

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; and
- WHEREAS,** October 15, 1996, Buncombe County adopted the Buncombe County Personnel Ordinance; and
- WHEREAS,** on August 7, 2012, the County adopted a comprehensive update to the existing Personnel Ordinance; and
- WHEREAS,** the Buncombe County Board of Commissioners desires to make additional amendments to the Personnel Ordinance.

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

Section 1. Section 3-1 of the Buncombe County Code of Ordinances shall be amended as follows:

- a. By deleting Section 3-1 in its entirety and replacing it with the following:

“Sec. 3-1. Personnel Ordinance. The Board of Commissioners have adopted a Personnel Ordinance for the regulation of employees of Buncombe County effective September 1, 2012. A copy of the amended Personnel Ordinance incorporated herein by reference dated April 2, 2013 is on file with the Buncombe County Clerk to the Board of Commissioners.”

Section 2. 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 September 1, 2012 shall be amended as follows:

- a. By deleting Article I, Section 5 of the Buncombe County Personnel Ordinance and replacing it with the following:

“Section 5. 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, physical or mental disability, age, veteran status, genetic information sexual orientation, gender identity or any other legally protected class under federal or NC State law.”

- b. By deleting Article IV, Section 2, Subparagraph B of the Buncombe County Personnel Ordinance and replacing it with the following:

“B. Firm practices and employment decisions regarding recruitment, hiring, assignment, promotion, and compensation shall not be based on any person’s individual's race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law.”

- c. By deleting Article V, Section 5, Subparagraph A of the Buncombe County Personnel Ordinance and replacing it with the following:

“A. Buncombe County is committed to a work environment that is free from harassment and discrimination. Harassment based on an individual’s race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law will not be tolerated. All employees, including Supervisory and management personnel, are expected and required to refrain from any activity or action that contributes to harassment in the workplace. Harassment of employees by Supervisors or co-workers is forbidden in any form.”

- d. By deleting Article V, Section 5, Subparagraph B , the definition of “Unlawful Workplace Harassment” of the Buncombe County Personnel Ordinance and replacing it with the following:

“Unlawful Workplace Harassment. This is specifically defined as unwelcome or unsolicited speech or conduct based upon race, color, religion, sex, national origin, political affiliation, physical, or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law that creates a hostile work environment or circumstances involving quid pro quo.”

- e. By deleting Article IX, Section 3, Subparagraph A of the Buncombe County Personnel Ordinance and replacing it with the following:

“A. Every eligible 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 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, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law. Filing a grievance pursuant to this section does not toll the statute of limitations applicable to filing a charge of discrimination with the Equal Employment Opportunity Commission.”

f. By deleting Article IX, Section 4, Subparagraph B.1 of the Buncombe County Personnel Ordinance and replacing it with the following:

“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 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, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law.”

Section 3. All ordinances or portions of ordinances in conflict herewith are hereby repealed.

Section 4. 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 5. This ordinance shall take effect and be in force upon adoption.

ADOPTED the 2nd day of April, 2012.

ATTEST

**BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE**

KATHY HUGHES, CLERK

BY: _____
DAVID GANTT, CHAIRMAN

APPROVED AS TO FORM

COUNTY ATTORNEY