H. Reinstatement

An employee returning to work following a FMLA leave shall be returned to the same or equivalent position with equivalent pay as when the leave began. The use of FMLA leave shall not result in the loss of any employment benefit accrued prior to the start of an employee's leave.

EMPLOYEE CONDUCT

Prohibited Conduct and Guidelines for Appropriate Behavior

Standards of conduct provide ethical and behavioral guidance for public employees. As an integral member of the County team, employees are expected to accept certain responsibilities and adhere to acceptable conduct and business practices.

This not only involves demonstrating respect for the rights and feelings of others but also demands that employees refrain from any behavior that might be detrimental to themselves, their co-workers, and/or the County. Employee conduct reflects on the County. Consequently, employees are encouraged to observe the highest standards of professionalism at all times.

County employees are expected to accept certain responsibilities, protect the public from harm, adhere to acceptable principles in matters of personal conduct, and exhibit a high degree of personal integrity at all times.

A. Prohibited Conduct

Listed below are types of prohibited workplace conduct and behavior. This list should not be viewed as being all-inclusive. Actions the County deems inappropriate and that will lead to disciplinary action include, but are not limited to:

1. Falsifying employment or other County records or making false statements.

2. Violating the County's policy on **Equal Employment Opportunity,** which prohibits refusing employment or discriminating in compensation or other terms, conditions, and privileges of employment based on race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status, culture, social origin or condition, or ancestry.

3. Harassment of employees, or any person doing business or interacting with the County, because of a person's race, color, national origin, age, physical or mental disability, marital status, religion, creed, or political beliefs. (See **Preventing Harassment and Discrimination** herein.)

4. Sexual or other unlawful or unwelcome harassment. (See **Preventing Harassment and Discrimination** herein.)

5. Violating the Montana Code of Ethics statute (MCA 2-2-101) which prohibits using public time, facilities, or resources for private business or political purposes; acts that create a conflict of interest between public and private interests; accepting substantial gifts; and sets forth other standards, prohibitions, and requirements outlined in **Ethics and Conflict of Interest** herein.

6. Violating the nepotism statute (MCA 2-2-304). Nepotism is an unfair practice that occurs when hiring is based on personal connections rather than ability or merit, and is further addressed in **Nepotism** herein.

7. Establishing a pattern of absenteeism or tardiness.

8. Use of County equipment, vehicles, supplies, time, or facilities for private purposes or any other violation of the **Vehicle and Equipment Use** policy herein which includes, but is not limited to, failing to operate County vehicles and equipment safely or in the proper manner, abusing vehicles or equipment, or operating County vehicles or equipment while under the influence (as defined in MCA 61-8-401).

9. Violating the Drug Free Workplace Act described in **Drug- and Alcohol-Free Workplace** herein, including, but not limited to, reporting to work intoxicated or under the influence of unprescribed drugs, testing positive for drug and/or alcohol use, bringing or using alcoholic beverages on County property, or using alcoholic beverages while engaged in County business away from County property. This includes possessing or using alcohol or unprescribed drugs in County vehicles or private vehicles being used for County business.

10. Threatening, fighting, or causing or performing violent acts in the workplace or any other violation outlined in **Workplace Violence Prevention** herein.

11. Theft of property from County employees, the County, or the public, including removal from the premises, without proper authorization, of food, County property or property of other employees, customers, and the general public.

12. Possessing dangerous, unauthorized materials such as firearms or explosives on County premises, in County vehicles, or while on County business. See **Weapons on County Property** herein.

13. Disregarding safety or security regulations as outlined in **Workplace Safety Program** herein.

14. Engaging in insubordination, which is the refusal to follow a direct order by the supervisor.

15. Failing to maintain the security of confidential information.

16. Failing to perform duties in a satisfactory manner.

17. Violating the **Smoke-Free Workplace** policy herein, which adheres to the Montana Clean Indoor Air Act. The MCIAA bans smoking in all enclosed workplaces in Montana. Smoking is prohibited in all County facilities and vehicles.

18. Violating the **Personal Telephone Calls and Personal Communication Devices** policy herein by using County telephones inappropriately or using personal communication devices such as cell phones, smart phones, tablets, etc., to communicate, Email, text, view inappropriate material or interact with social media sites (Facebook, Twitter, etc.) during work hours.

19. Violating the **Computers, Internet, and Email** policy herein, which prohibits improper use of these products and services including, but not limited to; altering or installing unauthorized software or hardware, revealing pass codes and files without authorization, using the County Internet and Email systems for non-County business-related purposes, and creating, transmitting, or viewing any offensive or inappropriate material, data, or images that may be construed to violate the County's **Preventing Harassment and Discrimination** or **Equal Employment Opportunity** policies herein.

20. Using abrasive, impolite, or offensive conduct, gestures, or profane language toward the public, County officials, or other employees.

21. Abusing break times and/or lunch periods as outlined in the **Hours of Work, Meal Breaks, and Rest Breaks** policy herein.

22. Misrepresenting travel expenses and/or using County credit cards inappropriately or without authorization as set forth in the **Credit Cards and Travel Expenses** policy herein.

23. Violating drug and alcohol rules and regulations established for employees required to have Commercial Driver's Licenses.

24. Failing to appear or dress in a manner acceptable for the position, including use of personal protective equipment (PPE) as needed.

25. Failure to return County equipment or property upon termination of employment. (See **Return of County Equipment** herein.)

26. Failure to respond or conduct County business appropriately while performing on-call duties.

27. Gambling on County time.

28. Conviction of a felony.

29. Refusing to adhere to the **Use of Scented Substances** policy herein, after a supervisor requests that an employee not come to work wearing a perfume, lotion, moisturizer, etc., about which a fellow employee has complained.

30. Any other act, failure to act, failure to adhere to any policy, or negligence which is injurious to the County, its employees, or the general public.

B. Guidelines for Appropriate Behavior

In accepting employment with the County, the employee assumes certain duties, responsibilities, and relationships which are to be observed during his/her tenure of employment. Upon hiring, all employees shall agree and accept the following responsibilities and work rules as a condition of continued employment. The employee agrees to:

1. Work conscientiously toward achieving the objectives of the County in compliance with its philosophy, policies, rules, procedures, and performance standards.

2. Perform assigned duties in a satisfactory manner and within specified guidelines.

3. Work with other staff members in a sincere, tactful, and positive manner.

4. Be punctual and utilize working hours in their most effective and productive way; notify his/her supervisor, in accordance with applicable policy, when the employee is unable to show up for work; refrain from excessive tardiness or absences; and refrain from leaving the work station early without prior approval.

5. Respect the confidentiality of County citizens' and employees' information, and not disclose confidential information and/or administrative matters.

6. Immediately report in writing any accident occurring at work, whether or not there is immediate evidence of personal injury.

7. Immediately report any unsafe condition observed at the work site.

8. Use the County's property in a responsible and appropriate manner. Employees shall not provide unauthorized access to County facilities to any individual. Employees shall protect the County's property from damage and refrain from taking or using County property for personal use.

9. Be constantly mindful that the County and its staff have an obligation for the welfare and well-being of citizens served through its programs.

10. Respect co-workers and maintain appropriate conduct during work hours. If employee calls or use of a personal communication device causes disruptions or loss in productivity, the employee shall become subject to disciplinary action per County policy. Cell phones shall be turned off or silenced during meetings, conferences, and in the office or other locations where incoming calls may disrupt normal workflow.

11. Refrain from and report any witnessed embezzlement; theft; insubordination; unsatisfactory work performance; harassment or discrimination; falsifying or using falsified records, materials, requisitions, passes, time sheets, or other documents used by the County; violation of County policies and procedures; and misuse or neglect of County benefits, property, co-workers, suppliers, vendors, contractors, or citizens.

12. Refrain from and report any conduct which may endanger the safety of others, which is disruptive of the County's operation, or impairs the ability of others to accomplish their work.

13. Refrain from interfering with or obstructing investigations and the investigator when suspected or alleged violations of any work rules, procedures, or policies may require investigation by or on behalf of management. Should the need for investigation arise, employees are expected to be open and cooperative in assisting the investigator.

Employees are advised that in no circumstances are these rules and policies to be interpreted as limiting the employee's ability to discuss workplace policies and procedures. However, policies and procedures are ultimately a management right.

C. Disciplinary Action

Violations of the above standards or other County, state, or federal rules, or conduct which is injurious to the County's interests or those of its employees, may result in disciplinary action which can include written or oral warnings, suspension, demotion, termination*, or other appropriate discipline. In all cases, an employee subject to disciplinary action shall be informed by the department head of the alleged violations and employer's evidence, and the employee shall be allowed to present his/her side of the story and evidence orally and/or in writing before discipline, if appropriate, is imposed.

*If the disciplinary decision is termination, the Commissioners or Clerk & Recorder shall, at discharge or within seven days of the date of discharge, notify the discharged employee of the existence of the County's Employee Grievance policy and procedures, and shall provide the discharged employee with a copy of the policy on **Employee Grievance**.

Relevant Information: **MCA 2-2-101 and 2-2-304**

Ethics and Conflict of Interest Policy

County employees serve the people of the County and owe them a duty to uphold their trust and maintain their confidence in the integrity of public employees. These principles require employees to avoid conflicts of interest, bias and favoritism, and the appearance of impropriety (i.e., acts that appear illegal or wrongful to the average citizen). County employees must conduct themselves in adherence to the rules of conduct stipulated for public employees in MCA 2-2-104. The general provisions are outlined in subparagraph **'A'** below. All employees must sign the **Ethics and Conflict of Interest Acknowledgement Form** found in **Appendix B** of this Handbook.

Every county enforces a minimum set of standards that all employees must follow. Please refer to the section above on **Prohibited Conduct and Guidelines for Appropriate Behavior** for a more comprehensive, yet not all inclusive, list of inappropriate conduct, as well as appropriate conduct and behavior to which all county employees must adhere. Failure to abide by or comply with any of the items in those policies or this **Employee Ethics Policy** is a basis for disciplinary action up to and including termination.

A. In General, County Ethics Standards Prevent Employees From:

- using public time, facilities, or resources for private business or political purposes (unless authorized by law);
- acts that create a conflict between public and private interests (MCA 2-2-101), which may include major financial transactions with someone an employee regulates or supervises, performing official acts to harm private competitors, performing official acts to benefit an employee's own business interests, and other conflicts of interest;
- disclosing or using confidential information for personal economic benefit;
- accepting payment for helping people to obtain a contract, claim, license, or economic benefit from the County;
- taking payment for overlapping hours in two or more public jobs;
- requesting or accepting employment with a person the employee regulates without notifying department heads; and
- accepting substantial gifts or economic benefits (i.e., generally anything more than $50.00) that could influence or reward official actions.

The list above includes only some of the ethical standards and requirements that County employees must follow.
Violations of this Code of Ethics may not only result in disciplinary action, but may result in the County Attorney bringing a civil action in district court or criminal charges which may be prosecuted to the full extent of the law (MCA 2-2-144).

B. Conflict of Interest

County employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative or other party of interest (as described below) as a result of the County's business dealings.

If employees have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to a supervisor or department head as soon as possible the existence of any actual or potential conflict of interest, so that safeguards can be established to protect all parties. Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which the County does business, but also when an employee or relative receives any kickback, bribe,

substantial gift, or special consideration as a result of any transaction or business dealings involving the County.

C. Seeking Guidance on Ethical Dilemmas or Issues

Before doing anything that might create an ethical problem, employees should ask their department head for guidance. Employees should also report ethical concerns to supervisors, who can advise them on how to avoid or resolve potentially serious problems. After an employee notifies a department head of a possible violation, they can also file a complaint through established County protocols.

Relevant Information: **MCA 2-2-101, et. seq.; Appendix B: Ethics and Conflict of Interest Acknowledgement Form**

Drug and Alcohol Free Workplace

It is the policy of the County to create a drug-free workplace in keeping with the spirit and intent of the Drug-Free Workplace Act of 1988. The illegal use of controlled substances is inconsistent with the behavior expected of our employees, subjects all employees, citizens, and visitors to unacceptable safety risks and undermines the County's ability to operate effectively and efficiently.

The purpose of this policy is to ensure worker fitness for duty; to protect our employees and the public from the risks posed by the use of illegal drugs, controlled substances, or alcohol; and to maintain a safe working atmosphere conducive to effect operations. As stated in the **Prohibited Conduct Policy**, employees are subject to disciplinary action, which may include immediate discharge for consumption, use, or being under the influence of alcohol or controlled substances while on County premises.

County employees must sign the **Drug and Alcohol Free Workplace Acknowledgement Form** (located in **Appendix C** of this Handbook) and abide by this policy as a condition of employment.

A. Prohibitions

All County employees are absolutely prohibited from:

1. Unlawfully manufacturing, distributing, dispensing, possessing, or using controlled substances in the workplace. "Controlled substances" are defined in schedules I through V of Section 812, Title 21, United States Code. Examples of controlled substances include illegal narcotics, cannabis, stimulants, depressants, and hallucinogens. The County does not accommodate the use of medical marijuana in the workplace.

2. Reporting for duty, remaining on duty, or operating County vehicles or personal vehicles on County business while under the influence or impaired by alcohol or a controlled substance.

3. Drinking alcohol at any time during work hours.

4. The illegal or unauthorized use of prescription drugs.

B. Disciplinary Action

Violations may result in disciplinary action up to and including termination. Violating the drug and alcohol prohibitions in the policy for **Use of Vehicles and Equipment** is also subject to disciplinary action up to and including termination, whether the employee is operating County vehicles or equipment on County-owned property or anywhere else. Any use of illegal drugs or driving while intoxicated shall also be reported to the proper authorities for criminal prosecution.

C. Reporting Convictions of Drug Statute Violations

Any employee convicted of violating a criminal drug statute in the workplace or while conducting official County business must inform his/her immediate supervisor of such conviction within five days after the conviction. The supervisor must inform the department head of any such communication immediately.

D. Exceptions – Prescription Drugs

The only exceptions to this policy are possession or use of a controlled substance as prescribed by a licensed physician, if the employee has given his supervisor or department head prior notice of such use and/or possession. Employees using medication prescribed by a licensed physician may be required to provide management with proof that such medication was prescribed. Employees taking prescribed or over-the-counter medications will be responsible for talking to a doctor and/or pharmacist about whether the medications may interfere with their ability to perform their job safely. If the use of a medication could compromise the safety of the employee, fellow employees, or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., call in sick, use leave, request a change of duty, notify supervisor, etc.) to avoid unsafe work practices. The County has the sole discretion as to whether or not it will be safe for those employees to remain on duty. As stated above, it is a violation of our **Alcohol and Drug Free Workplace** policy to intentionally misuse prescription medications. Appropriate disciplinary action shall be taken if job performance deteriorates and/or accidents occur.

E. Searches

The County reserves the right, at all times, while employees are entering, departing, or on the premises, properties, and work areas; when circumstances warrant; or when reasonable cause exists, to have properly authorized personnel conduct unannounced reasonable searches and inspections of County facilities. Searches may include the person of the employee and his/her effects (such as, but not limited to, lockers, baggage, briefcases, toolboxes, clothing, and vehicles) for the purpose of determining whether such employee is in possession, use, transportation, or concealment of any of the prohibited items and substances named in this policy.

Searches may be initiated without prior notice and conducted at reasonable times and locations as deemed appropriate by the County. At no time will employees or others be touched without their consent, nor will any clothing be removed during these searches and inspections. Persons who refuse a search or are found to be in possession of substances described in this policy are subject to termination of employment.

F. Co-Worker, Supervisor Obligations

Any employee or supervisor who has observed or has personal knowledge that another employee is using or possessing illegal drugs or alcohol in violation of this policy may choose to make a good faith report to a supervisor or department head. The employee shall refrain from discussing the matter with anyone except appropriate management personnel.

G. Possession of Alcohol on County Premises

Employees may not possess or use alcohol in any County facility with the exception of an authorized function, under the control of the holder of a valid liquor license.

Relevant Information: **U. S. Department of Justice, Title 21 USC, Controlled Substance Act; MCA 39-2-205, et seq.; Appendix C: Drug and Alcohol Free Workplace Acknowledgement Form**

Smoke-Free Workplace

A. Smoking Prohibitions

In compliance with the Montana Clean Indoor Air Act (MCIAA), which bans smoking statewide in all enclosed workplaces in Montana, smoking is prohibited in ALL County vehicles and in ALL County facilities. The County recognizes the need of many of its employees to work in an environment free of tobacco smoke. Smoking is not permitted inside of any County building.

B. Designated Smoking Areas

The County also respects the rights of employees who choose to smoke to make personal decisions without interference, as long as these decisions do not interfere with the rights of other workers or local or state laws. Employees may smoke in designated outdoor smoking areas.

Relevant Information: **Montana Dept. of Health and Human Resources, Montana Clean Indoor Act - MCA 50-40-101, et. seq.**

Personal Appearance and Proper County Representation

A. Proper Representation of the County to the Public

It is the responsibility of all employees to represent the County to the public in a manner which shall be courteous, efficient, and helpful.

B. Proper Personal Appearance While at Work

County employees should be dressed in a manner suitable for the public service environment and to reflect favorably on the County's image. County employees should wear clothing appropriate to ensure their safety in the workplace. Supervisors may develop specific rules appropriate to their workplace. Such policies should be coordinated with Commissioners or the County Attorney.

C. Personal Protective Equipment (PPE)

Employees in positions needing the use of PPE are required to wear the appropriate PPE.

Personal Telephone Calls and Personal Communication Devices

A. Personal Telephone Calls Using County Telecommunication Systems

County-provided phones are to be used for County business and may be used for personal business on a limited basis only. The use of telecommunications equipment for essential personal business (e.g., calls to children, teachers, doctors, day care centers, and family members to inform them of unexpected schedule changes and other essential business) must be kept to a minimum, and not interfere with conducting County business.

It is the employee's responsibility to ensure that no cost to the County results from personal phone calls.

B. Personal Communication Devices

The use of personal communication devices such as cell phones, smart phones, tablets, PDA devices, etc., to communicate, Email, text, or interact with personal social media sites (Facebook, Twitter, etc.) during work hours is prohibited. The use of cell phones for essential personal business (e.g., calls to children, teachers, doctors, day care centers, and family members to inform them of unexpected schedule changes and other essential business) must be kept to a minimum, and not interfere with conducting County business. Personal communication devices such as cell phones may be used for the purposes of conducting County business if necessary.

All personal communication devices must have any tones inaudible to other employees and members of the public. Employees whose jobs require public interaction are not permitted under any circumstances to use a personal communication device while interacting with and servicing members of the public.

Utilizing a computer or personal device that connects with the Internet to visit an offensive site or inappropriate material during work hours or break periods is prohibited and subject to disciplinary action. This prohibition includes sexually explicit or offensive messages or images, cartoons or jokes, ethnic or religious slurs, racial epithets, or any other statement or image that might be construed as harassment or disparagement on the basis of race, color, religion, sex, national origin, age, disability, or any other

status protected by law. Transmitting critical or derogatory statements regarding County employees and political figures on a public social media site may be grounds for disciplinary action up to and including termination.

In order to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rule (See **Employee Personnel Records**) regarding the safeguarding of confidential information, County employees must refrain from the use of Instant Messaging, cell phones, texting, unprotected Email, or any other unsecured communication (e.g., unsecured Bluetooth interfaces or unsecured Internet conferencing) to transmit confidential information regarding County employees or citizens.

Computers, Internet, and Email

All County business equipment, hardware, software, network equipment, communications systems, Internet, Email, and data are the property of the County, and employees can use these only for authorized purposes such as conducting County business. Please see the department head or coordinate with the Information Technology (IT) department for instructions (and when troubleshooting is necessary) about the operation of computers, telecommunication systems, or other electronic devices used on the job. Employees must operate all IT equipment according to manufacturers' user instructions and County policy. All employees must sign the **Computers, Internet, and Email Policy Acknowledgement Form** found in **Appendix D** of this Handbook.

A. Computers

Employees shall not install, modify, or remove any software operating on County computers. Employees may request review of additional software applications that may enhance or improve existing systems. In order to protect the County computer systems from viruses, all diskettes, flash drives, software, etc., should be reviewed and approved by the IT department prior to installation. The IT department is responsible for the overall operation of the County computer systems; and all installation, modification, or removal of software, hardware, or data should be reviewed and approved by the IT department.

Employees shall not use or disseminate codes, access a file, or retrieve any stored communication, other than where authorized, unless there has been prior clearance by the supervisor or department head. All pass codes are the property of the County. No employee may use a pass code that is unknown to the County. Pass codes shall not be written down where they can be found by unauthorized personnel, and will not be shared with other individuals.

B. Internet and Email

Employees should not expect any privacy with County Internet and Email use. The County may monitor Internet use for planning and managing network resources, performance, troubleshooting, and suspected or potential abuse. All messages employees create, send, or retrieve over the County's systems are the property of the County.

County Internet and Email use are available for conducting County business. County employees may not use the County-maintained Internet, intranet, and related services for activities not related to County business. The County recognizes that sometimes an employee may use County computers and Internet for essential types of personal use; however, this must be kept to a minimum and not be excessive.

The creation, transmission, or viewing of any data or images that may be construed to violate the County's **Preventing Harassment and Discrimination Policy** or **Equal Employment Opportunity Policy** is strictly prohibited. This prohibition includes sexually explicit or offensive messages or images, cartoons or jokes, ethnic or religious slurs, racial epithets, or any other statement or image that might be construed as harassment or disparagement on the basis of race, color, religion, sex, national origin, age, disability, or any other status protected by law. None of the County's information technology resources may be used to transmit critical or derogatory statements regarding employees, political figures, or any other persons.

Internet access is provided by the County to assist employees in obtaining work-related data and technology. All Internet data that is composed, transmitted, or received via our computer communications systems is considered to be part of the official records of the County and, as such, is subject to disclosure to law enforcement or other third parties. Employees may also be held personally liable for any violations of this policy.

Nothing in this policy should be construed as prohibiting an employee's right to engage in concerted activity or to discuss the terms and conditions of their work as permitted by the NLRA.

Relevant Information: **Appendix D: Computers, Internet, and Email Policy Acknowledgement Form**

Use of Scented Substances

The ability to perform one's job may be adversely affected by scented substances, i.e., perfume, lotion, oil, and scented deodorants. Staff members are encouraged to inform their supervisor or department head when this situation exists, and County employees may be instructed to stop coming to work with scented substances that bother their fellow employees.

PAY AND BENEFITS

Overtime and Compensatory Time

A. Non-Exempt Overtime Pay

Non-exempt employees (an employee in a position not meeting the definition of *exempt* as defined by the Fair Labor Standards Act, Montana Minimum Wage and Overtime Compensation Act) may receive overtime compensation for hours worked in excess of 40 hours per week at the rate of 1½ times the regular hourly rate of pay. Absences while in a leave status (e.g., annual leave, sick leave, personal leave, etc.) shall not be considered hours worked for the purpose of calculating overtime payments Sheriff's Deputies, Sergeants, Corporals and Under Sheriff shall receive overtime pay rate of 1 ½ times after working 171 hours in a designated 28 day time period. Rural Firemen shall receive overtime pay rate of 1 ½ after working 212 hours in a designated 28 day time period.