

PERSONNEL ORDINANCE

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PERSONNEL ORDINANCE

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Part 1. In General

Section 1. Purpose

The purpose of this Ordinance is to establish a personnel system that will 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. Limitations Disclaimer

This Ordinance does not create a contract of employment. Any individual may voluntarily leave employment upon proper notice or may be terminated by the employer at any time for any legitimate reason. Any oral or written statements or promises to the contrary are hereby expressly disavowed and should not be relied upon by any prospective or current employee. The contents of this Ordinance are subject to change at any time at the discretion of the Board of Commissioners.

Different conditions of employment may apply to positions in the Office of the Register of Deeds, Sheriff, and the Board of Elections under N.C. General Statute 153A-103, N.C. General Statute 163 and other applicable law.

Section 3. Employees Subject to Ordinance

- A. All employees in the county's service, including employees of the County Sheriff and the Register of Deeds, are subject to this Ordinance, except as provided in this section.
- B. Elected officials, the County Manager, the County Attorney, consultants, volunteers, and contract employees are exempt from all provisions of this Ordinance.
- C. The following employees are covered only by the specifically designated Parts and Sections:
 1. Employees of Health and Social Services governed by the State Personnel Act shall be subject to all Parts except Part 8.
 2. The Director of Elections shall be subject to all Parts except Parts 5, 7 (Section 148), and 8. Employees of the Board of Elections shall be subject to Parts of the Personnel Ordinance as outlined in the Memorandum of Understanding between the Pitt County Board of Commissioners and the Pitt County Board of Elections.
 3. Employees of the County Sheriff and the Register of Deeds shall be subject at the discretion of those elected officials to all Parts but are exempt from Parts 4, 7, and 8.
 4. Temporary employees, as designated by the Board of Commissioners, shall be subject to all Parts except Parts 2, 3 and 6.
 5. Employees of the Cooperative Extension Service shall be subject to those Parts of this Ordinance outlined in the Memorandum of Agreement with the Cooperative Extension Service.

Section 4. Equal Employment Opportunity

The Board of Commissioners has established that equal employment opportunity is the county policy. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration is hereby prohibited. Discrimination on the basis of age, sex, race, color, creed, religion, national origin, or physical or mental disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary for job performance. It is the policy of the County to comply with Section 504 of the Rehabilitation Act of 1973 and Title 6 of the Civil Rights Act of 1964 and all other applicable State and Federal laws, affecting employment.

Section 5. Merit Principle

All appointments and promotions of employees shall be made solely on the basis of merit and qualifications.

Section 6. Responsibility of Board of Commissioners

The Board of Commissioners shall establish personnel policies, approve the pay plan, approve all new positions and shall make and confirm appointments when specified by law.

Section 7. Responsibility of County Manager

- A. The County Manager shall be responsible to the Board of Commissioners for the administration of this Ordinance and shall have full responsibility for all personnel actions and functions.
- B. The County Manager shall appoint a Human Resources Director who shall assist in the preparation, administration, and maintenance of the position classification plan and the salary plan, and perform such other duties in connection with a personnel program as the County Manager shall require.

Section 8. Responsibility of the Director of Human Resources

The Human Resources Director will be responsible to the County Manager for the regular maintenance of the personnel program and perform such other duties in connection with the program as the County Manager shall require such as:

- A. Apply, interpret, and carry out Personnel Ordinance and the policies adopted thereunder as directed by the County Manager.
- B. Establish and maintain a personnel file for each county employee containing relevant employment data.
- C. Foster and develop programs for the improvement of employee effectiveness.
- D. Encourage and exercise leadership in the development of effective personnel practices within the various county departments and to make available the resources of the Human Resources Department to this end.
- E. Recommend rules and revisions of the personnel system to the County Manager for consideration.
- F. Make such reports to the County Manager as the Director may consider desirable or as may be designated by the County Manager.
- G. Develop and administer such recruiting programs as may be necessary to obtain an adequate number of competent applicants to meet the employment needs of the county.
- H. Perform such other duties as may be assigned by the County Manager not inconsistent with this Ordinance.

Section 9. Responsibility of Appointing Authorities

The appointing authority (i.e., Sheriff, Register of Deeds, Board of Elections, Social Services Director, Health Director, and Development Commission) shall be responsible for enforcing all provisions of this Personnel Ordinance and any other legislative rules or regulations and departmental policies not subject to this Ordinance. They have exclusive authority for final employment and termination of employees in their respective agencies.

Sections 10-20 Reserved

Part 2. The Classification Plan

Section 21. Classification Plan

The Board of Commissioners shall adopt the classification plan of the County.

Section 22. Allocation of Positions

The allocation of positions to a class will be made so that the positions in each class are comparable in minimum requirements, working conditions, duties and responsibilities in order to warrant similar treatment in personnel and pay administration.

Section 23. Administration

- A. The County Manager and the Human Resources Director are responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are assigned. Department Heads are responsible for bringing to the attention of the County Manager and Human Resources Director the need for new positions and any material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classifications of any existing positions.
- B. Actions involving the establishment of new position(s) must be submitted to the Human Resources Director and the County Manager. The County Manager will recommend action to the Board of Commissioners. Upon approval the Board of Commissioners will include the assignment of new position(s) to the appropriate class in the classification pay plan.
- C. Reclassification may occur when a substantial change has occurred in the nature or level of duties and responsibilities of an existing position. Actions involving the reclassification of existing position(s) must be submitted to the Human Resources Director and the County Manager for approval. In the case of positions subject to the State Personnel Act, the Department Head will direct that the position be referred to the Regional Office of State Personnel.

Sections 24-35 Reserved

Part 3. The Salary Plan

Section 36. Coverage of Salary Plan

The "Pitt County Classification and Pay Plan" on file in the Human Resources Department shall be the salary plan for the county. This salary plan shall include all grades and salary ranges for the classes of positions in the classification plan.

Section 37. Maintenance of Salary Plan

The County Manager and Human Resources Director shall be responsible for the administration and maintenance of the salary plan. The County Manager and Human Resources Director shall conduct continuing studies of the internal relationships between classes in order to reduce or eliminate inequities between classes of positions.

Section 38. Transition to a New Salary Plan

The following four (4) principles shall govern the transition to a new salary plan if implemented:

- A. No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- B. Employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new minimum for their classes.
- C. Employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate within the salary range.

- D. Employees being paid at a rate above the maximum rate established for their respective classes shall remain at their present salaries as long as the maximum rate is below the employees' present salaries.

Section 39. Payment at a Listed Rate

Employees covered by the salary plan shall be paid at a listed rate within the salary ranges established for their respective job classifications except employees in the "trainee" or "work against" status, or employees whose present salaries are above the established maximum rate following transition to a new pay plan.

Section 40. Salary of New Employee

Each new employee shall be appointed at the minimum salary which has been established for the classification in which such employee is to be employed except:

- A. If the new employee does not meet the minimum requirements of the position, the Human Resources Director may designate the employee as a "trainee" to be appointed at a salary below the minimum;
- B. When the County Manager determines that there has been a demonstrated inability to recruit at a minimum salary or that an applicant possesses exceptional qualifications, the County Manager may authorize the employment of an applicant at a higher rate than the minimum in the salary range.

Section 41. Salary of Trainee/Work Against

A new employee who does not meet all of the established qualifications for a position may be appointed with the approval of the Human Resources Director to a "trainee"/"work against" salary below the minimum salary established for the position. The employee shall continue to receive a reduced salary during the "trainee" or "work against" period until the appointing Department Head, with the approval of the Human Resources Director, shall determine that the employee qualifies to assume the responsibilities of the position. Approved leave without pay shall not count as time worked toward meeting the minimum requirements for the position. A trainee shall not attain permanent status until he has met the minimum job qualifications and educational requirements for the position.

Section 42. Earned Salary Increments

Implementation of the following salary increases will be subject to the approval of the Board of Commissioners during the budget process each fiscal year.

Salary increases for employees hired within Step 1 of the salary plan established for each class of positions shall be as follows:

- A. After six (6) months of satisfactory performance, salary increases by two (2) Increments.
- B. After six (6) more months of satisfactory performance, salary may increase by two (2) increments (not to exceed increment #5).
- C. After reaching increment #5, two (2) increment salary increases will continue annually based upon satisfactory performance reviews until the employee reaches increment #17.
- D. After reaching increment #17 and with above standard performance scores, the increase will be one (1) increment every year.

Section 43. Salary of Employee in a Reclassified position

An employee occupying a position that is reclassified to a class having a higher pay range shall receive a one step (four (4) increments) increase, or an increase to the minimum salary of the new pay range, whichever is higher. An employee whose position is reclassified to a lower pay range shall be paid his

current salary, but not to exceed the maximum of the pay range. Reclassifications that occur as part of a county classification and review process will use the formula defined by the Classification and Study Process to compensate the incumbent employee.

Section 44. Salary of Promoted Employee

An employee promoted to a position in a class having a higher pay range shall receive a one step (four increments) salary increase, or an increase to the minimum step of the new pay range, which ever is higher. The County Manager may authorize a higher rate of pay within the new pay range in exceptional circumstances. The request from the Department Head must be submitted in writing to the County Manager.

Section 45. Salary of Transferred Employee

An employee transferred within the same department to a position in a class having the same pay range shall remain at the same salary. Employees transferring to a different department to a position in a class having the same pay range shall transfer at their current salary or at a reduced salary at the discretion of the new Department Head. The lateral transfer shall not result in a pay increase.

Section 46. Salary of Demoted Employee

The salary of an employee who is demoted for cause will be in accordance with action taken in the disciplinary process (see Part 7). The salary of an employee who voluntarily seeks reassignment to a lower grade will be reduced to a rate of pay indicative of the individual's years of service. The salary of an employee demoted to a position of a lower grade at the recommendation and discretion of the Department Head may be reduced subject to review and approval by the Human Resources Director and County Manager.

Section 47. Salary of Part-Time Employee with Regular Employee Status

The pay plan established by this Ordinance is for full-time service. An employee appointed for less than full-time service shall be paid at a prorated salary for the percentage of full-time equivalency.

Section 48. Longevity Pay

Employees who have continuous service with the county and are employed on December 1st will be given longevity pay. The longevity pay will not be reflected in the annual salary. The payment will be made in a lump sum during the month of December each year in the following manner:

10—14 years of service	1.50 percent of base salary
15—19 years of service	2.25 percent of base salary
20—24 years of service	3.25 percent of base salary
Over 25 years of service	4.50 percent of base salary

Employees hired on or after January 1, 2011 will not be eligible for longevity pay.

Section 49. Special Raises

A special raise may be given to an employee upon recommendation of the County Manager and approval by the Board of Commissioners for very unusual circumstances in which an employee does very exceptional work and/or additional money is needed to retain the employee's service with the county.

Section 50. Effective Date of Salary Adjustments

Salary adjustments approved after the first day of the pay period shall become effective at the beginning of the next pay period.

Section 51. County Finance Director to Pay Employees

At least once each year, the finance director or designee shall personally conduct "payee confirmation" of all salary checks to all employees.

Section 52. On-Call Pay

Employees who are officially designated and required on a rotating basis to be available after normal working hours to respond to a situation requiring immediate attention are considered on-call and will be compensated at the rate of one dollar (\$1.00) per hour for actual time spent in on-call status. Non-exempt employees that are called in to work while in on-call status, shall record that time as overtime hours under the guidelines of the Fair Labor Standards Act. Employees will either be paid at their hourly rate, subject to availability of funds in the department's budget, or receive compensatory time off in lieu of monetary compensation. No employee shall be designated or paid for on-call or overtime without the approval of the County Manager or his designee. Employees designated for on-call duty who fail to report to work for that assigned duty or who fail to respond to phone calls or efforts to contact them without unnecessary delay may be subject to disciplinary action up to and including dismissal. The \$1.00 per hour on-call pay is not paid concurrent with hours worked.

Section 53. Call-Back Time

Employees not designated or approved for on-call or stand-by who may find themselves called back to work outside of normal working hours in an emergency situation, and are eligible to receive overtime compensation, will be compensated for actual time worked under the guidelines of the Fair Labor Standards Act. Employees will either be paid their regular hourly rate, subject to availability of funds and County Manager approval, or receive compensatory time off in lieu of monetary compensation.

Section 54. Emergency Stand-By Pay

In the event the County Manager determines an imminent threat exists that could prompt a state of emergency to be declared or could potentially create a local emergency, employees may be placed on standby and must remain available to be called back to work on short notice if the need arises. Department heads must have the approval of the County Manager or his designee prior to placing employees on standby.

Employees may be required to be on standby before or after their regular shift and/or on a day when they are not scheduled to work. Employees placed on standby will be compensated at \$1.00 per hour while on standby whether or not they are called in to work. The status of employees who are called to report to work will be changed from standby to actively working upon arrival at the designated worksite. The \$1.00 per hour standby pay is not paid concurrent with hours worked or on-call pay.

Employees that report to work will be paid at their regular hourly rate subject to the availability of funds in the department's budget and County Manager approval or receive compensatory time off in lieu of monetary compensation in accordance with Section 91- Overtime of this Personnel Ordinance. Exempt employees will record time worked as compensatory time in accordance with Section 121 – Inclement Weather/Emergency Closing of this Personnel Ordinance.

Employees placed on standby who fail to report to work after being called may be subject to disciplinary action up to and including dismissal.

Sections 55-65 Reserved

Part 4. Recruitment and Employment

Section 66. Applicability of Part

The provisions of this Part shall be applicable to all employees except those exempted as defined in Section 3.

Section 67. Appointments

An appointment is the approved employment of an applicant or employee to perform the duties and responsibilities of an established position subject to the provisions of this Ordinance.

- A. It is the policy of the county to employ the most qualified applicant. It is the policy of the county to use reasonable means to attract qualified candidates for employment, and to make such investigations and examinations as are deemed appropriate to fairly assess the aptitude, education, experience, knowledge, skills, character, physical fitness, and other qualities required for positions in the service of the county.
- B. It is the county's policy to offer opportunities for its employees when possible. Therefore, when a current employee applying for a vacant position is the best match of all applicants, such employee will be appointed to that position. Emergency and temporary appointments are not considered internal applicants.
- C. When vacant positions are to be filled, Department Heads will notify the Human Resources Department concerning the number and classes of positions which are to be filled. This Subsection is not mandatory for the Sheriff, Register of Deeds and the Board of Elections.
- D. The Human Resources Department will publicize opportunities for positions to be filled. In addition, notice of vacancies will be posted within each County Department. This Subsection is not mandatory for Sheriff, Register of Deeds and the Board of Elections.
- E. Each Department Head shall be responsible for the final decision regarding the hiring and firing of employees in his/her department. When filling a vacancy, all departments must adhere to the county's EEO policy. This Subsection is not mandatory for Sheriff, Register of Deeds and the Board of Elections.
- F. Department Heads are to consult with the Human Resources Director or designee prior to offering an applicant a position with the County.

Section 68. Types of Appointments

- A. *Probationary appointment.* All employees appointed to regular positions shall serve a probationary employment period for six (6) months of active work time. One extension of three (3) months may be granted by the County Human Resources Director upon written request from the Department Head prior to the end of the six-month period. This also applies to lateral transfers, promotions, and demotions between departments within County Government. If the desired level of performance is not achieved within nine months after initial appointment, the employee shall be separated from service unless in trainee status. An employee with a trainee appointment is expected to make satisfactory progress, but is not permanent until he/she has completed the training period.

At any time during a probationary period an employee may be separated from service for causes related to performance of duties or for personal conduct detrimental to the County without right of appeal or hearing. The employee must be given written notice of dismissal, including reasons.

- B. *Career Status Appointment.* All employees appointed to regular county positions in one of the Human Service Agencies that are subject to the State Personnel Act must work 12 continuous months to complete their probationary period and reach career status. During this 12 month period, employees will not be entitled to the protections of the disciplinary action policy as outlined in the State Personnel Act. Employees must work 12 continuous months in a position that is subject to the State Personnel Act within County Government. Employees that transfer, whether it is a lateral, promotion or demotion, between departments subject to the State Personnel Act within County Government, will not have to serve another 12 month period before gaining career status. Employees that transfer from a position that is not subject to the State Personnel Act to a position that is covered under the State Personnel Act must complete 12 continuous months before obtaining career status.
- C. *Trainee appointment.* A trainee appointment may be made to a position in any class where a demonstrated inability to recruit applicants that meet the minimum qualifications and requirements and where a trainee progression may lead to a regular appointment. An individual may not

be appointed as a trainee if he possesses the acceptable training and experience for the class. After the employee has successfully completed all educational and experience requirements, he shall be given probationary status (if trainee status is less than six (6) months or twenty-four (24) months for a career status appointment) or permanent status in the position or shall be separated. If the period of the trainee appointment equals or exceeds nine (9) months or twenty-four (24) months for a career status appointment, the employee must be given permanent status or be separated at the completion of the trainee period.

- D. *Permanent appointment.* A permanent appointment is an appointment to a permanently established position following the satisfactory completion of a probationary and/or trainee appointment.
- E. *Temporary appointment.* A temporary appointment may be made to a permanent or temporary position and is intended to last for a specified time period and then cease at the end of that period.
- F. *Emergency appointment.* An emergency appointment may be made when an emergency situation exists requiring the services of an employee before it is possible to identify a qualified applicant through the regular selection process. When it is determined that an emergency appointment is necessary, all other requirements for appointments will be waived.

An emergency appointment may be made for a period of up to sixty work days (consecutive or non-consecutive), or a total of four hundred eighty (480) hours "in pay status". Any one individual may not receive successive emergency appointments with the same department or agency. At least three (3) calendar months must elapse before that department or agency can give the same individual another emergency appointment.

- G. *Work-against appointment.* When qualified applicants are unavailable and there is no trainee provision for the classification of the vacancy, an employee may be appointed below the level of the regular classification in a work-against situation. The appointee must meet the minimum training and experience standard of the class to which initially appointed. A work-against appointment shall not be made when qualified and/or suitable applicants are available who meet the training and experience requirements for the full class, and for the position in question.
- H. *Grant or specially funded positions.* Appointment to this classification must follow the County probationary period.

Grant and specially funded positions are at a maximum duration of the grant or special funds.

Positions may or may not follow all provisions of this Ordinance.

Section 69. Promotions

County employees may be promoted from within the county; emergency or temporary appointments may not be considered for promotion.

Section 70. Transfer

An employee wishing to be transferred to another department of County Government may submit an employment application for any existing vacancy to the Human Resources Department. If the employee meets the minimum qualifications for the job, the Department Head shall consider the employee requesting a transfer along with all other applicants for the position. The Department Head will be free to offer employment to the employee requesting a transfer should the employee be considered the best matched for the position.

Section 71. Limitation of Employment of Family Members

- A. The employment of immediate family is prohibited within the same department or work unit when such employment will result in one family member supervising the other or in one member's occupying a position that has influence over the other's employment, promotion, salary administration, and other related management or personnel considerations. The term "immediate family" shall be understood to refer to that degree of closeness of relationship which would suggest that

problems might be created within the work unit, or that the public's philosophy of fair play in providing equal opportunity for employment to all qualified individuals would be violated. In general, this would include wife, husband, mother, father, brother, sister, daughter, son, grandmother, grandfather, grandson, and granddaughter. Also included are the step, half, and in-law relationships, as appropriate, based on the listing in this Subsection. It may also include others living within the same household, or otherwise closely identified enough with each other as to suggest problems may develop. The employing Department must advise Human Resources prior to offering employment to an applicant who is a family member of an existing employee of that Department. If an existing employee after employment meets the criteria of immediate family as described in this section, the department head must notify the County Manager and Human Resources Director immediately.

- B. Agency Heads and Department Heads may not appoint members of their immediate family to work in County Government Departments without obtaining a waiver from the Board of Commissioners. Appointments by the Sheriff or Register of Deeds of a relative by blood or marriage or nearer kinship than first cousin, shall be approved by the Board of Commissioners as required by Chapter 153A-103(1) of the North Carolina General Statutes.

Section 72. Employment of Convicted Felons

- A. The following shall constitute the policy of the County where any applicant who has had a criminal record, particularly those persons who have either been convicted of a felony or have entered a plea of nolo contendere to a felony charge, shall be prohibited from serving in any Department or Organization of the County Government. However, after thorough examination and investigation by the person authorized to employ the applicant, such applicant may be employed in a position subject to the approval of the County Manager and if the following criteria are present:
 - 1. That the applicant has been fully and completely rehabilitated;
 - 2. That the applicant has exemplified honesty and high integrity for several years;
 - 3. That the applicant has maintained good relations within the community in which he lives;
 - 4. That the applicant's record does not indicate numerous prior convictions;
 - 5. That the applicant's record while in custody of the Department of Corrections or law enforcement agencies was exemplary and without problems; or in the alternative;
 - 6. The applicant, who is under a work-release program, comes highly recommended by the Department of Corrections or law enforcement agency which has custody thereof, and which employment shall be only temporary and shall not exceed the period of his sentence, without further investigation and consideration.
- B. Any falsification of material information on an application for employment may result in disqualification as an applicant or discharge/termination of employment when the falsification is discovered.
- C. This policy shall be implemented by all Departments and Organizations upon its adoption, but shall not apply to employees who are employed by the County before October 16, 1989.

Section 73. Driving Record Verification

To protect the County from mistakenly hiring a "problem driver", a license check of applicants shall be performed by the hiring department prior to any offer of employment to a position requiring a valid state driver's license.

Section 74. Veterans Preference

Those Departments under the guidelines of the Office of State Personnel shall follow the State Personnel Act provision for veterans preference in employment actions, as set out in North Carolina General Statute 128-15.

Section 75. Performance Review

Each probationary and regular employee will have a formal performance review conducted by his supervisor on at least an annual basis. The purpose of the performance review is to provide a mechanism for communication between supervisor and employee, to evaluate strengths and weaknesses, and to set goals.

Sections 76-85 Reserved

Part 5. Workweek, Official Conduct, Outside Employment and Travel

Section 86. Workweek

- A. The standard workweek of employees other than Department Heads shall be five (5) days a week and forty (40) hours per week. Department Heads shall work those hours necessary to ensure the satisfactory performance of their Departments. Normal office hours are eight (8) hours between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, with one (1) hour permitted for meal break. When activities of a particular department require some other schedule to meet the demands of the County, the Department head may authorize a deviation from the normal schedule.
- B. The County Manager may establish as the normal workweek for an employee or department a period shorter than forty (40) hours. Departments may also, with the approval of the County Manager, vary the normal working days of an employee to ensure the efficient operation of the department.
- C. The workweek will begin Sunday at 12:01 a.m. and end the following Saturday at 12:00 midnight.
- D. Each employee must take a one (1) hour meal break during the day unless specifically exempted by the Department Head or designee.
- E. Each employee is responsible for recording hours worked, personal leave, sick leave, holidays, etc., on time records and submitting the time records, properly signed, for the supervisor's approval.

Section 87. Acceptance of Gifts and Favors

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

Section 88. Political Activity Restricted

- A. Every employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each 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 Laws of the State, and in accordance with the Constitution and Laws of the United States of America. However, no employee shall:
 - 1. Engage in any political or partisan activity while on duty;
 - 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 of their office or employment, promotion or tenure of office, to contribute funds for political or partisan purposes;
 4. Solicit, or act as a custodian of, funds for political or partisan purposes by any other employee of the government unit;
 5. Coerce or compel contributions for political or partisan purposes by any other employee of the government unit;
 6. Use supplies, equipment or funds of the government unit for political or partisan purposes;
- B. Any violation of this Section shall be deemed improper conduct and shall subject such employee to dismissal or other disciplinary action by the appointing authority.

Section 89. Outside Employment

- A. The work of the County will take precedence over the occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported to the employee's supervisor and to the County Human Resources Department, who will review such employment to determine the County liability and any potential conflict of interest. Failure to report outside employment may be grounds for disciplinary action up to and including dismissal.
- B. Employees of the County Sheriff's Office may not work for any organization or private business while in uniform or in a capacity as a law enforcement officer without prior written approval of the Sheriff. In addition, the employee may not accept compensation for work performed in this capacity except for the regular time and overtime normally paid by the County for hours worked. All costs associated with deputies working at the request of an organization or private business must be reimbursed to the County.

Section 90. Travel authorization

- A. Travel on official County business must be approved by the Department Head. Travel on official County business outside of the state must be approved by the Department Head and County Manager.
- B. Rules, regulations and reimbursement regarding travel are covered in the County's travel policy which is separate and apart from this Personnel Ordinance.

Section 91. Overtime

- A. Supervisors shall arrange the work schedule of their sections so as to accomplish the required work within the standard workday.
- B. Non exempt employees, consistent with the Fair Labor Standards Act, who work in excess of 40 hours in one workweek are to take compensatory time off at the rate of one and one-half hours off for each hour worked in excess of 40 hours. In determining the number of hours worked in the 40-hour work period, time spent on personal leave, sick leave, holidays and other leave will not be counted as time worked. Such time off must be included in straight time pay, but it is not included in computing hours for compensatory time. The following provisions shall apply:
1. The work is outside of the standard workweek for the employee, which includes work of an unusual, unscheduled, or emergency nature, and is directed by the Department Head or the authorized representative of the Department Head.
 2. The position is not one that is exempt, as described by the Fair Labor Standards Act.
 3. The compensatory time off (one and one-half hours for each hour worked in excess of 40 in a standard workweek) shall be granted whenever feasible and employees may accumulate up to 60 hours (40 hours at the overtime rate) of compensatory time. An accumulation in excess

of 60 hours compensatory time must be approved by the County Manager prior to the Department Head authorizing additional overtime.

4. When feasible, employees should flex time in a workweek where work hours will exceed forty (40) rather than bank compensatory time.
 5. Employees must use banked compensatory time prior to using personal leave.
 6. The County Manager may approve the payment to employees for overtime work when it is not feasible to permit their absence for the purpose of taking compensatory time off.
 7. The payment of overtime shall depend upon the availability of funds in the departmental budget or by approval of the Board of Commissioners.
- C. Exempt employees, consistent with the Fair Labor Standards Act, who work in excess of 40 hours in one workweek shall not accrue or take compensatory time off except as specifically provided by Section 121 of this Ordinance.
- D. Any overtime that is worked in the Sheriff's Office must comply with the provisions under Section 89, the same as any other Department. In order to receive any overtime pay, the employee and Sheriff must also comply with the following conditions that are designed especially for the Sheriff's Department.

Sheriff's deputies may work 86 hours within a 14-day period before overtime compensation is due at the one and one-half rates, as permitted by the Fair Labor Standards Act. Deputies will be compensated at the regular hourly rate (1/26 of the annual salary for 80 hours) for all hours up to a total of 80 hours in a 14-day work period. For hours worked from 81 to 86, deputies will be compensated at the employees' regular hourly rate. For hours worked beyond 86 hours, the employee will be compensated at one and one-half times the hourly rate.

1. Work schedules are presented to the District Attorney for information and to aid in scheduling court time so a minimum of overtime will be needed.
 2. A time record must be maintained to account for all regular time and overtime, and any meal-time must also be shown on this time record. In order to receive overtime pay, the time record must be supported by the special approval form.
 3. This time record must be signed by the employee and the Sheriff or designee verifying the times indicated.
 4. Only time actually working on the job will be considered overtime. In determining the number of hours worked in the 86-hour work period, time spent on personal leave, sick leave, holidays and other leave will not be counted as time worked. Such time off must be included in straight time pay, but it is not included in computing hours for overtime pay.
- E. The County must comply with all applicable portions of the Fair Labor Standards Act. Violations of the Act are prohibited. Any employee, exempt or non-exempt, that has a belief that their rights may have been violated under the Fair Labor Standards Act, shall file a written complaint with the Human Resources Department. This includes, but is not limited to, the earning or use of compensatory time, the payment of overtime, or any improper pay deductions (such as deductions from exempt employee's predetermined compensation made for absences occasioned by the employer or by the operating requirements of the County) as identified by Federal Regulations. Human Resources will investigate all claims and report the findings, along with a recommendation for resolution, to the County Manager and the employee. Improper pay deductions will be immediately rectified by reimbursing the employee for any improper deductions and making a good faith commitment to comply with the regulations in the future.

Sections 92-105 Reserved

Part 6. Leaves of Absence and Employee Benefits

Section 106. Definition of “Working Day”

For the purpose of this Part, the phrase “working day” will mean any day on which any employee of the County actually works or would work under ordinary circumstances. Saturday or Sunday will not be considered as a working day, unless the officer or employee normally works on Saturday or Sunday. Work-week will mean the time span of seven (7) consecutive twenty-four-hour periods within which the County computes pay.

Section 107. Holidays - Effect of Weekends

Regular holidays, Saturdays, and/or Sundays which may fall or occur during a personal, sick, or other leave period of any employee of the County will not be considered as personal, sick, or other leave.

Section 108. Holiday - When Work Required

Non-exempt County employees that are designated as shift workers and assigned to work in 24-hour operations departments will be paid for 8 hours per holiday when earned for County observed holidays in addition to their regular hours worked. Holiday pay for part-time employees entitled to benefits shall be on a pro rata basis based upon percent of employment.

Non-exempt County employees that are not designated as shift workers who may be called in to work outside of the standard workweek for the employee, which includes work of an unusual, unscheduled or emergency nature and is directed by the Department Head or County Manager, will record any time worked on observed holidays as compensatory time under the guidelines of the Fair Labor Standards Act and Section 91 of this Personnel Ordinance.

Exempt County employees that work on an observed holiday shall be paid for the 8 hours of holiday only. Holiday pay for part-time employees entitled to benefits shall be on a pro rata basis based upon percent of employment. Exempt employees may not bank the hours worked on the holiday as compensatory time or holiday time, but may flex the hours worked on the holiday over the 80 hour pay period at the discretion of the Department Head or County Manager.

Section 109. Holiday - Listed

The following holidays shall be observed by all Departments in the County. The policy of the County is to follow the state holiday schedule.

- New Year’s Day
- Martin Luther King, Jr. Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veterans’ Day
- Thanksgiving Day
- Friday after Thanksgiving
- Christmas Holidays (3 days) based on the State Holiday Schedule.

An employee must be in a pay status the day prior to and after a holiday, in order to receive holiday pay. Employees are paid 8 hours for each observed holiday. Holiday pay for part-time employees entitled to benefits shall be paid on a pro rata basis based upon percent of employment.

Section 110. Personal Leave

- A. Each county employee entitled to benefits shall earn and may be permitted to take personal leave with full pay computed on the basis of the following graduated leave plan:

GRADUATED LEAVE PLAN

Years of Aggregate County Service Hours Earned

	<u>Month</u>	<u>Year</u>
Less than 2 years	7.75	93.00
2 but less than 5	9.00	108.00
5 but less than 10	11.00	132.00
10 but less than 15	13.00	156.00
15 but less than 20	15.00	180.00
20 years or more	17.00	204.00

- B. Personal leave shall be approved by the Department Head or his designee at such times as will least interfere with the efficient operation of the Department. Personal leave may be accumulated throughout the calendar year without a maximum number of hours except for the end of the last pay period of the year when it must not exceed two hundred forty (240) hours. Personal leave accrued in excess of two hundred forty (240) hours as of the end of the last pay period of the year will be transferred from personal leave to sick leave just prior to the first full pay period of the new calendar year. When an employee terminates employment, a maximum of two hundred forty (240) hours of accrued personal leave will be paid if the leave is not transferred to another government agency.
- C. In order to earn personal leave, an employee must be in pay status. To be in pay status, an employee must be either working or taking paid leave. An employee who is separated may not earn or exhaust personal leave beyond such employee's last physical working day.
- D. Personal leave shall accrue semimonthly for all employees entitled to benefits. Personal leave for part-time employees entitled to benefits shall accrue on a pro rata basis based upon percent of employment.
- E. Personal leave must be taken in quarter-hour increments.
- F. When an employee transfers from one department to another within County Government, personal leave will be transferred.
- G. If a holiday occurs during the personal leave period, the employee is not charged personal leave for the holiday.
- H. Any individual who transfers from any other level of government, in order to accept employment with the County, may transfer up to two hundred forty (240) hours of accumulated personal leave to their employment with the County if they are not compensated for this leave by their former employer.
- I. An employee of the County who receives benefits for two (2) or more continuous years who leaves the work service and returns within five (5) years of date of separation will accrue personal leave based upon aggregate time of service when rehired by the County.
- J. Personal leave may be advanced only in exceptional circumstances as approved by the Department Head. Under no circumstances shall personal leave be advanced beyond the amount of leave time that will accrue through the end of the calendar year.

(Ord. of 7-15-02(2))

Section 111. Parental Involvement and School Activities

County employees who are parents of a school-aged child, guardians of a school-aged child, or otherwise standing "in loco parentis" for a school-aged child shall be granted up to a total of four (4) hours of unpaid leave per year to attend activities at the child's school. Leave shall be charged to personal leave or if no personal leave is available, time away shall be considered leave without pay. Written requests for leave under this Section should be made at least forty-eight (48) hours before the time for which leave is desired and must be at a mutually agreed upon time with the employee's supervisor. At the Department Head's discretion, an employee may be required to furnish written verification of attendance at the event

from the child's school. For purposes of this Section, the definition of school includes public and private schools, church schools, and preschools.

Section 112. Sick Leave

In conjunction with sick leave benefits, refer also to Section 118, Family Medical Leave Act.

Each employee shall earn and be entitled to take sick leave with full pay in the event of personal illness necessitating absence from work, or if, because of exposure to contagious disease such individual is quarantined. Absence from the office for the purpose of medical examinations or advice, or for dental work may be charged against accumulated sick leave. An employee may be required to furnish a certificate from an attending physician at the discretion of their supervisor.

- A. Sick leave shall accrue at a rate of four (4) hours semimonthly for all employees entitled to benefits. Sick leave for part-time employees entitled to benefits shall accrue on a pro rata basis based upon percent of employment.
- B. Sick leave must be taken in quarter-hour increments.
- C. An employee may use a maximum of three (3) days sick leave in the case of illness in the employee's immediate family as defined in Part 9.
- D. An employee may use up to twelve (12) workweeks of accumulated sick leave in the case of illness in the employee's immediate family if the illness is a qualifying event under the guidelines of the Family and Medical Leave Act and the employee meets all eligibility requirements. Immediate family includes a spouse, child or parent as outlined in the Family and Medical Leave Act.
- E. A maximum of five (5) days of accumulated sick leave may be used in the case of a death in the employee's immediate family as defined in Part 9.
- F. Sick leave may be used when it is necessary for the employee to be away from work due to pregnancy, childbirth, and recovery therefrom, and related conditions. During the time the employee is disabled, an employee may use any accumulated sick leave for the period of disability (maximum of six (6) weeks unless extended by doctor's orders). Any additional time requested must be approved by the Department Head. Limitation of employment before childbirth is prohibited by federal authorities. Therefore, based on the type and nature of work performed, the employee shall be responsible for determining how far into pregnancy such employee should continue to work before going on leave.
- G. If an employee calls in sick on a day when he is due to report to work or leaves work due to illness, the time must be charged to any accumulated sick leave. In cases where the employee does not have enough accumulated sick leave, the time should be charged to personal leave or compensatory time. This does not include instances where the employee has made an appointment to seek medical or dental care and has requested time off in advance of the day the time is taken.
- H. In order to earn sick leave, an employee must be in pay status - either working or taking paid leave. Personal leave may be used for sick leave after sick leave has been exhausted. An employee does not earn or may not use sick leave beyond such employee's last physical working day.
- I. Sick leave is transferable from one department to another if there is no break in service. Any individual who transfers from any other level of government, in order to accept employment with the County, may transfer accumulated sick leave to their employment with the County if they are not compensated for the leave by their former employer. An employee may not be paid for unused sick leave at the time of departure from the County
- J. Holidays shall not be counted as sick leave.

- K. Sick leave may be advanced only in exceptional circumstances as approved by the Department Head. Under no circumstances shall sick leave be advanced beyond the amount of leave time that will accrue through the end of the calendar year.
- L. An employee who separates from county service either through reduction in force or resignation shall be credited with previously accrued sick leave if reinstated within five (5) years of date of separation and accrued sick leave was not transferred to another level of government.

Section 113. Sick Leave – Sick Leave Payback

Regular fulltime and permanent part-time employees who have completed one (1) full fiscal year of employment prior to July 1 will be eligible for sick leave payback. Eligible employees are those who have not used more than twenty-four (24) hours of sick leave within the designated sick leave payback year (typically October-September). Employees must be in pay status on the last day of the sick leave payback year. The maximum accrued sick leave paid back will be forty-eight (48) hours provided the employee's remaining sick leave balance is at least forty (40) hours. If an employee is granted a leave of absence at any time during the sick leave payback year, that employee will not be eligible for sick leave payback. Sick leave used in conjunction with on-the-job accident or illness, which is certified compensable for workers' compensation, will not exclude an employee from sick leave payback. Employees have the option of accruing their sick leave and not receiving the sick leave payback. The amount of sick leave used, the maximum accrued sick leave paid back and remaining sick leave balance required shall be computed on a pro rata basis for part-time employees entitled to benefits.

Employees hired on or after January 1, 2011 will not be eligible to participate in the sick leave payback program.

Section 114. Workers' Compensation

- A. Employees having a work related accident or illness are provided insurance under the Workers' Compensation Act. Determination of compensability will be made by the third party administrator according to state Workers' Compensation laws.
- B. Employees must notify their supervisor immediately after any injury is sustained on the job. An accident report must be completed and forwarded to the Human Resources Department to initiate the claims process.
- C. An absence due to a work related accident/illness of over seven (7) consecutive days is required before payment of workers' compensation disability benefits under the Workers' Compensation Act can be made. For the first seven (7) days an employee is absent from work due to a compensable accident or occupational illness arising out of and in the course of employment with County Government, the employee will be allowed to use accrued leave time providing a note is provided by the treating physician stating the employee is unable to work. After the required waiting period has been satisfied, workers' compensation will begin to pay the employee directly and the employee may not use any form of accrued paid leave. If the disability exceeds twenty-one (21) days, benefits will retroactively be provided for the first seven (7) days by Workers' Compensation insurance.
- D. Employees will be referred to the County's medical doctor who shall serve as the treating physician for Workers' Compensation cases.
- E. The time required to seek initial medical care after sustaining a work related accident/illness will not be charged against the employee. Time required for follow-up visits and treatment may be charged to an employee's accrued leave or the employee may choose leave without pay.
- F. When an injury or illness has been accepted as compensable under Workers' Compensation, all Department Heads and employees must adhere to the Pitt County Workers' Compensation Return to Work Policy as outlined in the Administrative Policies and Procedure Manual which is separate and apart from this Personnel Ordinance.
- G. The use of accrued leave shall be in accordance with Section 128 – Leave Usage of this Personnel Ordinance.

Section 115. Military Leave with Pay

- A. A regular employee who is a member of the National Guard, state guard, public health service, or any of the reserve component of the United States Armed Forces shall be entitled to leave of absence from such employee's duties without loss of pay or time and without effect on such employee's service rating on days during which such employee shall be ordered to military duty for training or for other military purposes not to exceed one hundred twenty (120) hours in a calendar year (prorated for part-time permanent employees).
- B. Employees shall not be entitled to military leave with pay but may choose accrued personal leave or leave without pay for the following:
 - 1. Regularly-scheduled unit assemblies usually occurring on weekends;
 - 2. Duties or leave resulting from disciplinary action imposed by a military authority;
 - 3. Unscheduled or incidental military activities such as volunteer work at military facilities;
 - 4. Inactive duty training (drills) performed for the convenience of the members;
 - 5. Basic training or active duty periods resulting from initial enlistment in the Guard or Reserve.
- C. An employee shall be granted necessary time off with pay when he must undergo a required physical examination relating to military service, as part of the three (3) weeks set forth in Sub-section A.
- D. Leave without pay may be granted with the approval of the Human Resources Department to members of the Armed Forces Reserve and the National Guard in the following circumstances:
 - 1. For periods of active duty with the Armed Forces of the United States as a result of involuntary draft or military conscription;
 - 2. For attendance at service schools for continued retention in the military reserve of the National Guard;
 - 3. If additional time is required for annual active duty for purposes beyond the allowable one hundred twenty (120) hours.
- E. An employee who enters extended active duty with the United States Armed Forces, public health service, or reserve units will be granted reemployment rights in accordance with applicable state and federal law.
- F. The employee shall be required to submit an order or statement in writing to such employee's Department Head from the appropriate military officer as evidence of such duty for which military leave with pay is granted; since individual orders are not issued to members of the National Guard, a statement from the commanding officer will be sufficient. In lieu of such a statement, such leave may be verified through the Office of the Adjutant General. Such leave shall be recorded in the employee's leave record and be designated as military leave.

Section 116. Leave of Absence and Leave without Pay

- A. An employee may take an extended leave of absence not to exceed twelve (12) months without pay for reasons of extended illness or personal reasons. Such leave shall be at the discretion of and must be approved by the Department Head and the County Manager.
- B. Request for leave without pay must be made in writing in a timely fashion prior to the anticipated date.

- C. Accumulated compensatory and personal leave must be exhausted before leave without pay may be granted in accordance with the Leave Usage policy of Section 128 or as applicable to other sections of this Ordinance.
- D. Accumulated sick leave must be exhausted before leave without pay may be granted in cases of illness in accordance with the Sick Leave policy of Section 112 or as applicable to other sections of this Ordinance
- E. No leave shall be earned during a period of leave without pay.
- F. An employee on leave without pay status shall be eligible for any continuation of allowable benefits by continuing to pay the employee's share of the cost and the employer's share if applicable.

Failure on the part of the employee to report to the County promptly at the expiration of the leave without pay except for reasons submitted in advance to and approved by the Department Head shall be cause for dismissal.

Section 117. Educational Leave

- A. Employees are encouraged to further their education and may apply for paid educational leave while pursuing a degree at a college, university; community college, or technical school.
- B. A permanent full-time employee may request up to three (3) hours per week of paid educational leave, which includes reasonable travel time to attend a course during work time. Permanent part-time employees entitled to benefits are eligible for the same benefit on a pro-rata basis. Probationary employees are not entitled to educational leave. In a week in which educational leave is taken, an employee may not earn compensatory time or pay until he has physically worked greater than forty (40) hours during that week.
- C. The request for educational leave should be submitted to the Department Head as soon as possible after acceptance to the course, but no later than five (5) working days before the course begins. If less than three hours are needed, a request for only the required amount of time may be approved. If total time away from work to attend a course exceeds the three-hour per week educational leave limit, the employee's accrued personal leave may be applied.
- D. Department Heads must use the following guidelines when approving educational leave:
 - 1. The employee must be enrolled in a degree program directly related to a county function.
 - 2. The course is a requirement of the degree.
 - 3. The course is not offered at any time outside the employee's work hours.
 - 4. The accommodation for educational leave will not significantly disrupt the flow of work of the individual or the flow of operations of the department or unit.
- E. The Department Head, after approval, will forward the request to the Human Resources Department for policy compliance and final approval.
- F. All appeals to decisions rendered in regard to this policy will be sent in writing to the County Manager within ten (10) working days after approval is denied.
- G. Intentional violation of this policy is subject to disciplinary action.

Section 118. Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) entitles eligible employees to take up to twelve (12) work-weeks of unpaid job-protected leave in a 12-month period for specified family and medical reasons. The 12-month period shall be defined as a rolling 12-month period measured backward from the date an employee uses any FMLA leave. Each time an employee takes FMLA leave, the ability to take remaining

leave would be any balance of the twelve (12) workweek benefit which has not been used during the preceding twelve (12) months.

- A. *Eligibility.* An employee who has been employed by Pitt County for at least twelve (12) months and who has worked at least one thousand forty (1,040) hours during the 12-month period immediately preceding the commencement of the leave is entitled to a total of twelve workweeks of FMLA leave) during a 12-month period. For purposes of this section, the definitions “parent”, “child”, “spouse” and other terms necessary for the interpretation of this policy shall be in accordance with the Family and Medical Leave Act.
- B. The county will grant FMLA leave for one (1) or more of the following reasons:
1. For the birth of a child, and to care for the newborn child, provided the leave is taken within a 12-month period following birth. If both parents requesting leave are County employees, a combined total of twelve workweeks during a 12-month period are available to the parents for the birth or adoption of a child, or placement of a foster child;
 2. For the placement with the employee of a child for adoption or foster care, provided the leave is taken within a 12-month period following placement
 3. To care for the employee’s spouse, child, or parent who has a serious health condition;
 4. When the employee has a serious health condition that makes the employee unable to perform the essential functions of his or her job.
 5. For any qualifying exigency arising out of the fact that the spouse, child, or parent of the employee is a military member on covered active duty, or has been notified of an impending call or order to covered active duty will be granted up to 12 workweeks of military family leave under the military provisions under the Family and Medical Leave Act. For the purposes of this Ordinance, qualifying exigencies are as defined by the Department of Labor.
 6. *Military Caregiver Leave* entitles an employee who is the spouse, child, parent or next of kin of a member of the U.S Armed Forces, including the National Guard and the Reserves, to a total of 26 workweeks of unpaid leave during a twelve-month period to care for a covered military servicemember who is receiving medical treatment, is recuperating or undergoing therapy for a serious injury or illness. This section shall be administered under the guidelines defined by the Department of Labor. Employees that use this leave are not entitled to an additional 12 workweeks of leave in that same year. Employees are subject to the same FMLA eligibility requirements as all other FMLA leaves.
 7. Employees may take FMLA leave intermittently - which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule under the following conditions:
 - a. If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent leave is subject to the employer’s approval.
 - b. 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.
 - c. When the leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to duly disrupt the employer’s operations and notify the department head or designee of the need for FMLA prior to taking the leave.
- C. *Coordination of leave.* FMLA shall run concurrently with the use of other forms of leave (sick, personal, voluntary shared leave and workers’ compensation). Employees may voluntarily use banked compensatory time. Leave without pay beyond the 12-week period or for employees not covered under the FMLA will be administered under the County’s other leave without pay policies and the employee must pay for continued health benefits coverage while on leave.

- D. *Certification.* Within fifteen (15) calendar days following the submittal of the initial request form, a completed "Certification of Health Care Provider" form must be presented. During the period of approved FMLA leave, the County may require periodic reports on the employee's medical condition and return to work intentions. Recertification may be required if the employee requests an extension of leave or if circumstances described by the original certification have changed significantly. Prior to return to work, each employee shall provide a fitness-for-duty certification form or return to work note from his health care provider.
- E. *Continuation of insurance and premiums.* While an employee is on FMLA leave, the County will pay the cost to cover the employee on the County's health insurance plan. The employee will be responsible for paying the monthly premiums to cover dependents. If an employee fails to return to work after the employee's FMLA entitlement, the County may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.
- F. *Reinstatement and failure to return.* Following the exhaustion of FMLA entitlement under this Section, the employee shall be reinstated to the same position held when the leave began or to one of like pay grade, pay, benefits, and other conditions of employment. The employee shall be reinstated without loss of benefits accrued when the leave began. All benefits shall continue to accrue during any period of paid leave; however, no benefits will accrue during any period of leave without pay.

Failure to report to duty at the expiration of FMLA entitlement, unless an extension has been requested and granted, shall be considered a resignation of employment.

- G. *Requests for alternate assignments.* Requests for intermittent leave, reduced work schedules or placement in an alternate job are allowed consistent with the minimum standards of the Family and Medical Leave Act. Any intentional abuse or fraudulent practices under this policy will be cause for disciplinary action, up to and including dismissal.

Ord. of 7-15-02(2); Ord. 6-20-05; Ord. of 8-4-08)

Section 119. Americans with Disabilities Act

It is the policy of the County to comply with the relevant and applicable provisions of the Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Amendments Act (ADAAA). The County will not discriminate against any qualified employee or applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability. The County will also make reasonable accommodations necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the duties and assignments connected with the job; and provided that any accommodations made, do not require significant difficulty or expense.

Section 120. Court and Jury Leave

Upon application in writing, a regular employee may be granted leave of absence as indicated below:

- A. When an employee, in obedience to a subpoena or discretion of the proper authorities, appears as a witness for the federal government, the state, or a political subdivision thereof, the employee shall be entitled to leave with pay.
- B. When an employee is subpoenaed in private litigation or by some party other than the federal government, the state, or a political subdivision thereof to testify not in such employee's official capacity but as an individual, the time absent by reason thereof shall be taken as personal leave or leave without pay.
- C. When an employee serves on a jury the employee is entitled to leave with pay for the period of absence required and shall receive regular compensation, plus fees received for jury duty.

Section 121. Inclement Weather/Emergency Closing Policy

- A. In the event of imminent hazardous weather conditions or other emergencies, the County Manager or his designee, in consultation with appropriate emergency management and other gov-

ernment officials, will decide whether and when to invoke the county's inclement weather/emergency closing policy.

- B. Announcements of closings and/or delayed openings that affect County Government offices will be broadcast on local radio and television stations and can also be accessed by calling Human Resources Department message line.
- C. Department Heads are responsible for ensuring that essential services (i.e., 24-hour operations, law enforcement, facilities, technical) are continued, and for identifying the essential staff required to do so. Department Heads and other employees who have assignments outlined in the County's emergency disaster plan are responsible for fulfilling their emergency duties as assigned.
- D. When the inclement weather/emergency closing policy is in effect or when a state of emergency has been declared by the Board of County Commissioners, pay practices will be adjusted as follows:
 - 1. When the County Manager closes the County offices for an entire day or more:
 - a. Total pay for all non-exempt employees who are required to work shall be straight time for the regular work schedule.
 - b. All non-exempt employees required to work beyond their regular scheduled work shall be eligible for compensatory time in accordance with Section 91.
 - c. All other non-exempt employees shall choose either personal leave, or leave without pay, or previously earned compensatory time during the declared closure. When operational needs allow, employees will be given the opportunity to make up time not worked. Since hours worked in excess of 40 during a workweek would constitute overtime under federal regulation, it will be necessary for make-up time for employees subject to overtime to be limited to the workweek in which the time is lost or within 12 months in a week when the employee has not worked full work schedules due to such absences as holidays, personal, sick leave, etc.
 - d. All employees on pre-approved leave or on disciplinary unpaid leave will remain unaffected by the declared emergency or adverse weather condition.
 - 2. If the County closes due to an emergency or inclement weather for less than eight hours, all employees will be paid for an entire eight-hour shift. Non-exempt employees, who by function must be at their place of work regardless of closure, shall earn personal leave for hours worked during official closure to be used at the discretion of their supervisor.
- E. In the event the County Manager determines an imminent threat exists that could prompt a state of emergency to be declared, all exempt employees required to work in excess of the standard 40 hour workweek due to the declared state of emergency shall be eligible for compensatory time, and the following provisions shall apply:
 - 1. The compensatory time off (one hour for each hour worked in excess of 40 hours) shall be granted whenever feasible at the discretion of the Department Head, or the County Manager if the exempt employee has no Department Head.
 - 2. Compensatory time may be accrued even in workweeks where time away from work for holidays or use of sick leave reduces the number of hours worked below the standard 40-hour workweek. (The sick leave usage must be in accordance with Section 112.)
 - 3. The County Manager shall determine what time is work beyond regularly scheduled work due to the emergency (which can include work in preparation for and resolution of the state of emergency).

4. Under no circumstances shall compensatory time be paid to an exempt employee as over-time, sick or vacation pay regardless of the exempt employee's employment status or separation from service.

F. After two business days or upon extenuating circumstances, the Board of Commissioners reserves the right to vary the policies of Section 121. The Board of Commissioners will be required to meet within 48 hours of any emergency or closing to address the appropriateness of varying the policies contained in Section 121.

Section 122. Hospitalization

All regular County employees shall be eligible to participate in the County's hospitalization plan. The Board of Commissioners may also be covered if the members desire such coverage in the same manner as employees. The type of coverage and any fees charged for the coverage shall be determined by the Board of Commissioners. Any qualified employee wishing to have additional hospitalization insurance in the form of parent/child or family coverage may do so at such employee's own expense and have it payroll deducted. If an employee is on leave of absence without pay, that employee can remain covered under the County's group hospitalization plan but must pay the entire insurance premium to the Finance Office by the 25th of the month before the coverage is to become effective.

Section 123. Retirement

A. All regular employees working one thousand (1,000) or more hours in a permanent budgeted position in a calendar year contribute to the retirement system at the rate determined by their particular retirement system.

B. All sworn law enforcement officers occupying positions designated as law enforcement by the Board of Commissioners will be covered under the state Law Enforcement Officers' Local Governmental Employees' Retirement System. All other employees are covered under the state Local Governmental Employees' Retirement System. The contribution by the employee will be payroll deducted and is mandatory for all employees working one thousand (1,000) or more hours in a calendar year and occupying a permanent budgeted position.

Section 124. Retired Employees—Hospitalization Coverage

Employees who are credited with at least thirty (30) years' service with the North Carolina Local Governmental Employees' Retirement System or the North Carolina Law Enforcement Officers' Local Governmental Employees' Retirement System; and/or employees who are credited with at least twenty (20) years' service with the North Carolina Local Governmental Employees' Retirement System or the North Carolina Law Enforcement Officers' Local Governmental Employees' Retirement System and have reached their sixtieth (60th) birthday in service are eligible to participate in the County hospitalization plan to the extent listed below, if the employee's last five (5) years or last fifteen (15) years if hired on or after January 1, 2009, or the last 20 years if hired on or after January 1, 2011, of continuous service has been with the County at the time of retirement.

Retired employees meeting the criteria of this section until their sixty-fifth (65th) birthday will be provided hospitalization in the same manner as active County employees, with no cost to the retiree.

Retired employees who have reached their sixty-fifth (65th) birthday and comply with the criteria of this Section will be provided hospitalization in the form of a Medicare supplement policy purchased by the County, at no cost to the retiree.

County Commissioners with twelve (12) years of service with the County are eligible to participate in the County hospitalization plan to the following extent:

A. Commissioners until their sixty-fifth birthday will be provided hospitalization in the same manner as active County employees, with no cost to the Commissioner.

- B. Commissioners who have reached their sixty-fifth (65th) birthday and comply with the criteria of this section will be provided hospitalization in the form of a Medicare supplement policy purchased by the County, at no cost to the Commissioner.

Qualified retirees and eligible Commissioners as defined in this section wishing to continue existing family or parent/child coverage may do so at such retiree's or Commissioner's own expense until the retiree or Commissioner reaches sixty-five (65) years of age. Dependent children must be removed from the plan once they reach age 26 or until the retiree or Commissioner reaches age 65 whichever comes first, while spouses may remain on the plan until the retiree or Commissioner reaches age 65. Retirees and eligible Commissioners are also subject to the following guidelines:

- a. May drop active dependent coverage that was purchased and in place prior to retirement, in compliance with IRS regulations;
- b. May not add dependent coverage that was not active at the time of retirement;
- c. May not reinstate dependent coverage if dropped during retirement.

Section 125. Voluntary Shared Leave

- 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-pay. It is recognized that such employees 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 personal leave so as to provide assistance to a fellow 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.
- B. *Policy.* In those cases of a prolonged medical condition, an employee may apply for or be nominated to become a recipient of leave transferred from the personal leave account of one (1) or more employees within the county. For purposes of this policy, medical condition means medical condition of an employee or immediate family member that is likely to require an employee's absence from duty for a prolonged period of at least twenty (20) consecutive workdays. The intent of this policy is to allow one (1) or more employees to assist another in cases of prolonged medical conditions, resulting in exhaustion of all earned leave.
- C. *Guidelines.*
 - 1. The request for transfer and use of personal leave from one individual to another shall be presented in writing to the Human Resources Director by the appropriate Department Head with the Department Head's recommendation for approval.
 - 2. An employee or supervisor may not directly or indirectly intimidate, threaten, coerce or attempt to intimidate, threaten or coerce, any other employee for the purpose of interfering with any right an employee may have to donate, receive, or use personal leave under this program. Such action shall be grounds for disciplinary action up to and including dismissal on the basis of personal conduct. The donating employee may not receive remuneration for the donation of leave.
 - 3. Recipients will not bank leave donations.
 - 4. An employee who has received disciplinary action due to attendance issues within the past twelve months is ineligible for participation in this program.
 - 5. Shared leave is available for an employee's care or the caring of an immediate family member. Immediate family includes a spouse, child or parent as defined in the Family and Medical Leave Act
 - 6. Shared leave is not available to part-time, temporary or intermittent employees.
 - 7. Employees can receive up to a maximum of one hundred sixty (160) hours of shared leave within a 12-month period.

8. Shared leave may only be donated in four-hour increments.
 9. If donating personal leave, the donation cannot cause the employee's current personal leave balance to fall below eighty (80) hours.
- D. Employees must submit required paperwork to include supporting documentation as needed. Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave.

Section 126. Leave Policy upon Indictment of Employee for Serious Crime

When a County employee is indicted for a serious crime that may negatively affect the morale of fellow employees and negatively impact the working environment, the County Manager at his discretion may place the employee on administrative leave with pay for as long as the County Manager deems necessary

Section 127. Disabled Retired Employees—Hospitalization Coverage

Employees who do not meet the criteria described above but meet the criteria of the Local Government Retirement System or the North Carolina Law Enforcement Officers' Local Governmental Employees' Retirement System for Disability Retirement and have been approved by the County's Workers' Compensation Administrator with a compensable workers' compensation injury or illness on or after July 1, 2004 will be eligible for reimbursement of health insurance premiums based on the following criteria:

- A. Retirees will be responsible for selecting their own health insurance coverage excluding the County group plan if they do not elect COBRA benefits. If the retiree elects COBRA benefits, they will be reimbursed the actual amount paid for COBRA less the administration fee.
- B. Retirees will be reimbursed the actual amount paid out of pocket for health insurance coverage not to exceed the amount paid by the County for employee individual health coverage.
- C. Proof of health insurance coverage and a receipt for premium payments for the retiree will be required for reimbursement.
- D. Reimbursement checks will be distributed on a monthly basis.
- E. The reimbursement plan is for a maximum of 29 months from the disability retirement date or until the retiree has been approved for Medicare, whichever comes first.
- F. The reimbursements will cease if the employee returns to the work force or regains earning capacity based on the criteria of the retirement system.

Retiring employees will be eligible for this benefit at the beginning of the next month after termination as an employee and the declaration of the disability by the North Carolina Local Government Retirement System.

Section 128. Leave Usage

Leave requests shall be approved such that banked compensatory time is used prior to the use of accrued personal leave. Sick leave must be approved in accordance with Section 112. Employees must have the approval of department heads prior to taking leave time and the leave should be requested for a time that is least disruptive to the operations of the department.

Section 129. Leave Payouts

When an employee terminates employment with the County:

1. A maximum of two hundred forty (240) hours of accrued personal leave will be paid if not transferred to another government agency.

2. Nonexempt employees will be paid for any unused banked compensatory time.
3. Leave payments will be included in the employee's last paycheck.
4. Employees are not paid for any unused banked sick leave at the time of departure from the County.
5. In the case of a deceased employee, leave payouts shall be included in the last paycheck which shall be direct deposited into the deceased employee's bank account. Should the deceased employee not have an active direct deposit account, payment shall be made to the deceased employee's administrator or executor. In the absence of an administrator or executor, payment shall be made to the Clerk of Superior Court of the county of the deceased employee's residence.

Sections 130--140 Reserved

Part 7. Separation, Disciplinary Action, and Reinstatement

Section 141. Types of Separation

All separation of employees from positions in the service of the County will be designated as one of the following types and will be accomplished in the manner indicated:

- | | |
|------------------------|---|
| A. Resignation; | G. Voluntary Resignation without Notice |
| B. Reduction in force; | H. Separation due to Unavailability |
| C. Disability; | |
| D. Death; | |
| E. Retirement; | |
| F. Dismissal. | |

Section 142. Resignation

An employee may resign by notifying their Department Head, or in the case of a Department Head, the County Manager, of the effective date of the resignation as far in advance as possible, but a minimum of two (2) weeks' notice is requested of all personnel.

Section 143. Reduction in Force

This policy states that "For reasons of curtailment of work, reorganization, or lack of funds the appointing authority may separate employees. Retention of employees in classes affected shall be based on systematic consideration of type of appointment, length of service, and relative efficiency. No permanent employee shall be separated while there are emergency, intermittent, temporary; probationary; or trainee employees in their first six months of trainee progression serving in the same or related classes, unless, the permanent employee is not willing to transfer to the position held by the non-permanent employee, or the permanent employee does not have the knowledge and skills required to perform the work of the alternate position within a reasonable period of orientation and training given any new employee. A permanent employee who was separated by reduction-in-force may be re-employed at any time in the future that suitable employment becomes available. The employee must meet the minimum education and experience standards for the class to which he is appointed. Re-appointed employees will serve a probationary period in accordance with the guidelines of this Ordinance."

Section 144. Reinstatement

An employee who has been separated because of reduction-in-force or who has resigned while in good standing shall be credited with such employee's previously accrued sick leave if such employee is reinstated within five (5) years. If the reinstated employee shall have continued to be a member of either the

Local Government Employees' Retirement System or the Law Enforcement Officer's Benefit and Retirement Fund, such employee shall receive full credit for all accrued contributions to the time of separation.

Section 145. Disability

Employees may be separated for disability when they cannot perform the required duties due to a physical or mental impairment. Action may be initiated by the employee or the County; but in all cases it must be supported by medical 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 any employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the County's service for which the employee may be suited.

Section 146. Death

Separation will be effective as of the date of death. All compensation due in accordance with this policy will be paid to the estate of the employee.

Section 147. Retirement

Whenever employees meet the conditions set forth under the provisions of retirement plans adopted by the Board of Commissioners, they may elect to retire and receive all benefits earned under the retirement plan.

Section 148. Disciplinary actions - Types; Effective Date

Department Heads and supervisors are responsible for maintaining the proper conduct and discipline of employees under their supervision. When an employee's performance or conduct is determined by a supervisor or Department Head to be unacceptable, disciplinary action may be taken in a confidential manner in a number of ways, depending on the nature of the offense. All written documentation of disciplinary actions taken is to be confidentially forwarded to the Human Resources Director to be included in the employee's personnel file. Employees should sign the action acknowledging receipt prior to it being forwarded to Human Resources.

A. "Just cause" for disciplinary action.

1. Any employee, regardless of occupation, position, or profession may be warned, demoted, suspended or dismissed by the appointing authority. Such actions may be taken against employees with permanent status, as defined by this Ordinance, only for "just cause." The degree and type of action taken shall be based upon the sound and considered judgement of the appointing authority in accordance with the provisions of this Section. When "just cause" exists the only disciplinary actions provided for are:
 - a. Written warning;
 - b. Disciplinary suspension without pay;
 - c. Demotion;
 - d. Dismissal.
2. There are two (2) bases for the discipline or dismissal of employees under the statutory standard of "just cause" as set out in G.S. 126-35. These two (2) bases are:
 - a. Discipline or dismissal imposed on the basis of unsatisfactory job performance, including grossly inefficient job performance.
 - b. Discipline or dismissal imposed on the basis of unacceptable personal conduct.
3. Either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct, as defined in Subsections B, C and D1 of this Section, constitutes just cause for discipline or dismissal. The categories are not mutually exclusive, as certain actions by employees may

fall into both categories, depending upon the facts of each case. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

4. The imposition of any disciplinary action shall comply with the Procedural Requirements of this Section contained in Subsection H, Procedural Requirements.

B. *Dismissal for unsatisfactory performance of duties.*

1. Unsatisfactory job performance is work related performance that fails to satisfactorily meet job requirements as specified in the relevant job description, work plan or as directed by the management of the work unit or department.
2. The intent of this Section is to assist and promote improved employee performance, rather than to punish. This Section covers all types of performance-related inadequacies. This Section does not require that successive disciplinary actions all concern the same type of unsatisfactory performance. Disciplinary actions related to personal conduct may be included in the successive system for performance related dismissal provided that the employee receives at least the number of disciplinary actions, regardless of the basis of the disciplinary actions, required for dismissal on the basis of inadequate performance. Disciplinary actions administered under this section are intended to bring about a permanent improvement in job performance. Should the required improvement later deteriorate, or other inadequacies occur, the supervisor may deal with this new unsatisfactory performance with further disciplinary action.
3. In order to be dismissed for a current incident of unsatisfactory job performance, an employee must first receive at least two (2) prior disciplinary actions: First, one (1) or more written warnings; followed by a warning or other disciplinary action which notifies the employee in writing that failure to make the required performance improvements may result in dismissal.
4. Prior to the decision to dismiss an employee, the Department Head must conduct a pre-dismissal conference with the employee in accordance with the Procedural Requirements of Subsection H, Procedural Requirements of this Section.
5. An employee who is dismissed must receive written notice of the specific reasons for the dismissal as well as notice of any applicable appeal rights.
6. Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-disciplinary conference constitute procedural violations. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

C. *Dismissal for grossly inefficient job performance.*

Grossly inefficient job performance is a type of unacceptable personal conduct and means the employee fails to perform job requirements as specified in the job descriptions, work plan, or as directed by the management of the work unit or agency and that failure results in:

1. Death or serious harm or the creation of the potential for death or serious harm to a client(s), an employee(s), members of the public or to a person(s) over whom the employee has responsibility; or
 - a. The loss of or damage to department property or funds that result in a serious impact on the department and/or work unit.
2. Dismissal on the basis of grossly inefficient job performance is administered in the same manner as for unacceptable personal conduct detrimental to the department or county service. Employees may be dismissed on the basis of a current incident of grossly inefficient job performance without any prior disciplinary action.
3. Prior to dismissal of an employee with permanent or career status on the basis of grossly inefficient job performance, there shall be a pre-disciplinary conference between the

employee and the Department Head. This conference shall be held in accordance with the provisions of Subpart H, Procedural Requirements.

4. Dismissals for grossly inefficient job performance require written notification to the employee. Such notification must include specific reasons for the dismissal and notice of the employee's right of appeal.
5. Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-disciplinary conference constitute procedural violations. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

D. *Dismissal for unacceptable personal conduct.*

1. Employees may be dismissed for a current incident of unacceptable personal conduct without any prior active disciplinary actions.
2. Unacceptable personal conduct means:
 - a. Conduct on or off the job that is related to the employee's job duties and responsibilities for which no reasonable person should expect to receive prior warning; or
 - b. Conduct that constitutes violation of State or Federal law; or
 - c. Conviction of a felony that is detrimental to or impacts the employee's service to the department; or
 - d. The willful violation of work rules; or
 - e. Conduct unbecoming an employee that is detrimental to the department's service; or
 - f. The abuse of client(s), patient(s), student(s), or person(s) over whom the employee has charge or to whom the employee has responsibility or of an animal owned or in the custody of the department; or
 - g. Falsification of an employment application or other employment documentation; or
 - h. Insubordination that is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. or
 - i. Absence from work after all authorized leave credits and benefits have been exhausted;
 - j. Failure to maintain or obtain credentials or certifications as required for the job and included in the job description.
3. Prior to dismissal of an employee with permanent or career status on the basis of unacceptable personal conduct, there shall be a pre-disciplinary conference between the employee and the Department Head. This conference shall be held in accordance with the provisions of Subpart H, Procedural Requirements of this Section.
4. Dismissals for unacceptable personal conduct require written notification to the employee. Such notification must include specific reasons for the dismissal and notice of the employee's right of appeal.
5. Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-disciplinary conference constitute procedural violations. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

E. *Written warning.*

1. The supervisor shall monitor the performance of work assignments and assure that employees do not engage in unacceptable personal conduct. All types of performance-related job inadequacies may constitute unsatisfactory job performance under this section. When the supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee shall receive. The supervisor may elect to issue a written warning for grossly inefficient job performance or unacceptable personal conduct. The written warning shall:
 - a. Inform the employee that this is a written warning, and not some other non-disciplinary process such as counseling;
 - b. Inform the employee of the specific issues that are the basis for the warning;
 - c. Tell the employee what specific corrections, if applicable, must be made to address these specific issues;
 - d. Tell the employee the time frame allowed for making the required improvements/corrections. Immediate correction is required for grossly inefficient job performance or unacceptable personal conduct;
 - e. Tell the employee the consequences of failing to make the required improvements/corrections.
 - f. Tell the employee of any appeal rights provided by county/department policy.
2. A written warning must be issued in accordance with the requirements contained in Subsection H, Procedural Requirements of this section.

F. *Disciplinary suspension without pay.* An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance after the receipt of at least one prior disciplinary action or without any prior warning for causes relating to any form of unacceptable personal conduct or grossly inefficient job performance pursuant to section 148A of this Personnel Ordinance. The length of a disciplinary suspension without pay for an employee must be for at least one full work day, but not more than two (2) full work weeks. Prior to placing any employee on disciplinary suspension without pay the Department Head shall conduct a pre-disciplinary conference with the employee in accordance with the Procedural Requirements of this Section contained in Subsection H, Procedural Requirements. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's appeal rights.

G. *Demotion.*

An employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct. The Department Head in rare and unusual circumstances may recommend the retention of an employee in a lesser capacity when the employee's work performance or conduct is sufficient to satisfy grounds for dismissal but the employee shows promise of acceptable performance or conduct in a position in a lower job classification.

1. *Unsatisfactory job performance.* An employee may be demoted for unsatisfactory job performance after the employee has received at least one (1) prior disciplinary action.
2. *Grossly inefficient job performance.* An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.
3. *Unacceptable personal conduct.* An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.
4. An employee who is demoted must receive written notice of the specific reasons for the demotion, as well as notice of any applicable appeal rights.

An employee shall receive a decrease in salary due to a demotion to a lower job classification as determined by the Department Head subject to review and approval by the Human Resources Director and the County Manager. In no event shall an employee's salary rate be reduced to less than the minimum salary rate for the applicable pay grade.

Prior to the decision to demote an employee for disciplinary reasons, the Department Head must conduct a pre-disciplinary conference with the employee in accordance with the Procedural Requirements of this Section.

H. *Procedural Requirements.* Department Heads shall consult with the Human Resources Director regarding matters where suspension without pay, demotion, or dismissal are considered. The following Procedural Requirements must be followed to issue disciplinary action under this section:

1. *Written warning.* To issue a written warning to an employee, a supervisor must issue the employee a written warning, detailing the matters referenced in Subsection E.
2. *Disciplinary suspension without pay.* To place an employee on disciplinary suspension without pay, the Department Head must comply with the following Procedural Requirements:
 - a. In matters of unsatisfactory job performance, insure that the employee has received at least one prior disciplinary action. In matters of grossly inefficient job performance or unacceptable personal conduct, no prior disciplinary actions are required so an employee may be suspended without pay for a current incident of grossly inefficient job performance or unacceptable personal conduct;
 - b. Furnish the employee a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension;
 - c. Advise the employee of any applicable appeal rights in the document affecting the suspension. A department shall furnish to an employee, as an attachment to the written documentation of a grievable disciplinary action, a copy of the County grievance procedure. An employee with permanent status who has been placed on disciplinary suspension shall have fifteen (15) calendar days from the date of his receipt of written notice of such action to file an appeal in accordance with the County grievance procedure contained in Section 162.
3. *Demotion.* To demote an employee the Department Head must comply with the following Procedural Requirements:
 - a. In matters of unsatisfactory job performance, insure that the employee has received at least one prior disciplinary action;
 - b. In matters of grossly inefficient job performance or unacceptable personal conduct, there is no requirement for previous disciplinary action, so an employee may be demoted for a current incident of grossly inefficient job performance or unacceptable personal conduct without any prior disciplinary action;
 - c. Give advance oral or written notice of the appropriate pre-disciplinary conference to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice shall be as much as it practical under the circumstances.
 - d. Give an employee who is demoted written notice of the specific acts or omissions that are the reasons for the demotion;
 - e. Advise the employee of how and to what extent the demotion will affect the employee's salary rate or pay grade; and
 - f. Advise the employee of any applicable appeal rights in the document affecting the demotion. A department shall furnish to an employee, as an attachment to the written documentation of a grievable disciplinary action, a copy of the County grievance procedure.

An employee with permanent status who has been demoted shall have fifteen (15) calendar days from the date of his receipt of written notice of such action to file an appeal in accordance with the County grievance procedure contained in Section 162.

4. *Dismissal.* Before an employee may be dismissed, a Department Head must comply with the following Procedural Requirements:
 - a. The supervisor recommending dismissal shall discuss the recommendation with the Department Head who shall conduct a pre-dismissal conference with the employee. The person conducting the pre-dismissal conference must have the authority to decide what, if any, disciplinary action shall be imposed on the employee.
 - b. The supervisor or designated management representative shall schedule a pre-dismissal conference with the employee.
 - c. Advance written notice of the pre-dismissal conference must be given to the employee of the time, location, and the issue for which dismissal has been recommended. The amount of advance notice shall be as much as is practical under the circumstances.
 - d. The Department Head shall conduct a pre-dismissal conference with the employee, limiting attendance to the employee and the person conducting the conference; a second management representative may be present at management's discretion. The purpose of the pre-dismissal conference is to review the recommendation for dismissal with the affected employee and to listen to and to consider any information put forth by the employee, in order to insure that a dismissal decision is sound and not based on misinformation or mistake. Security personnel may be present when, in the discretion of the person conducting the conference, a need for security exists. No attorney representing either side may attend the conference.
 - e. In the conference, management shall give the employee oral or written notice of the recommendation for dismissal including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal action and to offer information or arguments in support of the employee's position. Every effort shall be made by management to assure that the employee has a full opportunity during the conference to set forth any available information in opposition to the recommendation to dismiss prior to the end of the conference. This opportunity does not include the option to present witnesses.
 - f. Following the conference, management shall review and consider the response of the employee and reach a decision on the proposed recommendation. To minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information, the decision to dismiss should not be communicated to the employee in accordance with this Subparagraph, prior to the beginning of the next business day following the conclusion of the pre-dismissal conference.
 - g. If management's decision is to dismiss the employee, a written letter of dismissal containing the specific reasons for dismissal, the effective date of the dismissal and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. A department shall furnish to an employee as an attachment to the written documentation of a grievable disciplinary action, a copy of the County grievance procedure. An employee with permanent status who has been dismissed shall have fifteen (15) calendar days from the date of his receipt of written notice of such action to file an appeal in accordance with the County grievance procedure contained in Section 162.
 - h. The effective date of a dismissal for unsatisfactory job performance shall be determined by management. The effective date of the dismissal shall not be earlier than the letter of dismissal nor more than fourteen (14) calendar days after the notice of dismissal.
- I. *Time limits for active warnings/disciplinary actions for progressive discipline.* Any disciplinary action is deemed inactive for the purpose of this Section in the event that:

1. The manager or supervisor notes in the employee's personnel file that the reason for the disciplinary action has been resolved or corrected; or
 2. Eighteen (18) months have passed since the warning or disciplinary action, the employee does not have another active warning or disciplinary action which occurred within the last eighteen (18) months and the department has not, prior to the expiration of the 18-month period, issued to the employee written notice, including reasons, of the extension of the period.
- J. *Placement on investigation status with pay.* Investigation status is used to temporarily remove an employee from work status. Placement on investigation with pay does not constitute a disciplinary action as defined in this Section and is not appealable. Management must notify an employee in writing of the reasons for investigatory placement not later than the second scheduled work day after the beginning of the placement. An investigatory placement with pay may last no longer than thirty (30) calendar days without written notice of extension by the Department Head. When an extension beyond the 30-day period is required, the Department Head must advise the employee in writing of the extension, the length of the extension, and the specific reasons for the extension. If no action has been taken by a department by the end of the 30-day period and no further extension has been imposed, the department must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to use placement on investigation status 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. It is permissible to place an employee in investigation status with pay only under the following circumstances:
1. To investigate allegations of performance conduct deficiencies that would constitute just cause for disciplinary action;
 2. To provide time within which to schedule and conduct a pre-disciplinary conference; or
 3. To avoid disruption of the work place or to protect the safety of persons or property.

Failure of the employee to report back to work when requested or at the expiration date of the suspension will result in termination of employment effective the date the employee fails to return.

Section 149. Voluntary Resignation without Notice

An employee voluntarily terminates employment by failing to report to work without giving written or verbal notice to their Department Head. Such failure shall be deemed to be a voluntary resignation from employment without notice when the employee is absent without approved leave for a period of at least three consecutive, scheduled workdays. Separation pursuant to this policy should not occur until the Department Head has undertaken reasonable efforts to locate the employee and determine when or if the employee is intending to return to work.

The provision also applies when the employee is absent for at least three consecutive, scheduled workdays, has been instructed verbally or in writing of a specific manner of reporting by management, and does not report in to the appropriate supervisory personnel on a regular basis satisfactory to the Department Head.

Section 150. Separation Due to Unavailability When Leave is Exhausted

An employee may be separated on the basis of unavailability when the employee becomes or remains unavailable for work after all applicable leave credits and benefits have been exhausted and agency management does not grant a leave without pay for reasons deemed sufficient by the department. Such reasons include but are not limited to, lack of suitable temporary assistance, importance of the position, budgetary constraints, etc. Such a separation is an involuntary separation, and not a disciplinary dismissal and can be grieved and appealed.

Prior to separation the Department Head shall meet with or at least notify the employee in writing, of the proposed separation, the efforts undertaken to avoid separation and why the efforts were unsuccessful. The employee shall have the opportunity in this meeting or in writing to propose alternative methods of accommodation. If the proposed accommodations are not possible, the Department Head must notify the employee of the fact and the proposed date of separation. If the proposed accommodations or alternative accommodations are being reviewed, the agency must notify the employee that such accommodations are under review and give the employee a projected date for a decision on this.

Involuntary separation pursuant to this policy may be grieved or appealed. The Department Head must also give the employee a letter of separation stating the specific reasons for the separation and setting forth the employee's right of appeal. The burden of proof on the Department Head in the event of the grievance is not just cause as that term exists in Section 148 of this Personnel Ordinance. Rather, the Department Head's burden is to prove that the employee was unavailable and that the Department Head considered the employee's proposed accommodations and was unable to make the proposed accommodations or other reasonable accommodations.

Department Heads should make efforts to place an employee so separated pursuant to this policy when the employee becomes available. However, there is no mandatory requirement placed on the department to secure an employee, separated under this policy, a position in any department.

Sections 151-160 Reserved

Part 8. Grievance Procedure

Section 161. Grievance Definition

This policy provides appeal procedures for regular employees of the County who have been demoted, suspended, dismissed, reduced-in-pay, laid off, or who believe they have been discriminated against because of age, sex, race, religion, color, national origin, visible and nonvisible handicaps, or pregnancy.

The Sheriff, Register of Deeds, Health Director, Social Services Director, and Elections Director will carry out the procedure required by their agencies.

Section 162. Grievance Policy

It is the policy of the County to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this Part is to implement this policy and to assure all employees that their grievances will be answered and decided fairly, quickly, and without threat.

- A. *Step 1.* Employees will first present their grievance, in writing, to their Department Head within fifteen (15) calendar days of demotion, suspension, dismissal, reduction in pay, lay off or discrimination, who will respond to the aggrieved employee within five (5) complete working days after receipt of the grievance. The Department Head's determination will be in writing.
- B. *Step 2.* The employee will sign a copy of the determination to acknowledge receipt and the date of the response. The Department Head is encouraged to consult with any County employee or officer such Department Head may deem necessary to reach a correct, impartial, and equitable determination concerning the grievance.
- C. *Step 3.* If the employee is not satisfied with the determination of the Department Head, the employee will appeal by giving notice in writing to Human Resources within fifteen (15) calendar days after receipt of the Department Head's determination.
- D. *Step 4.* Human Resources will call a meeting of the Grievance Committee within thirty (30) days of receipt of the grievance which will consist of four (4) employees selected by the County Manager and Human Resources. The aggrieved employee may select one (1) employee.
- E. *Step 5.* The Grievance Committee will hear all parties involved and render a recommendation to the County Manager within five (5) working days.

- F. *Step 6.* Human Resources will notify the employee of the Committee's recommendation and file a copy of the decision in the employee's file.
- G. *Step 7.* The Department Head will consult with the County Manager and issue a final agency decision to the employee by certified mail within ten (10) working days of receipt by the Department Head of the Committee's recommendation.

Sections 163-170 Reserved

Part 9. Definitions

Section 171. Definitions

Above standard performance means performance clearly exceeds objectives/standards.

Affirmative action means all organizational efforts to ensure equal employment opportunity for all current and potential employees of the organization.

Aggregate service means the employee's combined total period of regular service as an employee of the County. Aggregate service for retirement purposes refers to total length of service under which retirement contributions are paid into the Local Government Employee's Retirement System by the employee.

Allocation means the assignment of a position to its appropriate class in relation to duties performed.

Americans with Disabilities Act of 1990 means the ADA prohibits discrimination against individuals with disabilities. Title I of the Act prohibits covered employers from discriminating against a qualified disabled individual in any aspect of employment, including hiring, promotion, dismissal, compensation, training, or any other term, condition, or privilege of employment.

Americans with Disabilities Act Amendments Act (ADAAA) means a number of significant changes were made to the definition of disability under the Americans with Disabilities Act (ADA).

Anniversary date means the employee's most recent date of employment with the County in a permanent position.

Appeal means an application or procedure for review of an alleged grievance submitted or instituted by an employee to the proper authority.

Applicant means one who places himself or herself in competition for a vacant position by virtue of completing and submitting an application for employment regardless of employment status, i.e., a current County employee becomes an applicant when an application for another position is submitted for purposes of that employee's relationship to the vacant position.

Appointing authority means an individual or board who has the responsibility to assign or place a person into a position.

Appointment means the offer to and acceptance by a person of a position.

Board of County Commissioners means the local government unit charged with the legislative affairs of the County

Bona fide means genuine; made in good-faith without fraud or deception.

Break in service means any separation from the service of the County whether by resignation, layoff, dismissal, disability, or retirement, when the employee is subsequently re-employed. An authorized leave without pay shall not be considered as constituting a "break in service".

Career Status is an amendment to the State Personnel Act that requires local government employees subject to the State Personnel Act to work 12 continuous months as a permanent appointment in a permanent position before they gain a property interest that is protected by due process. Employees in this group will be covered by the disciplinary action and appeals policy in 25 NCAC 11.2300 only after

they have worked 12 continuous months in a position in Pitt County that is subject to the State Personnel Act. The General Assembly passed and the Governor signed this into law August 19, 2007. The General Assembly reduced the requirement from 24 to 12 months effective October 1, 2015.

Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex, or national origin.

Class means a group of positions which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, specification and pay range.

Classification means a system of identifying the relative relationship of each position to all other positions in the organization by grouping of positions in regard to: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience and ability; (d) tests of fitness; (e) ranges of pay.

Classification plan means the official or approved system of grouping positions into appropriate classes, based on internal comparisons and market surveys of relative duties and responsibilities.

Classification review or reclassification review means an evaluation of the duties and responsibilities of a position performed by the Department of Human Resources to determine the appropriateness of the present class. Appropriateness will be determined on the basis of: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience and ability; (d) tests of fitness; (e) ranges of pay. The review will result in the position retaining its present class assignment; or being assigned to an existing lower class, or being assigned to an existing higher class; or being assigned to a new class created by amendment to the classification and compensation plans.

Compensation means the total salary and fringe benefits provided by the organization for each employee.

Compensatory time means time off in lieu of monetary payment for overtime worked.

Continuous service/employment means an employee has worked continuously with Pitt County and is eligible to receive County benefits and without a break in service such as a termination, resignation or an unpaid leave of absence. Continuous service/employment does not include time worked as a temporary, part-time hourly, contractor, volunteer or emergency appointment.

County Manager means the highest level of supervision and highest administrative official of County Government appointed by the Board of Commissioners.

Demotion means a change in job responsibility to another position of lesser responsibility and a lower salary grade.

Department means an administrative subdivision of the organization, which may include other administrative groupings of employees and related work functions.

Director or Department Head means the highest level of supervision or top administrative official of a department of County Government.

Disciplinary action means action taken by management to correct or modify unacceptable behavior or performance of employee.

Dismissal means separation from County employment for cause.

Downgrade means a change that results in a lower grade being assigned to a position based on duties, responsibilities, reorganization, or market surveys.

Eligible means a person who has successfully met required qualifications.

Eligibility date means the date an employee has met all the qualifications and criteria for certain county benefits.

Emergency appointment means an appointment may be made when an emergency situation exists requiring the services of an employee before it is possible to identify a qualified applicant through the regular selection process.

Employee means an individual who is employed by the County and is compensated through the County payroll for his services. Individuals or groups compensated on a fee basis are not included.

Equal employment opportunity means the prohibition of discrimination of employment on the basis of age, sex, race, color, creed, religion, national origin, or physical or mental disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary for job performance.

Exempt employees means employees who are not covered by the overtime provisions as set forth in the Fair Labor Standards Act.

Fair Labor Standards Act means legislation originally enacted by Congress in 1938, which establishes requirements with respect to minimum wage, overtime, compensation and record keeping.

Family Medical Leave Act (FMLA) of 1993 means generally requires employers of fifty (50) or more employees to provide up to twelve (12) workweeks of unpaid, job-protected leave to eligible employees for certain specified family and medical reasons.

Full-time employee means any employee who is regularly scheduled to work at least two thousand eighty (2,080) hours in twelve (12) consecutive months.

Full-time position means any position which is authorized to be filled for at least two thousand eighty (2,080) hours in twelve (12) consecutive months.

Grade means numerical value assigned to a range as associated with the classification and pay plan.

Grievance means a claim or complaint regarding conditions or work which affects the circumstances under which an employee works, allegedly caused by misinterpretation or unfair application of policy.

Immediate family means wife, husband, mother, father, brother, sister, son, daughter, half-brother and half-sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson, granddaughter, step-mother, stepfather, stepbrother, stepsister.

Inclement means severe.

Increment means in reference to the salary plan, one in a series of regular consecutive progressions within a pay range.

In loco parentis means in the place of a parent.

Insubordination means an employee's unwillingness to submit to authority; act of disobedience to authority.

Intermittent leave means leave taken in separate blocks of time due to a single illness or injury, not to exceed twelve (12) weeks (four hundred eighty (480) hours). (Example: Employee takes six (6) weeks leave for surgery; returns to work for four (4) weeks, and later needs another three (3) weeks leave for chemotherapy). Intermittent leave must be certified every fiscal year.

Job description means a summary that outlines the basic functions of a position such as duties and responsibilities, essential job functions and job requirements.

Lateral transfer means a move within the same pay grade from one position to another.

Longevity pay means special pay granted for continuous years of service as defined by the Personnel Ordinance.

Maximum rate means the maximum pay within a pay range that an employee may receive.

Merit principle means a systematic and uniform method of personnel administration designed to provide objective recruiting, employment, retention, and promotion of those persons best qualified all other factors excluded.

Minimum rate means the minimum pay within a pay range that is normally paid to a newly hired employee.

Minimum wage means the minimum hourly wage to be paid to employees as designated by the United States Department of Labor.

Non-exempt employees means employees who are covered by the overtime provisions as set forth in the Fair Labor Standards Act.

Ordinance means a law set forth by a governmental authority.

Overtime (FLSA) Time actually worked by an employee in excess of forty (40) hours during a seven (7) consecutive day work period. Overtime for law enforcement personnel shall be time actually worked in excess of eighty (80) hours during a fourteen (14) consecutive day work period.

Overtime pay means compensation paid to an employee for overtime work performed. The rate of pay for overtime compensation will be either one (1) times the hourly rate or one and one-half (1 1/2) times the hourly rate of pay.

Parent is a biological parent or an individual who stands or stood in loco parentis to a child.

Part-time employee means an individual who is assigned to a work day of less than eight (8) hours or less than forty (40) hours a week.

Part-time position means any position that is authorized to be filled for less than two thousand eighty (2080) hours in twelve (12) consecutive months.

Pay grade assignment means the process of assigning jobs to pay grades through consideration of job information, job evaluation, and market analysis.

Pay period means the fourteen (14) consecutive calendar day period utilized for the calculation of paychecks.

Pay range means rates of pay assigned to a pay grade on a County pay plan.

Pay rate means a specific dollar amount expressed as an annual rate, a bi-weekly rate or an hourly rate.

Pay status means any period in which an employee is actually working or using paid leave.

Performance appraisal means a formal method/procedure of documenting and assessing the work performance of employees.

Permanent status means an employee shall attain permanent status when the employee has successfully completed the required probationary period.

Personal leave means scheduled time away from work during the employee's regular work day. This time will be charged against the employee's personal leave balance.

Position means an individual set of duties and responsibilities which may be performed by one (1) or more employees not to exceed the full-time equivalent (FTE) of the position.

Probationary period means the working test or trial period of employment beginning with the date of appointment to a particular class.

Problem driver means a motor vehicle operator having multiple violations.

Promotion means the assignment of an employee to a position of higher responsibility and a higher salary grade.

Pro rata means proportionately according to an exactly calculable factor.

Qualifications means the minimum education, experience and other criteria required of applicant prior to appointment or promotion.

Qualifying Exigencies entitles an employee to up to 12 weeks of unpaid FMLA leave arising out of the fact that the spouse, son, daughter or parent of the employee is on active duty, or has been notified of an impending call to active duty status in support of a contingency operation. Qualifying exigencies are as defined by the Department of Labor. This leave entitlement was signed into law under the National Defense Authorization Act on January 28, 2008.

Reassignment means intradepartmental change of duty assignment within the same grade and based upon needs of the department in the discretion of the Department Head.

Reclassification means a change in a position from one class to another based on changes in job content such as duty, kind, difficulty, required skill, responsibility of the work performed, reorganization, or market surveys.

Reduction in force means the abolishment of or reduction of a position or some portion of a position based on needs of the organization, work load, and availability of funding.

Regular employee means an employee assigned to a position that is established by the Board of Commissioners and is included in the County official position count.

Rehabilitation Act of 1973 means a law that prohibits discrimination against employment of handicapped persons regarding federal contract funds or programs or activities receiving federal financial assistance.

Remuneration means payment of an equivalent to for a service, loss or expense.

Reorganization means changes in the organizational needs of a department which may result in reassignment of duties; reclassification, abolishment, or addition of positions.

Salary range means salaries assigned to each grade of the salary plan from the minimum to the maximum annual salaries.

Separation means leaving a position including resignation, reduction in force, dismissal, disability and death.

Serious health condition means a health condition that involves inpatient care in a hospital, hospice, residential medical facility, or continued treatment by a health care provider. A serious health condition includes psychological illnesses as well as physical illnesses. Where inpatient care is not involved, the employee must be incapacitated for a period of more than three (3) consecutive calendar days.

Servicemember Family Leave was signed into law as an amendment to the FMLA on January 28, 2008 under the National Defense Authorization Act. This leave entitlement under the Family and Medical Leave Act entitles the spouse, child, parent, or next of kin of a member of the U.S. Armed Services to twenty-six (26) weeks of unpaid leave during a twelve-month period to care for a servicemember who is receiving medical treatment, is recuperating or undergoing therapy for a serious injury or illness incurred in the line of duty. (This also includes members of the National Guard and Reserves.) This leave may be taken only once and does not again become available with the start of a new FMLA year. An employee may not take more than a combined total of 26 weeks of leave in any year in which he or she uses servicemember family leave.

Shift work means the scheduling of hours by rotating hours worked other than eight (8) hours per day, Monday through Friday.

Standard performance means the employee meets the objectives/standards for the position.

Step means in reference to the salary plan, a step consist of four (4) increments.

Supervisor means level of management who has the responsibility of directing the work of other employees.

Suspension means an enforced leave of absence for disciplinary purposes or pending investigation of charges made against an employee.

Temporary position means a position for which the duties and responsibilities are required based upon the needs of the county for a specified period of time.

Trainee means an employee who does not meet minimum education or experience requirements for a position but can within a specified period meet the minimum requirements.

Transfer means change of duty assignment as a result of the employee becoming an applicant and being selected for a vacant position.

Vacancy means an unoccupied position.

Warning means to place an employee on notice of future consequences for continued or repeated violations or unacceptable performance or behavior.

Work against means when an employee does not meet minimum requirements of the position and there are lower levels in the series of the classification, then the employee may be assigned to the level of the series for which he or she is qualified and may "work against" the experience and educational requirements of the higher level of the series.

Workday means days of the week and number of hours an employee is scheduled to work. Work schedules vary by operation and agency.

Workers' Compensation Act provides replacement income to and covers medical expenses for employees who suffer work-related injuries or illnesses.

Sections 172-180 Reserved

Part 10. Conflicting Policies Repealed

Section 181. Policies Repealed

All policies and resolutions in conflict with the provisions to this Ordinance are hereby repealed.

Sections 182-185 Reserved

Part 11. Effective Date

Section 186. Enactment; Recording; Indexing

This foregoing Personnel Ordinance was duly passed by vote of the Board of Commissioners at a regular meeting of such Board duly held in the Office of such Board in the County Office Building on July 13, 2020, and was recorded and indexed in the County Ordinance Book. This Ordinance was effective July 1, 2002.

Adopted this 13th day of July, 2020.

Melvin McLawhorn, Chairman
Pitt County Board of Commissioners

Attest:

Kimberly W. Hines, Clerk to the Board