

ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM

Section 1. Purpose

The purpose of this Ordinance is to establish a personnel system that shall promote a fair and effective means of employee recruitment and selection; develop and maintain an effective and responsible work force; promote understanding, cooperation, equal treatment, and efficiency; and provide the means for removal of unsatisfactory employees. This Ordinance is established under the authority of G.S. 153A, Article 5, and G.S. 126 of the General Statutes of North Carolina.

Section 2. Coverage

- A. All employees in the County's service are subject to this ordinance, except as provided in this section.
- B. Elected officials, the County Manager, the County Attorney, the Finance Director, the Clerk to the Board, consultants, volunteers, temporary and/or contract employees are exempt from the provisions of this Ordinance.
- C. The following employees are covered only by the specifically designated articles and sections:
 - *1. The Director of Elections and all permanent employees of the County Board of Elections shall be subject to all articles except articles IV, V, VIII, and IX.
 - 2. Employees of the County Sheriff and the Register of Deeds shall be subject to all articles except article VIII.
 - 3. Employees subject to the jurisdiction of the North Carolina State Personnel Commission shall be subject to all articles except article II.

Section 3. Definitions (Listed Alphabetically)

Adverse Action. An involuntary demotion, an involuntary reduction in pay, an involuntary transfer, a suspension without pay, a layoff, or a dismissal.

Aggregate Service. The employee's combined total period of countable service (i.e., employment within a non-temporary position) as an employee of Buncombe County, inclusive of any time allowed as transfer credit from another jurisdiction for the purpose of determining entitlement to the particular benefit in question. Aggregate service for

* Revision 12/7/05

retirement purposes refers to total length of service under which retirement contributions are paid into the Local Government Employees Retirement System by the employee. Aggregate service for determining the rates at which annual leave and sick leave are earned by an employee is determined from the total years of service with Buncombe County only. *Employees rehired on or after August 1, 2002 will no longer be eligible to restore their previous years of service for determining annual leave accrual rate, longevity payment, and/or service award.

Anniversary Date. The date of successful completion of the probation period.

Appointing Authority. Any County board, official, or elected official with the legal authority to make hiring decisions.

Classification. A class or group of job classes having similar duties and responsibilities requiring similar qualifications, which can be properly designated by one title indicative of the nature of work performed, and which carry the same salary range.

Demotion. The reassignment of an employee to a position or a classification having a lower salary range than the position or the classification from which the reassignment is made; or the reduction in pay of an employee without also reassigning the employee to a position or classification having a lower salary range.

Exempt Employee (Fair Labor Standards Act Status). Full- and part-time employees who have been classified as "Exempt" from the overtime provisions of the Fair Labor Standards Act are paid for the accomplishment of assigned accountabilities rather than being paid for the number of hours worked in a work period. These include executive, administrative and professional staff of the County.

Full-Time Employee.

- A. Permanent - An employee, appointed to a permanently budgeted position, who is regularly scheduled to work the standard work period established by the County.
- B. Temporary - An employee, appointed to a temporarily or permanently established position, for a temporary period of time, who is scheduled to work the standard work period established by the County.

Grievance. A claim or complaint alleging an event or condition which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established ordinance pertaining to employment conditions. A grievance may involve allegations of involuntary demotion, suspension, dismissal, sexual harassment, discriminatory practices, and/or hostile work environment. A grievance is not allowed for Investigatory Suspension or voluntary demotion.

* Revision 8/1/2002

Hatch Act. A federal act limiting political activity for state and local government employees whose principal employment is in an activity that is financed either in whole or in part by loans or grants from the federal government in order to limit possible bias and political coercion.

Hiring Rate. The salary paid an employee when hired into County service, normally within the first quartile of the salary range.

Maximum Salary Rate. The maximum salary authorized by the pay plan for an employee within an assigned salary grade.

Non-Exempt Employee (Fair Labor Standards Act Status). Full- and part-time employees who have been classified as "Non-Exempt" from the overtime provisions of the Fair Labor Standards Act and who must be paid for overtime hours worked or given compensatory time off in accordance with the guidelines in this Ordinance. Overtime is paid or compensatory time off is given to non-exempt employees for hours worked in excess of the standard work periods established by the County.

Part-Time Employee.

- A. Permanent Part-time Employee - An employee appointed to a permanently budgeted position who is regularly scheduled to work less than the standard work period established by the County.
- B. Temporary Part-time Employee - An employee appointed to a temporarily or permanently budgeted position, for a temporary period of time, who is scheduled to work less than the standard work period established by the County.

Pay Plan. A schedule of pay ranges arranged by sequential rates for each classification assigned to a salary range.

Permanent Employee. An employee who has successfully completed the probationary period and has been approved for permanent status by his/her department head (with the approval, where applicable, of the County Manager and/or Human Resources Director).

Permanent Full-Time Position. A position that has been approved by the Board of County Commissioners, the duties and responsibilities of which are required to be performed on a continuous basis, normally requiring full-time employment of an individual.

Permanent Part-Time Position. A position that has been approved by the Board of County Commissioners, the duties and responsibilities of which can be performed in less than a regular work day and/or work period.

Position. A group of current duties and responsibilities requiring the full or part-time employment of one person.

Position Classification Plan. A plan approved by the Board of County Commissioners that assigns classes (positions) to the appropriate pay grade.

Probationary Employee. An individual appointed to a permanent position who has served less than the probationary period in the position. (See Article IV, Section 10.)

Probationary Period. The required period of time an employee serves before obtaining permanent status when entering County service.

Promotion. The reassignment of an employee to an existing position or classification in the County service having a higher salary range than the position or classification from which the reassignment is made.

Reclassification. The reassignment of an existing position from one classification to another based on changes in job or job class content.

Salary Grade. All positions which are sufficiently comparable to warrant one range of pay rates.

Salary Plan Revision. The uniform adjustment of the salary ranges of every grade within the pay plan.

Salary Range. The minimum and maximum salary levels for a given classification.

Salary Range Revision. The adjustment of the salary range for one or more specific classifications of positions within the classification plan.

Salary Schedule. A listing by grade and quartile of all the approved minimum and maximum salary ranges authorized by the Board of County Commissioners for various position classifications of the County.

Temporary Employee. An individual appointed to serve in a position for: (1) performing hourly work on an as needed basis, (2) completing a specific job, or (3) performing work for an indefinite duration.

Temporary Position. A position for which the duties and responsibilities are required to be performed which may or may not require attendance by a person for a full work-day and/or work period.

Trainee. An employee designated as such, appointed to a position in any class for which the corresponding appointing authority, County Manager and/or Human Resources Director has authorized "trainee" appointments. An individual may not be appointed as a trainee if he/she possesses the acceptable training and experience for the regular class, and must be appointed

to the regular class when he/she gains the acceptable training and experience. A trainee must be paid at a rate below the minimum of the regular classification.

Transfer. The reassignment of an employee from one position or department to another.

Work-Against Appointment. When suitable qualified applicants are unavailable, and there is no trainee provision for the classification of the vacancy, the appointing authority may appoint an employee below the level of the regular classification in a work-against situation, provided an appropriate work-against classification is available. A work-against appointment is for the purpose of allowing the employee to gain the qualifications needed for the full class through on-the-job experience. The appointee must meet the minimum education and experience requirements of the class to which initially appointed.

For example, an applicant meeting the education and experience requirements for a Social Worker I classification may be hired in work-against status to fill a vacancy for a Social Worker III position for which the County has been unable to recruit a suitable applicant possessing the education and experience requirements of a Social Worker III position. An employee thus hired would be classified and paid as a Social Worker I until such time as the minimum education and experience requirements are met. A work-against appointment may not be made when applicants deemed suitable for the position are available who meet the education and experience requirements for the full class for the position in question.

Section 4. Merit Principle

All appointments and promotions hereunder shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for County employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap or age.

Section 5. Responsibility of Board of County Commissioners

The Board of County Commissioners shall establish a Personnel Ordinance, including the classification and pay plan, and shall make and confirm appointments when required by law.

Section 6. Responsibility of County Manager

The County Manager shall be responsible to the Board of County Commissioners for the administration of the personnel program subject to his/her authority. The County Manager shall appoint, suspend, and remove all County employees under guidelines established in the Personnel Ordinance, except those elected by the people or whose appointment is otherwise provided for by law. The County Manager shall make appointments, dismissals, and suspensions in accordance with 153-A-82 of the General Statutes of the State of North Carolina and Articles IV, V, VII, and VIII of this Personnel Ordinance.

An official copy of the Personnel Ordinance and rules shall be available in the County Manager and/or Human Resources Director's office. The corresponding appointing authority, County Manager and/or Human Resources Director shall provide written procedures and forms necessary for the proper administration of the Ordinance set forth in this manual, and shall instruct staff in their appropriate use. Any questions concerning the application or interpretation of the Ordinance's guidelines or rules stated herein shall be directed by employees through appropriate supervisory channels. Any questions on the part of department heads concerning the applicability or interpretation of the Ordinance's guidelines or rules should be directed to the corresponding appointing authority, County Manager and/or Human Resources Director before proceeding.

Section 7. Responsibility of the Human Resources Director

- A. Unless otherwise stated in the policies of this ordinance, the Human Resources Director shall be responsible for the administration of the policies and procedures and recommend to the County Manager revisions to this document for approval by the Board of County Commissioners; recommend revisions to the (1) position classification plan, (2) pay plan, (3) leave policies, (4) retirement, health insurance, and other employee benefits; investigate periodically the operation and effect of this document; establish and maintain a roster of all persons in the County services, setting forth (1) each supervisor and employee, (2) position (3) salary, (4) any change in position and status, and (5) such data as may be deemed desirable or useful; develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the County.
- B. The Human Resources Director shall be responsible for keeping policies and procedures in conformance with any legal requirements which may be imposed by other levels of government.
- C. The Human Resources Director shall be responsible for furnishing advice, technical direction and assistance to County Departmental Directors and administrative staff in effectuating this ordinance; including devising and implementing detailed procedures and records.
- D. The Human Resources Director shall also be responsible for performing such other duties as may be assigned by the County Manager, not inconsistent with this document.

Section 8. Responsibility of Employees

- A. County employees are expected to keep a neat, well-groomed appearance while on duty.

- B. County employees are expected to be at work on time. In emergency cases you must notify your Supervisor immediately if you shall arrive late.
- C. County employees are expected to conduct themselves in a business-like manner, avoiding loud behavior or discussing personal problems within hearing range of visitors.
- D. County employees are responsible for their personal obligations and must handle them privately. Do not permit personal obligations to extend into business premises.
- E. Utilize materials and equipment with care, caution, and economy. Follow the procedures which you have learned step-by-step.
- F. Strive to perform your job duties more effectively each day. Learn more about your work and how to improve it by asking questions and by reading related materials. Ideas for suggested improvements are encouraged to be brought to your immediate supervisor and/or through the County Suggestion Program.
- G. County employees are part of the public relations image for Buncombe County. Be pleasant and helpful to visitors. Employees are servants of the people and should project a professional courteous and helpful attitude to all visitors and callers.
- H. County employees are expected to perform ethically.
- I. Resolve any problems and conflicts by going to the person to whom you are responsible. Departmental problems should remain in the department and not become general gossip.

ARTICLE II. CLASSIFICATION PLAN

Section 1. Policy Statement

All positions covered by this Ordinance are to be classified according to their duties, responsibilities, qualifications needed of incumbent employees, and other related factors. In order to assure its continuing value as a personnel management tool, the classification plan shall be maintained to reflect the current work assignments and other conditions and requirements which are factors in proper classification and allocation of positions.

Section 2. Allocation of Positions

The Human Resources Director shall allocate each position covered by the classification plan to its appropriate class and salary grade in the plan. New positions shall be established only with the approval of the Board of Commissioners upon recommendation of the County Manager and*/or the Human Resources Director.

**Any grant application that involves additional staff (independent contractor, temporary, designated grant FTE) must be reviewed and approved at the County Manager/Assistant County Manager level prior to submission of application.

***Section 3. Administration**

- A. The County Manager or Human Resources Director, as designed by the County Manager, shall be responsible for the administration and maintenance of the position classification plan so that it shall accurately reflect the duties performed by employees in the classes to which their positions are allocated. After classification, each position shall be assigned to a pay grade in the classification plan. Departmental Directors shall be responsible for bringing to the attention of the County Manager and/or Human Resources Director (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classification of any existing positions.
- B. New positions shall be established with the recommendation of the County Manager and/or Human Resources Director and approval of the Board of County Commissioners after which the Human Resources Director shall either (1) allocate the new position to the appropriate class within the existing classification plan or (2) recommend that the Board of County Commissioners amend the position classification plan to establish a new class to which the new position may be allocated.
- C. When the Human Resources Director finds that a substantial change has occurred in the nature of level of duties and responsibilities of an existing position, the Human Resources Director shall (1) direct that the existing class specification be revised, (2) reallocate the position to the appropriate class within the existing classification plan, or (3) recommend that the Board of County Commissioners amend the position classification plan to establish a new class to which the position may be allocated.

** Effective 09/02/08

* Revision 08/05/08

***Section 4. Amendment**

Classes of positions shall be added to and deleted from the position classification plan by the Board of County Commissioners based on the recommendation of the County Manager and/or Human Resources Director.

***Section 5. Procedures for Change**

- A. The classification plan may have additional classes added or have classes deleted from time to time as needs of the County organization requires. The Board of County Commissioners shall approve the creation or deletion of any class.
- B. When a Departmental Director believes that a new class is needed, either to add a new field of employment or to reflect additional levels of work within an existing series of classes, the Human Resources Director shall be furnished a written statement of proposed duties for the new class, and other information as necessary.
- C. A class shall be deleted from the classification plan when the Board of County Commissioners, with the recommendation of the County Manager and/or Human Resources Director has determined that it no longer is being used or needed for the positions in the County organization.

Section 6. Reclassification of Positions

An employee may request that the classification of his/her position be changed, or the position be reallocated to another class.

- A. The employee shall submit the request in writing to the immediate Supervisor.
- B. The Supervisor shall transmit the employee's request to the Human Resources Director, together with his/her recommendations and approval of the Departmental Director.
- C. The Human Resources Director shall review the recommendation and shall approve, disapprove or reclassify the position to an existing classification or recommend to the County Manager establishment of a new class for approval by the Board of County Commissioners.

ARTICLE III. PAY PLAN

* Revision 08/05/08

Section 1. Adoption

The salary schedule, as approved by the Board of County Commissioners, is hereby adopted as the pay plan for Buncombe County.

***Section 2. Maintenance**

The Human Resources Director shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions when considered in relation to each other, to comparable rates of pay for similar employment in the private and public sector in the competitive labor market, to changes in the cost of living, to financial conditions of the County, and other objective factors. To this end, the Human Resources Director may, from time to time, conduct comparative studies of all factors affecting the level of salary ranges.

Section 3. Administration

The pay plan shall be administered in a fair and systematic manner in accordance with work performed. The pay structure should be externally competitive, and should maintain proper internal relationships among all positions based on relative duties and responsibilities.

Section 4. Hiring Rate/Starting Salary

*The minimum rate established for the class is the lowest rate of the first quartile on the salary schedule. Appointment may be made anywhere within the first *or second quartile upon recommendation of the Departmental Director and approval of the Human Resources Director. Appointment within the *third quartile may be made upon the recommendation of the Departmental Director and Human Resources Director, and approval of the County Manager. Appointment within the fourth quartile must have the Board of County Commissioners' approval. Above the *second quartile, appointment shall be based on such factors as the qualifications of the applicant being higher than the minimum education and training for the class, and a shortage of qualified applicants to accept employment within the first *or second quartile on the salary schedule.

*A. If a Departmental Director desires to recommend appointment of a new employee above the *second quartile on the salary schedule, he/she shall submit written recommendations to the Human Resources Director prior to submitting the proposed appointment.

B. The Human Resources Director shall study the recommendations of the Departmental Director and make recommendations to the County Manager prior to consideration of the proposed appointment.

Section 5. Salary Advancement

* Revision 07/01/07

- A. Upon successful completion of the probationary period, an employee shall receive a pay increase of between zero and four and one-half percent in salary upon recommendation of the Supervisor and approval by the Departmental Director and Human Resources Director.
- B. The Supervisor shall review the work performance of the employee just prior to the employee's ~~**anniversary~~ probationary date, and submit recommendations in writing to the Departmental Director and Human Resources Director as to whether or not the employee should receive a salary increase using the County's ~~** Probationary Employee Performance Evaluation and Development Program~~.
- C. If a Supervisor has recommended that an employee receive a salary increase, the Human Resources Director, with the approval of the Departmental Director, shall transmit the Supervisor's recommendations to the County Manager for his consideration and approval.
- D. All salary increases shall be granted subject to availability of funds in the departmental appropriations.

Section 6. Payment at a Rate Within the Salary Range

Employees covered by the salary plan shall be paid at a rate within the salary ranges established for their respective job classes except for employees in a trainee status or employees whose present salaries are above the established maximum rate following transition to a new pay plan *or workweek hours.

When an employee attains the maximum rate of a salary range for his/her present position, no further salary increase shall be received unless (1) the position is reclassified to a higher salary range, (2) the employee is promoted to another position with a higher salary range, or (3) the salary range for the present position is increased.

Section 7. Trainee Salary

An applicant hired, or an employee promoted to a position in a higher class, who does not meet all the established requirements of the position, shall be appointed with the approval of the corresponding appointing authority, County Manager and/or Human Resources Director in a "trainee" or "work-against" status. In both the "trainee" or "work-against" status, employees shall be paid at the lower level position salary grade which does not exceed the minimum - of the higher level position. An employee in a "trainee" or "work-against" status shall continue to receive a reduced salary until the corresponding appointing authority, County Manager, and/or Human Resources Director shall determine that the employee is qualified to assume the full responsibilities of the position.

Section 8. Pay Rates in Promotion, Demotion, Transfer, and Reclassification

** Revision 07/01/08

* Revision 07/01/07

When an employee is promoted, demoted, transferred or reclassified, the rate of pay for the new position shall be established as follows:

- A. An employee who is promoted shall customarily receive at least a two and one-quarter percent increase or an increase to the minimum rate of the new pay grade above the normal entry hiring rate, whichever is higher. Additional increases may be made upon the recommendation of the Departmental Director, Human Resources Director, and approval of the County Manager.
- B. An employee who is demoted may have his/her salary left the same or reduced to any rate in the lower grade.
- C. An employee transferring from a position in one class to a position in another class assigned to the same pay range shall continue to receive the same salary.
- D. An employee whose position is reclassified to a class having a higher salary range shall receive at least a two and one-quarter percent increase or an increase to the minimum rate of the new pay range above the normal entry hiring rate, whichever is higher. If his/her position is reclassified to a lower pay range and the employee is receiving a salary above the maximum rate established for the new class, the salary of the employee may be maintained at the level until such time as the employee's pay range is increased above the employee's current salary.
- E. An employee who has received a promotion or a reclassification of his/her position shall not be required to serve a new probationary period.

Section 9. Pay Rates in Salary Range Revision

When the *Board of County Commissioners approves a change in salary range for a class of positions, the salaries of employees whose positions are allocated to that class shall be affected as follows:

- A. When a class of positions is assigned to a higher pay range, employees in that class shall receive at least a two and one-quarter percent pay increase or an increase to the minimum rate above the normal entry hiring rate of the new range, whichever is higher.
- B. When a class of positions is assigned to a lower pay range, the salaries of employees in that class shall remain unchanged. If this assignment to a lower pay range results in an employee being paid at a rate above the maximum established for the new class, the salary of the employee shall be maintained at that level until such time as the employee's pay range is increased above the employee's current salary.
- C. If the Board of County Commissioners, at its discretion, provides funds through appropriation for an across-the-board increase, then the pay plan shall be revised upward

* Revision 08/05/08

for all grades and ranges, so that employees receive a percentage increase. Each employee's grade assignment shall remain the same.

Section 10. Pay for Part-Time Work

Compensation of any employee appointed for less than the standard work period established by the County shall be computed on a hourly basis. All employees who work less than the standard work period established by the County shall be covered by Workers' Compensation and Social Security. Other benefits are available as provided in Articles VI and VII.

Section 11. Overtime

- A. The County abides by all applicable sections of the Fair Labor Standards Act and the Fair Labor Standard Amendments of 1986. The County shall properly record all applicable overtime accrued for each covered employee. This overtime policy is applicable only to employees of Buncombe County who are "Non-Exempt" under the Fair Labor Standards Act. If any area of this section is in conflict with the FLSA, then the FLSA shall supersede.

- B. Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Employees are not to perform work during breaks or at any time that they are not scheduled to work unless they receive approval from their supervisor, department head, County Manager or corresponding appointing authority except in cases of emergency. An emergency exists if a condition arises that could reasonably result in damage to property or persons or that requires the immediate attention of the employee. Employees who work excess hours because of an emergency shall advise their immediate supervisor of the overtime worked as soon as practical following completion of the work.

Based upon the provisions of the Fair Labor Standards Act, a non-exempt employee's work which has not been requested by management but is endured or permitted is considered work time. Therefore, when an employee voluntarily works prior to or after his regularly scheduled work day, and it is endured or permitted, it is considered overtime hours when in excess of ~~37.5~~ 40 hours in the work-week, although the work had not been specifically authorized.

Department heads are responsible for ensuring that overtime hours are authorized, recorded, and properly documented for compensatory time off or overtime pay in accordance with the established record keeping forms and instructions.

- C. Computation for overtime shall include actual work hours over and above the standard work hours for a five (5) day work period for non-law enforcement employees. For non-

law enforcement personnel, computation for overtime hours shall be at the standard rate of one hour per hour worked up to forty (40) hours per week, and at one and one-half hours per hour worked above 40 hours per week.

- D. Computation for overtime shall include actual hours worked over and above the scale set for EMS and Sheriff employees in accordance with FLSA.
- E. Sick leave, holidays, annual leave, and compensatory time off in a work period shall not count toward computing overtime hours.
- F. It is the goal of Buncombe County to provide a work load that can be processed within the normal working day. Work in excess of the regular schedule is discouraged unless absolutely necessary. Compensatory time is earned by all non-exempt employees who work additional time in conducting County business. The Human Resources Director's Office maintains a listing of all non-exempt and exempt positions.

Non-exempt personnel scheduled to work on an on-call basis shall earn one and one-half hours compensatory time for each hour actually worked during on-call duty outside of normally scheduled work hours. The time these employees work should be recorded daily on their time sheets. If work is conducted outside of regular hours, the nature of work should be recorded on the time sheet.

Department heads shall be responsible for administering their compensatory policies by allowing employees to take accrued compensatory time in a timely manner so that compensatory hours shall not accrue to excessive levels. In situations in which compensatory time off is not practical non-exempt employees shall be paid monetary compensation included in the employee's regular paycheck for overtime; however, overtime monetary compensation must be approved by the immediate supervisor and/or Department head.

- G. On-Call Time spent by an employee who is required to remain on-call and is unable to use the time for his/her own purposes is considered working time. Employees who are merely required to leave notification as to where they may be reached are not considered On-Call as stated above.
- H. Employees who work on a holiday shall receive either payment for two days of work or payment for one day and receive a compensatory day off with pay at a later date. This choice shall be the employees' with the approval required from the Departmental Director.
- I. An employee who is "Called Back" to work for a Call-Back Emergency situation, outside his/her regularly scheduled hours, shall be paid a minimum of three hours base hourly pay for the first call and a minimum of two hours for the second call. For

Sheriff's department employees with issued vehicles, a minimum of one hour of base pay for the first and second call shall be allowed. If further calls back to work are made the same twenty-four hour period, the employee shall receive actual (portal to portal) time for these calls.

Overtime Rates For Non-Exempt Employees

When overtime is paid, it is at the rate of one and one-half (1 ½) times the employee's regular hourly equivalent salaried rate for those hours worked in excess of forty (40) hours per week for non-law enforcement personnel. If the employee's standard five (5) day work period is thirty seven and one-half (37.5) hours then the employee's regular hourly equivalent salaried rate is calculated by dividing the annual full-time salary by 1,950.

Annual full-time salary / work hours assigned = regular hourly rate

Overtime pay, greater than 37.5 hours but less than 40 hours = Regular hourly rate x 1.0 x overtime hours

Overtime pay, greater than 40 hours = Regular hourly rate x 1.5 x overtime hours

Overtime Rates For Non-Exempt Law Enforcement Employees

When overtime is paid, it is at the rate of 1 1/2 times the employee's regular hourly equivalent salaried rate for those hours worked in excess of an assigned FLSA approved work schedule. The employee's regular hourly equivalent salaried rate is calculated by dividing the annual full time salary by 2,080.

Annual full time salary / 2,080 = regular hourly rate

Overtime pay = regular hourly rate x 1.5 x overtime hours

- J. Non-exempt employees who work in public safety activities (Deputies and Jailers) may accrue not more than 480 hours of compensatory time for overtime hours worked after April 15, 1986. All other non-exempt employees may accrue not more than 240 hours of compensatory time for overtime hours worked after April 15, 1986.
- K. On-call periods should not be counted for the purpose of computing work hours. On-call is considered to be a back-up position for an emergency situation. Individuals that are assigned to be on-call are not restricted to the employer's premises or their own residences, but must remain in their respective response area and must keep the County Communications Center or their supervisor informed of their location and telephone

number. Since the employee can use this time for their own purposes it should not be counted as work time.

Section 12. Payroll Deductions

Federal and state income taxes, Social Security tax, withholding for court-ordered child support payments (upon receipt of appropriate notices to withhold or by other order of a court of competent jurisdiction), and retirement contributions shall be deducted as authorized by law and the Board of County Commissioners. Credit Union deductions, insurance premiums and other deductions requested by the employee and not paid by the County may also be deducted. Because these deductions are calculated on the basis of information provided by the employee, it is mandatory that the employees keep the County informed of their personal status for withholding purposes.

Section 13. Longevity Compensation

Longevity pay is to recognize long-term service of permanent full-time and permanent part-time employees who qualify for benefits under the Local Governmental Employees' Retirement System. Additionally, the payment is justified by the incentive provided towards retention of trained, experienced employees thus helping to avoid incurring expenses involved in recruiting and training replacement workers.

A. Time and Method of Pay

1. Longevity pay is automatic; payment shall be made when all eligibility requirements are met as specified in the following criteria.
2. Longevity payment shall be made in a lump sum.
3. Payment shall be made to otherwise eligible employees who are on worker's compensation leave and approved medical leave of absence without pay.
4. If an employee retires, resigns, or is otherwise separated or dies between the eligibility payment date and actual payment, the payment shall be made to the employee or to the estate if deceased.
5. Eligibility for payment shall be based on the years of service as of December 1st of each year.
6. Pro rata payments for partial year service shall not be made. Eligibility is dependent upon employee status on December 1 except for individuals who are separated by retirement or death. Pro rata payment in these cases shall be made based on the date of retirement or death and computed on the longevity pay scale then in effect. If deceased, payment shall be made to the estate.

7. If an eligible employee goes on extended military leave without county pay, a longevity payment shall be computed based on a pro rata basis for the period in which the individual was in a County pay status. Upon return, the individual shall receive a longevity payment based on the same eligibility criteria as other employees.
8. Payment shall be made to the nearest cent rather than the nearest dollar.

B. Amount of Longevity Pay

Annual longevity pay amounts are based on the length of aggregate total service to Buncombe County. *Employees rehired on or after August 1, 2002 will no longer be eligible to restore their previous years of service for determining longevity payment. The amount of payment shall be a set amount for periods from date of hire through four years service. Thereafter the amount of payment of longevity pay shall be based on a percentage of the annual salary of the employee in existence on the eligibility date of December 1.

**The following tables shall be in effect for longevity purposes.

Employees hired on or after 7/8/2006		Employees hired before 7/8/2006	
TOTAL YEARS AGGREGATE LONGEVITY COUNTY SERVICE	PAY RATE	TOTAL YEARS AGGREGATE LONGEVITY COUNTY SERVICE	PAY RATE
Less than 1 year	\$25.00	less than 1 year	\$100.00
1 year but less than 5 years	\$50.00	1 year but less than 5 years	\$300.00
5 years but less than 15 years	1.25%	5 years but less than 10 years	3.00%
15 years but less than 20 years	1.50%	10 years but less than 15 years	4.00%
20 years but less than 25 years	1.75%	15 years but less than 20 years	5.00%
25 years plus	2.00%	20 years but less than 25 years	6.00%
		25 years plus	7.00%

Employees working less than full-time, but otherwise meeting eligibility requirements shall receive a pro rata payment based on the percentage of hours actually worked divided by full-time hours for the position.

C. Eligibility Requirements

1. An employee must qualify for benefits under the North Carolina Local Governmental Employees' Retirement System.

* Revision 8/1/2002

** Revision effective 07/08/2006

2. An employee must have a permanent appointment either full-time or part-time (20 hours or more weekly).
3. Credit for the aggregate total service requirement shall not be given for temporary full-time or temporary part-time employment and periods of leave without pay in excess of one-half the work days and holidays in a payroll period with the exception of military leave and worker's compensation leave and approved medical leave of absence without pay.
4. Upon change of appointment to temporary part-time or less than half-time (20 hours per week) the employee is ineligible for continued longevity pay.
5. Credit shall not be given towards aggregate service time for any employment other than with Buncombe County.

D. Effect of Longevity Pay

Longevity pay is not considered a part of annual base pay for classification and pay purposes, nor is it to be recorded in personnel records as a part of annual pay.

E. Qualifying Standards

The County Board of Commissioners reserves the right to terminate, decrease, increase, or otherwise modify the longevity pay plan at its discretion at any time. If terminated, at any time, no vested payment requirements shall exist after the termination date.

Section 14. Payroll Procedure

All employees shall be compensated bi-weekly.

Section 15. Effective Date of Salary Adjustments

Salary adjustments shall become effective on the date of the actual adjustment.

***Section 16. Consumer Price Index Salary Adjustment**

Each year, effective during the month of April, all permanent employees shall receive an annual salary percent increase equal to the percent change in the annual consumer price index for the prior calendar year. The pay plan shall be revised upward for all grades and ranges to reflect an increase in the consumer price index.

* Revision 01/22/08

ARTICLE IV. RECRUITMENT AND SELECTION

Section 1. Policy Statement

The Directors of the departments of Social Services, Public Health, Sheriff, Register of Deeds, Board of Elections and Tax Collector shall have authority over and be responsible for the recruitment, application submission, employment, selection, appointment, supervision and discharge of employees in their respective departments with the County Manager and/or Human Resources Director approving the salary and classification of the new employees. The Board of Trustees of the Asheville-Buncombe Library System shall appoint and hire the Chief Librarian or Director of Library Services.

Section 2. Statement of Equal Employment Opportunity Policy

It is the policy of the County to maintain a systematic, consistent recruitment program, to promote equal employment opportunities, and to identify and attract the most qualified applicants for employment with the County. Selection decisions are made without regard to race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap, or age.

Section 3. Recruitment

The Human Resources Director is responsible for an active recruitment program to meet current and projected staffing needs, using procedures that shall ensure equal employment opportunities based on job-related requirements. Recruitment efforts shall be coordinated in a timely manner. The Human Resources Director and the Departmental Director may jointly determine whether a position vacancy shall be filled by outside recruitment or promotion. In case of disagreement, determination shall be made by the corresponding appointing authority or County Manager.

Section 4. Position Vacancy Announcements

Vacant positions shall be reviewed by the applicable department head and the County Manager and/or Human Resources Director to determine whether they should be filled. Applicants shall be recruited for vacant positions which are to be filled by posting position vacancy announcements for a minimum of five (5) working days at (1) the Human Resources Department and within each County Department, and (2) the local office of the Employment Security Commission. Optional recruiting publicity may be carried out through the media, as appropriate. Position vacancy announcements shall contain, at a minimum, (1) the title and the hiring range; (2) the closing date of the announcement; (3) a summary of the duties of the position; (4) a summary of the minimum qualifications; (5) the procedures for making application; and (6) a statement of equal employment opportunity. The Buncombe County Weekly Job Opportunities Report is published on Thursday of each week by the Human

Resources Director. A copy is posted in the lobby of the Human Resources Department and sent to all other County departments and the Employment Security Commission.

Section 5. Application Submission

The Buncombe County Employment Application shall be the standard application accepted for any and all position listings. Applications are accepted at the Human Resources Department or the office of the corresponding appointing authority.

Section 6. Application For Employment

- A. All persons expressing interest in employment with the County are given an opportunity to file an application for employment with the Human Resources Office. For most positions, applications are accepted for publicized vacancies only. A separate application must be submitted for each position applied. Copies are not accepted.
- B. Applications are logged according to job classification and remain in active status for six months. At the end of six months, applications are kept in a reserve file for a period of six months.

Section 7. Qualification Standards

- A. All applicants considered for employment or promotion shall meet the qualification standards established by the class specifications and/or job description relating to the position to which the appointment is being made.
- B. All appointments shall be made on the basis of merit and without regard to race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap, or age.
- C. Consideration may be given to "Trainee" appointments when there is an absence of suitable qualified applicants from which to make a selection. In this instance, the deficiencies may be eliminated through orientation and on-the-job training, and the employee is designated a trainee by the Human Resources Director and/or corresponding appointing authority.
- D. When suitable qualified applicants are unavailable and there is no trainee provision for the vacant classification, an appointment may be made below the level of the regular classification in a work-against appointment, allowing the appointee an opportunity to gain the qualifications needed for the full class through on-the-job experience. The appointee must meet the minimum education and experience standard of the class to which initially appointed. A work-against appointment may not be made when qualified and otherwise suitable applicants are available who meet the education and experience requirements for the full class of the position in question. When an applicant is selected to a work-against appointment to fill a vacancy for which one or more other applicants

met the minimum qualifications on the basis of education and experience, documentation must be provided to support the selection decision which includes findings determining other applicant(s) qualified on the basis of education and experience to be unsuitable for the position.

Section 8. Selection

After applicants have been properly screened by the Human Resources Department, a minimum of five applicants whose qualifications most closely meet those required by a position are referred to the Supervisor for further consideration. In some cases, fewer than five may apply for a position. A copy of the applications are forwarded to the Supervisor. The supervisor makes the decision as to employment, subject to the approval of the Departmental Director, Human Resources Director and/or the County Manager.

- A. All persons who have applied for employment are selected through open competition in the basis of bona-fide occupational qualifications. All applicants must meet the minimum training, education and experience, certification or license requirements established for the position, except on established trainee positions. In addition, applicants must meet other minimum standards as to character, aptitude, ability to meet the public, and physical ability in relationship to essential job functions, as may be required by the position.
- B. If training and experience are among the criteria for employment in a job, the Departmental Director shall determine a procedure for the evaluation of the training and experience of the various applicants. The formula used in appraisal shall give due regard to recentness, quality, and quantity of the applicant's experience and training. This procedure shall allow for the equitable substitution of training for experience, and experience for training, within the limits stated in the position specifications.
- C. Applicants shall not be notified of the outcome of their application for employment unless they are interviewed by a Supervisor or Departmental Director. Notification shall be from the department with the vacancy or from the Human Resources Department. Concerned applicants may check the status of their application by contacting the Human Resources Department or corresponding appointing authority.
- D. At the end of the selection process of each vacancy, the Supervisor is responsible for completing an Affirmative Action Application Selection/Rejection Data Form. The original copy must be submitted to the Human Resources Department at the time of selection. Provided qualified applicants are available, a minimum of three applicants must be interviewed for each position and reflected upon this form; however, interviewing more than three applicants is encouraged.

1. The Affirmative Action Application Selection/Rejection Data Form provides documentation for EEO purposes and is a record of those applicants to be notified of the outcome of the selection process.
2. No new hire shall be processed unless a completed, signed and dated Affirmative Action Application Selection/Rejection Data form is provided to the Human Resources Department at the time of hire, accompanied by a Personnel Action Form.

Section 9. Appointments

- A. Before an applicant begins work, the County Manager and/or Human Resources Director may require a meeting with the department head to discuss the appointment. The Personnel Action Form, the original application for employment, and any additional supporting documents may be reviewed by the County Manager and/or Human Resources Director.
- B. If the duties of the position include operation of County-owned or County-insured vehicles, the department head shall, before issuing an offer of employment, conduct a review of the driving record of the person to be hired, which record shall become a part of the personnel file.
- C. The Board of County Commissioners must approve the appointment by the Sheriff, Register of Deeds, and Tax Collector of a relative by blood, marriage or nearer kinship than first cousin, or of a person who has been convicted of a crime involving moral turpitude.

Section 10. Probationary Period of Employment

- A. *An employee appointed to a permanent position shall serve a probationary period. Six months is the normal probationary period. ~~but it may be extended or shortened by up to thirty days by the department head.~~ Any employee serving a probationary period following initial appointment may be dismissed at any time during the probationary period. Following successful completion of the probationary period, the employee may be dismissed only as provided in Article VIII.
 1. During the probation period an employee may be separated upon the approval of the Departmental Director, Human Resources Director, County Manager, or corresponding appointing authority without the right of grievance, if the judgment of the Departmental Director is that work performance, behavior, or work attitude is not satisfactory.
 2. An employee who has received a promotion or a reclassification of his/her position may not be required to serve a new probationary period.

* Revision 6/27/2000

3. Upon successful completion of the probation period, an employee who has been newly appointed shall receive a pay increase of between zero and four and one-half percent, based on employee performance during the probationary period, upon recommendation of the Supervisor and approval by the Departmental Director and the Human Resources Director.
 4. Probationary employees of the County have no right of grievances during this period. If such an employee fails to perform satisfactorily, upon the recommendation of the Departmental Director and approval of the Human Resources Director and the County Manager, or corresponding appointing authority, he/she may be demoted or dismissed at any time without further notice and without the right of grievance, except when the employee alleges sexual harassment or discrimination based on race, sex, religion, or national origin.
 5. An employee who has successfully completed the probationary period shall be considered a permanent employee.
- B. The work of a new employee shall receive a special performance rating in the last month of his/her probation period.
1. If an overall rating of "Meets Expectations" or better is received, and upon approval of the Departmental Director and Human Resources Director, the employee shall obtain permanent status upon completion of the probationary period.
 2. Employment in a temporary appointment may be credited toward the probationary period at the discretion of the Departmental Director.
 - ~~*3. In its discretion, the Departmental Director, with the approval of the Human Resources Director, or the County Manager, may extend the employee's probation period for an additional thirty (30) days. At the end of that period receipt of a performance rating of "Meets Expectations" or better, the employee shall obtain permanent status.~~

Section 11. Promotion

Candidates for promotion shall be chosen on the basis of their qualifications without regard to race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap, or age. First consideration for filling positions within departments under the supervision of the County Manager shall be given to qualified employees already in service with the County. If a current County employee is chosen for promotion, the department head shall forward information to the Human Resources Director with recommendations for salary rate.

Section 12. Demotion

* Revision 6/27/2000

- A. An employee whose work is unsatisfactory may be demoted provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion shall be made in accordance with procedures in Article VIII. The employee shall be provided with written notice citing the recommended effective date of the demotion, the reasons for the demotion, and the appeal rights available to the employee as stated in Article VIII of this Ordinance.
- B. An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a voluntary demotion. A voluntary demotion is not a disciplinary action and is made without using the procedures in Article VIII and IX of this Ordinance.

Section 13. Transfer

- A. If a vacancy occurs and an employee eligible for transfer from another department wishes to be considered for the appointment, a written request and application must be forwarded to the Human Resources Department during the recruitment period for the position. The request for transfer shall be subject to approval of both affected department heads, and approval by the Human Resources Director. Any employee transferred without having requested it may appeal the action in accordance with the grievance procedure outlined in Article IX.
- B. Any employee who has successfully completed a probationary period may be transferred to any other position without serving another probationary period.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Workweek

***A: Standard Workweek**

The standard workweek for Buncombe County employees shall be from *8:00 A.M. until 5:00 P.M., Monday through Friday with one (1) hour permitted for lunch. With the exception of law enforcement which shall be an assigned shift with accumulation of those hours required in an approved FLSA work schedule with time permitted for meals during the respective shift. When the activities of a particular department require some other schedule to meet the work needs, the Department Director or corresponding appointing authority may authorize a deviation from the established standard schedule.

B: Flex-time Workweek

County employees have the ability to deviate slightly from the Standard Workweek as established in Article V., Section 1, subsection A. Employees may initiate a flexible daily work schedule. Employees who elect a flex-time schedule, must do so with department head approval and must exercise a consistent schedule for no less than three (3) month intervals.

Section 2. Gifts and Favors

- A. No official or employee of the County shall accept any gift, whether in the form of a service, a loan, a thing of value, or a promise from any person, firm, or corporation that, in the employee's knowledge, is interested directly or indirectly in any manner whatsoever in business dealings with the County.
- B. No official or employee shall accept any gift, favor, or thing of value that may tend to influence that employee in the discharge of duties.
- C. No official or employee shall grant any improper favor, service, or thing of value in the discharge of duties.

Section 3. Conflict of Interest Policy

- A. It shall be the duty of all Buncombe County employees to recognize and report to the County Manager, and/or Human Resources Director or corresponding appointing authority, any and all part-time employment opportunities or formal intent in any outside undertaking that may be considered a conflict of interest in their employment with Buncombe County Government.
 - 1. All requests for employment opportunities outside of employees' normal County jobs, or any financial interest or relationship an employee may have in any outside

* Revision 07/01/07

venture, should be approved in advance by the County Manager, and/or Human Resources Director or corresponding appointing authority.

2. Other incompatible activities include, but are not limited to, acceptance of a favor, pay, gift, payment or expenses, or any other thing of monetary value under circumstances in which acceptance may result in or create the appearance of conflicts of interest.
- B. It shall be the policy of Buncombe County that no manager, department head, supervisor or any employee may use their position, or the knowledge gained therein, in such a manner that a conflict between Buncombe County's interests and their personal interests should arise. Both the fact and the appearance of the conflicting interests are to be avoided.
1. An employee is prohibited from having a direct or indirect formal interest that conflicts substantially with his/her Government duties and responsibilities; or, from joining in, directly or indirectly, a formal transaction as a result of, or primarily relying upon, information obtained through his/her Government employment.
 2. Employees should refrain from transmitting any knowledge of County considerations or decision, or any other information which might be prejudicial to the interest of the County, to any person other than in connection with the discharge of their official responsibilities.
- C. Adherence to this policy, as herein above set out, is a condition of employment. Failure to comply may result in disciplinary action, up to, and including termination of employment.

Section 4. Political Activity Restricted

- A. Every employee of Buncombe County has a civic responsibility to support good government by every available means and in every appropriate manner. Any employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and the laws of the State of North Carolina and by the Constitution and the laws of the United States of America. However, while on duty, no employee of Buncombe County shall:
1. Engage in any political or partisan activity;
 2. Use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

3. Be required as a duty or a condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
 4. Coerce or compel contributions for political or partisan purposes by another employee of the County; or
 5. Use funds, supplies, or equipment of the County for political or partisan purposes.
- B. Employees subject to the Hatch Act (see definitions Article I, Section 3) may not be candidates for elected office in a partisan election.
- C. Any violation of this section may subject such employee to dismissal or other disciplinary action.

Section 5. Employee Harassment (Hostile Work Environment)

A. Policy

Buncombe County expressly forbids harassment of employees because of age, race, sex, color, religion, handicap, national origin or political affiliation. Even in mild form, such harassment constitutes unacceptable personal conduct, and is subject to disciplinary action. More serious instances of harassment shall carry more serious penalties, up to and including dismissal. Sexual harassment of employees by supervisors or co-workers is forbidden in any form.

B. Coverage

All employees of the County are covered by this policy.

C. Definitions

1. Harassment is behavior based on age, race, sex, color, religion, handicap, national origin, or political affiliation that offends another employee.
2. Sexual harassment is defined by federal guidelines as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when one or more of the following occur:
 - a. Submission to such conduct is made, either explicitly or implicitly, a term or a condition of an individual's employment,
 - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

- c. Such conduct has the purpose or the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
3. An employee who believes he or she may have a complaint of harassment may pursue four alternative complaint procedures. If the complaint concerns allegations of sexual harassment, in order to be pursued, it is required by federal law to be filed within 180 days of the time of the alleged incident.
4. The following alternatives shall apply:

Alternative 1. The employee should tell the person who is offending him/her that the behavior is offensive and should stop. (Because offensive behavior often is not intended as harassment, letting the individual know that the behavior is offensive and instructing him/her to stop shall often resolve the problem.)

Alternative 2. The employee should notify his or her immediate supervisor of the situation. The immediate supervisor is responsible for investigating the situation and taking corrective action.

Alternative 3. If the complaint of harassment is against the immediate supervisor, the employee should report the situation to the department head. The department head is responsible for investigating the situation and taking corrective action. If the allegation is against the department head, the complaint should be reported to the Human Resources Director, who shall then assume responsibility for investigating the situation and recommending appropriate corrective action to the County Manager.

Alternative 4. If at any point in the process the employee prefers to do so, he/she may report the situation to the Assistant County Manager, County Manager, or Human Resources Director, who shall then assume immediate responsibility for investigating the situation and recommending appropriate corrective action to the County Manager.

5. If the allegation of harassment is against the County Manager or an elected official, the complaint should be filed with the Chairman of the Board of County Commissioners, who shall personally investigate the complaint, or designate a representative to conduct the investigation and advise the employee and Board of County Commissioners on the outcome of the investigation.

Section 6. Outside Employment

The work of the County shall take precedence over other employment interests of employees. All outside employment for salaries, wages, or commission, and all self-employment must be reported in writing to the employee's department head before such work is to begin. The department head, corresponding appointing authority, or the Human Resources Director shall determine whether the outside work would create a conflict of interest or otherwise be incompatible with County service. The assumption of outside employment without prior approval by the Department Head may be deemed improper conduct and subject the employee to disciplinary action, up to and including dismissal.

Section 7. Limitation of Employment of Relatives

- A. No two members of an immediate family shall be employed within the same department if such employment shall result in one member supervising the other or in one member occupying a position that has influence over the other's employment, promotion, salary administration, or related management or personnel considerations.
- B. The term "immediate family" means an employee's wife, husband, mother, father, guardian, son, daughter, brother, sister, grandchild, and grandparent, as well as the various combinations of half, step, in-law, and adopted relationships that can be derived from the family members named herein.
- C. The provisions of this section shall not be retroactive, and no action shall be taken concerning those members of the same family employed in conflict with Subsection A before the adoption of this policy.
- D. The Board of County Commissioners shall approve the appointment by the Sheriff, ~~Tax Collector~~, or Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin, as required by Chapter 153A-103(1) of the North Carolina General Statutes.
- E. *The Board of County Commissioners shall approve the appointment by the County Manager of his/her immediate family members as defined in Subsection B.

~~Section 8. Performance Evaluation and Development Program~~

~~A. **Purpose:** To establish and maintain an equitable performance evaluation and development program that defines and improves the performance level of all employees in permanent full and part time positions in order to advance the organization's goals.~~

~~B. **Objectives:**~~

~~1. **Communications** To create and maintain an atmosphere for open and frank communications between supervisors and employees concerning job performance and expectations; to ensure that feedback is provided on a regular, on-going basis between supervisors and employees; and to ensure that all employees have the opportunity to discuss and understand organizational goals and expectations.~~

* Revision 3/15/05

* Revision 07/01/08

- ~~2. Performance Improvement — To regularly discuss the job performance of all employees based on job-related criteria; to identify during that discussion both accomplishments and areas for performance improvement for each employee; to discuss specific plans for those areas in which performance improvements can be made.~~
- ~~3. Employee Development — To provide information which can be used jointly by supervisors and employees to determine appropriate training needs and resources. — To discuss and identify how employees can prepare for potential advancement — opportunities where appropriate.~~
- ~~4. Personnel Actions — To provide background information and documentation for consideration in conjunction with any personnel actions that may occur, such as promotions, reductions in force, discipline, dismissals, transfers, etc.~~
- ~~5. Recognition and Rewards — To establish a system whereby employees receive recognition and appreciation when it is earned.~~

~~C. System~~

- ~~1. Occupational Groups — All position classifications of the County have been assigned to an occupational group to allow for more specific performance criteria. — These occupational groups are found in the Appendix to this document.~~
- ~~2. Performance Standards — Performance standards were developed in occupational groups by representative employees in that group and representative supervisors who use the forms. The forms cover all employees of the County in permanent full and part time jobs. Performance standards are based on the following criteria:
 - ~~a. — Clearly job related.~~
 - ~~b. — Stated in terms of behavior that can be observed.~~
 - ~~c. — Specific and descriptive of the behavior.~~
 - ~~d. — Focused on results/outputs, not inputs.~~
 - ~~e. — Measurable when possible and feasible.~~~~
- ~~3. Supervisory Supplement — A supplemental form is available to help focus on the supervisory aspects of an employee's job. Where employees have significant responsibility for supervising employees (including conducting performance~~

evaluations), this form should be used along with the appropriate occupational forms.

4. ~~Lead Worker Supplement~~—A supplemental form is available to help discuss the lead worker performance for employees who have such responsibilities.
- ~~Lead worker tasks are those involved in training, assigning, and reviewing the work of co-workers when the employee is not the direct supervisor, and therefore, many of the Supervisory Supplement elements are not applicable.~~

~~D. Responsibilities~~

~~1. County Commissioners~~

- a. ~~Approve Policy guiding the system;~~
- b. ~~Provide funding for training;~~
- c. ~~Respect and support the internal chain of command in administering the Performance Appraisal Program;~~
- d. ~~Conduct performance evaluations with their appointees; and~~
- e. ~~See that other County boards conduct performance evaluations with their appointees.~~

~~2. County Manager~~

- a. ~~See that policies are effectively implemented;~~
- b. ~~Conduct performance evaluations with employees under his or her direction;~~
- c. ~~Ensure that the system is working effectively within the organization;~~
- d. ~~Ensure that all employees receive a performance evaluation;~~
- e. ~~Recommend resources necessary to support the training and other system needs;~~
- f. ~~Communicate with other Boards concerning their roles and how the system works; and~~
- g. ~~Work with elected officials to encourage effective use of the system.~~

~~3. Department Heads~~

- a. ~~Support and promote the system insuring that policies and objectives are effectively implemented;~~
- b. ~~Create an environment to ensure that the performance evaluation process is an open, two-way discussion between employees and supervisors about the employees' performance;~~
- c. ~~Develop new departmental goals as a result of performance evaluation conference agreements;~~
- d. ~~Conduct performance evaluations with their employees;~~
- e. ~~Monitor the system and make recommendations for needed changes;~~
- f. ~~Review the use of the system across divisions and work units to ensure consistency; and~~
- g. ~~Motivate managers and supervisors to conduct effective evaluations.~~

4. ~~Supervisors~~

- a. ~~Conduct performance evaluations on schedule;~~
- b. ~~Link performance evaluation discussions and content to identified departmental and County outcomes;~~
- c. ~~Learn and use the process and tool effectively;~~
- d. ~~Ensure on-going feedback and documentation so performance evaluation is accurate and there are "no surprises;"~~
- e. ~~Coach and assist employees in personal and professional development and performance improvement;~~
- f. ~~Be equitable, honest, and consistent in use of the system; and~~
- g. ~~Assign weights of performance categories in discussions with employees at the beginning of the performance period.~~

5. ~~Employees~~

- a. ~~Make suggestions for improving the system to the supervisor;~~
- b. ~~Follow the chain of command in addressing concerns about individual performance evaluations; and~~

~~c. Actively participate in discussion in the performance evaluation conference.~~

~~6. Resource Director~~

~~a. Provide effective training necessary for program success;~~

~~b. Provide continuous and refresher training as necessary;~~

~~c. Evaluate the training for effectiveness; and~~

~~d. Request necessary funds and resources to support training programs and evaluation of the system.~~

~~7. Human Resources Director~~

~~a. Monitor effective use of policies and procedures related to the system;~~

~~b. Coordinate appeals and provide internal consultation on appeal resolutions where appropriate;~~

~~c. Send out monthly schedule of evaluation dates to departments and follow up to ensure all evaluations are conducted;~~

~~d. Monitor use of system across departmental lines and provide analysis and feedback on consistency issues; and~~

~~e. Evaluate the performance evaluation system for effectiveness in achieving identified objectives.~~

~~8. Other Boards and Elected Officials~~

~~a. Evaluate their appointees or staff;~~

~~b. Participate in training in use of the system; and~~

~~c. Understand the concepts of the Performance Evaluation and Development Program.~~

~~E. Rating System~~

~~1. Important Note. The purpose of the performance evaluation form is to help the supervisor:~~

- a. ~~Focus on job-related criteria;~~
 - b. ~~Review the whole period (six months or a year), not just most recent months;~~
 - c. ~~Give feedback on relevant aspects of the employee's performance;~~
 - d. ~~Document the performance evaluation; and~~
 - e. ~~Think through a logical decision on the overall performance rating. The numerical summary at the end of the form is only one indication of performance; other important aspects for consideration may only be found in the summary comments. When the overall performance rating differs from the final score, that difference shall be documented and justified. The supervisor is expected to use reasoned logic and good judgment in determining the overall rating of performance. Employees should be rated using performance standards.~~
2. ~~Numerical Weighting System – Each performance factor will be weighted. All performance categories should total 100 percent. The weighting system is designed to recognize that some categories may be more important than others. These weightings may vary from job to job, even within the same classification. Weights should be determined at the beginning of the performance period.~~
3. ~~Performance Categories and Numerical Ratings – The rating of the respective performance factors are to be earned at one-half number increments (i.e.: 0.00, 0.50, 1.00, 1.50, etc.). The performance of employees shall be rated in one of the following categories and earn the corresponding numerical rating:~~
- a. ~~**Outstanding** – Fully meets all job requirements identified for the position. In addition, performance consistently and significantly exceeds job requirements in important aspects of work. Work is performed at a sustained high level of proficiency. The employee also expands the scope of tasks and responsibilities or the amount of work performed resulting in increased productivity for the work unit.~~
 - ~~The employee accomplishes the most difficult and complex assignments with minimal direct supervision and maximum quality. Specific examples of such performance are readily available.~~
 - b. ~~**Exceeds Standards** – Fully meets all major job requirements identified for the position in a competent manner. In addition, performance frequently exceeds job requirements in several areas. Direct supervision is required only for special or unusual assignments or problems.~~

- c. ~~**Meets Standards** Fully meets all major job requirements in a competent manner. The employee may occasionally exceed some job requirements. Accomplish duties in a reasonable and consistent manner demonstrating full proficiency in the job. If there are occasional lapses in performance, they do not create any substantial problems for the organization, nor have any major impact on service delivery. Normal supervision is required.~~
- d. ~~**Needs Improvement** Performance meet job requirements in important categories at least marginally. However, performance is inconsistent or unreliable in one or more job categories. The employee needs to improve proficiency to more fully meet the needs for which the position was established. Remedial attention, close supervision, and additional performance review(s) may be required.~~
- e. ~~**Fails to Meet Standards** Performance is inconsistent and one or more major job requirements are not met. Work tasks are not performed or must be repeated due to low quality. Remedial attention and close supervision are required. Failure to correct performance deficiencies in an appropriate amount of time may result in suspension, demotion, or dismissal. A rating at this level should be coordinated with the progressive disciplinary process. In no case should an employee's performance remain in the "Fails to Meet Standards" category for more than six months.~~

~~F. Procedures~~

1. ~~Performance Evaluation Conferences~~ Performance evaluation conferences with all County employees will be conducted before the employee's anniversary date. Performance evaluation conferences will be conducted by the employee's supervisor who may also be accompanied by the person at the next level of supervision. The conference will encompass the period of time from the last conference to the present.
2. ~~Performance Evaluation Dates~~ Performance evaluation dates will be the date the employee completes or completed original new hire probation. Evaluation dates will remain unchanged by reclassification, promotion, or salary range assignment.
3. ~~Probationary Performance Evaluation Conferences~~ Probationary performance evaluations of new employees will be conducted at the end of the probationary

period. *Employees who serve more than a six month probationary period will also participate in a performance evaluation after six months and at the end of their

~~probationary period. Additional conferences may be held at the supervisor's discretion. An employee must receive a rating of no less than "Meets Standards" in order to move from probationary to permanent status. An employee whose performance fails to meet standards but shows clear promise of successful performance may have the probationary period extended in accordance with applicable personnel policy. This provision in no way restricts the County from dismissing an employee whose performance or conduct is considered unsatisfactory at any point in the probationary period.~~

- ~~4. Performance Evaluation Forms — Departments/divisions may update and revise performance evaluation forms as needed to maintain current and accurate performance criteria. When forms cover more than one department, the Human Resources Director will coordinate the effort. The evaluating supervisor shall be responsible for notifying the department head through appropriate channels when changes are needed. Department heads are responsible for initiating changes due to changes in position classifications. All revisions must be reviewed by the Human Resources Director and approved by the County Manager. Revisions will be reviewed for the degree to which they are objective, observable, and job related performance criteria.~~
- ~~5. Changes in Supervision — When a change in an employee's supervisor is eminent due to promotion, transfer or other action of the employee or supervisor, the current supervisor should conduct an interim performance evaluation including meeting with the employee and completing all necessary forms. This provision is effective whenever the employee has worked with the existing supervisor 90 days or more of the employee's current evaluation period. The interim performance evaluation information should be considered by the new supervisor, along with performance observed and documented by the new supervisor in determining the employee's overall rating for the performance period.~~

~~In addition, when there is a change in supervision, the new supervisor and employee should jointly review the employee's performance standards and goals, discuss meanings of words and expectation, and set priorities.~~

- ~~6. Documentation — All performance evaluation forms will be signed by the employee, supervisor, intermediate levels of supervision, and department head and forwarded to the appropriate Human Resources Department with any accompanying memoranda or other documentation for review and filing. The employee shall be given a copy of the forms and other documents to keep after all signatures and comments have been completed. All relevant sections of performance evaluation forms, including all signatures, will be completed by the appropriate person prior to processing the forms.~~
- ~~7. Appeals — Any employee who believes that his or her performance rating is unfair or inaccurate may appeal by using the County's established grievance procedure, a copy of which may be obtained from his or her supervisor, department head, or the appropriate Human Resources Department.~~

Section 9. Drugs at the Workplace Prohibited

Any location at which County business is conducted, whether at this or any other site, is declared to be a drug-free environment. Workplace is defined as the site for the performance of work done and includes any Buncombe County building, premises, or vehicle.

- A. All employees are absolutely prohibited from unlawfully manufacturing, distributing, dispensing, partaking, possessing, or using any controlled substance or alcohol in the workplace, or reporting to work under the influence of any controlled substance or alcohol, except medications prescribed by a licensed health care provider and certified by said provider not to constitute a workplace hazard.
- B. As a condition of employment, any employee violating this policy is subject to discipline, for failure in personal conduct, up to and including termination for the first offense.
- C. To assist employees in overcoming drug abuse problems, the county may offer rehabilitative help through our Employee Assistance Program and shall periodically provide supervisory and employee training to assist in identifying and addressing illegal drug use by employees.
- D. Any employee convicted of violating a criminal drug statute in this workplace must inform the Human Resources Director of such conviction within five days of the conviction. Failure to so inform the County shall result in disciplinary action, up to and including termination for the first offense.
- E. The County reserves the right to offer employees convicted of violating a criminal drug statute in the workplace participation in an approved rehabilitation or drug abuse assistance program as an alternative to discipline. If such a program is offered, and accepted by the employee, then the employee must satisfactorily participate in the program as a condition of continued employment.

Section 10. Applicant Drug Screening through Urinalysis

As a public employer, the County of Buncombe is entrusted with the health and safety of its citizens. In keeping with this obligation and as a condition of employment, prior to the offer of employment, the applicant shall be required to submit to a urinalysis drug screening procedure for the purpose of screening for the presence of illegal drugs or an abusive level

of prescribed medication. It shall be the policy of the County of Buncombe that a negative result from this screening is a condition of employment. A confirmed positive test result indicating the presence of illegal drugs or an abusive level of prescribed medication, shall result in a rejection of the applicant for employment and shall bar the applicant from securing employment with the County of Buncombe for at least one calendar year.

- A. Drug Screening results shall be held in the strictest confidence. Applicants who are tested shall be provided with a copy of the test results if requested. Specimens shall be checked by a lab utilizing strict chain of custody procedures.
- B. Drug Screen testing shall be limited to the top finalist upon completion of the employment selection process.
- C. All individuals applying for employment with the County of Buncombe must sign the Drug Screening Through Urinalysis Applicant consent Form for drug screen testing.
- D. Applicants who refuse to sign the Drug Screening Through Urinalysis Applicant Consent Form shall not be considered for employment.
- E. This applicant drug testing through urinalysis policy shall be posted and prominently displayed in the Human Resources Office where applications are obtained and processed.

ARTICLE VI. HOLIDAYS AND LEAVE

Section 1. Paid Holidays Observed

The following days and such other days as the Board of Commissioners may designate are holidays with pay for permanent full-time and *probationary employees and officers of the County working the standard workweek. Permanent part-time and *probationary part-time employees receive holidays on a pro rata basis. **Temporary employees are not eligible for paid holidays.**

New Year's Day
Martin Luther King Jr. Birthday (Observed)
Easter
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving (2 days: Thanksgiving and the following Friday)
Christmas (2 or 3 workdays)

Section 2. Effect of Work on Holidays and Other Types of Paid Leave

Regular holidays that occur during a vacation, sick or other paid leave period of any officer or employee of the County shall not be charged as vacation, sick, or other paid leave.

Section 3. Holidays - When Work Required

County employees required to work on an observed holiday may be granted compensatory time off at the rate of one (1) hour off for each hour worked on the holiday. Compensatory time for holiday hours worked shall be granted within three (3) months of the time it is earned. If it is not feasible to allow compensatory time off within the three (3) month period, employees may receive monetary compensation in lieu of time off calculated at their standard hourly rate.

Section 4. Annual Leave

- A. Annual leave shall be used for rest and relaxation, and may be used for medical appointments.
- B. Annual leave may be taken only with the prior approval of the employee's immediate supervisor.
- C. Employees serving a probationary period following initial appointment may accumulate annual leave but shall not be permitted to take annual leave during their probationary

*revision 6/27/2000

period. If a probationary employee is terminated or resigns during their probationary period he/she shall not be paid for any annual leave accrual.

Section 5. Transfer of Annual Leave Time

The County shall not transfer annual leave from another county, municipality, or state government.

Section 6. Annual Leave - Manner of Accumulation

A. Any permanent full-time employee working the basic workweek ~~** (37.5 hours~~ 40 hours) or is on paid leave shall earn annual leave at the following rates:

YEARS OF SERVICE	DAYS EARNED PER YEAR IF HIRE DATE IS BEFORE 8/1/2002	*DAYS EARNED PER YEAR IF HIRE DATE IS ON OR AFTER 8/1/2002
Less than 2 years	12 days	10 days
2 but less than 5 years	14 days	12 days
5 but less than 10 years	18 days	16 days
10 but less than 15 years	21 days	19 days
15 but less than 20 years	24 days	22 days
20 or more years	27 days	25 days

B. An employee must work one-half or more of the scheduled work days in a payroll period in order to be credited with annual leave.

C. Part-time employees annual leave:

1. A part-time permanent employee who is employed on a continuing basis with a permanent part-time appointment in a budget position shall earn annual leave on a pro rata basis if he/she works one-half or more of the scheduled work days in a payroll period.
2. The leave shall be computed as a percentage of total amount earned by a full-time employee.

D. Maximum Accumulation

1. ~~At any given time, a permanent employee may accumulate no more than two (2) years of annual leave days at their existing rate.~~

** Revision 7/1/07

* Revision 8/1/02

~~2. Any permanent employee with more than two (2) years of annual leave days at their existing rate shall have the excess accumulation converted to sick leave.~~

*Any permanent employee with more than two (2) years of annual leave days at their existing rate shall have the excess accumulation converted to sick leave once per year. On February 1st of each year, any balance of annual leave over the two (2) year maximum shall be converted to sick leave.

Section 7. Annual Leave - Manner of Taking Leave

- A. Departmental annual leave schedules shall be governed by employee seniority within the department.
- B. Annual leave should be scheduled at a time consistent with the operating needs of the department.
- C. Employee annual leave schedules must be approved in advance by the employee's immediate supervisor.

Section 8. Annual Leave - Separation Pay

- A. Permanent employees shall receive pay for their accumulated annual leave upon resignation, dismissal, retirement, or layoff unless the employee elects to transfer the leave balances to another accepting jurisdiction. Should an employee die, payment of annual leave credit shall be made to the employee's estate. No more than two (2) years of earned annual leave accumulation at the existing rate will be paid.
- B. Should an employee die, resign, retire, or be laid off with a debt to the County, the County may withhold the amount of the debt from the employee or his/her estate in its final payment to the employee or estate.

Section 9. Options During Leave Without Pay

An employee going on sick leave without pay, military leave without pay, maternity leave without pay, worker's compensation leave, or other leave without pay, may exhaust annual leave or may retain part or all of accumulated leave until the employee returns from leave without pay, the only exception being; if an employee requests leave for personal reasons for a period not to exceed 10 workdays, annual leave must be used if available; however, if the leave is for a period longer than 10 working days, the employee may choose to use annual leave or retain it for future use.

Section 10. Sick Leave

Sick leave with pay is not a right which an employee may demand, but instead a privilege granted by the Board of County Commissioners for the benefit of an employee when sick. Sick leave shall be used by an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, pregnancy, childbirth and postpartum care, or exposure to a contagious disease when continuing to work might jeopardize the health of others. Sick leave may also be used for illness or injury of

* Revision 11/6/2001

a member of the employee's immediate family which requires that the employee provide care to the family member. See definition of "Immediate Family" in Section 22 of this article.

*Employees serving a probationary period following initial appointment may accumulate sick leave but shall not be permitted to take sick leave during their probationary period.

Section 11. Notification to Take Sick Leave

The employee's supervisor shall be promptly notified, certainly no later than thirty (30) minutes and if possible before the beginning of the work day, when an employee proposes to take sick leave. Failure to do so may constitute a basis for denial of sick leave. For Emergency Medical Service personnel, notification to take sick leave must be given at least one and one-half (1½) hours prior to the beginning of the employee's next assigned work shift.

Section 12. Sick Leave Amount Earned

A. All permanent full-time employees who are working or on paid leave for one-half or more of the regularly scheduled work days in any payroll period shall earn sick leave computed at the following rates:

Days Earned/Year

12 days

B. A permanent part-time employee who is employed on a continuing basis with a permanent part-time appointment in a budgeted position shall earn sick leave on a prorata basis if one-half or more of the scheduled work days in a month are worked. The leave shall be computed as a percentage of the total amount earned by a full-time employee.

Section 13. Sick Leave Accumulation

Sick leave is cumulative indefinitely.

(Abolished July 1, 1998)

~~Section 14. Sick Leave - Medical or Dental Examination or Treatment~~

~~Medical or dental examinations or treatments are to be charged to the nearest thirty (30) minutes. If such examinations or treatment requires less than two hours, no leave may be charged if approved in advance by the Supervisor. If the employee is away from the work site longer than two hours, sick leave shall be charged for the entire time away (limited to employee only, not to family members).~~

* Revision 6/27/2000

Section 15. Sick Leave Advancement

An employee who does not have sick leave days available may, at the discretion of their supervisor and with the approval of the department head, be allowed to borrow a maximum of ten days if necessary. If the employee leaves County service before earning back such leave, payment shall be deducted from the employee's final paycheck.

Section 16. Sick Leave Verification

In case of illness of the employee, the departmental director may require medical certification from a physician for illness of three days or more in duration.

Section 17. Sick Leave Transferable

After completion of the probationary period the County of Buncombe may allow a new County employee to transfer all days of previously accumulated sick leave accrued while employed by a State of North Carolina, County, or Municipal jurisdiction. Sick leave is allowed creditable service at the time of retirement to employees who are members of the N.C. Local Governmental Employees' Retirement System. One month of credit is allowed for each twenty (20) days of unused sick leave when the employee retires and an additional month for any part of twenty (20) days left over. ~~The maximum number of sick days that can be added at retirement is twelve (12) days for each year of membership service and prior service standing to the credit.~~ *Legislation was enacted to remove the cap on the number of sick leave days that can be used for credit at retirement for members of the Local Governmental Employee Retirement System retiring on and after January 1, 2002.

Section 18. Calculation of Annual Leave and Sick Leave

Annual leave and sick leave earned by permanent employees having a workweek with greater or fewer hours than the basic workweek shall be determined in accordance with the following parameters.

- A. The number of hours worked by such employees shall be divided by the number of hours in the basic workweek.
- B. The proportion obtained in step A., Section 18, shall be multiplied by the number of hours of leave earned annually by employees working the basic workweek.
- A. The number of hours in step B., Section 18, divided by twenty-six, shall be the number of hours of leave earned each payroll period by the employee concerned.

Section 19. Annual Leave - Emergency Medical Service Annual Leave Earned

* Revision 8/1/2002

Emergency Medical Service Annual Leave Earned is calculated based on a twelve (12) hour workday being equivalent to one (1) shift.

YEARS OF SERVICE	SHIFTS EARNED PER YEAR IF HIRE DATE IS BEFORE 8/1/2002	*SHIFTS EARNED PER YEAR IF HIRE DATE IS ON OR AFTER 8/1/2002
Less than 2 years	12 shifts	10 shifts
2 but less than 5 years	14 shifts	12 shifts
5 but less than 10 years	18 shifts	16 shifts
10 but less than 15 years	21 shifts	19 shifts
15 but less than 20 years	24 shifts	22 shifts
20 or more years	27 shifts	25 shifts

Section 20. Sick Leave - Emergency Medical Service

Shifts Earned/Year

12

Section 21. Holiday Leave - Emergency Medical Service

Each holiday is equivalent to 1 shift.

Section 22. Funeral Leave

In case of death of a member of the employee’s immediate family or household, special leave with pay of up to three (3) days shall be permitted. Leave exceeding this may be charged to sick leave or leave without pay. Immediate family is defined as wife, husband, mother, father, son, daughter, sister, brother, grandfather, grandmother, grandson, granddaughter, and also included are in-law and step relationships as appropriate based on the above listing, (excluding in-law grandparents). Leave for death of other relatives may be charged to sick leave or leave without pay.

Section 23. Mandatory Court Appearances

- A. Jury Duty. A County employee called for jury duty in State or Federal Court shall receive leave with pay for such duty during the required absence without charge to accumulated annual leave or sick leave. All fees and allowance received by the employee for jury duty must be turned over to the County upon receipt.
- B. Witness. A County employee subpoenaed as a witness in a case in State or Federal Court in connection with his/her official duties shall receive regular compensation for said court appearance. All witness fees and travel allowances received by the employee must be submitted to the County upon receipt.

* Revision 8/1/2002

- C. A County employee subpoenaed as a witness in State or Federal Court in a case which is unrelated to his/her official duties shall not receive leave with pay during his absence but same shall be charged to accumulated annual leave or leave without pay. Witness fees and travel expenses are to be retained by the employee.
- D. While on jury duty or when subpoenaed as a witness in connection with his/her official duties, benefits and leave shall accrue as though the employee were on regular duty.

Section 24. Conference Attendance

An employee may be permitted leave with pay for the purposes of attending professional conferences, workshops, or educational meetings or classes when directly related to the employees' field of work.

1. Request for such leave shall be submitted in writing to the Supervisor for his/her approval and final approval by the Department Head prior to the leave being taken.
2. The County shall reimburse the employee for approved fees of the conferences, provided the employee submits the proper receipts.

Section 25. Leave Without Pay

- A. A permanent or *probationary employee may be granted a leave of absence without pay for compelling personal reasons for up to thirty (30) working days a year by the Departmental Director and Human Resources Director. If leave without pay is requested by a Departmental Director it shall be recommended by the Human Resources Director and approved by the County Manager.
- B. If the request for leave is due to extended illness of the employee, or for maternity leave, leave may be granted for up to 120 working days per year. Such extended leave must be recommended by the Departmental Director and the Human Resources Director. The leave shall be used for reasons of personal illness or disability, after the desired amount of sick leave and annual leave have been exhausted.
- C. During maternity leave an employee may feel it necessary to remain on leave beyond the 120 work day limit due to certain physical exertions involved in the position, such as those which exist in Emergency Medical Service. In such cases, an additional forty (40) work days of leave may be granted at the written request of the employee's doctor with the approval of the Departmental Director and Human Resources Director.
- D. The employee shall apply in writing to the Supervisor for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the appointing authority. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay.

* Revision 6/27/00

1. If the employee decided not to return to work, the Supervisor should be notified immediately. The Supervisor shall report this decision to the Departmental Director and Human Resources Director.
2. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered resignation.

E. Employees on leave without pay shall not earn leave of any kind.

Section 26. Leave Without Pay - Retention and Continuation of Benefits

An employee shall retain all unused annual and sick leave while on leave without pay. An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the County's group insurance plans, subject to any regulations adopted by the Board of County Commissioners and the regulations of the respective insurance carriers.

Section 27. Absence From Duty

- A. An employee shall promptly, and certainly no later than thirty (30) minutes, notify his Supervisor when planning to be absent from duty for any reason other than sick leave. Failure to do so without good reason shall be cause for disapproval of leave for which the employee might have been eligible, and for disciplinary action.
- B. An employee who is absent from duty for three days without notification to the immediate supervisor shall be considered to have resigned, unless failure to notify was demonstrably beyond the employee's control.

Section 28. Military Leave

Permanent or *probationary employees who are members of the National Guard or Armed Forces Reserve shall be allowed fifteen (15) work days military training leave annually with partial compensation. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a county employee, the employee shall receive partial compensation to equal the difference in the base salary earned as a reservist or a guardsman and the salary that would have been earned during this same period as a County employee. The effect shall be to maintain the employee's salary at the normal level during this period. If such military duty is required beyond the fifteen (15) work days period, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status.

Section 29. Maternity Leave - Employee Responsibility

An employee desiring to take a leave of absence from work for reasons caused by or contributed to by pregnancy, miscarriage, abortion, childbirth, or recovery therefrom, and for

* Revision 6/27/00

the adoption of a child under the age of five (5) years shall apply in writing to his/her supervisor stating the nature of the condition, the anticipated dates and duration of the requested leave and the types of leave requested. The Supervisor shall forward the request to the Departmental Director for approval. The employee is obligated to return to duty by the end of the time determined appropriate. If the employee finds they shall not return to work, they shall notify their Supervisor immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and approved shall be considered a resignation.

Section 30. Educational Leave With Pay

A leave of absence at full or partial pay during regular working hours may be granted to an employee to take a course or courses which shall better equip the employee to perform assigned duties upon the approval of the Departmental Director. The County shall reimburse the employee for tuition and fees for the course, provided the employee submits a receipt of course expenses and a notice of successful completion (passing grade or better) of the course. An employee on educational leave with full pay shall continue to earn leave credits and any other benefits to which the employee is entitled.

Section 31. Worker's Compensation and Leave

If an across-the-board increase was granted: Upon reinstatement an employee shall be eligible for any across the board increases granted during the absence. An employee's salary shall be computed on the basis of the last salary plus an across the board increase to which entitled during the first twelve months on Worker's Compensation. The increase anniversary date shall not change for the first twelve months. However, if leave exceeding twelve months is necessary, credit toward the next increase anniversary date shall not begin until the employee returns to work.

Section 32. Notification of Leaves of Absence

The Human Resources office shall be promptly notified in writing of **all** leaves of absence, **with or without pay**.

Section 33. Leave - Adverse Weather Conditions and *Disasters

If employees are unable to report to work, or feel it necessary to leave work due to severely inclement weather, road conditions, and natural or manmade disasters, they may elect to take the day off as a day of vacation, compensatory time, or as a day off without pay. This section shall not be applicable to Emergency Services personnel.

Section 34. Voluntary Shared Leave Program

A. Purpose - There are occurrences brought about by prolonged medical conditions that cause employees to exhaust all available leave and therefore be placed on leave without

* Revision 11/07/2006

pay. It is recognized that such employees forced to go on leave without pay could be without income at the most critical point in their work life. It is also recognized that fellow employees may wish to voluntarily donate some of their annual leave so as to provide assistance to a fellow County employee. This policy provides an opportunity for employees to assist another affected by a medical condition that requires absence from duty for a prolonged period of time resulting in possible loss of income due to lack of accumulated leave.

- B. Policy - In cases of a prolonged medical condition an employee may apply for or be nominated to become a recipient of leave transferred from the annual leave account of another employee or from the sick leave or annual account of an immediate family member in any department. For purposes of this policy, medical condition means medical condition of an employee or a family member (spouse, parents, children - including step relationships, or other dependents living in the employee's household) of such employee that is likely to require an employee's absence from duty for a prolonged period, generally considered to be at least twenty (20) consecutive working days. If an employee has had a previous, but different, prolonged medical condition within the last twelve months, an exception to the twenty (20) day period may be made. The intent of this policy is to allow one employee to assist another in case of a prolonged medical condition that result in exhaustion of all earned leave.

C. General Guidelines

1. Establishment of a leave "bank" for use by unnamed employees is expressly prohibited. Leave must be donated on a one-to-one personal basis.
2. An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving or using annual leave under this program. Such action by an employee shall be grounds for disciplinary action up to and including dismissal on the basis or personal conduct. Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave. The employee donating leave can not receive remuneration for the leave donated.

D. Eligibility

1. The employee must be in a permanent, probationary, or trainee position. (The limitation and leave balance for permanent part-time employees is pro-rated.) Participation in the program shall be based on the employees past compliance with leave rules.
2. An employee on Worker's Compensation leave who is drawing temporary total disability compensation may be eligible to participate in this program.

3. Non-qualifying conditions: The policy shall not ordinarily apply to short-term or sporadic conditions or illnesses. This would include such things as sporadic, short-term recurrences of chronic allergies or conditions; short-term absences due to contagious diseases; or short-term recurring medical or therapeutic treatments. These examples are illustrative, not all inclusive. Each case must be examined and decided based on its conformity to policy intent and must be handled consistently and equitably.

E. Application Procedure

1. By letter of application to the departmental director, a recipient shall apply, or be nominated by a fellow employee to participate in the program.
2. A request to your Supervisor should include a description of the medical condition and estimated length of time needed to participate in the program. A doctor's statement must be attached to the employee's request.
3. The Departmental Director shall review the merits of the request and approve or disapprove. Departmental Directors may choose to delegate the responsibility for reviewing the validity of requests to an existing peer group or establish a committee for this purpose. Such a Committee may also be used in an advisory capacity to the Departmental Director.

F. Recipient Guidelines

1. A prospective recipient may make application for voluntary share leave at such time as medical evidence is available to support the need for leave beyond the employee's available accumulated leave.
2. Participation in this program is limited to 975 hours (pro-rated for part-time employees), either continuously or, if for the same condition on a recurring basis. However, management may grant employee continuation in the program, month by month, for a maximum of 1,950 hours, if management would have otherwise granted leave without pay.
3. Subject to the maximum of 975 hours, the number of hours of leave an employee can receive is equal to the projected recovery or treatment period, less the employee's combined annual and sick leave balance as of the beginning of the recovery or treatment period. The employee must exhaust all available leave before using donated leave.
4. Leave donated to a recipients' leave account is exempt from the maximum accumulation.

5. At the expiration of the medical condition, as determined by the Departmental Director, any unused leave in the recipients donated leave account shall be treated as follow:
 - a. The annual and sick leave account balance shall not exceed a combined total of 37.5 hours (pro-rated for part-time employees).
 - b. Any additional unused donated leave shall be returned to the donor(s) on a pro rata basis and credited to the leave account from which it was donated. Fractions of one hour shall not be returned to an individual donor.
6. If a recipient separates from County government, participation in the program ends. Donated leave shall be returned to donor(s) on a pro rata basis.

G. Donor Guidelines

1. A non-family member donor may contribute only annual leave to another employee.
2. Sick leave may also be transferred to an immediate family member in any department. For transfer of sick leave to an immediate family member, immediate family is defined as wife, husband, mother, father, son, daughter, sister, brother, grandfather, grandmother, grandson, granddaughter, and also included are in-law relationships as appropriate based on the above listing, (in-law grandparents are excluded).
3. The minimum amount to be donated is four (4) hours.
4. An employee family member donating sick leave to a qualified family member under this program may donate up to a maximum of 975 but may not reduce the sick leave account below 37.5 hours.
5. The maximum amount of annual leave allowed to be donated by one individual is to be no more than the amount of the individual's annual accrual rate. However, the amount donated is not to reduce the donor's annual leave balance below one-half of the annual leave accrual rate.
 - a. Employee with 5 but less than 10 years of County service earns 135 hours annually. Employee may contribute four or more hours but may not reduce annual leave balance below 67.5 hours.
 - b. Employee with more than 20 or more years of County service earns 202.5 hours annually. Employee may contribute four or more hours but may not reduce annual leave balance below 101.25 hours.

H. Leave Accounting Procedures

1. To facilitate the administration of the program, the Departmental Director may establish a specific time period during which leave can be donated.
2. The Human Resources Department shall establish a system of leave accountability which shall accurately record leave donations and recipients use. Such accounts shall provide a clear and accurate record for financial and management audit purposes. The Buncombe County Voluntary Shared Leave Program Request to Transfer Shared Leave Form shall be used for this purpose.
3. Withdrawals from recipient's leave account shall be charged to the recipient's account according to usual leave policies.
4. Leave transferred under this program shall be available for use on a current basis or may be retroactive for up to 30 calendar days to substitute for leave without pay or advanced annual or sick leave already granted to the leave recipient.
5. Each approved medical condition shall stand alone and donated leave not used for each approved incident shall be returned to the donor(s). Employees who donate "excess" leave (any amount above the maximum allowable may have it returned and converted to sick leave).

Section 35. Family and Medical Leave Act of 1993

The Family and Medical Leave Act of 1993 was passed by Congress to balance the demands of the workplace with the needs of families, to promote stability and economic security of families, to promote national interests in preserving family integrity, to minimize the potential for employment discrimination on the basis of sex, and to promote the goal of equal employment opportunity for women and men.

- A. An employee **must** have worked for Buncombe County a total of at least 12 months and worked at least 1,250 hours over the previous 12 months to be entitled to a total of 12 workweeks, paid or unpaid, job-protected leave during the 12-month period for one or more of the following reasons:
 1. The birth of a child and to care for the child after birth, provided the leave is taken within a 12-month period following the birth;
 2. The employee to care for a child placed with the employee for adoption or foster care, provided the leave is taken within a 12-month period following adoption or placement for foster care;
 3. The employee to care for the employee's child, spouse, or parent, with a serious health condition;

4. The employee who has a serious health condition that makes the employee unable to perform the functions of their position.
 5. Spouses employed by Buncombe County are jointly entitled to a **combined** total of 12 workweeks of family leave for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition. FMLA may not be taken on an intermittent basis for birth or placement of a child for adoption or foster care unless the Departmental Director, the Human Resources Director and/or the County Manager agrees to the arrangement.
- B. Under some circumstances, employees may take FMLA leave intermittently - which means taking leave in blocks of time, ranging from an hour or more to several weeks, by reducing their normal weekly or daily work schedule.
1. If FMLA leave is for birth or placement for adoption or foster care, **use of intermittent leave is subject to the approval of the Departmental Director, Human Resources Director and/or County Manager.**
 2. FMLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work.
 3. The Departmental Director may require that the employee take a temporary transfer to an available alternative position. The employee must be qualified for the position, which must have equivalent pay and benefits and be better suited to accommodating recurring periods of leave than the employee's regular position.
- C. Leave **must** be designated, at least conditionally and verbally, ***within two business days*** (supervisor signing Buncombe County Leave Form) after learning reasons that qualify the employee for FMLA protection. Written notice must follow no later than the next payroll period (completion of FMLA Request and Response Form by Buncombe County Human Resources). If the kind of leave taken would qualify as FMLA leave and Buncombe County does not designate it as FMLA leave, then it can't be counted against an employee's entitlement to take such leave. But even then, the employee's leave will still be protected under the FMLA.
- D. Buncombe County is responsible for designating **up front**, before leave starts, whether **any** leave to be taken counts towards an employee's FMLA entitlement. Employees seeking to use FMLA leave are required to provide a 30-day advance notice of the need for FMLA leave when the need is foreseeable and such notice is practicable. If the employee doesn't give timely advance notice when the need for FMLA leave is foreseeable, the start of FMLA leave may be delayed until 30 days after the employee provides notice.

- E. The employee shall first apply in writing by completion of a Buncombe County Employee Leave Form to his/her supervisor. The original of the Leave Form should then immediately be submitted to Human Resources along with the FMLA Request and Response Form for leave requested under this policy as follows:
1. When leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so that it will not unduly disrupt the employer's operation.
 2. A medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member may be required. The certification should include the following:
 - a. The date on which the serious health condition began;
 - b. The probable duration of the condition;
 - c. The appropriate medical facts regarding the condition;
 - d. A statement that the leave is needed to care for the child, spouse, or parent, and an estimate of the amount of time that is needed, or that the employee is unable to perform the functions of the position, whichever applies; and,
 - e. Where certification is necessary for intermittent leave for planned medical treatment, the dates on which the treatment is expected to be given and the duration of the treatment.
 3. Where the supervisor has reason to doubt the validity of the certification, the supervisor may require the employee to get the opinion of a second doctor designated or approved by the supervisor. Where the second opinion differs from the opinion in the original certification provided, the supervisor may require the employee to get the opinion of a third doctor designated or approved jointly by the employer and the employee. The third opinion is final and is binding on the supervisor and the employee. The supervisor may require that the employee get subsequent recertification on a reasonable basis. The second and third certification and the recertification must be at the County's expense. The request for recertification may not be made more often than every 30 days unless the employee requests an extension of leave, the circumstances described by the original certificate have changed significantly, or the County has information that casts doubt on the continuing validity of the certification.
 4. Periodic reports during FMLA leave regarding the employee's status and intent to return to work may be required.

5. After the period of leave pursuant to this policy, if the employee will not return to work, the supervisor should be notified immediately. Failure to report at the expiration of the leave, unless an extension has been requested, may be considered a resignation.
 6. If the employee wants to return to work earlier than planned, reasonable notice (within two business days) needs to be provided by the employee where foreseeable.
 7. Once the employee tells the County unequivocally that he or she will not return to work the County's obligations under the FMLA cease.
- F. Buncombe County or employees may choose to use accrued paid leave (annual or sick leave) to cover some or all of the FMLA leave. Any period of paid leave shall account for any part of the 12 workweeks.
1. For the birth of a child, the employee is allowed to use available sick leave or annual leave.
 2. For the adoption of a child or placement of a foster child, the employee is allowed to use available annual leave.
 3. For the serious illness of an employee's child, spouse, or parent, the employee is allowed to use available sick leave or annual leave.
 4. For the employee's serious illness, the employee may use available sick leave or annual leave.
- G. Buncombe County may not require the employee to substitute compensatory time during a period of FMLA leave. The employee may, however, choose to use compensatory time for an FMLA absence. The period of absence covered by compensatory time may not be counted against the employee's FMLA entitlement.
- H. The County is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some instances, the County may recover premiums it paid to maintain health insurance coverage for an employee who fails to return to work after FMLA leave has expired. Also, arrangements must be made to pay other benefit premiums such as Dental, Short Term Disability, Life Insurance, etc.
- I. Upon return from FMLA leave, an employee must be restored to his or her original job, or to an equivalent job with equivalent pay, worksite, shift, benefits, and other employment terms and conditions. In addition, an employee's use of FMLA leave

cannot result in the loss of any employment benefits that the employee earned or was entitled to before using FMLA leave nor will it affect the leave accrual or longevity date. The employee is entitled to any unconditional pay increases paid to other workers during the employee's FMLA leave.

1. Employees who can't perform the essential functions of their former jobs because of a medical condition are not entitled to be restored to their former position - or even another open position - but if they come within the ADA's definition of a qualified person with a disability, they will have further rights.
2. Under specified and limited circumstances where restoration to employment will cause substantial and grievous economic injury to its operations, the County may refuse to reinstate certain highly-paid "key" employees after using FMLA leave during which health coverage was maintained. A "key" employee is a salaried "eligible" employee who is among the highest paid ten percent of employees within 75 miles of the work site. In order to do so, the County must:
 - a. Notify the employee of his/her status as a "key" employee in response to the employee's notice of intent to take FMLA leave;
 - b. Notify the employee as soon as the County decides to deny job restoration and explain the reasons for this decision;
 - c. Offer the employee a reasonable opportunity to return to work from FMLA leave after giving this notice; and
 - d. Make a final determination as to whether reinstatement will be denied at the end of the leave period if the employee then requests restoration.

J. Buncombe County may designate leave as FMLA *after the fact* if:

1. We have preliminarily designated leave (at the time it begins) as FMLA leave and are awaiting medical certification; or
2. We are unaware that some or all of an absence was taken for an FMLA reason and learned of the event after the employee returns to work, provided we designate the leave within **TWO** business days after the employee's return.

K. Employees may request that prior absences be designated retroactively as FMLA leave. The employee must notify Buncombe County Human Resources within **TWO** business days of returning to work that the leave was for an FMLA reason. If the employee does not notify Buncombe County Human Resources within that time, the employee may not later claim FMLA protection for the absence.

L. It is unlawful to interfere with, restrain, or deny the exercise of any right provided by the FMLA. It is also unlawful to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to the FMLA.

M. Definitions

1. Parent - a biological or adoptive parent or an individual who stood in loco parentis (a person who is in the position or place of a parent) to an employee when the employee was a child.
2. Child - a son or daughter who is under 18 year of age or is 18 years of age or older and incapable of self-care because of a mental or physical disability who is:
 - a. A biological child;
 - b. An adopted child;
 - c. A foster child - a child for whom the employee performs the duties of a parent as if it were the employee's child;
 - d. A step-child - a child of the employee's spouse from a former marriage;
 - e. A legal ward - a minor child placed by the court under the care of a guardian;
 - f. A child of an employee standing in loco parentis.
3. Spouse - a husband or wife
4. Serious health condition - an illness, injury, impairment, or physical or mental condition that involves either:
 - a. Any period of incapacity or treatment connected with inpatient care (i.e. an overnight stay) in a hospital, hospice, or residential medical care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or,
 - b. Continuing treatment by a health care provider which includes any period of incapacity (i.e. inability to work, attend school or perform other regular daily activities) due to:

- (1) A health condition (including treatment therefore or recovery there from) lasting more than three consecutive days and any subsequent treatment or period of incapacity relating to the same condition that includes:
 - (a) Treatment two or more times by or under the supervision of a health care provider; or
 - (b) Treatment by a health care provider one time with a continuing regimen of treatment.
- (2) Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence;
- (3) A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g. asthma, diabetes). A visit to the health care provider is not necessary for each absence;
- (4) A permanent or long-term condition for which treatment may not be effective (e.g. Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or
- (5) Any absence to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g. chemotherapy or radiation treatments for cancer).

5. Health care provider

- a. Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices; or,
- b. Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice, under state law; or,
- c. Nurse practitioners and nurse-midwives and clinical social workers authorized to practice, and performing within the scope of their practice, as defined under state law; or,

- d. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.
6. Americans with Disabilities Act (ADA)
- a. Under ADA, to be protected the employee must be "disabled" and have the ability to perform the essential job functions.
 - b. The ADA's three definitions of disability are:
 - (1) having a mental or physical impairment that substantially limits a major life function;
 - (2) having a record of substantially limiting impairment; or
 - (3) being regarded as having a substantially limiting impairment.

Section 36. Personal Time Off (PTO) (Effective July 1, 1998)

Personal Time Off, PTO, replaces the former **Section 14. Sick Leave-Medical or Dental Examination or Treatment.**

- A. Permanent employees may use PTO for rest and relaxation, medical/dental appointments for themselves or immediate family member or any other reason for time off.
- B. PTO may be taken only with the prior approval of the employee's immediate supervisor. The leave should be scheduled at a time consistent with the operating needs of the department. If PTO is used in place of sick leave, the employee's supervisor shall be promptly notified, certainly no later than thirty (30) minutes and if possible before the beginning of the work day.

- C. *All permanent full-time and probationary employees shall receive ~~2~~ **4** days per calendar year for PTO. Any unused PTO at the end of the calendar year shall convert into sick leave.
- D. All permanent part-time and probationary employees shall receive PTO on a pro-rata basis computed as a percentage of the total amount received by a full-time employee.
- E. The County shall not transfer PTO from another county, municipality, or state government.
- F. Upon an employee's resignation or termination, no payment shall be made for any remaining PTO.

ARTICLE VII. ADDITIONAL EMPLOYEE BENEFITS

Section 1. Social Security

Employment with Buncombe County is covered under the Federal Social Security System. Employee contributions to the Social Security Administration are matched equally by the County. Further information about Social Security benefits can be obtained from the local office of the Social Security Administration.

Section 2. Unemployment Compensation

Employees are covered for unemployment compensation benefits as provided under North Carolina State Law. It's purpose is to provide temporary income to employees who, through no fault of their own, are unemployed. Applications for benefits are made through the State Employment Security Commission Office.

Section 3. Worker's Compensation

All County employees are covered by the North Carolina Workers' Compensation Act. Employees must notify their supervisor within 24 hours of any on-the-job injury.

Section 4. Retirement

Every permanent employee who works at least 1,000 hours per year becomes a member of the North Carolina Local Governmental Employees' Retirement System.

*All new employees who are not currently enrolled in a retirement system that is transferable to the North Carolina Local Governmental Employees' Retirement System or the North Carolina Local Governmental Employees' Retirement System for Law Enforcement Officers will not be eligible for enrollment into either system until they have successfully completed their probationary period.

The following are highlights of the Retirement System benefits:

- A. The employee and employer pay the cost of retirement benefits.
- B. Monthly benefits at retirement are based on the employee's salary, age, and years of service.
- C. **Unreduced** retirement benefit at age 65 with 5 years of creditable service or at age 60 with 25 years of service or any age after 30 years of service (age 55 with 5 years of creditable service as a law enforcement officer); **reduced** benefit after age 50 and 20 years of service or at age 60 with 5 years of service or after age 60 (if you reached 60 on or before October 8, 1981) regardless of service (age 50 with 15 years of creditable service as a law enforcement officer).
- D. A right to a reduced benefit at age 60 after 5 years of service, regardless of whether the former employee is working.

* Revision 6/27/2000

- E. Disability benefits available after 5 years of service.
- F. Survivor monthly income if the employee dies in active service with 20 years of service regardless of age; or after age 55 (if the employee reached age 55 on or before July 15, 1983) regardless of service (age 50 with 15 years of creditable service as a law enforcement officer); or after age 60 with 5 years of service (age 55 with 5 years of creditable service as a law enforcement officer).
- G. Several payment options available to continue income to the employee's beneficiary if he/she dies in active service after one year of service.
- H. Death benefit paid to employee's beneficiary if he/she dies in active service after one year of service.

Section 5. Supplemental Retirement Income Plan, 401(k)

As a supplement retirement plan, all employees who are members of the Local Governmental Employees' Retirement System may participate in the Supplemental Retirement Income Plan of North Carolina, or as it is sometimes referred to as a 401(k) program. The plan is designed to supplement the employee's retirement income. It allows the employee to contribute by payroll deduction to an investment program which shall defer income taxes on both the employee's investment and the income in the investment until a later date. Employees may select from a variety of investment plans. Buncombe County contributes a percentage amount of the employee's salary to the plan. Additional employee participation is voluntary. *Probationary employees are not eligible until after successful completion of their probationary period. Refer to Section 21 for additional information specifically for Law Enforcement Officers.

Section 6. Deferred Compensation Plan

Through payroll deduction, employees may defer a portion of their salary on a regular basis. Taxes on the deferred amount and earnings are deferred until they are withdrawn, usually at retirement or termination. The program provides a tax shelter and investment opportunity. Deferred amounts may be invested in one fund or in a combination of funds to maximize the investment return. The amounts deferred to the program are from gross wages. The result is a smaller net income on which to pay federal tax, which reduces current taxes. Both the amount deferred and what it earns are permitted to accumulate tax deferred in the employee's account. Federal income taxes on the deferred amount and earnings are not payable until payments are received from the accumulated account.

Section 7. N.C. Firemen's and Rescue Squad Worker's Pension Fund

Any eligible Emergency Medical Service employee may make application for membership in this pension fund. Membership in the program is on a voluntary basis and requires a monthly payment by the employee. Benefits are payable to retired members who have served 20 years as an eligible Emergency Medical Service Employee in the State of North

* Revision 06/27/2000

Carolina, as provided in G.S. 118-38 and G.S. 118-39 and who has attained the age of 55 years.

Section 8. Group Health Insurance

Permanent employees who work at least 1,000 hours per year may participate in the group hospitalization and medical care plan, with costs shared between the employee and the County at varying ratios depending upon the type of coverage selected. *Employees hired on or after July 1, 2003 must work at least 1,560 hours per year to participate. **Effective July 20, 2004, employees placed in a grant-funded position will not be eligible for health and dental insurance coverage, but may be eligible for other employee benefits. Effective July 20, 2004, employees currently in grant-funded positions and currently without benefits will be required to enroll in the North Carolina Local Governmental Employees' Retirement System. ***Employees hired into a grant funded position on or after July 1, 2008, shall not be eligible for employee benefits and shall be classified as a temporary employee.

Section 9. Health Insurance Coverage after Employment Termination

Employees who leave employment with Buncombe County (for reasons other than gross misconduct on their part) shall have the opportunity for a temporary extension of their health insurance coverage benefits that would otherwise end. The insurance coverage may also be available to the employee's spouse and/or dependents. If the employee, spouse, or dependent chooses this temporary continuation coverage, they must pay the total monthly premium charged Buncombe County for coverage for other employees and dependents. This opportunity is due to a federal law called the Consolidated Omnibus Budget Reconciliation Act or COBRA. Upon employment termination, employees should check with the Human Resources Office for details concerning length of coverage, cost, etc.

*****Section 10. Health Insurance Coverage after Retirement**

Employees retiring on or after August 1, 2002 must enroll with the County's Health Maintenance Organization (HMO) Insurance Plan in order for the following benefit to be in effect. Any employee who, upon retirement qualifies for a monthly retirement benefit in accordance with the provisions of the North Carolina Local Governmental Employees' Retirement System and has been covered by the County group medical/hospitalization plan for the three (3) years immediately next preceding retirement, shall be eligible to remain in the County group medical/hospitalization plan. The cost of such group medical/hospitalization insurance shall be paid entirely by the County for the employee only and shall be paid only until attainment of age sixty-five (65) by the employee. *****Employees hired on or after July 1, 2008 must have 20 years of service with Buncombe County to be eligible for health insurance coverage after retirement. Eligible disabled retirees continued for coverage hereunder eligible for benefits under Title XVIII (Medicare) of the Social Security Act may remain covered hereunder until attainment of age sixty-five (65). Benefits hereunder will be paid with Medicare as the primary coverage and the County group medical/hospitalization plan as secondary coverage.

* Revision 5/03
** Revision 7/20/04
*** Revision 9/2/08
**** Revision 8/15/06
***** Revision 7/1/08

The qualifying retiree may also continue family coverage for dependents by paying the full difference between the total insurance cost and the cost of the individual coverage provided by the County. Provided, however that qualifying retirees with dependents still entitled to coverage when the retiree reaches age sixty-five (65) shall continue to receive the County paid premium for individual coverage and may continue dependent coverage at their own expense as long as they have eligible dependents.

Effective March 1, 2004, employees retiring with twenty (20) or more years of service with Buncombe County are able to continue health insurance coverage for their dependents at the same premium that active employees pay for dependent coverage. Dependents still eligible for coverage when the retiree reaches age sixty-five (65) may continue coverage at the same premium that active employees pay for dependent coverage. This action will not be retroactive to employees who retired prior to March 1, 2004.

Coverage for dependents may be continued until age sixty-five (65) and/or Medicare coverage entitlement in the case of the spouse and until attainment of age nineteen (19) in the case of minor dependents, except that minor dependents attending college full-time may retain coverage until age twenty four (24). In any case, coverage ceases upon entitlement for Medicare/Medicaid. Upon the death of a retiree, insurance may be maintained by the decedent's dependents as long as the dependent premium is paid as established above.

Coverage for dependents must be in place on the date of retirement of the employee and no dependents may be added after that date except for newly acquired dependents of the retiree or dependents covered on the date of retirement.

Any individual having held the office of County Commissioner for at least three (3) terms shall be eligible for the same medical benefits as a retiring County employee.

Any employee having completed a minimum of 25 years service with Buncombe County (15 continuous years for those employees required to be appointed by the Buncombe County Board of Commissioners) and having contributed to the North Carolina Local Governmental Employees' Retirement System for a minimum of 25 years (15 continuous years for those employees required to be appointed by the Buncombe County Board of Commissioners) shall upon retirement be eligible for the same Retirement Incentive benefit options, in accordance with the requirements outlined in the 2006 Buncombe County Cost Reduction Retirement Incentive Plan. Any individual having held elected office for 15 continuous years shall upon employment termination be eligible for the same Retirement Incentive benefit options included in the 2006 Buncombe County Cost Reduction Retirement Incentive Plan as a 25 year retiring employee.

***Effective August 5, 2008, all former and future participants of the 2006 Buncombe County Cost Reduction Retirement Incentive Plan or any other Buncombe County Retirement Incentive Agreement shall be eligible to return to work in temporary non-benefited positions.

Section 11. Basic Life Insurance

All eligible employees ~~**under age 65~~ are covered for *\$30,000 of Basic Life Insurance and for

*** Revision 8/5/2008

** Effective 4/1/2003

* Revision 7/1/2000

*\$30,000 of Accidental Death and Dismemberment. ~~**Eligible employees age 65 to 69 are~~

~~covered for *\$19,500, and age 70 and over covered for *\$15,000.~~ The County pays 100% of the premium; there is no cost to the employee.

In addition to the Basic Life Insurance, each eligible employee has the opportunity to enroll for additional life insurance in optional amounts of 10, 25, 50, 75, and 100 thousand dollars. The employee pays the entire cost of the premium, but low group wholesale rates are available on a convenient payroll deduction basis.

Section 12. Spouse Life Insurance

All eligible employees may purchase either a 10 or 25 thousand dollars coverage on their spouse. (Spouse coverage may not exceed 1/2 of employee coverage).

Section 13. Death Benefit

After completing one year of service an employee shall be eligible for a death benefit payment equal to the calendar year's salary up to a maximum of ~~**\$20,000~~ \$50,000 but no less than \$25,000, if the employee is accepted and covered by the Local Governmental Employees' Retirement System.

Section 14. Employee Assistance Program

The services of the Employee Assistance Program, through the Employee Assistance Network are available to Buncombe County Employees and their immediate family members. The program is designed to assist employees with a variety of problems which may affect their job performance or conduct. The cost of the initial diagnostic and referral session is provided at no cost to the employee or their immediate family

Section 15. Dental Insurance

Employees and their covered dependents can receive up to *\$1,500 in dental benefits each year - except for Orthodontics. While there is no yearly maximum for Orthodontics, there is a lifetime maximum of *\$1,500 for each eligible member.

For all services except Diagnostic and Preventive there is a \$25 per member per calendar year deductible and a \$75 per family per calendar year deductible. Coverage pays 100% of the Usual Customary & Reasonable Charges (UCR) for Diagnostic & Prevention Services, 80% of the UCR charges for Maintenance & Surgical Dentistry Services, and 50% of the UCR charges for Periodontal, Prosthetic, Complex Restorative & Orthodontic Services (for all eligible dependent children up to 19 years of age.)

Section 16. Short Term Disability

Benefits are payable due to accident, sickness, or pregnancy. Amount of weekly benefit may be selected up to 70% of gross weekly income (\$500 maximum) payable for up to 26 weeks during any one period of disability. Coverage pays beginning on the first day of an accident and the eighth day due to sickness or pregnancy.

** Effective 7/1/2004
* Effective 7/1/2002

Section 17. Dependent Life Insurance

Employee may purchase \$5,000 coverage on eligible dependents.

Section 18. Section 125 Pre-tax Premium Plan

Allows employee payments of insurance benefits with before tax dollars. Taxable income is less and take home pay is increased.

Section 19. Dependent Care Reimbursement Plan

Portion of employee income is set aside in a reimbursement account on a pre-tax basis used to reimburse dependent care expenses. Taxable income is less and take home pay is increased.

Section 20. Credit Union

Membership is open to employee and family for various loan services, checking and savings accounts.

Section 21. Supplemental Retirement Income Plan for Law Enforcement Officers

All Law Enforcement Officers participate in the plan beginning at the date of employment. State statute requires the County to contribute each month an amount equal to 5% of each officer's salary. All amounts contributed are vested immediately.

Section 22. Law Enforcement Officers Special Separation Allowance

Provides separation benefits to Law Enforcement Officers who complete 30 or more years of creditable service or be at least age 55 with 5 years of service, and have not attained age 62.

ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND REINSTATEMENT

Section 1. Types of Separation

All separations of employees from positions in the service of the County shall be designated as either voluntary or involuntary. Employees may be voluntarily separated from County service by either resignation, retirement or failing to report to work for three (3) consecutive days. Employees may be involuntarily separated from County service by reduction in force, disability, dismissal, unavailability for work when leave is exhausted or death. The degree and type of action based on the above types of separation shall be based on the sound and considered judgment in accordance with the provisions of this Article. When just cause exists the only disciplinary actions are: oral warning, written warning, disciplinary suspension without pay, demotion, and dismissal.

Section 2. Resignation

Employees may resign either in "Good Standing" or "Not in Good Standing."

- A. Resignation in Good Standing occurs when an employee submits a letter of resignation a minimum of ten (10) working days prior to the effective date of resignation. Such notice shall be provided to the immediate supervisor (or in the case of department heads, to the County Manager, or appropriate appointing authority, and the appropriate governing body, if applicable). Employees who resign in Good Standing may be considered for future employment with the County.
- B. Resignation Not in Good Standing occurs when:
 - 1. An employee fails to submit a letter of resignation at least ten (10) working days prior to the effective date of resignation;
 - 2. An employee fails to report to work one (1) working day following a leave of absence without pay;
 - 3. An employee is absent from work three (3) working days without authorized leave - separation pursuant to this policy should not occur until the employing agency has undertaken reasonable efforts to locate the employee and determine when or if the employee is intending to return to work;
 - 4. An employee resigns to avoid announced disciplinary action.

An employee who resigns from County employment "Not in Good Standing" is normally ineligible for future employment with the County.

Section 3. Retirement

When an employee meets the conditions set forth under the provisions of any retirement plan adopted by the Board of County Commissioners for County employees, he or she may elect to retire and receive all benefits earned under the retirement plan.

Section 4. Reduction in Force

- A. Reduction in force is the involuntary separation of an employee due to lack of work or funds, or elimination of the employee's position due to reorganization. If a reduction in force occurs:
1. Together with the Departmental Director(s) involved, the Human Resources Director shall determine the employee(s) affected by the reduction in force.
 2. The Human Resources Director shall determine and list all employees, subject to the authority or control of the County Manager, serving in the same class throughout the County who are on that date listed as temporary or probationary employees. Furthermore, the Human Resources Director shall add to that list any position(s) which, on that date, is not filled or is being advertised within the same class which is affected by the reduction in force.
 3. No permanent employee, subject to the authority or control of the County Manager, shall be separated while there are unfilled positions or temporary or probationary employees serving within the County in the same class unless the permanent employee is not willing to transfer to the position held by the temporary or probationary employee.
 4. The Department Director involved and the Human Resources Director shall make their final determination(s) by giving consideration to the employee(s) involved by:
 - a. Showing organization needs;
 - b. Performance; and
 - c. Seniority
 5. The Departmental Director involved and the Human Resources Director shall advise and provide documented recommendations to the County Manager as to those employees who shall be separated because of reduction in force.
 6. Rather than just the involved departments, the County Manager, who has the final authority to determine the employee(s) to be separated because of reduction-in-

force, may consider the entire County work force, subject to his or her authority or control when making his or her decision.

- B. Employees who are subject to a reduction in force have priority consideration, for a period of one year, for any position that becomes available if the employee is qualified. The person must submit an application to the Human Resources Department documenting their priority situation. Employees who are subject to a reduction in force are given at least two (2) weeks notice of the anticipated lay-off.

Section 5. Severance Pay Policy and Involuntary Termination

Involuntary termination occurs with the reduction in force of an employee due to lack of funds or elimination of the employee's position due to reorganization. If a reduction in force occurs, severance shall be paid as follows:

- A. Permanent full-time and permanent part-time employees who qualify for benefits under the Local Governmental Employees' Retirement System shall be paid at the rate of two weeks' pay for each full year of service to the County, up to a maximum payment equal to twenty four (24) weeks.
- B. Any remaining portion of a year's service to the County shall be paid at a pro-rata basis.
- C. An employee receiving severance pay shall not be eligible for re-employment with the County for the number of weeks calculated in the severance payoff, unless repayment is made in advance of re-employment for any severance in excess of the period of actual separation from the County.
- D. The following employees shall not be eligible for severance payment.
 - 1. Temporary or probationary employees.
 - *2. Any employee who is in a time-limited/grant-funded or contract position.
 - 3. Any employee for whom the County has arranged comparable employment with a non-county agency.
 - 4. Any employee who declines an offer of comparable employment by the County prior to his/her date of separation.

Section 6. Disability

An employee may be separated for disability when the employee cannot perform the essential functions of the position because of a physical or mental impairment. Action may be initiated by the employee or the County but in all cases it shall be supported by medical

* Revision 10/98

evidence as certified by a competent physician. The County may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, the organization shall attempt to make a reasonable accommodation to the employee which may include location of an alternative position within the County's service for which the employee may be suited.

Section 7. Discipline and Dismissal to Include Grossly Inefficient Job Performance

Policy

All County employees are subject to disciplinary actions, including dismissal, when just cause exists. For purposes of this policy, the County has determined two types of actions that establish just cause for implementing disciplinary and or dismissal action on an employee. The two types of employee actions are: (1) unacceptable personal conduct and (2) unsatisfactory job performance. Both types of the above mentioned employee actions and the supervisory actions resulting in discipline and or dismissal are explained as follows in this section.

I. Unacceptable Personal Conduct

A. Unacceptable personal conduct is:

1. Conduct for which no reasonable person should expect to receive prior warning; or,
2. Job related conduct which constitutes a violation of state or federal law; or,
3. Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the agency; or,
4. The willful violation of known or written work rules; or,
5. Conduct unbecoming an employee that is detrimental to the agency's service; or,
6. The abuse of client(s), patient(s), student(s), or a person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the agency; or,
7. Falsification of an employment application or other employment documentation that is related to the position requirements; or,
8. Failure to obtain or maintain any license, registration or certification required by a relevant law, rule or provision when the duties of the position require that license, registration or certification.

9. Absence from work after all authorized leave credits and benefits have been exhausted; or,
10. Insubordination which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning.

B. Discipline/Dismissal Action for Unacceptable Personal Conduct:

1. An employee can be suspended without notice for causes related to unacceptable personal conduct in order to avoid undue disruption of work and/or to protect the safety of persons or property in the associated work area. When a department head suspends an employee without notice, the employee is required to leave the County property at once and remain away until further notice after a pre-suspension conference is held. The department head shall notify the Human Resources Director immediately. A written summary giving the circumstances and the facts leading to the immediate suspension shall be prepared. One (1) copy shall be delivered to the employee by certified mail; one (1) copy shall be filed in the employee's personnel file. An employee who has successfully completed the probationary period and is dismissed on a first offense shall be offered the opportunity to appeal in accordance with the grievance procedure prescribed in Article IX of this ordinance.

II. Unsatisfactory Job Performance

A. Unsatisfactory job performance occurs when an employee's performance is unsatisfactory over a period of time and no improvement occurs after specific notice has been given to the employee concerning the performance deficiency and how to improve performance to satisfactory levels. Such employee actions are subject to progressive disciplinary actions as described below. This type of employee action must receive the following steps and cannot result in first offense discipline or dismissal. However, this system of progressive discipline does not apply to probationary or temporary employees who may be separated for just cause. In addition, it is not required nor necessary that successive disciplinary actions all concern the same type of unsatisfactory performance.

1. If disciplinary action is required, the first step is to issue an oral or written warning to the employee outlining the disciplinary issue and strategies for improving or discontinuing the action or behavior. The supervisor has discretion in issuing an oral or written warning on a first offense of unsatisfactory performance, but this policy forbids more than two oral warnings for a single type of unsatisfactory performance.

2. If the supervisor gives oral warning(s) and it does not result in improved performance and/or behavior, a written warning must be issued by the supervisor, specifying the employee's performance deficiencies and the steps required to achieve satisfactory performance, as well as written statement that further action may result in a specific action, including dismissal. Again, the supervisor does not have to issue any oral warnings and may go directly to the written warning on a first offense. The employee shall be asked to sign a confirmation of receipt of the written warning. If the employee refuses to sign, it shall be so noted, and attested to by a witness (preferably another supervisor) that a written warning was given to the employee.
3. If performance still does not improve, a final written warning must be issued by the department head. The final written warning serves notice to the employee that corrective action must be taken immediately to avoid disciplinary action and specifies that failure to make the required performance improvements may result in dismissal. The supervisor and the department head shall record the dates of their discussions with the employee, the performance deficiencies discussed, and the corrective actions recommended, and file the information in the employee's personnel file.
4. If performance still does not improve, the employee may be suspended without pay for a period of up to fourteen (14) days, or the department head may recommend to the County Manager, or corresponding appointing authority, that the employee be dismissed. Dismissal shall be the final decision of the County Manager or corresponding appointing authority.

B. Grossly Inefficient Job Performance

1. Grossly inefficient job performance occurs in instances in which the employee fails to satisfactorily perform job requirements as specified in the job description, work plan, or as directed by the management of the work unit or agency and that failure results in one or both of the following:
 - a. The creation of the potential for death or serious harm to a client(s), employee(s), member(s) of the public or to a person(s) over whom the employee has responsibility.
 - b. The loss of or damage to agency property or funds that result in a serious impact on the organization and/or work unit.
2. An employee can be suspended without notice for grossly inefficient job performance in order to avoid undue disruption of work and/or to protect the safety of persons or property in the associated work area. When a department head suspends an employee without notice, the employee is required to leave the

County property at once and remain away until further notice. The department head shall notify the Human Resources Director immediately. A written summary giving the circumstances and the facts leading to the immediate suspension shall be prepared. One (1) copy shall be delivered to the employee by certified mail one (1) copy shall be filed in the employee's personnel file. An employee who has successfully completed the probationary period and is dismissed on a first offense shall be offered the opportunity to appeal in accordance with the grievance procedure prescribed in Article IX of this ordinance.

- C. All disciplinary warnings submitted to the employee become inactive after eighteen (18) months unless extended in writing or a second warning occurs during the eighteen (18) month time-frame.
- D. All dismissals must be preceded by a pre-dismissal conference, which must be conducted by the County Manager and/or Human Resources Director or the corresponding appointing authority.
- E. In the case of alcohol or other substance abuse, the employee may be required to participate in a rehabilitation program at their own expense as a condition of further employment.

III. Disciplinary Suspension Without Pay

- A. Disciplinary suspension without pay of a permanent employee shall be applicable as follows:
 - 1. For Unsatisfactory Job Performance after the receipt of at least one prior written disciplinary action.
 - 2. For any instance of Unacceptable Personal Conduct.
 - 3. For any instance of Grossly Inefficient Job Performance.
- B. Essential consideration for disciplinary suspension without pay of a permanent employee are as follows:
 - 1. A pre-disciplinary suspension conference is required following applicable procedures from the guidelines for conducting a pre-dismissal conference. Advance oral or written notice of the conference is required.
 - 2. For employees subject to the overtime provisions of the Fair Labor Standards Act, the suspension must be for at least one full work day with a maximum time of two weeks.

3. For employees who are exempt from the overtime provisions of the Fair Labor Standards Act, the suspension must be for at least one work week with a maximum time of two weeks.
4. Furnish the employee a written statement setting forth the specific reasons for the suspension and notification of the employees' right to appeal. Attach a copy of the grievance procedure.

Section 8. Predissmissal Conference

Dismissal of a permanent employee for unsatisfactory job performance, grossly inefficient job performance, and/or unacceptable personal conduct requires a predissmissal conference prior to the employee's permanent dismissal.

- A. A predissmissal conference must precede dismissal of permanent employees for unsatisfactory job performance, grossly inefficient job performance or unacceptable personal conduct. The conference should include the Human Resources Director and/or the County Manager or corresponding appointing official who has jurisdiction over the employee (department head and/or supervisors who prepared any and all written warnings and who have knowledge of the employee's performance or conduct which has lead to the proposed disciplinary action) and the employee.
- B. Advance written notice of the pre-dismissal conference is required. As much time as is practical, under the circumstances surrounding the employee's performance or conduct should be given. Preference would be a minimum of one day notice generated through the Human Resources Department and signed by the management members involved (department head and supervisor(s) involved).
- C. The notice to the employee should include the following:
 1. Inform the employee there shall be a pre-dismissal conference and include the time, date, and location of the conference.
 2. Provide a summary of the evidence and the issues for which the dismissal is being conducted.
 3. Indicate that the organization is *considering* the action, but that the conference is to aid in reaching a final decision.
 4. Inform the employee that he/she shall be given an opportunity to respond to the evidence at the conference.
- D. The conference is to be conducted by the County Manager and/or Human Resources Director or corresponding appointing authority in cases where the Human Resources Director may be the

employee in question or where the Human Resources Director is the supervisor of an employee in question). It is necessary that during the conference the following procedures should occur:

1. All evidence and related information regarding the performance and or conduct be reviewed orally.
2. Management may request to have present a second representative and, if necessary, security personnel.
3. No attorneys are allowed in the pre-dismissal conference.
4. Specific reasons and back-up documentation, to include all written warnings, should be presented which support the proposed action.
5. Insure the employee at the onset of the conference that no final decision has been made.
6. Solicit information from the employee which shall allow him/her to present their side or perspective of the issue(s).
7. The employee does not have the option of presenting witnesses.
8. Terminate the conference for the purpose of evaluating and weighing all information/evidence presented.

E. A meeting with all appropriate management/staff/legal resources follows the predismisal conference to evaluate all information obtained in the predismisal conference in order to render a final decision on the appropriate course of action. If the decision is to dismiss the employee, the decision, determined as final by the County Manager or corresponding appointing authority, must be communicated to the employee the next business day following the predismisal conference and issue to the employee a copy of the appeals procedure.

Section 9. Death

The estate of an employee who dies while employed by the County shall be provided benefits and compensation due to the employee at the time of the employee's death.

Section 10. Placement Investigation

A. Investigatory suspension with pay may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status. Placement investigation with pay may be appropriately used to provide time to schedule and hold a predismisal

conference. Also, the County may elect to use placement investigation to avoid undue disruption of work or to protect the safety of persons or property. A placement investigation with pay shall not exceed thirty (30) calendar days unless extended by management. Extensions shall be in writing to the employee and include the specific reason for the extension and the length of the extension.

- B. Placement investigation of an employee shall not be used for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

Section 11. Separation Procedure

Prior to separation, an employee separating from employment with the County may have an exit interview with the Human Resources Department and the employee's department head. Any County property in the employee's possession shall be returned to the County prior to separation. If the separation is involuntary, the employee shall be informed of the right to appeal.

Secton 12. Disciplinary Demotion

- A. Disciplinary demotion of an employee shall be applicable as follows:

1. After the receipt of at least one written prior disciplinary action.
2. For any instance of Unacceptable Personal Conduct.
3. For any instance of Grossly Inefficient Job Performance.

- B. Essential consideration for an employee disciplinary demotion are as follows:

1. A pre-demotion conference is required following applicable procedures from the guidelines for conducting a pre-dismissal conference, advance oral or written notice of the conference is required.
2. Furnish the employee a written statement setting forth the specific reasons for the demotion. Include in the statement:
 - a. How and to what extent the demotion will affect the employee's salary and pay grade.
 - b. It is recommended that, if appropriate, a revised job description outlining the employee's revised duties and responsibilities be attached.
 - c. Issue to the employee a copy of the appeal procedure.

Section 13. Employee Appeal

An employee wishing to appeal a reprimand, a demotion, a suspension, or a dismissal may present the matter using the grievance procedure prescribed in Article IX of this Ordinance. Suspension by placement investigation is not open for appeal.

ARTICLE IX. GRIEVANCE AND APPEAL PROCEDURES

Section 1. Purpose

The grievance procedure provides an adequate and fair means for hearing and resolving matters of employment conditions of County employees who have earned permanent employee status.

Section 2. Coverage

This grievance procedure applies to all departments and all permanent employees of Buncombe County. A grievance is defined as a claim or complaint of an event or condition which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions. A grievance may only pertain to allegations of involuntary demotion, suspension, reduction in force, dismissal, discriminatory practices, and/or hostile work environment, to include sexual discrimination. Voluntary demotion or Investigatory Suspension is not grievable in accordance with the remedies and issues utilized in the process described in this policy. This does not, however, prevent or preclude any individual from pursuing any other legal remedies for grievance issues described or not described in this ordinance.

Section 3. Policy

Every permanent employee shall have the right to present a grievance in accordance with these procedures, with or without a representative, free from interference, coercion, restraint, discrimination, penalty, or reprisal. Employees shall be permitted time away from regular duties as may be necessary and reasonable as determined by the department head or the County Manager to prepare and present a grievance. All grievances based on dismissal, suspension for disciplinary reasons, reduction in position (demotion) or pay for disciplinary reasons and reduction in force may be appealed directly to the County Manager or corresponding appointing authority. Employees shall have fifteen (15) calendar days from the date of receipt of written notice of such action to file an appeal. All grievances based on alleged discrimination may be appealed directly to the County Manager or corresponding appointing authority, indicating whether the alleged discrimination was based on race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap, or age.

Grievances filed on an untimely basis must be dismissed. Allegations of discrimination, if raised more than thirty (30) calendar days after the party alleging discrimination became aware of or should have become aware of the alleged discrimination, must be dismissed.

Section 4. Procedure

A. Step One.

1. An employee must file a grievance, either orally or in writing, with the immediate supervisor within fifteen (15) days of the date of a grievable incident having occurred. The immediate supervisor shall meet with the employee within five (5) days of receipt of the grievance and attempt to informally and expeditiously resolve the grievance. If the grievance is not settled, then the employee and immediate supervisor should document a statement of relief which describes the action the employee desires the immediate supervisor or organization should take to resolve the grievance.
2. If the immediate supervisor's informal resolution efforts fail, the immediate supervisor must issue a written decision to the employee and the department head on the grievance and submit it no later than five (5) days following the meeting which summarized the grievance, the requested statement of relief, and documentation as to why the grievance was not resolved. The grievance procedure would at this point move to Step Two.
3. If the employee alleged sexual harassment or hostile work environment by the immediate supervisor, the employee may file the complaint with the department head, Assistant County Manager, County Manager, Human Resources Director or corresponding appointing authority. Alternatives as to who to report alleged harassment or hostile work environment to are outlined in Article V, Section 4 should the immediate supervisor, department head, or County Manager be the source of the employee's grievance.

B. Step Two.

1. Employees not reaching resolution with the informal response at Step One may file the grievance and statement of relief desired, in writing, with the department head within five (5) days of receipt of the immediate supervisor's written decision and shall state the basis for the complaint. and, if based on alleged discrimination, indicate whether the alleged discrimination was based on race, color, religion, sex, national origin, political affiliation, non-disqualifying handicap, or age.
2. The Department head shall meet with the employee within five (5) days of receipt of the Step Two grievance, and review the decision at Step One, and make an independent determination on the merits of the grievance. Within ten (10) days of the meeting with the employee, the department head shall issue a written decision to the employee with copies to the immediate supervisor and the Human Resources Department. If the employee and department head reach an agreement

at this step, the decision and statement of relief shall be issued and the grievance is resolved.

3. Should the grievance not be resolved at the department head level, Step 3 of this procedure is available to the employee.

C. Step Three. (Not applicable to elected official employees or to employees subject to the jurisdiction of the North Carolina State Personnel Commission)

1. Employees not reaching a resolution or timely response in Step 2 are able to take the grievance from the department level to the Human Resources Director. This enables the employee, immediate supervisor, and department head to have the grievance reviewed by someone external to the department. The grievance may be filed with the Human Resources Director within ten (10) working days of the decision or decision due date of Step 2. The Human Resources Director shall review the grievance and render a decision within ten (10) working days.
2. The decision, in writing, shall be provided to the employee, immediate supervisor, and department head. Should the employee and Human Resources Director reach a resolution, the prescribed relief shall be outlined and the grievance shall be resolved.
3. If no resolution is reached at this level, the employee may proceed to Step 4 of the prescribed grievance process.

D. Step Four.

1. Employees not reaching resolution at Step 3 may forward the written grievance to either the County Manager or the corresponding appointing authority within five (5) days of receipt of the Step 3 decision. The employee may request a decision from the corresponding appointing official or County Manager directly.
2. At Step 4 in the grievance procedure, either the corresponding appointing official or County Manager must be utilized for a final and binding decision, except those employees subject to the jurisdiction of the North Carolina State Personnel Commission may appeal to the State Personnel Commission.
3. If the employee requests a decision directly, the appointing authority and/or County Manager shall render a written decision to the employee, immediate supervisor, department head, and Human Resources Director within fifteen (15) days of receipt of the grievance. The decision issued and applicable relief to resolve the grievance is at this stage final and binding and in itself is not grievable, except those employees subject to the jurisdiction of the North Carolina State Personnel

Commission may appeal to the State Personnel Commission in the following actions:

- a. Dismissal;
- b. Suspension;
- c. Reduction in position (demotion) or pay for disciplinary reasons; or,
- d. Reduction-in-force.

Section 5. Final Decision on the Grievance

Upon receiving the decision of the County Manager or corresponding appointing official, the County Manager and/or Human Resources Director or other corresponding appointing authority shall inform the employee, immediate supervisor, and the department head, in writing, of the final decision and any prescribed relief to resolve the grievance. The decision shall be furnished within ten (10) days and in itself is not grievable, except those employees subject to the jurisdiction of the North Carolina Personnel Commission may appeal to the State Personnel Commission.

Section 6. Appeal to the State Personnel Commission

Employees subject to the jurisdiction of the North Carolina State Personnel Commission shall have the right to appeal to the State Personnel Commission through the Office of Administrative Hearings not later than thirty (30) days after receipt of notice of the corresponding appointing authority's decision, provided that the employee has obtained permanent status in accordance with the rules and regulations of the State Personnel Commission. The decision of the State Personnel Commission shall be binding in appeals of local employees subject to the State Personnel Act if the commission finds that the employee has been subjected to discrimination or if a binding decision is required by applicable federal standards. However, in all other local employee appeals, the decision of the State Personnel Commission shall be advisory to the local appointing authority.

Section 7. Maintenance of Records

All documentation, records, and reports shall be retained for a minimum of three (3) years and shall be held by the Human Resources Department. These records shall be subject to review by the grievant, the employee's department head, the County Manager and/or Human Resources Director or other corresponding appointing authority, and by the Board of County Commissioners.

ARTICLE X. PERSONNEL RECORDS

Section 1. Personnel Records Maintenance

Such personnel records as are necessary for the proper administration of the personnel system shall be maintained by the corresponding appointing authority or Human Resources Department. The County shall maintain in personnel records only information that is necessary and relevant to accomplishing legitimate personnel administration needs.

Section 2. Information Open to the Public

The following information on each County employee is public information:

- A. Name
- B. Age
- C. Date of original employment or appointment to County service
- D. Current position title
- E. Current salary
- F. Date and amount of most recent change in salary
- G. Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification
- H. Department to which the employee is currently assigned

Section 3. Access to Personnel Records

As required by G. S. 153A-98, any person may have access to the information listed in Section 2 of this article for the purpose of inspection, examination, and copying, during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of County Commissioners may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

Section 4. Confidential Information

All information contained in a County employee's personnel file, other than the information listed in Section 2 of this article, shall be maintained as confidential in accordance with the

requirement of G. S. 153A-98 and shall be open to public inspection only in the following instances:

- A. The employee or his duly authorized agent may examine all portions of the employee's personnel file, except (1) letters of reference solicited before employment and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
- B. A licensed physician designated in writing by the employee may examine the employee's medical record.
- C. A County employee having supervisory authority over another employee may examine all material in the employee's personnel file.
- D. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- E. An official of any agency of the state or federal government, or any political subdivision of the state, may inspect any portion of a personnel file when such information is deemed by the corresponding appointing authority or County Manager to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability.
- F. Each individual requesting access to confidential information shall be required to submit satisfactory proof of identity.
- G. A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).

Section 5. Remedies of Employees Objecting to Material in File

An employee who objects to material in his or her personnel file may place in the file a statement relating to the material the employee considers to be inaccurate or misleading. The employee may seek the removal of such material in accordance with established grievance procedure.

Section 6. Penalty for Permitting Unauthorized Access to Confidential File(s)

Any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, may be judged guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed five hundred dollars (\$500).

Section 7. Penalty for Unauthorized Examining and/or Copying of Confidential Material

Any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine, remove or copy any portion of a confidential personnel file may be judged guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars (\$500).

Section 8. Destruction of Records

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5 (b), without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars nor more than five hundred dollars (\$500) as provided in G.S. 132-3.

ARTICLE XI. IMPLEMENTATION OF PERSONNEL ORDINANCE

Section 1. Conflicting Policies and Resolution Repealed

All policies, ordinances or resolutions that conflict with the provisions of this Ordinance are hereby repealed.

Section 2. Severability

If any provision of this Ordinance or any rule, regulations or order thereunder or the application of such provision to any person or circumstance is held invalid, the remainder of this Ordinance and the application of such remaining provisions of this Ordinance of such rules, regulations or orders to persons or circumstances other than those held invalid, shall not be affected thereby.

This Ordinance adopted and effective by the Board of County Commissioners, Buncombe County, State of North Carolina, this 15th day of October, 1996.