

*ADOPTION OF AMENDMENTS TO CHAPTER 3
(COUNTY EMPLOYEES),
ARTICLE 1 (PERSONNEL ADMINISTRATION),
SECTIONS 3-1-1 (PURPOSES OF ARTICLE; DEFINITIONS),
3-1-2 (COUNTY SERVICE AND DIVISIONS THEREOF), AND
ARTICLE 5 (FINANCIAL DISCLOSURES),
SECTION 3-5-2.1 (DISCLOSURES OF FINANCIAL INTEREST)
OF THE 1976 CODE OF THE COUNTY OF FAIRFAX,
VIRGINIA*

At a regular meeting of the Board of Supervisors of Fairfax, County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Tuesday, January 24, 2023, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted amendments regarding Chapter 3 (County Employees), Article 1 (Personnel Administration), Sections 3-1-1 (Purposes Of Article; Definitions), 3-1-2 (County Service and Divisions Thereof), and Article 5 (Financial Disclosures), Section 3-5-2.1 (Disclosures Of Financial Interest) of the 1976 Code of the County of Fairfax, Virginia, said amendments so adopted being in the words and figures following, to wit:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX

COUNTY, VIRGINIA:

That Chapter 3 (County Employees), Article 1 (Personnel Administration), Sections 3-1-1 (Purposes Of Article; Definitions), 3-1-2 (County Service and Divisions Thereof), and Article 5 (Financial Disclosures), Section 3-5-2.1 (Disclosures Of Financial Interest) is amended as follows:

**AN ORDINANCE AMENDING
ARTICLES 1 AND 5 OF CHAPTER 3 OF THE FAIRFAX COUNTY CODE, RELATING
TO PERSONNEL ADMINISTRATION AND FINANCIAL DISCLOSURES**

As Adopted (Redline)

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Section 3-1-1 relating to Purposes of Article; definitions, 3-1-2, County Service and divisions thereof, and 3-5-2.1, Disclosures of financial interest.

Be it ordained by the Board of Supervisors of Fairfax County:

1. That Sections 3-1-1, 3-1-2 and 3-5-2.1 of the Fairfax County Code are amended and readopted as follows:

Article 1. – Personnel Administration.

Section 3-1-1, Purposes of Article; definitions.

(a) *Purposes.* The purposes of this Article are:

- (1) To place personnel administration on a merit basis in order to attract and retain for public service in the County Government employees with integrity and superior ability;
- (2) To strengthen the effectiveness of the County Government through the improvement of personnel administration;
- (3) To provide for a County merit system under which recruitment, appointment, and advancement of covered employees will be on a competitive basis, free of discrimination on the basis of race, color, national origin, religion, sex, age, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, military status, political affiliation, disability, or genetic information, and which will be administered in conformity with the Merit Principles set forth by the U.S. Office of Personnel Management (5 CFR 900) under authority of the Intergovernmental Personnel Act of 1970, as amended;
- (4) To provide for an exempt service which will be limited to positions so designated in accordance with this Article or by Personnel Regulations.

(b) *Authority.* The authority for this article is contained in *Va. Code Ann. § 15.2-1506*, which reads, in part, as follows: "Notwithstanding any other provision of law to the contrary, the governing body of every county, city and town which has more than fifteen employees shall establish by June thirty, nineteen hundred seventy-four, a grievance procedure for its employees to afford an immediate and fair method for the resolution of disputes which may arise between such public employer and its employees and a personnel system including a classification plan for service and uniform pay plan for all employees;" *Va. Code Ann. § 15.2-807*, which reads, in part, as follows: "All appointments shall be on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform;" and *Va. Code Ann. § 15.2-1500.1* which explicitly prohibits discrimination in employment on the "basis of race, color, religion, national origin, sex, pregnancy, childbirth

or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran." ¹

(c) *Applicability.*

- (1) This Article applies to all employees in the administrative service of the County who are appointed by the Board of Supervisors, County Executive or the head of a department, as provided in *Va. Code Ann. §15.2-807*.²
- (2) This Article and any regulations or administrative directives or procedures issued under its authority also may be applied to designated employees of other public agencies within the County, pursuant to written agreements between the heads or governing boards of such agencies and the Human Resources Director of the County, subject to approval of the County Executive and Board of Supervisors, to the effect that the conditions of employment of such employees are to be administered under this Article in the same manner as if those employees were in the administrative service of the County.³

(d) *Severability.* Should any article, section, subsection, sentence, clause, or phrase of this ordinance, for any reason, be held unconstitutional or invalid for any reason, such decision or holding shall have no effect on the validity of the remaining portions hereof. It is the intent of the Board of Supervisors to enact or have enacted each section, and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.

(e) *Definitions.*

- (1) *Personnel Regulations.* A body of rules governing County personnel administration issued under authority of this Article by the Board of Supervisors after consideration of the recommendation of the County Civil Service Commission and having the effect of ordinance.

¹ As to appointment, tenure, suspension or removal and compensation of officers and employees, see *Va. Code Ann.*, § 15.2-807, 15.2-808 and 15.2-809.

² Wherever used in this Article, the term "department" means "department," "office," "agency," or other administrative unit, the director of which reports to the County Executive, either directly or via a deputy county executive, or to the Board of Supervisors. Elected officials, persons appointed to fill vacancies in elective offices, and members of boards, authorities and commissions appointed by the Board of Supervisors are not employees in the sense of this article, although they may be compensated and receive such other benefits as State law or regulations, County ordinance or the Board of Supervisors may authorize.

³ Public agencies authorized to execute such agreements include (but are not limited to) the offices of Constitutional Officers and individual members of the Board of Supervisors, the School Board, the Library Board, the Park Authority, the Housing Authority, the Fairfax/Falls Church Community Services Board, the Economic Development Authority, the Water Authority, the Industrial Authority, similar agencies established by the Board of Supervisors in the future, community centers and other service agencies established in small districts under authority of the Board of Supervisors, and State agencies located in and serving the County where such agreements are consistent with State law and regulations. Employees whose conditions of employment are to be administered pursuant to such agreements may be either merit system or exempt employees, as defined in this Article, whichever is specified in the applicable agreement.

- (2) *Competitive service.* All positions not specifically designated as exempt positions in accordance with this Article, and the employees appointed to fill such positions. Competitive positions must be filled in accordance with merit principles. Persons in the competitive service are considered career employees. They have all rights, benefits, privileges, protections and obligations set forth in this Article and Personnel Regulations.
- (3) *Exempt service.* Positions which are specifically so designated in accordance with this article and Personnel Regulations, and employees appointed to fill such positions. Exempt personnel are not merit employees. They may be appointed, classified, promoted to other exempt positions, demoted to other exempt positions and discharged without regard to the restrictions contained in this Article and Personnel Regulations, which apply to the competitive service. They are entitled to only such employee rights and benefits as are provided for various categories of exempt personnel elsewhere in this Article and Personnel Regulations or by the Board of Supervisors or in procedural directives issued by the County Executive or his or her designee.
- (4) *Full-time position.* Any position, whether authorized for the competitive service or exempt, which is authorized to be filled for at least 2080 scheduled hours in 12 consecutive months.
- (5) *Part-time position.* Any position, whether authorized for the competitive service or exempt, which does not meet the above criteria for full-time positions.
- (6) *Full-time employee.* Any employee, whether in the competitive service or exempt, who is regularly scheduled to work at least 2080 hours in 12 consecutive months.
- (7) *Part-time employee.* Any employee, whether in the competitive service or exempt, who does not meet the above criteria for full-time employees.
- (8) *Probationary employee.* Any employee in the competitive service serving in a probationary appointment as defined in § 3-1-13 of this Article and Personnel Regulations.
- (9) *Merit system.* The system of personnel administration applicable to the competitive service. It includes the provisions of this Article, other applicable provisions of County ordinances, County Personnel Regulations and all applicable and lawful personnel management directives of the Board of Supervisors, County Executive or Human Resources Director.
- (10) *Merit employee.* Any employee in the competitive service.
- (11) *Department Head.* An employee appointed by the Board of Supervisors or the County Executive to oversee, direct, or manage a major functional division of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. All department head positions are assigned to the exempt service. All persons appointed as department heads on or after July 1, 1987, are exempt employees. Any department head appointed as a department head by the Board of Supervisors on or after July 1, 1987, may be removed by the Board of Supervisors with or without cause and in any event, may not grieve his or her removal under the County's grievance procedures. Any department head appointed by the County Executive may be removed by either the Board of Supervisors or the County Executive with or without cause and in any event, may not grieve his or her removal under the County's grievance procedure.

- (12) *Military Status*. Means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.
- (13) *Religion*. The term "religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

Section 3-1-2, County service and divisions thereof.

- (a) The County service shall be divided into an exempt service and a competitive service. Exempt employees shall not be appointed to positions in the competitive service except through the competitive process specified in this Article and in Personnel Regulations. A member of the exempt service may become a member of the competitive service only through appointment to a position in the competitive service through the competitive selection process specified in this Article and in the Personnel Regulations. Thus, service in the exempt service shall not by itself permit an employee to become a member of the competitive service.
- (b) The following employees shall constitute the exempt service.
- (1) The County Executive, County Attorney, deputy county executives, ~~assistant county executive~~, executive assistants to the County Executive, department heads appointed after July, 1987 and office staffs of members of the Board of Supervisors.
 - (2) Employees who are engaged under contracts.
 - (3) Employees appointed under the provisions of the procedural directives governing the exempt service with hours limited to 1560 in one calendar year if employed in an exempt-benefits-eligible position, or 900 in one calendar year if employed in an exempt-temporary position.
 - (4) Employees administered pursuant to an agreement executed in accordance with § 3-1-1(c)(2) of this Article, provided that they are designated exempt in such an agreement.
 - (5) Assistant registrars and all election officials employed by the Electoral Board.
 - (6) Employees who are providing services pursuant to requirements contracts such as fee class instructors.
- (c) The County Executive shall issue procedural directives, with the approval of the Board of Supervisors, for administration of the exempt service. Only such provisions of this Article and of Personnel Regulations, which specifically state that they are applicable to exempt employees, or which are made applicable through procedural directives provided herein, shall apply to the exempt service.
- (d) All other employees to whom this Article applies are in the competitive service, except as otherwise provided by state law or regulation. They shall be appointed, promoted, demoted, transferred or dismissed solely on the basis of merit and fitness in accordance with the provisions of this Article and Personnel Regulations.

Article 5. – Financial Disclosures.

Section 3-5-2.1. Disclosures of financial interest.

(a) As a condition to assuming or holding office or employment, members appointed by the Board of Supervisors to the following entities shall file a disclosure statement of their personal interests and other information as is specified in the form or forms identified in *Virginia Code* §§ 2.2-3115 and 2.2-3117 at such times and for such periods as is required by state law: (1) the Planning Commission, (2) the Board of Zoning Appeals, (3) the Fairfax County Economic Development Authority, (4) the Fairfax County Industrial Development Authority, (5) the Fairfax County Library Board, (6) the Fairfax County Employees' Retirement System Board of Trustees, (7) the Fairfax County Police Officers Retirement System Board of Trustees, (8) the Fairfax County Uniformed Retirement System Board of Trustees, (9) the Fairfax County Park Authority, (10) the Fairfax County Redevelopment and Housing Authority, (11) the Fairfax County Water Authority, (12) the Mosaic District Community Development Authority, (13) the Fairfax County Wetlands Board, and (14) the Upper Occoquan Sewage Authority.

No person described in this subsection shall enter office and participate or vote as a member of any board, authority, or commission until a completed disclosure form, as required by this subsection, has been filed with the Clerk for the Board of Supervisors. For purposes of this subsection, the word "appointment" shall include any person who is appointed directly by the Board of Supervisors or any person whose appointment is confirmed after being elected, nominated, or recommended by any community group or group of employees for any of the boards, authorities, and commissions listed above.

(b) As a condition to assuming or holding office or employment, the following persons shall file a disclosure statement of their personal interests and other information as is specified on the form or forms identified in *Virginia Code* §§ 2.2-3115 and 2.2-3117 at such times and for such periods as is required by state law: the County Executive, all Deputy County Executives, ~~the Assistant County Executive~~, the County Attorney and all deputy, senior assistant, and assistant county attorneys, all County Department heads, and County employees who hold positions classified at or above the following pay grades: A-1, M-1, S-32S-33, P-27, F-29, and O-28, except psychiatrists who are employed as such by the Fairfax-Falls Church Community Services Board.

(c) As a condition to assuming or holding employment, the following employees also shall file a disclosure statement of their personal interests and other information as is specified on the form or forms identified in *Virginia Code* §§ 2.2-3115 and 2.2-3117 at such times and for such periods as is required by state law:

- (1) Health Department: Public Health Laboratory Director.
- (2) Department of Finance: The Insurance Manager.
- (3) Department of Transportation: All Transportation Planners V; all Engineers V.
- (4) Retirement Administration Agency: All Senior Investment Managers.

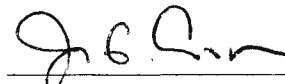
(d) The individuals listed in subsections (a), (b) and (c) shall file a completed disclosure form, as required by subsections (a), (b) and (c), with the Clerk for the Board of Supervisors on or before the day such office or position of employment is assumed.

(e) The County Executive is hereby authorized and directed to issue procedural memoranda governing the administration of the filing of the Statement of Economic Interests forms identified in *Virginia Code* § 2.2-3117, the financial disclosure forms identified in *Virginia Code* § 2.2-3118, and the real estate disclosure forms required under *Virginia Code* § 2.2-3115(G). The procedural memoranda shall address the filing of such forms by any individual required to file by this Article, by designation by the Board of Supervisors or by state law.

2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity will not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

3. That the amendment to Section 3-1-1 is effective July 1, 2022, and the amendments to Section 3-1-2 and 3-5-2.1 are effective upon adoption.

GIVEN under my hand this 24th day of January, 2023.



Jill G. Cooper

Clerk for the Board of Supervisors