be proposed at any time during the year. The Council shall take action on the proposed amendments within 60 days after submission by the Administrator. All amendments shall apply uniformly to all positions within the same class.

§ 29-10. Appointments, promotions and veteran's preference.

- A. Original appointments to vacancies occurring after this chapter becomes effective shall be based upon merit, as determined by qualifications set forth in the classification plan. Compensation for new appointments shall be as required by the pay plan rules.
- B. Application procedures and hiring and promotional [E]examinations shall be in such form as will fairly test the abilities and aptitudes of candidates for the duties to be performed in conformance with federal and state law [and may not include any inquiry into the political or religious affiliations, race or national origin of any candidate].
- C. Candidates who qualify for employment shall be placed on an eligible list for the appropriate job class. [in the rank order of the final eligibility scores which they obtained.]
- D. Preference in entrance examinations, but not in promotion, shall be granted to qualified persons who have been members of the Armed Forces of the United States and who seek to enter the service of the county within five years immediately following their honorable discharge from military service. Such preference shall be in the form of points added to the final grades of such persons, provided that they first achieve a passing grade. The preference may be five points for nondisabled veterans and 10 points for persons currently receiving compensation from the United States Veterans' Administration for service-incurred disabilities. The rank order of such persons among

other eligible[s] shall be determined on the basis of their augmented rating.

E. Promotions.

- (1) Vacancies shall be filled by promotion from within the county government whenever, in the judgment of the Administrator, it is in the best interest of the county [-]to do so. Promotions shall be on a competitive basis, except where the Administrator finds that the number of persons qualified for promotion is insufficient to justify competition. Promotions shall give appropriate consideration to the applicants' qualifications, record of performance and seniority, in that order of importance.**
- (2) A promotion shall consist of an increase in grade in the pay plan as provided in the pay plan rules.**

F. Pending the availability of an eligible list determined by the Administrator to be appropriate for a class, vacancies may be filled by temporary appointment. Such appointments shall have a maximum duration of six months and may not continue beyond one pay period after the establishment of an appropriate eligible list.

G. All hiring and promotion decisions will be made without regard to the applicants' race, sex, sexual orientation, religion, national origin, age (40 and above), disability, genetic information, marital status, political affiliation or any other category protected by state or federal law.

§ 29-11. [Eligible lists] Selection, Resignation, & Recall.

A. [Eligible lists, in the order of their priority, shall be reemployment lists, promotional eligible lists and original appointment eligible lists.]

[(1) Reemployment lists shall contain the names of permanent employees laid off, in good standing, for lack of funds or work.]

[(2) Promotional eligible lists and original appointment eligible lists shall be created as provided in § 29-10.]

[(3) Probationary employees laid off for lack of work or lack of funds and probationary employees who resign and whose resignations are withdrawn within one year with the approval of the office head concerned and the Administrator may have their names restored to the eligible list from which their appointment was originally made.]

Selection of employees for the classified service shall be based on merit and fitness demonstrated by examination or other evidence of competence. The County may use background checks for applicants for employment, pre-employment screening processes, and procedures

for posting vacant positions, or other hiring, promotion, termination, layoff, or recall procedures that are not inconsistent with this ordinance, state or federal law.

- B. When an appointment is to be made to a vacancy, the Administrator [shall] may submit to the [office] department head or his/her designee the names of [the three] persons [ranked highest on the appropriate list] who have indicated willingness to [accept appointment] fill the vacancy; provided, however, that the candidates otherwise qualify for the position. The [office] department head or his/her designee may interview each on the list and recommend his or her choice to the Administrator. [When more than one vacancy is to be filled, the number of names submitted shall equal the number of vacancies plus two.]
- C. [Policies and procedures for administering eligible lists shall be provided in the personnel rules, covering the duration, cancellation, replacement and consolidation of such lists and the removal or suspension of the names of eligibles therefrom.] Classified employees who are laid off due to reduction in force caused by a lack of funds shall be eligible for recall if their position is restored within six months of their layoff. Classified employees who resign from employment in good standing, and who were not subject to disciplinary action at the time of their resignation, and classified employees who are laid off for a period of more than six months, shall be eligible to apply for classified employment in the same manner and subject to the same hiring procedures as other applicants for employment.

§ 29-12. Probation.

- A. Employees [appointed from original appointment eligible lists] hired for the classified service, transferred to a new classified job class, or from promotional eligible lists shall be subject to a period of probation. The regular period of probation shall be six months, provided that the personnel rules may specify a longer or shorter period of probation for certain designated job classes or for extension of the probation period in individual cases. No probationary period may extend beyond [12] 18 months.
- B. The work and conduct of probationary employees shall be subject to close scrutiny and evaluation, and, if found to be below standards or is otherwise unsatisfactory [satisfactory] to the [office] department head or his/her designee and the Administrator, the latter may remove or demote the probationer at any time during the probationary period. Such removal or demotion shall not be subject to review or appeal.
- C. An employee shall be retained beyond the end of the probationary period and granted permanent status unless the Administrator affirms that the

services of the employee have been found not to be satisfactory and recommends that the employee not be given permanent status.

§ 29-13. Rules governing hours of work, [and]leaves of absence, policies and procedures.

[After receiving recommendations of the Administrator, the Council shall adopt rules prescribing hours of work and the conditions and length of time for which leaves of absence with pay and leaves of absence without pay may be granted.] The Administrator, with the advice of the County Human Resources Director, may adopt personnel policies and practices that are not inconsistent with this Ordinance, or state or federal law. In accordance with Section 29-4 A of this Ordinance, the County Council may reserve approval/disapproval authority over personnel actions at its discretion.

§ 29-14. Training.

The Administrator shall encourage the improvement of services by providing employees with opportunities for training, which need not be limited to training for specific jobs but may include training for advancement and for general fitness for public service.

§ 29-15. Conditions [on tenure of service] for Continued Employment; [d] Disciplinary [a]Action; Resignations; Demotions.

The [tenure] continued employment of every classified employee shall be conditioned on good behavior, compliance with work rules and standards of conduct, and the satisfactory performance of duties as indicated by evaluation reports prepared by the [office] department head or his/her designee and reviewed by the Administrator. Any employee in the classified and unclassified services may be temporarily separated or demoted or permanently demoted or separated by resignation or dismissal as designated by this section.

- A. Whenever there is lack of work or lack of funds requiring reductions in the number of employees in a department or division of the county government, the required reduction shall be made in such job class or classes as the department head or his/her designee may designate and as may be concurred in by the Administrator, provided that employees shall be laid off in the inverse order of their relative length and quality of service, as determined by rules governing the evaluation of service. Within each affected job class, all temporary employees shall be laid off before probationary employees, and all probationary employees shall be laid off before any permanent employees.

B. When, in the judgment of the Administrator, after consultation with the department head or his/her designee, a[n] non-probationary classified employee's work performance or conduct justifies disciplinary action short of dismissal, the employee may be suspended by the Administrator without pay. [A suspended employee may not request a hearing before the Personnel Board unless the suspension is for more than five working days or unless the employee has already received a previous suspension within the six months immediately prior thereto.]

C. A [permanent] non-probationary classified employee may be dismissed or demoted whenever, in the judgment of the Administrator, after consultation with the department head or his/her designee, the employee's work or misconduct so warrants. [When the Administrator decides to take such action, he shall file with the employee and the Personnel Board a written notification containing a statement of the substantial reasons for the action. The employee shall be notified not later than the effective date of the action. The notice shall inform the employee that he shall be allowed two calendar weeks from the effective date of the action to file a reply with the Administrator and the Personnel Board and to request a hearing before the Personnel Board. The pay plan rules shall provide for changes in compensation resulting from demotions.]

D. When the Administrator decides to impose a suspension of three or more days without pay or dismissal, the Administrator or department head or his/her designee shall notify the employee of the reason(s) for the suspension and provide a summary of the facts supporting such reason(s). The employee shall be given this information no later than the effective date of the suspension or dismissal, and shall be given a pre-determination opportunity to be heard in opposition to the suspension or dismissal in accordance with County policy and due process requirements. The Administrator may suspend any non-probationary classified employee with pay and direct the employee's immediate departure or removal from the workplace when in the judgment of the Administrator such action is in the best interest of the County. In such cases, a pre-determination hearing shall be held as soon as practicable.

E. After the Administrator or department head or his/her designee has provided the employee with the opportunity to be heard in opposition to the suspension or dismissal, the Administrator or department head or his/her designee shall issue a decision (the "Decision") regarding whether to suspend or terminate the employee. The Administrator or department head or his/her designee may issue the Decision orally at the conclusion of the hearing or may take the matter under advisement. In either case, the Administrator or department head or his/her designee shall issue the Decision in written form no later than the close of business on the next business day after the day of the hearing. If the

Decision is not announced at the conclusion of the hearing, the Administrator or department head or his/her designee shall advise the employee of whether the employee is suspended pending the Decision and, if so, whether the suspension is with or without pay. The Decision shall state the reason(s) why the action is being taken and shall summarize the facts supporting the reason(s) for the action. A copy of the Decision shall be provided to the employee.

F. Non-probationary classified employees whose employment is suspended without pay for three or more days or who are dismissed from employment may file an appeal with the Personnel Board ("the Appeal"). The Appeal shall be filed by notifying the Administrator in writing within two calendar weeks after the employee's receipt of the Decision of the employee's request for a hearing before the Personnel Board. The Appeal shall state the reasons that the employee disagrees with the Decision and shall summarize the facts supporting the Appeal. Failure to substantially comply with this requirement will result in the dismissal of the Appeal.

G. [D.] If the employee files [a reply] an Appeal and requests a Personnel Board hearing [within the prescribed period] as set forth in this paragraph, the Personnel Board shall [schedule] hold a hearing within [10] 21 calendar days after receiving the appeal unless the employee requests additional time to prepare for the hearing. At the discretion of the employee, the hearing may be private or open to the public, and a complete record of all proceedings during the hearing may be made should the employee be willing to bear the full cost of the preparation of such a record.

H. The Personnel Board shall not review any documents or engage in any discussions relating to the termination or suspension prior to the hearing, except as needed for the purpose of issuing any subpoenas requested by the employee or the Administrator. The Personnel Board shall issue subpoenas to compel the attendance of witnesses who are identified by the employee or the Administrator sufficiently in advance of the hearing to permit service of the subpoenas. The Administrator and the Personnel Board shall not be represented by the same counsel. The County Attorney shall advise the Personnel Board. The Administrator may retain counsel for the administration to represent the administration in any matter brought to the Personnel Board. The employee may be represented by counsel.

I. Hearing before the Personnel Board shall be recorded by stenographic or other means. The Administrator (or counsel for the Administrator) shall present evidence to support the reasons for the termination or suspension. The employee may present evidence in opposition to the termination or suspension. The employee and the Administrator, or their

counsel, may examine and cross-examine witnesses and submit documents to the Personnel Board. Testimony before the Personnel Board shall be under oath. The Personnel Board may also question witnesses. The evidence presented before the Personnel Board shall be confined to the matters that the Personnel Board deems relevant to the Decision. Formal rules of evidence shall not apply. The Personnel Board shall advise the employee and Administrator as soon as practicable, and no later than 15 business days after the conclusion of the hearing.[E. In conducting a hearing, the proceedings shall be informal, and it shall be assumed that the action complained of was taken in good faith unless proven otherwise.]

J. [F.]If the Board finds the action was based on [political, religious or racial prejudice] the employee's race, sex, sexual orientation, religion, national origin, age (40 and above), disability, genetic information, marital status, political affiliation, or any other characteristic or activity protected by law, or that the Administrator failed to [follow] substantially comply with the [proper] procedures outlined in Subsection C, the employee shall be reinstated to his or her former position without loss of pay. In all other cases wherein the Board does not sustain the action of the Administrator, the Board's findings and recommendations shall be advisory in nature, and the Administrator may affirm the original action or modify it pursuant to the Board's recommendations.

K. [G.]An employee may resign by filing his or her reasons with the Administrator. An employee resigning in good standing may be reinstated without competitive examination to any position in the same class if there is need for his or her services within two years after the date of resignation.

L. A classified employee may be demoted, transferred, or reassigned whenever, in the judgment of the Administrator, after consultation with the department head or his/her designee, the employee's work performance, conduct, or the needs of the County so warrant. The pay plan rules shall provide for changes in compensation resulting from demotions. An employee who is demoted and who as a result suffers a reduction in pay may appeal the Administrator's decision to the County Personnel Board within two calendar weeks of date he or she is notified of the decision. The appeal shall be governed by the process set forth above.

§ 29-16. Records.

The Administrator in conjunction with the Director of Human Resources shall maintain adequate records of the proceedings of the Personnel Board and of his or her own official acts, the examination record of every candidate and the employment record of every employee. Employee

records shall be considered confidential, but each employee's records shall be available to that employee during regular working hours, and such records shall be available to the individual and the Personnel Board in the event of any appeal based upon rights established by law.

§ 29-17. Investigations and hearings.

During the course of any investigation or hearing, the Personnel Board or the Administrator may request any employee of the county to attend and give testimony. The Personnel Board shall request the attendance of employees as requested by any employee appealing to the Board. Any employee refusing to do so may be subject to disciplinary action as provided in § 29-15.

§ 29-18. General prohibitions.

- A. Employees in the classified service shall be selected without regard to political considerations, may not be required to contribute to any political purpose and may not engage in improper political activity as described in Subsection E of this section.**
- B. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any county position or appointive county administrative office because of [race, color, national origin, sex or political or religious affiliations] race, sex, sexual orientation, religion, national origin, age (40 and above) disability, genetic information, marital status political affiliation, or any other characteristic or activity protected by state or federal law.**
- C. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment made under any provision of this chapter or in any manner commit or attempt to commit any fraud preventing the impartial execution of this chapter and the rules and regulations of the personnel system of Sussex County. Persons doing so shall be subject to immediate discharge.**
- D. No person shall defeat, deceive or obstruct any person in his right to examination, eligibility, certification or appointment under this chapter or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.**
- E. No employee in the classified service shall, during regular working hours, take any part in the management or affairs of any political party or in any political campaign or perform any service for any political party, except to exercise his or her right as a citizen privately to express his or her opinion and to cast his or her vote.**

ARTICLE II.

Attendance and Leave Policy

[Added 10-24-1972 by Ord. No. 11]

§ 29-19. Scope.

[Amended 6-26-1990 by Ord. No. 695]

The personnel rules shall apply to both the unclassified and classified services as defined in § 29-3 and shall be prepared, adopted and amended as provided in § 29-7. Exceptions to the scope of coverage or procedure are as stated in the rules. All references herein to the singular shall include the plural, to the plural shall include the singular and to any gender shall include all genders.

§ 29-20. Standard workweek; exceptions.

- A. The standard workweek for salaried employees shall be that which is recommended by the Administrator and approved by the Council. It shall consist of between 35 and 40 hours per week, including breaks, the maximum number and duration of which shall also be determined by the Administrator with the approval of the Council.**
- B. The Administrator may recommend to the Council for its approval the assignment of certain positions or classes to a work schedule which differs from that considered to be standard for the remainder of the county employees. Upon the receipt of Council approval, such a schedule shall become the standard schedule for those employees affected.**

§ 29-21. Part-time employment.

- A. Part-time employment shall include all employment for less than the standard workweek.**
- B. Part-time work shall be performed only according to schedules established by the [office] department head or his or her designee as may be required to accomplish the assigned functions of the office. The expense of part-time employment shall be governed by Council-approved wage and salary budgets for each office concerned.**

§ 29-22. Holidays.

- A. All employees, except part-time employees, shall receive their regular pay for the holidays as designated in 1 Del. C., Ch. 5, as it may be, and any other days specifically designated by the County Council.
- B. When any holiday falls on a Saturday, the preceding business day shall be considered the legal holiday. When any holiday falls on a Sunday, the following business day shall be considered the legal holiday.
- C. An employee must be in a paid status the scheduled day prior and the scheduled day following the holiday to qualify for the paid holiday.

§ 29-23. [Leave for death in immediate family.] Bereavement

- A. An employee is entitled leave, not to exceed [four] five working days, with pay because of a death in the "immediate family," defined as father, mother, legal guardian standing in loco parentis, step parent, spouse, civil union/domestic partner, brother, sister, step brother/sister, son, daughter, step son/daughter, son/daughter-in law, [or] parent-in-law, grandchild, and step grandchild. These [four] five days are not to be deducted from accumulated sick leave.
- B. Leave due to the death of a "near relative", defined as grandparent, step grandparent, aunt, uncle, niece, nephew, brother-in-law or sister-in-law or grandparent-in-law will be granted time off with pay up to three (3) consecutive days. Leave time equating to one (1) paid day may be granted in the death of a first cousin.

§ 29-24. Sick leave.

- A. Sick leave shall be granted to employees in the classified and unclassified services for the following reasons:

[Amended 8-7-1973 by Ord. No. 14; 6-26-1990 by Ord. No. 695]

- (1) Personal illness or physical incapacity resulting from causes beyond the employee's control.
- (2) Illness in the household of the employee requiring quarantine as certified by a physician or public health [9]officer.
- (3) Medical, dental or optical appointments which cannot be scheduled in after-duty hours provided that the employee has made every effort to arrange such appointments at a time before or after his regular workday.

- (4) Illness in the household requiring intensive care of a member of the "immediate family," defined as father, mother, spouse, brother, sister, son, daughter, parent-in-law or any relative residing in the same home or any person with whom the employee has made his home or illness outside the household requiring intensive care of such a person, supported in writing by a licensed practicing physician.

B. Accrual Rate

- (1) Full-time 7 hour employees in the unclassified and classified service shall be eligible for sick leave at the rate of eight and three-fourths (8³/₄) hours per month.**
- (2) Full-time 8 hour employees in the unclassified and classified service shall be eligible for sick leave at the rate of ten (10) hours per month.**
- (3) Full-time 10 hour employees in the unclassified and classified service shall be eligible for sick leave at the rate of twelve and a half (12.50) hours per month.**
- (4) Full-time 12 hour employees in the unclassified and classified service shall be eligible for sick leave at the rate of fifteen (15) hours per month.**

- C.** [B. Full-time thirty-five-hour per week employees in the unclassified and classified service shall be eligible for sick leave at the rate of 8 3/4 hours per month. Full-time forty-hour per week employees in the unclassified and classified service shall be eligible for sick leave at the rate of 10 hours per month. Full-time twelve-hour shift personnel in the unclassified and classified service shall be eligible for sick leave at the rate of 15 hours per month. However, i] **In the event the employee voluntarily leaves the employment of the county and is in good standing,** the employee will receive one day's pay for every one day of accrued sick leave up to a maximum accumulation of 45 days and thereafter one day's pay for every two days of accrued sick leave above 45 days to a maximum of 90 days. In case of voluntary resignation, the employee must give two weeks' written notice of intention to resign to be eligible for this payment. In the event of the death of an employee, one day's pay will be given for every one day of accumulated sick leave up to a maximum of 90 days. [Permanent part-time employees shall be eligible for sick leave at the rate of 1/2 day per month, but such employees shall not accumulate more than 10 days of sick leave.] Pay for and accumulation of sick leave shall be based on the normal workday for the employee concerned.

[Amended 6-21-1983 by Ord. No. 133; 6-26-1990 by Ord. No. 695]

- [C. In the event of extended illness beyond accumulated sick leave and vacation, a permanent employee may submit to the Administrator a request for an extension of sick leave at 1/2 pay of up to 15 days. Such a

request must be in writing and must be accompanied with supportive statements from a licensed practicing physician. The Administrator may approve such a request if, in his opinion, the previous service of the employee warrants favorable consideration. An employee may, for a period following return from sick leave, work on a part-time basis if approved by the Administrator in advance. Compensation will be for time actually worked.]

[Amended 6-26-1990 by Ord. No. 695]

- D. In accordance with the Family Medical Leave Act (FMLA), [A]after an absence of three consecutive working days, the [Administrator] department head or his/her designee may require the employee to present a statement from a licensed practicing physician certifying that the employee's condition prevented him or her from performing the duties of his or her position.
- E. To be compensated for absence on sick leave, it is the responsibility of the employee to report his or her inability to be on duty. Failure to notify the county within two hours of the time established for beginning his or her duties may result in loss of pay for that day.
- F. Absence for a fraction of a day that is chargeable to sick leave in accordance with these provisions shall be charged proportionately, but in an amount not smaller than [one hour] fifteen minute increments for full-time employees. [and 1/4 of a day for part-time employees.]

[Amended 6-26-1990 by Ord. No. 695]

- G. An employee absent from work on a legal holiday, during paid sick leave, on vacation, for disability arising from injuries sustained in the course of his or her employment, on authorized leave or on leave of absence without pay for less than one month in any calendar year shall continue to accumulate sick leave at the regularly prescribed rate during such absence as though he or she were on duty.
- H. Individual records of all sick leave credit and use shall be maintained as part of the personnel record of the county. The [Personnel] Human Resources Director shall ensure that each county employee eligible for paid sick leave is informed at least as often as once each six months of his or her accumulated sick leave to date.

[Amended 6-26-1990 by Ord. No. 695]

§ 29-25. Vacation leave.

- A. Vacation leave shall be granted to classified and unclassified employees according to the provisions of this chapter. Requests for vacation shall

be submitted to the [office head of the employee's department on approved forms provided by the Personnel Office] employee's supervisor. Approval of vacation requests is at the discretion of each office or department head or his/her designee subject to the provisions of this chapter [and after receiving certification from the Personnel Office] verifying that the employee has sufficient accumulated vacation time to cover the period requested.

[Amended 6-26-1990 by Ord. No. 695]

- B. Vacations with pay shall vest as of the last day of each month. Employees who qualify for vacation leave on the vesting day and voluntarily resign or are otherwise terminated and in good standing from the payroll of the county or in the event of the death of any employee, such employee, or his estate in the event of his death, shall receive a vacation allowance at the time of termination equal to one day's pay at his current rate for the employee's position for each day of vacation leave accumulated to the date of his or her termination. However, in the event of voluntary resignation, two weeks' written notice of intention to resign [are] is required in order to be eligible for this payment in lieu of vacation.

[Amended 6-21-1983 by Ord. No. 133; 6-26-1990 by Ord. No. 695]

- [C. No employee shall be granted paid vacation leave during the probationary period of his or her employment, except that an office head may recommend to the Administrator that an exception be made for good cause, but paid vacation leave shall not exceed one day for each month of employment.]

- [D] C. Accrual rate; construal.

[Amended 6-21-1983 by Ord. No. 133; 6-26-1990 by Ord. No. 695]

- (1) Accrual rate.

- (a) [Permanent]F[f]ull-time [thirty-five-hour per week] 7 hour employees with nine years of service or less shall earn vacation at the rate of eight and three-fourths (8 ¾) hours per month.
- (b) [Permanent]F[f]ull-time [thirty-five-hour per week] 7 hour employees with 10 to 14 years of service shall earn vacation at the rate of ten and a half (10 ½) hours per month.
- (c) [Permanent]F[f]ull-time [thirty-five-hour per week] 7 hour employees with 15 years of service or more shall earn vacation at the rate of twelve and a quarter (12 ¼) hours per month.

- (d) ~~[Permanent]~~F~~[f]~~ull-time ~~[forty-hour per week]~~ 8 hour employees with nine years of service or less shall earn vacation at the rate of ten (10) hours per month.
 - (e) ~~[Permanent]~~F~~[f]~~ull-time ~~[forty-hour per week]~~ 8 hour employees with 10 to 14 years of service shall earn vacation at the rate of twelve (12) hours per month.
 - (f) ~~[Permanent]~~F~~[f]~~ull-time ~~[forty-hour per week]~~ 8 hour employees with 15 years of service or more shall earn vacation at the rate of fourteen (14) hours per month.
 - (g) Full-time 10 hour employees with nine years of service or less shall earn vacation at the rate of twelve and a half (12.5) hours per month.
 - (h) Full-time 10 hour employees with 10 to 14 years of service shall earn vacation at the rate of fifteen (15) hours per month.
 - (i) Full-time 10 hour employees with 15 years of service or more shall earn vacation at the rate of seventeen and a half (17.5) hours per month.
 - (j) [(g) Permanent]Full-time 12[twelve-]hour employees [shift personnel] with nine years of service or less shall earn vacation at the rate of fifteen (15) hours per month.
 - (k) [(h) Permanent]Full-time 12[twelve-]hour employees[shift personnel] with 10 to 14 years of service shall earn vacation at the rate of eighteen (18) hours per month.
 - (l) [(i) Permanent]Full-time 12[twelve-]hour employees [shift personnel] with 15 years of service or more shall earn vacation at the rate of twenty one (21) hours per month.
 - [(j) Permanent part-time employees shall earn vacation credit on the basis of one day per month up to a maximum of ten days with vacation time paid at the regular part-time salary rate.]
- (2) For the purpose of this policy, any employee placed on the payroll by the tenth day of any month shall be considered to have a full month's service in that month.
 - (3) Pay for and accumulation of vacation shall be based on the normal workday for the employee concerned.
 - (4) Maximum vacation accrual may not exceed two times the annual accrual rate as of December 31 of each year.

E. (Reserved). Editor's Note: Former Subsection E, as amended 6-21-1983 by Ord. No. 133, which dealt with accrual of vacation, was repealed 6-26-1990 by Ord. No. 695.

F. Office or department heads or their designees shall schedule vacation leaves with particular regard to the operating requirements of the office, seniority of employees and employee requests insofar as the latter is practicable. The scheduling of vacation periods is always subject to be changed at the discretion of the office or department head or his/her designee in the event of changing circumstances or emergency needs.

G. One week of vacation must be taken in each vacation year.

[Amended 6-21-1983 by Ord. No. 133]

H. Individual records of vacation leave credit and use shall be maintained as part of the personnel records of the county.

§ 29-26. Reserved. [Leave for death of near relative.

Leave due to the death of a "near relative," defined as first cousin, grandparent, aunt, uncle, niece, nephew, brother-in-law or sister-in-law or other person, shall be subtracted from vacation leave. Leave for the funeral of such relative shall not be subtracted from vacation leave but shall be granted at the sole discretion of the office or department head based upon the existing work requirements of such office or department and as approved by the Administrator.]

§ 29-27. Computation of vacation time.

For the purpose of computing vacation time, the time of actual service will be counted even though such time may predate the adoption of this chapter.

§ 29-28. Medical leave.

[Amended 6-26-1990 by Ord. No. 695]

[A. After successful completion of probationary employment, an employee may request a medical leave of absence without pay for a period not to exceed six months. The request must be submitted in writing and a medical certificate must be presented to verify the need. The date of initiation of the request may be varied for good cause at the discretion of the Administrator.] The County will comply with all requirements set forth in the Family Medical Leave Act (FMLA).

[B. In order that the status of an employee on leave and that of the substitute, if any, may at any time be determined, such leave shall be

given for definite stipulated periods. If, on the day following the expiration of a leave, an extension is not requested and granted and the employee has not returned to his position, the employee shall be considered to have resigned from his position.]

[C. At the expiration of a medical leave, an employee reporting for duty shall be returned to the same position as that filled by him when such leave was granted. An employee may return to duty before the expiration of his leave, provided that he has certification from his attending physician.]

[D. Should the position of an employee on medical leave be abolished or consolidated, he shall, upon return from leave, be given employment in a comparable position or, if that is not possible, in a lower position for which he is qualified and in which a vacancy exists. Compensation shall be commensurate with the position assigned, seniority and the level of proficiency of the employee.]

[E. Seniority shall accumulate during all medical leaves of absence.]

§ 29-29. Military leave.

A. Any permanent employee who is either inducted or who volunteers for active military service in the United States Armed Services shall be granted a military leave of absence without pay which shall extend for 90 calendar days beyond the termination of compulsory service or the first enlistment, as applicable. Such employee shall be entitled to be restored to the position which he or she vacated without loss of seniority, provided that application for reemployment is made with the Administrator within the ninety-day period after his or her release from active duty from military service, and provided that he or she is physically and mentally capable of performing satisfactorily in the position. The County will comply with all requirements set forth in the Family Medical Leave Act (FMLA).

B. In the event that a position vacated by a person entering the armed services no longer exists at the time he or she qualifies to return to work, such person shall be entitled to be reemployed in another position of the same class in the county service, provided that such reemployment does not necessitate the laying off of another person who was appointed at an earlier date than such person returning from military leave.

C. Any permanent [or permanent part-time] employee who is a member of the National Guard or an organized military reserve of the United States will be entitled to a paid leave of absence not to exceed a total of 10 working days in any one calendar year for the purpose of active duty, military training or special duty. [Employees who are serving as members of such military organizations shall receive only that pay to

make up the difference between military pay and county pay, and to cover employee benefits paid by the county, for the ten-day annual leave of absence for military training]. The county shall not be liable for wages or benefits beyond this ten-day period. The employee must request military leave at least 10 days or as soon as practicable prior to the effective date of the leave and submit with his or her request a copy of orders assigning him or her to active duty or training.

[Amended 3-8-1977 by Ord. No. 26]

- D. Military training or special duty leaves of absence shall not be deducted from vacation leave or in any other way result in a loss of seniority, accumulated sick leave or any of the other benefits provided county employees.
- E. Any permanent employee who is a member of an organized military reserve of the United States or the Delaware National Guard and who is ordered to perform emergency duty under the supervision of the United States government or the State of Delaware shall be granted a leave of absence during the period of such activity. [Any such employee shall receive the pay differential in the amount by which the employee's normal wages, calculated on the basis of a standard workweek, exceed any pay received as a result of performing emergency duty. A copy of the employee's military pay voucher shall be submitted with his request for pay differential compensation.]

§ 29-30. Special leaves of absence.

- A. Any county employee whose place of employment is in a town wherein he or she is a resident active volunteer fireman may, with the approval of his or her office or department head or his/her designee, be permitted to respond to fire calls during his or her regular hours of employment without loss of pay, vacation, sick leave or personal leave credit.
- B. Any employee may be granted administrative leave of absence with pay to participate in or attend training courses, sessions, conferences or seminars and to engage in other similar job-related activities. Such leave will be granted only if the absence of the employee will not interfere with proper operating efficiency of the county government. Leave for any individual employee shall not aggregate more than five days in any fiscal year. Traveling expenses, lodging, conference fees, tuition and similar expenses incurred during such leave may be paid for by the county. Requests for such leaves up to the maximum five days shall be submitted through the office or department head or his/her designee to the Administrator for approval or disapproval. Exceptions to the five-day limit on administrative leave shall be submitted to the Administrator, who may approve them for good cause.

- C. The Administrator may authorize an employee to be absent without pay for personal and/or undisclosed reasons for a period or periods not to exceed five working days in any calendar year.
- D. A permanent [or permanent part-time] employee ordered to serve as a juror or witness in a court of law shall be permitted a paid leave of absence from his or her regular position for this purpose. [Such employee shall receive compensation only in the amount by which his normal wage, based upon a standard workweek for the position, exceeds the compensation received while on leave.]

§ 29-31. Leaves of absence without pay.

An employee who desires a leave of absence without pay for a period of less than three months shall request such leave through his or her department head or his/her designee to the Administrator, who may grant such leave, subject to the approval of the Council.

§ 29-31A. Short-term and long-term disability benefits.

[Added 10-4-2011 by Ord. No. 2223 Editor's Note: This ordinance also provided that it would become effective January 1, 2012.]

- A. An employee shall be deemed disabled for the purposes of this section if such employee has a physical or mental disability which prevents the employee from performing the duties of such employee's position, as determined by the County in its sole discretion. Notwithstanding the foregoing sentence, eligibility for disability benefits under Subsections B and C of this section shall be contingent upon meeting the requirements of those respective subsections.

B. Short-term disability.

- (1) A permanent, full-time employee in classified or unclassified service who becomes disabled shall, beginning on the date of such employee's disability, become eligible to receive short-term disability benefits pursuant to this Subsection B. Such short-term disability benefits shall continue for as long as such individual remains disabled, up to a maximum of 182 days (26 weeks). During the sixty-day period beginning on the date of such employee's disability (the "sixty-day elimination period"), such disabled employee shall not be eligible to receive the benefit described in Subsection B(3) below but shall be required to use any accrued leave that the disabled employee has accrued but not used. The sixty-day elimination period shall be considered part of the 182 days (26 weeks) of short-term disability for purposes of this subsection and not an addition thereto.

- (2) If an employee returns to work for one day or less during the sixty-day elimination period but cannot continue to work thereafter, the period worked shall not be considered to have interrupted the sixty-day elimination period.**
- (3) Disabled employees receiving short-term disability under this section shall remain eligible to receive medical and dental benefits through Sussex County's medical plan on the same basis that such disabled employee received such benefits prior to ceasing active work for Sussex County due to such disability. A disabled employee receiving short-term disability benefits under Sussex County's short-term disability plan shall continue to accrue sick leave, vacation time, applicable holiday time, creditable service, and pay increases.**

[Amended 2-7-2012 by Ord. No. 2238 Editor's Note: This ordinance also provided that it would become effective January 1, 2012.]

- (4) A disabled employee eligible for short-term disability under this subsection shall, for each pay period after the sixty-day elimination period while the disabled employee remains eligible for short-term disability under this subsection, receive 75% of the amount of regular base wages or salary such disabled employee earned or would have earned if he or she had worked regular full-time hours during the pay period immediately prior to becoming disabled. A disabled employee eligible for short-term disability payments under this Subsection B(4) may use his or her unused accrued leave to supplement the short-term disability benefit to equal up to no more than 100% of pre-disability compensation.**
- (5) Once an employee exhausts his or her sixty-day elimination period, the employee shall not be eligible to utilize unused accrued leave in lieu of application for short-term disability.**
- (6) If an employee receiving disability benefits under this section returns to work on a full-time basis for 15 consecutive calendar days or longer, any succeeding period of disability for which the employee becomes eligible for disability benefits under this section shall constitute a new period of disability with a corresponding sixty-day elimination period.**
- (7) Upon the exhaustion by an employee of the maximum short-term disability benefit period set forth above in Subsection B(1), and provided the employee has exhausted his or her Family Medical Leave Act of 1993 ("FMLA") (26 U.S.C. § 2601 et seq.) entitlement and/or is not FMLA eligible, such employee's employment with the County shall terminate, and such employee shall not accrue any service or retirement benefits.**

C. Long-term disability.

- (1) After receiving short-term disability benefits under this section for 182 days (26 weeks), a disabled employee who continues to meet the definition of "disability" under the provisions of the long-term disability benefit plan, if any, that is maintained by Sussex County at such time and who was a permanent, full-time employee in classified or unclassified service prior to such disability shall be eligible to begin receiving long-term disability benefits under the long-term disability benefit plan, if any, that is maintained by Sussex County at such time. Such long-term disability benefit plan shall be fully insured, and the terms of the long-term disability insurance policy shall govern the provision of the long-term disability benefit plan.**
- (2) The employment status of any individual receiving long-term disability benefits under this section shall be terminated and no service or retirement benefits shall accrue during any period for which a disabled former employee receives long-term disability benefits under this section. Upon the termination of such disabled former employee's employment status, the disabled former employee shall have the option to have such disabled former employee's unused sick leave and vacation time cashed out and paid to such disabled former employee; or if such disabled former employee feels that he or she will be able to return to work within the six-month period immediately following the end of his or her short-term disability eligibility, the disabled former employee may elect to have his or her unused leave banked with the County until such disabled former employee's reinstatement as an employee of the County, provided that if such disabled former employee is not able to return to work within such six-month period, the disabled former employee's leave shall be cashed out and paid to such disabled former employee.**
- (3) Disabled former employees who are receiving long-term disability benefits under this section shall continue to be eligible for medical benefits under Sussex County's medical plan on the same basis as regular, active, full-time employees of Sussex County until the disabled former employee becomes eligible for Medicare Parts A and B coverage, whether or not the disabled former employee enrolls in Medicare Parts A and B, at which point such disabled former employee's medical coverage under Sussex County's medical plan shall become secondary to Medicare coverage. If a disabled former employee's disability benefits terminate prior to becoming eligible for Medicare Parts A and B, such disabled former employee's coverage under Sussex County's medical plan shall terminate. Sussex County shall have the right to amend, modify or terminate the medical coverage of disabled former employees from time to time and at any time.**

(4) Notwithstanding Subsection C(1) above, eligibility for long-term disability benefits under this section for the initial two-year period beginning upon the day after the one-hundred-eighty-two-day period for short-term disability shall only continue if the disabled former employee satisfies the definition of "disability" under the County's long-term disability benefit plan.

(5) A disabled former employee eligible for long-term disability under this subsection shall, while the disabled former employee remains eligible for long-term disability under this subsection, receive 60% of the amount of regular wages or salary such disabled former employee earned or would have earned if he or she had worked regular full-time hours during the pay period immediately prior to becoming disabled, offset by certain other amounts received by the former employee, including but not limited to social security disability benefits, as set forth in the policy of insurance under which the long-term disability benefits are provided.

D. Neither the short-term disability benefits nor the long-term disability benefits set forth in this section shall be subject to vesting. The short-term disability benefits and long-term disability benefits may be amended, modified, terminated or suspended by the County Council at any time and from time to time.

ARTICLE III.

Pay Plan Rules

[Added 10-24-1972 by Ord. No. 11]

§ 29-32. Preparation, submission and revision.

The procedures for preparing, submitting and revising the pay plan are provided in § 29-9 above and shall apply to this Article.

§ 29-33. Standard workweek

The standard workweek shall be as established by the Council upon the recommendation of the Administrator as provided in § 29-20 of this chapter.

§ 29-34. Compensation for part-time work.

A. Compensation for part-time work shall be at the equivalent hourly rate of the salary appropriate to the grade of the employee for the hours actually worked.

B. No employee shall be employed in two or more part-time positions if the aggregate pay exceeds 100% of the normal full-time pay for the lower position.

§ 29-35. Compensation for overtime and holiday work.

A. [Compensation for overtime work shall be paid only when the department head of the department concerned or his authorized representative has given prior approval for overtime work.] The employee's department head or his/her designee must approve all overtime prior to the employee working overtime. Failure to obtain such approval is considered a violation of policy and shall subject the employee to discipline.

B. Hourly employees shall receive compensation equal to 1 1/2 times their normal rate of pay for hours worked in excess of the normal five-day workweek. Time and a half shall be paid for work performed on Saturday or Sunday when 35 regular hours have been worked during the regular workweek. [Where fewer than 35 hours have been worked due to excused absence, then time and a half may be permitted for Saturday and Sunday work.]

[C. Salaried employees in the classified service shall receive overtime compensation at a rate of 1 1/2 times the normal rate for hours worked in excess of 35 hours of work per week. Time and a half shall be paid for work performed on Saturday and Sunday when 35 hours have already been worked during the immediately preceding five working days. The regular workday for salaried employees other than those specific exceptions contained herein shall consist of seven hours, and the regular workweek shall consist of 35 hours, Monday through Friday inclusive. The starting time for these employees will generally be 8:30 a.m. and the quitting time about 4:30 p.m., with one hour for lunch.]

[D] C. If, in the course of his or her regular service, an employee in the classified service is required to work on a day observed as a legal holiday, he or she shall be given an additional day off, or, if such additional day off cannot be given because of the work situation[,], as determined by the employee's department head, or his/her designee he or she shall be paid additionally at straight time for each hour worked on the day observed as a holiday, even though such time worked may be part of his or her regular service. If an employee is required to work on a day observed as a holiday which is not in the course of his or her regular service, he or she shall be compensated additionally in accordance with the rules on compensation in emergency overtime service. Work on holidays shall require the prior approval of the Administrator.

§ 29-36. Rate of pay for new employees.

Generally, a new employee shall be paid the minimum rate of pay for his or her class. Exceptions on starting salaries may be granted upon the written prior approval of the County Administrator in the following areas:

- A. The minimum rate for each class is based upon the assumption that a new employee meets the minimum qualifications stated in the class specification. [If it becomes necessary to appoint a new employee of lesser qualifications, he shall be started at one or possibly two steps below the minimum rate of the class.]
- B. If a new employee exceeds the minimum qualifications, the employee may start at a higher salary than the minimum starting salary. [he may be appointed at the second step or in unusual cases at a still higher step. Cases shall be thoroughly analyzed and measured against objective standards. In addition, every effort shall be made to recruit a qualified employee who will accept appointment at the minimum rate of the class.]

§ 29-37. Transfers.

Upon the approval of the Administrator, an employee may be transferred from one position in the classified service to another. Any employee temporarily transferred shall be paid, during the period for which he or she is transferred, the minimum rate of the new salary range. [or one increment step above his existing rate, whichever is higher. Temporary transfers shall be for a period of no longer than 30 working days.]

§ 29-38. Promotions.

When an employee is promoted to a position in a higher [class] grade, his or her salary shall be increased to the minimum rate for the higher [class] grade. In the case of overlapping ranges, the promoted employee shall be increased to the step immediately above his present level of compensation, but in no case shall the increase be less than 5% of the employee's former level of compensation.] or a 5% increase, whichever is greater. If the employee's promotion is higher than one grade, the employee will receive 5% for the first grade and 1% for each subsequent grade.

§ 29-39. Demotions.

An employee who is demoted for disciplinary reasons, transfers to another position or is unable to perform the essential function of their position and moves into a lower grade may receive a decrease in pay. [from one classification to another shall be reduced to the maximum rate for the new classification or he shall continue at his same pay rate, whichever is lower.]

§ 29-40. Annual salary review.

- A. The salary of each employee shall be reviewed annually, [on the employee's anniversary date of his employment, except those employed before July 1, 1972, whose anniversary date for this purpose shall be considered to be July 1, 1972.] [All of the personnel records, as well as length of service, shall be considered in making recommendations, with a major emphasis placed on the evaluation of services rendered. After the above analysis by the department head, a certificate of satisfactory service, which shall be approved by the County Administrator, shall entitle an employee to a one-step increase. This annual salary review shall continue until the maximum step of the class has been reached.]**
- B. [No employee shall be entitled to more than one step increase each year except those employees who receive promotional increases and those employees who receive merit increases approved by the Administrator. A merit increase shall generally be a five-percent increase in one year.] Salary ranges and merit increases shall be established by County Council upon the recommendation of the Administrator through the annual budget process. The date of the annual salary review will remain unaffected by a promotional increase.**

Section 2. Effective Date. This Ordinance shall become effective on September 10 2013.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2323 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF SEPTEMBER 2013.



**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**