

ORDINANCE NO. _____

AN ORDINANCE AMENDING BUNCOMBE COUNTY'S PERSONNEL ORDINANCE

- WHEREAS, pursuant to N.C. Gen. Stat. § 153A-94, a county may by ordinance adopt personnel rules that promote the hiring and retention of capable, diligent and honest career employees;
- WHEREAS, on October 15, 1996, Buncombe County adopted the Buncombe County Personnel Ordinance;
- WHEREAS, on October 3, 2017, the County adopted a comprehensive update to the existing Personnel Ordinance;
- WHEREAS, the Buncombe County Board of Commissioners desire to make additional amendments to the Personnel Ordinance; and
- WHEREAS, the changes indicated below reflect the vote of a majority of this Board following public hearing and the first reading of these proposed changes; the Board took up the proposed amendments in the following order and voted upon the same as indicated.

NOW THEREFORE, BE IT ORDAINED BY THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS THAT:

Section 1. The Personnel Ordinance of Buncombe County as referenced in Section 3-1 of the Buncombe County Code of Ordinances on file with Buncombe County Clerk to the Board of Commissioners dated October 3, 2017 shall be amended as follows:

By amending Article I, Organization of Personnel System, Section 2, Coverage C. as follows:

"The County Manager, the County Attorney, **the Head of the Internal Audit Department**, the Finance Director, the Clerk to the Board and the Director of the Board of Elections are exempt from the provisions of this Personnel Ordinance which relate to hiring, disciplinary actions including but not limited to suspension without pay, dismissal, grievances, and appeals."

By adding a new paragraph 8.F. to Article IV. Recruitment and Selection, as follows:

F. "The position of Head of the Internal Audit Department shall not be filled without a recommendation by majority vote of the County's Audit Committee. If a

majority of the Audit Committee votes in favor of the selection of a candidate for the position then such recommendation must be considered by the Board of Commissioners for final approval."

By adding a new Section 14 to Article VIII, Separation, Disciplinary Action, and Employee Appeals of the Buncombe County Personnel Ordinance as follows:

"Section 14. Disciplinary actions involving the Head of the Internal Audit Department

The Head of the Internal Audit Department position cannot be disciplined in any manner without a recommendation by majority vote of the County's Audit Committee. Any member of the Audit Committee may initiate a disciplinary action against the Head of the Internal Audit Department. If a majority of the Audit Committee votes in favor of disciplinary action up to and including termination then such recommendation must be considered by the Board of Commissioners for the final disciplinary decision."

● THE PROPOSED INCLUSION OF "THE HEAD OF THE INTERNAL AUDIT DEPARTMENT" IN ARTICLE I, ORGANIZATION OF PERSONNEL SYSTEM, SECTION 2, COVERAGE C.; ● THE PROPOSED INCLUSION OF A MAJORITY VOTE OF THE AUDIT COMMITTEE PRIOR TO HIRING THE HEAD OF THE INTERNAL AUDIT DEPARTMENT; and ● THE PROPOSED INCLUSION OF A MAJORITY VOTE OF THE AUDIT COMMITTEE PRIOR TO ANY DISCIPLINARY ACTION INVOLVING THE HEAD OF THE INTERNAL AUDIT DEPARTMENT WERE APPROVED AT THE FIRST READING BY A VOTE OF 7 to 0.

By deleting Article III, Pay Plan, Section 13, Consumer Price Index Salary Adjustment of the Buncombe County Personnel Ordinance in its entirety as follows:

~~"Section 13. Consumer Price Index Salary Adjustment Each year, effective during the month of April, employees occupying a regular position shall receive an annual salary percent increase equal to the percentage increase 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. The index to be used is the Consumer Price Index, Urban Wage Earners and Clerical Workers, U. S. City Average, All Items, published by the United States Department of Labor, Bureau of Labor Statistics and in effect as of December 31st next preceding the date of the salary adjustment. Seasonally adjusted data will not be used."~~

THE PROPOSED DELETION OF THIS SECTION PROVIDING FOR AUTOMATIC CONSUMER PRICE INDEX SALARY ADJUSTMENT EACH YEAR WAS REJECTED BY A VOTE OF 6 to 1.

The proposal to amend Article I, Organization of Personnel System, Section 2, Coverage C. by removing the Finance Director as an employee covered by the Personnel Ordinance as follows:

"The County Manager, the County Attorney, the Head of the Internal Audit Department, ~~the Finance Director,~~ the Clerk to the Board and the Director of the Board of Elections are exempt from the provisions of this Personnel Ordinance which relate to hiring, disciplinary actions including but not limited to suspension without pay, dismissal, grievances, and appeals."

THE PROPOSED DELETION OF "THE FINANCE DIRECTOR" FROM IN ARTICLE I, ORGANIZATION OF PERSONNEL SYSTEM, SECTION 2, COVERAGE C. WAS REJECTED BY A VOTE OF 4 to 3.

By amending Article VIII, Separation, Disciplinary Action, and Employee Appeals, Section 7, Disciplinary Actions (Written Warning, Suspension without Pay, Demotion, and Dismissal) for Unsatisfactory Job Performance and/or Unacceptable Personal Conduct Policy, of the Buncombe County Personnel Ordinance as follows:

"Section 7. C. Unsatisfactory Job Performance, 2. Disciplinary Action for Unsatisfactory Job Performance,

c. A Covered Employee may be dismissed for Unsatisfactory Job Performance if the Covered Employee has at least two active disciplinary actions and has a current unresolved performance issue. ~~Except, when the performance-related inadequacies are of such a serious nature as determined by the County Manager that they create a major operational issue, significant financial impacts, damage to the reputation of the County, or are so egregious that they warrant immediate, more severe disciplinary action, then the County Manager may authorize the imposition of a more serious disciplinary penalty up to and including dismissal for the first offense, without going through all the progressive disciplinary steps set out in this subsection. The pre-disciplinary process as set forth in Article VIII, Section 9, Procedural Guidelines for Disciplinary Dismissal, otherwise remain in full force and effect."~~

By amending Article VIII, Separation, Disciplinary Action, and Employee Appeals, Section 9, Procedural Guidelines for Disciplinary Dismissal, of the Buncombe County Personnel Ordinance as follows:

Section 9. Procedural Guidelines for Disciplinary Dismissal, A. Disciplinary dismissal of a Covered Employee shall be applicable as follows:

2. ~~For unsatisfactory job performance, where the Covered Employee has at least two active disciplinary actions of any type and have a current unresolved performance issue.~~ For Unsatisfactory Job Performance as applied pursuant to Article VIII.

THE PROPOSED ADDITIONAL LANGUAGE ADDED ABOVE IN SECTION 7. C. UNSATISFACTORY JOB PERFORMANCE, 2. DISCIPLINARY ACTION FOR UNSATISFACTORY JOB PERFORMANCE AND THE AMENDED LANGUAGE PROPOSED FOR SECTION 9. PROCEDURAL GUIDELINES FOR DISCIPLINARY DISMISSAL, A. ALLOWING THE COUNTY MANAGER TO TERMINATE AN EMPLOYEE WITHOUT GOING THROUGH ALL PROGRESSIVE DISCIPLINARY STEPS IN CERTAIN EGREGIOUS CIRCUMSTANCES WAS APPROVED BY A VOTE OF 6 to 1.

Section 2. All ordinances or portions of ordinances in conflict herewith are hereby repealed.

Section 3. Should any provision of the attached personnel ordinance be declared invalid or unconstitutional by any court of any competent jurisdiction, such declaration shall not affect the validity of the personnel ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 4. This ordinance shall take effect and be in force upon adoption.

APPROVED AT FIRST READING: AS INDICATED ABOVE.

SECOND READING:

ADOPTED this the 4TH day of September, 2018.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Lamar Joyner, Clerk

By: _____
Brownie Newman, Chairman

APPROVED AS TO FORM

County Attorney