



BURKE COUNTY PERSONNEL POLICIES

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Article I. GENERAL PROVISIONS

Section 1.01 Purpose

The purpose of this Policy and the rules and regulations set forth within are to establish a fair and uniform system of personnel administration for all employees of the County under the supervision of the County Manager, elected officials, Elections Board, Board of Health, and Social Services Board. These aforementioned entities are the official appointing authorities covered by this personnel policy. All previous personnel ordinances and policies are hereby void upon the adoption of this Policy. State requirements will supersede this policy for the positions subject to the State Human Resources Act whenever there is a conflict. This policy is adopted under authority of GS 153A, Article 5 and GS 126 of the General Statutes of North Carolina.

Section 1.02 Policy of At-Will Employment

Burke County does not offer tenured or guaranteed employment. Either the County or the employee can terminate the employment relationship at any time, with or without cause, with or without notice. This at-will employment relationship exists regardless of any other written statements or policies contained in this policy or any verbal statement to the contrary. No entity except the Board of Commissioners can enter into any kind of employment relationship or agreement that is contrary to the previous statement. To be enforceable, the arrangement reflecting such relationship or agreement must be in writing; having been first lawfully adopted by the Board and is lawfully executed by the County.

Section 1.03 Persons subject to this policy

The provisions of this policy shall be applicable to all employees except as provided below.

- (a) The Board of Commissioners, County Manager, and the County Attorney are exempt from the provisions of this policy.
- (b) Employees of the Sheriff's Office and the Register of Deeds Department shall be subject to this policy except that the Sheriff and Register of Deeds shall have the right to hire and discharge their employees subject to GS153A-103.
- (c) The County Board of Elections appoints and dismisses all of the board's employees except the Director of Elections, who is appointed and dismissed by the State Board of Elections (G.S. 163-35).
- (d) Persons appointed by the Board of Commissioners to advisory or special boards or commissions, or appointed per statute, and not otherwise granted employee status shall be exempt from the provisions of this policy.
- (e) All employees in the competitive service area (Public Health and Social Services) shall be subject to the provisions of this policy, except when those provisions conflict with North

Carolina G.S. 126 or rules and regulations as established by the State Human Resources Commission.

- (f) Employees of the North Carolina Cooperative Extension Service whose annual compensation is supplemented by State and/or Federal funds shall be subject to all provisions of this policy, except when those provisions conflict with the Memorandum of Understanding between the State of North Carolina and Burke County. These employees shall be included in the benefits of longevity pay on a pro-rated basis.

Section 1.04 Merit Principles

All appointments and personnel actions shall be made on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and salary range. No applicant for County employment or employee shall be deprived of employment opportunities or otherwise be adversely affected as an employee because of an individual's race, religion, color, national origin, sex, age, disability or genetic information.

Section 1.05 Responsibilities of the County Board of Commissioners

The County Board of Commissioners shall be responsible for establishing and approving human resource policies and the position classification and pay plan. The Board also shall make and confirm appointment when so specified by the general statutes.

Section 1.06 Responsibilities of the County Manager

The County Manager shall be responsible to the County Board of Commissioners for the administration and technical direction of the human resources program. The County Manager shall appoint, suspend, and remove County officers and employees except those elected by the people or whose appointment is otherwise provided for by law. The County Manager, or his designee, shall make appointments, dismissals and suspensions in accordance with the General Statutes and other policies and procedures as provided for in this policy. The Sheriff and Register of Deeds have the exclusive right to hire, discharge, and supervise the employees in their respective departments under the authority of the General Statutes of the State of North Carolina (G.S. 153A-103).

The County Manager may delegate human resources functions, as appropriate. The County Manager or designee shall maintain the position classification plan and the pay plan and perform such other duties in connection with a human resources program, consistent with the adopted policy of the County Board.

The County Manager shall:

- (a) Recommend rules and revisions to the Personnel Policy to the County Board of Commissioners for consideration.

- (b) Recommend changes as necessary to maintain a current and accurate position classification plan.
- (c) Recommend necessary revisions to the pay plan.

Section 1.07 Responsibilities of the Human Resources Director

The responsibilities of the Human Resources Director shall include, but are not limited to, the following:

- (a) Apply, interpret, and carry out this Policy and the policies adopted there under, as directed by the County Manager.
- (b) Establish and maintain records of all persons in County service.
- (c) Make recommendations to the County Manager regarding the personnel functions, as well as revisions to the personnel system, as they may consider appropriate.
- (d) Issue and publish any necessary administrative directives, supplements, interpretations and necessary prescribed forms and reports for personnel matters for the proper functioning, maintenance, and documentation of the procedures established by and in accordance with this Policy.
- (e) Establish and maintain a list of authorized positions in the County Service at the beginning of each year which identifies each authorized position, class title of position, pay range, any changes in class title and status, position number and other such data that the County Manager may require.
- (f) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the County.
- (g) Develop and coordinate training and educational programs for County employees so as to meet current and future organizational needs and requirements.
- (h) Perform such other duties as may be assigned by the County Manager.

Section 1.08 Application of Policies, Plans, Rules, and Regulations

This personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all County employees. The County Manager, County Attorney, elected officials, appointed members of the County Board and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action as set forth in this policy, as well as prosecution under any civil or criminal laws which have been violated.

Section 1.09 Departmental Rules and Regulations

Due to the particular personnel and operational requirements of the various departments of the County, each department is authorized to establish supplemental rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the County Manager and shall not in any way conflict with the provisions of this policy but shall be considered as a supplement to this chapter.

Section 1.10 Definitions

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

Applicant: One who applies for a vacant position by completing and submitting an application for employment regardless of current employment status (e.g. a current county employee becomes an applicant when an application for another position is submitted.)

Board of Commissioners: The local governmental unit charged with the legislative affairs of the county.

Class: A position or group of positions having similar duties and responsibilities requiring similar qualifications, which can be properly designated by one title indicative of the nature of work performed and which carry the same salary range.

Compensatory Time: Time earned by an employee for work in excess of the workweek.

Close Relationship: means a mutually acceptable relationship, including dating, living together as man and wife, co- habitation, or other personal relationship between county employees.

Demotion: Demotion is the movement of an employee to a position or classification having a lower salary range than the position or classification from which the reassignment is made.

Department Heads: The highest level of supervision and coordination within a department or agency.

Exempt: An employee's classification who is not required to be compensated for overtime, in accordance with the Fair Labor Standards Act, for work performed beyond forty hours in a work week.

Full-Time Employee:

- (a) Regular – An employee, appointed to a permanent established position, who is regularly scheduled to work at least 40 hours per week.
- (b) Temporary – An employee, appointed to a temporarily established position, who is regularly scheduled to work at least 40 hours per week.

General County Employee: A County employee assigned to a department not subject to the State Human Resources Act.

Grievance: A claim or complaint based upon an event or condition which affects the circumstances under which the employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions. A grievance may involve allegations of involuntary demotion, suspension, dismissal, sexual harassment, discriminatory practices, and/or hostile work environment. A grievance is not allowed for performance evaluations, suspensions with pay, and/or voluntary demotions. A grievance does not include being turned down for promotion or transfer unless discrimination is alleged to have caused said action.

Harassment: Any unwelcome comment or treatment made because of race, religion, color, national origin, sex, age, disability, or genetic information that creates a hostile work environment or circumstance. This term includes sexual harassment.

Hostile work Environment: An environment which a reasonable person would find hostile or abusive and that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at several circumstances including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and how it interferes with an employee's work performance or working conditions.

Immediate Family: Spouse, parent, sibling, children, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

Longevity Plan: A plan to reward employees for continuous service based on length of employment. **Manager:** The County Manager as appointed by the Board of Commissioners.

Maximum Salary Rate: The maximum salary authorized for an employee within an assigned salary range.

Merit Increase: An increase in salary within the same salary grade, based on meritorious service and on performance of duties based on the performance evaluation system.

Non-Exempt Employee: An employee who is required to be compensated for overtime at the rate of time and one half their regular rate of pay for all hours worked beyond forty hours in a workweek, in accordance with the Fair Labor Standards Act.

Part-Time Employee:

- (a) Regular Part-Time Employee – An employee appointed to a permanently established position, who is regularly scheduled less than 40 hours per week but at least 20 hours per week.

- (b) Temporary Part-Time Employee – An employee appointed to a temporarily established position, who is regularly scheduled less than 40 hours per week.

Performance Evaluation System: The annual employee's review designed to facilitate fair and equitable merit pay decisions, recognizing performance as the basis for pay increases within the established pay range.

Pay Plan: A schedule of pay ranges systematized into sequential rates including minimum, midpoint, and maximum for each class assigned to any given salary range.

Position: A group of current duties and responsibilities assigned by competent authority, requiring the full or part-time employment of one person, but the existence of a position or its identity does not depend upon its being occupied by an employee.

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

Probationary Employee: An employee appointed to a full or part-time regular position who has not yet successfully completed the designated probationary period.

Probationary Period: The required period of time an employee serves before obtaining regular status when entering County service or is promoted, demoted, or transferred.

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

Quid Pro Quo Harassment: Consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- (b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Reclassification: The reassignment of an existing position from one class to another based on changes in job content such as duty, kind, difficulty, required skill, and responsibility of the work performed. This could be at a higher, lower, or same pay grade.

Reduction in force: The abolishment of or reduction of all or some portion of a position based on needs of the organization, workload, and availability of funding.

Regular Employee: An employee who has satisfactorily completed a probationary period. If the employee hired is designated a "trainee", the employee shall also satisfy the minimum education and work experience requirements of the position before becoming a regular employee.

Salary Grade: All positions which are sufficiently comparable to warrant one range of pay rates. For the purpose of this definition the words "grade," "salary range", "level" and "range" are used interchangeably.

Salary Range: the salary/pay rate assigned to each grade of the salary plan including minimum, midpoint and maximum pay rates.

Salary Schedule: A listing by grade of all the approved salary ranges authorized by the Board of Commissioners for the various position classifications of County government.

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

Trainee: An employee who does not meet minimum education or experience requirements for a position but can within a specified period meet the minimum requirements. An employee designated as such, appointed to a position in any class for which the Department Head and Human Resources Director has authorized "trainee" appointments. An individual may not be appointed as a trainee if he/she possesses the acceptable training and experience for the regular class and must be appointed to the regular class when he/she gains the acceptable training and experience. A trainee must be paid at a rate below the minimum of the regular class. A trainee will remain in probationary status until they meet the qualifications of the position.

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

Work Against: An employee who does not meet the minimum requirements for the position and there are lower levels in the series of that classification, the employee may be assigned to the level of the series for which he/she is qualified and may "work against" the experience and educational requirements of the higher level position in the series. This appointment is for the purpose of allowing the employee to gain the qualifications needed for the full class through on-the-job experience. A work against appointment may not be made when applicants are available who meet the training and experience requirements for the full class and the position being recruited. Work against employees serve the same probationary period as other employees.

Article II. CLASSIFICATION PLAN

Section 2.01 Purpose

The position classification plan is a complete inventory of all authorized classifications in the County Service, and an accurate description. The position classification plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities. All positions covered by this personnel policy are to be classified according to the assigned duties, responsibilities, qualifications needed and other required factors. In order to ensure

its continuing value as a personnel management tool, the position classification plan shall be maintained to reflect current work assignments and other conditions and requirements which are factors in proper classification and allocation of regular positions.

Positions in the Departments of Social Services and Health will be classified by the NC Office of State Human Resources.

Section 2.02 Composition of the Classification Plan

The classification plan shall be composed of the following:

- (a) A grouping of positions in classes which are approximately equal in difficulty and responsibility and which can be equitably compensated within the same range of the pay plan.
- (b) Class titles descriptive of the work of the classes.
- (c) Written specifications for each class of positions; and
- (d) An allocation list showing the class title and salary range of each position in the classified service.

Section 2.03 Use of the Classification Plan

The classification plan is to be used:

- (a) As a guide in recruiting and examining applicants for employment.
- (b) In determining lines of promotion and in developing employee training programs.
- (c) In determining pay for various types of work.
- (d) In determining personnel service items in departmental budgets.
- (e) In providing uniform job terminology.

Section 2.04 Administration of the Classification Plan

The County Manager, or person(s) designated by the County Manager, shall be 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 allocated.

- (a) Department heads shall be responsible for bringing to the attention of the County Manager and Human Resources Director:
 - (i) The need for new positions; and

- (ii) Material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classifications of any existing positions.
- (b) New permanent positions shall be established only with the approval of the Board of Commissioners after which the County Manager, with recommendation from the Human Resources Director, shall either:
 - (i) assign the new position to the appropriate class within the existing classification plan, or
 - (ii) recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the position may be allocated.
- (c) The Human Resources Director will be responsible for reviewing the classification of existing positions and reporting the findings and recommendations to the County Manager. When the County Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the County Manager shall:
 - (i) recommend that the existing class specification be revised,
 - (ii) reallocate the position to the appropriate class within the existing classification plan, or
 - (iii) request the Board of Commissioners amend the position classification plan to establish a new class to which the position may be allocated.

Section 2.05 Amendment of the Classification Plan

The County Manager shall present requests to the Board of Commissioners to amend the classification plan by adding, changing, or deleting classes of positions and salary grades based on internal analyses and market surveys.

Article III. WAGE AND SALARY ADMINISTRATION

Section 3.01 Purpose of the Pay Plan

The pay plan includes the "Pay Schedule" and the "Assignment of Classes to Pay Grades and Ranges" recommended by the County Manager and approved by the Board of County Commissioners. The pay plan approved by the Board of County Commissioners shall consist of a minimum, midpoint, and maximum for each job classification. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in employment in the area, changes in the cost of living, the financial conditions of the County, and other factors.

Section 3.02 Administration and Maintenance

The County Manager shall be responsible for the administration and maintenance of the pay plan. All employees covered by the pay plan shall be paid at a rate listed within the pay range established for the respective position classification, except for employees in trainee status or employees whose existing pay rates are above the established maximum rate following transition to a new pay plan. Employees being paid at a rate above the maximum rate established for their respective classes shall remain at their present pay rate as long as the maximum rate is equal to or below the employees' present pay rate. The classification and salary plan shall meet the requirements of the state competitive system for the county employees subject to that system.

The Board shall annually adopt, as part of the budget process, the pay plan and assignment of Job Classes to Pay Grades.

Section 3.03 Hiring or Starting Pay

All persons employed in positions approved in the classification/pay plan normally shall be employed at the minimum of the salary range for the classification in which they are employed, except those employees with trainee/work against status. Appointments above the hiring rate may be made with the approval of the Human Resources Director and County Manager when deemed necessary in the best interest of the County. The County Manager has the authority to authorize a starting pay up to midpoint of the salary range. Requests for starting salaries greater than midpoint shall be presented to the Board of Commissioners by the County Manager.

Pay for part-time or temporary status will be paid at an hourly rate within the established range, except for part-time positions in Emergency Services and Sheriff's reserve positions.

Section 3.04 Trainee Designation and Provisions

An applicant hired, or employee promoted to a position in a higher class who does not meet all the established requirements of the position, shall be appointed at a pay rate no greater than one (1) grade below the minimum salary range. Employees shall be designated "Trainees" based upon recommendations of the Department Head with the approval of the Human Resources Director. An employee in a trainee status shall continue to receive a reduced pay rate until the appointing Department Head and the Human Resources Director shall determine that the trainee is qualified to assume the full responsibilities of the position.

"Trainee" salaries will normally be no more than two pay grades below minimum. Assignment to grades below the minimum is appropriate for more than six months but no more than two years unless otherwise approved by the County Manager. A new employee designated as "trainee" shall be in a probationary status until requirements for the full job class are met.

The supervisor shall prepare a training plan, including a time schedule, to meet the minimum qualifications for the job classification. If the training is not successfully completed as planned, the employee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the minimum rate established for the job class.

Section 3.05 Performance Pay Increases

Upward movement within the established salary range for an employee is not automatic but rather based upon specific performance-related reasons. Employees may be considered for advancement within the established salary range based on the quality of their overall performance as set forth in the Performance Management Plan.

Section 3.06 Pay Effect of Promotions, Demotions, Transfers, and Reclassifications

Promotions: When an employee is promoted to a position with a higher pay grade, the employee's pay shall normally be advanced to the Minimum level of the new position, or to a pay rate which provides an increase of at least 5% over the employee's pay before the promotion. The County Manager may set the promoted employee's pay within the pay range of the new position using the same authority used for setting pay for external candidates. The purpose of the promotional pay increase is to recognize and compensate the employee for assuming increased responsibility and set the pay within the new range in accordance with the qualifications of the internal applicant.

Demotions: When an employee is demoted (voluntary or involuntary) to a position for which he/she is qualified, the pay shall be set at the rate in the lower salary range which provides pay commensurate with the employee's qualifications to perform the job.

Transfers: The pay of an employee reassigned to a position in the same class or to a position in a different class within the same salary range shall not be changed by the reassignment.

Reclassifications: An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of 5% or an increase to the minimum of the new salary range, whichever is higher. If the position is reclassified to a lower salary range, the employee's pay rate shall remain the same. If the employee's pay rate is above the maximum established for the new range, the spay rate of that employee shall be maintained at the current level until the range is increased above the employee's pay rate.

Section 3.07 Effect of Labor Market Conditions on Positions

Upon the documentation of adverse labor market conditions on a position(s), the County Manager may increase salaries of said position(s) up to mid-point of the pay grade to retain existing personnel. Such an increase shall not result in an employee being paid at a rate above the maximum for the pay grade. The practice shall be used to remain competitive within the labor market and to avoid costs associated with recruiting and training for such competitive positions. The County Manager may request such documentation and recommendation from the Human Resources Director and Department Head as is necessary in making a decision. The County Manager shall report such actions taken to the Board in Closed Session within thirty (30) days of said action.

Section 3.08 Overtime Pay Provisions

Burke County shall abide by all applicable section of the Fair Labor Standards Act along with the Fair Labor Standard Amendments of 1985. Under such implementation, Burke County will properly record all applicable overtime accrued for each covered employee. This policy shall be applicable to all employees of Burke County who are covered under the provisions of the Fair Labor Standards Act. Its intention is to assure compliance with such Act to the extent applicable to Burke County. Effective February 19, 1985 the Supreme Court declared that local governments are subject to the Fair Labor Standards Act. This section is in accordance with that ruling.

(a) Exempt

Full-time and part-time employees who have been classified as "Exempt" from the overtime provisions of the Fair Labor Standards Act are paid for the accomplishment of assigned accountabilities rather than being paid for the number of hours worked in a work week. A 100% or full-time exempt employee, as an example, would be expected to work a 40-hour week at a minimum during normally defined business hours unless prior approval to work a flexible schedule has been requested by the employee and approved by the Department Head, or the County Manager in the case of a Department Head.

(b) Non-Exempt (Non-Law Enforcement)

Full-time and part-time and temporary employees who have been classified as "Non-Exempt" from the overtime provisions of the Fair Labor Standards Act must be paid for overtime hours worked or given compensatory time off in accordance with the guidelines in this policy. Overtime is paid or compensatory time off is given to non-exempt employees for hours worked in excess of 40 hours per week.

(c) Non-Exempt (Law Enforcement 207k Exemption)

Full-time and part-time employees who have been classified as "Non-Exempt" from the overtime provisions of the Fair Labor Standards Act, but meet the criteria set forth in the 207k exemption of the Fair Labor Standards Act must be paid for overtime hours worked or given compensatory time off in accordance with the guidelines in this Policy. Overtime is paid or compensatory time off is given to non-exempt law enforcement employees for hours worked in excess of the established work period.

Overtime Rates for Non-Exempt Employees

When overtime is paid, it is at the rate 1-1/2 times the employee's regular hourly rate for those hours worked in excess of 40 in one week (except those subject to the law enforcement exemption, where overtime is paid for hours worked in excess of the FLSA threshold for the established pay cycle).

Compensatory time

- (a) Exempt: All exempt employees will receive 1 hour of comp time per 1 hour worked over 40 hours per week. Exempt compensatory time does not have monetary value. Exempt employees that earn compensatory time should make the effort to use this time as soon as possible. Exempt employees will not be allowed to have a balance of more than 80 hours of compensatory time.
- (b) Non-exempt: It is the policy of Burke County, in agreement with its employees, that non-exempt employees who receive compensatory time off, will receive compensatory time off at a rate of not less than one and one-half (1 1/2) hours for each hour of employment for which overtime compensation is required under the Fair Labor Standards Act. Non-exempt employees shall not be allowed to accrue more than 80 hours of compensatory time at any point, without prior approval from the County Manager. When a compensatory balance of 80 hours exists for a non-exempt employee, and that employee works additional overtime, that employee shall be paid overtime for hours worked that are over 40 hours per week, unless the County Manager approves the accrual of a higher compensatory balance. The County Manager may provide approval for a compensatory balance of greater than 80 hours (but less than 240) after consultation with the department head.

Department Heads and supervisors have the right and obligation to manage compensatory time by scheduling employees to take accrued compensatory time in a timely manner so that compensatory hours will not accrue to excessive levels. Compensatory time must be used before sick and vacation.

Employees requesting to use accrued compensatory time must make a specific request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of Burke County.

Approval to Work Overtime

Employees are expected to work during all assigned periods, exclusive of bona fide breaks, mealtimes or unscheduled hours, etc. Employees are not to perform work during such non-work breaks, mealtimes or unscheduled hours unless they receive approval from their immediate supervisor, except in cases of extreme emergency.

An extreme emergency exists when an employee is called upon to perform work for Burke County that could result in damage to property or persons or which requires immediate attention of the employee which cannot possibly be postponed. Employees who work excess hours due to an emergency shall properly advise their immediate supervisor of the overtime worked as soon as practical for final approval or disapproval.

Department Heads and supervisors shall hold hours worked by the employee to the County's established 40-hour workweek standard except in those cases where excessive hours of work are necessary because of weather conditions, short-staffing, necessary seasonal activity or emergencies. Department Heads and supervisors are responsible for ensuring that overtime hours are authorized, recorded, and properly documented for compensatory time off or overtime pay in accordance with the established record keeping forms and instructions.

Section 3.09 On-Call and Call-Back Compensation

The County provides compensation for non-exempt employees who are required to be available for after hours on-call coverage. Compensation for time spent while on-call and for time spent when actually called back to work shall be determined according to the following:

- (a) On-call standby time consists of scheduled non-work hours in excess of the standard work period when an employee is required to be available to be called back to work on regularly scheduled or emergency basis. Called back to work time consists of actual time spent when called back to work to handle a scheduled or emergency situation.
- (b) On-call standby schedules must be approved by the County Manager or designee. The Finance Office shall maintain a list of employees who are approved for on-call compensation arrangements.

- (c) Compensation for on-call employees shall be determined by the County Manager or designee and shall consist of either compensatory time off or a flat payment for the time period one is on-call in accordance with the department plan.
- (d) Compensation for employees called back to work shall be for a minimum of two hours of pay or compensatory time. For time periods above two hours, compensation will be for actual time worked. Should this additional time exceed the standard hours of work for the workweek or pay period, overtime pay rules and regulations shall apply.

Section 3.10 Longevity Pay

Regular full-time and part-time employees of the County are compensated for continuous years of service with Burke County by payment of longevity percentage supplement of their pay according to the following tables.

<u>Years of Service</u>	<u>Longevity Amount</u>
10-14	2%
15-19	4% (total, not additional)
20+	6% (total, not additional)

Years of service are calculated on each employee’s date of continuous employment in a regular full-time or part-time position. Longevity pay will become effective the pay period following when the years of service threshold is met. An employee who is transferred or promoted shall be considered to be in continuous service.

Employees on leave of absence will be affected as follows in regard to longevity pay:

- (a) Any employee on an authorized leave of absence without pay shall be considered to be in continuous service.
- (b) Employees on approved leave of absence without pay will begin to receive their longevity pay upon their return to active service with the County.
- (c) An employee who does not return to active service from an authorized leave of absence shall forfeit his/her longevity pay.

Section 3.11 Advance on Wages

The County shall not advance wages for any employee.

Section 3.12 Payroll Schedule and Deductions

The payroll schedule shall be established by the County Manager and shall be administered by the Finance Department.

Timesheets

Each employee is required to complete a daily time sheet to keep a record of all hours worked, vacation, sick leave, compensatory leave etc., for the purpose of calculating and issuing pay checks. Every employee and his/her supervisor must sign the time sheet to verify that all entries are accurate and submit it according to the established schedule. Intentional falsification of time sheets will result in disciplinary action up to and including termination of employment.

Deductions

Deductions which are required by law shall be deducted from each employee's pay on a bi-weekly basis and shall include: (a) federal income tax; (b) state income tax; (c) social security; (d) all applicable Local Governmental Employees' Retirement System or Law Enforcement Officer's Benefit and Retirement Fund.

Additional deductions shall be allowable at the option of the employee under the following conditions:

- (a) Hospitalization insurance for dependents and supplemental life insurance available to all employees of Burke County through corporations or firms contracting with Burke County to make such insurance available to all employees.
- (b) Additional deductions shall be allowed periodically as deemed appropriate by the Finance Department.

In determining whether to provide payroll deduction under (b) above the following factors shall be considered in total combination:

- (i) The performance, financial responsibility, and reputation of the organization requesting such deduction.
- (ii) Whether the service or benefits being offered are presently available to the employee and are being administered in a satisfactory manner.
- (iii) Whether the administration of the program would prove to be unduly burdensome to the County.

- (iv) Whether a sufficient number of employees who are interested would be representative of all the agencies of the County.

Upon request of an employee, the County Manager may approve additional deductions based on consideration of the capability of payroll equipment and appropriateness of the deduction.

Improper or Unlawful Deductions from Pay

Every effort is made to ensure that compensation and pay checks are properly computed and calculated. It is against our policy for any employee's wages to have improper or unlawful deductions. If you believe that your pay is incorrect or that an improper or unlawful deduction was made to your wages or salary, contact immediately the Human Resources Director and/or the Finance Officer. Our Finance Department and/or Human Resources Department will investigate the matter, make corrections as appropriate, and make prompt reimbursement as required.

The salaries of employees exempt under the Fair Labor Standards Act, 29 CFR part 541, may be reduced or be subject to deduction for the following conditions ONLY:

- a) One or more full days for absence for personal reasons other than sickness or disability and the employee has no leave to cover the absence.
- b) For sickness or disability (including workplace injury) if the employee has not qualified for our leave benefit, has not earned sufficient leave to cover the absence, or has exhausted all leave and has no earned leave remaining to cover the absence. If the employee has exhausted all leave benefit that would cover an FMLA absence, the employee's salary may be reduced in hourly increments while on FMLA leave.
- c) For penalties imposed for violations of safety rules of major significance, including those relating to the prevention of serious danger in our workplace, to other employees.
- d) Resulting from suspensions without pay for serious violations of our workplace conduct rules.
- e) In the initial or final workweek of employment, deductions may be made for the days of the workweek not worked. For example, in the first or last workweek of work, if the employee only works two of the five days, the employee will receive pro-rata amount of his or her weekly salary.

In the final workweek the employee may use applicable accrued leave to cover the portion of the week not worked but only as provided elsewhere in our policies.

Pursuant to Federal Regulations 29 Part 541.710, salaries of exempt salaried employees may be reduced under the following conditions since all county employees are employed under the rules of public accountability:

- (a) For absences of less than a day for personal reasons, illness, or injury when accrued leave is not used because:
 - (i) Permission for the absence/leave has not been sought or it has been requested by the employee and was denied;
 - (ii) Accrued leave has been exhausted;
 - (iii) The employee requests and is approved to use leave without pay.
- (b) Deductions for a "budget-required furlough" implemented by agency management or the governing board/body. During such week, and only in such week, the Part 541 exemption is lost, and the employee is entitled to overtime compensation in the week of the furlough if the employee works more than 40 hours.

Deductions from salaries of employees exempt under the Fair Labor Standards Act, 29 CFR Part 541, are NOT permitted by the regulation for the following conditions:

- (a) On an hourly basis except for unpaid FMLA leave and as provided in the special rules above.
- (b) When the office, facility, building or department is officially closed due to inclement weather such as snow or ice. Exempt salaried workers cannot be required to use earned leave for such closings unless it is announced that the office, facility, building or department remains open for salaried exempt employees and they are given the option of reporting to work or using leave.
- (c) For penalties or rules violations such as performance issues, attendance issues, minor safety rules, cash shortage, losses, rules of evidence violations or damages to equipment or property, including insurance deductibles when damage has occurred.

Employees can report improper or unlawful deductions from their wages without fear of retaliation or reprisal. Upon receiving notification of an improper or unlawful deduction from pay, the Human Resources Director, or designee, in consultation with the Finance Officer, will investigate the matter and issue a finding before the next pay period entry date. If the investigation confirms the deduction was improper or unlawful, the employee(s) shall be reimbursed the amount of the deduction with the next paycheck.

Article IV. RECRUITMENT AND EMPLOYMENT

Section 4.01 Equal Employment Opportunity Policy

It is the policy of the County to maintain systematic, consistent recruitment program, to promote equal employment opportunity and to identify and attract the most qualified internal and external applicants for all present and future vacancies. This intent is achieved through consistently announcing all positions and evaluating all applicants on the same criteria. To avoid discrimination, equal employment opportunities are allowed without regard to race, color, religion, national origin, sex (gender/sexual orientation/sexual identity), age, disability, pregnancy, or genetic information.

Section 4.02 Recruitment – Responsibility of Human Resources Director

The Human Resources Director shall be responsible for an active recruitment program for all departments reporting up through the Burke County Board of Commissioners, to meet current and projected manpower needs, through procedures that will assure equal employment opportunities based on reasonable performance-related and bona-fide occupational job requirements. To accomplish this, the efforts of the Human Resources Director and all County departments must be coordinated in a timely manner. The Human Resources Director and Department Head shall jointly determine whether a position vacancy will be recruited by internal, external, or concurrent postings.

Section 4.03 Position Vacancy Announcements

When position vacancies occur, the Human Resources Director shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring process will be posted to the county website, as well as NCWorks Online, to inform the community and attract a quality and diverse pool of applicants. In addition, job openings shall be posted on the intranet in order to inform all current county employees. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for County service. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Section 4.04 Application for Employment

The Burke County Employment application shall be the standard application accepted or any and all position listings. No applications for recruitment may be accepted within an agency or department. All referrals are to be made through the County Human Resources Office (exceptions: Sheriff's Office and Register of Deeds).

All persons expressing interest in employment with the County shall be given the opportunity to file an application for employment if a current vacancy exists. A separate application must be submitted for each position.

Section 4.05 Qualified Standards

- (a) All applicants considered for employment or promotion, shall meet the employment standards established by the class specifications.
- (b) All appointments shall be made on the basis of merit and without regard to race, religion, color, national origin, sex (gender/sexual orientation/sexual identity), age, disability, pregnancy, or genetic information.
- (c) Consideration may be given to "Trainee" appointments when there is an absence of qualified applicants from which to make a selection. In this instance, the lack of qualifications may be eliminated through orientation and on-the-job training, and the applicant is granted a trainee status by the Human Resources Director (county general positions) and/or the Office of State Human Resources (positions subject to the State Human Resources Act).
- (d) Work-against appointment. When qualified applicants are unavailable and there are lower levels in the series of that classification, an applicant may be hired and assigned to the level of the series for which he/she is qualified and may "work against" the experience and educational requirements of the higher level position in the series. An appointment may be made below the level of the regular classification in a work-against situation, for the purpose of allowing the employee opportunity to gain the qualifications needed for the full class, through on-the-job experience. The appointee must meet the minimum education and experience standard of the class to which initially appointed. A work-against appointment may not be made when applicants are available who meet the education and experience requirements for the full class of the position in question.

Section 4.06 Selection

Department Heads, with the assistance of the Human Resources Director or designee, shall develop, utilize and document, on a consistent and routine basis, a selection process which best suits the needs in filling positions within each agency/department. All selection devices administered by the County shall be valid measures of job performance.

Section 4.07 Conditional Offer of Employment

In order to protect citizens of the county and their properties, the procedures in this subsection are established on applicants for all positions in county government (except for the Sheriff's Office who handles their own pre-employment process).

- (a) The Human Resources Director shall conduct an investigation of any final candidate for a county government position, and it shall be a precondition of employment that an applicant for a position shall, upon request, provide finger prints and all other necessary personal identification, including birth certificate, social security number and drivers' license, if available, so that a thorough search can be made of criminal records to determine if the applicant has a history of criminal convictions.

- (b) An evaluation of any crime for purposes of employment will take into account the nature and the circumstances of the offense and the timeframe of the offense as they relate to the essential job functions for the position applied for.
- (c) Employment with the county may require additional tests or investigation be conducted, after making a conditional offer of employment, but before making a final offer of employment. Such additional tests or investigations are determined by the position being filled and may include but are not necessarily limited to the following: driving records checks, credit checks, fingerprinting and criminal background checks.
- (d) Once an applicant is extended a conditional offer of employment, the applicant may be required to undergo an examination for physical, mental or emotional fitness for duty. The appropriate test will be based on bona fide occupational qualifications.
- (e) Applicants for all positions with the county will be required to undergo a pre-employment drug test prior to being made a final offer of employment.
- (f) Unsatisfactory results from pre-employment testing and checks will result in the conditional offer of employment being withdrawn.
- (g) The county reserves the right to consider all results and withdraw any offer of conditional employment based on the results obtained.
- (h) Applicants for all positions with the County will be required to be current in all monetary obligations to the County prior to being made a final offer of employment. "Monetary obligations" include, but are not limited to, all real and personal ad valorem taxes, any water or sewer charges which the applicant may be responsible for and any cost or charge applicable to the general public for services rendered by the County.

Section 4.08 Appointment

Before any commitment is made to an applicant either internal or external, the Department Head shall make recommendations to the Human Resources Director including the position to be filled, the pay rate to be paid, and the reasons for selecting the candidate over other candidates. The County Manager shall make all appointments of department directors or heads under his direction, except those elected or appointed by the Board of Commissioners or other boards.

The Sheriff and Register of Deeds shall have authority over the appointment in their respective departments, with the Human Resources Director determining the class and pay rate of new employees.

By the authority of Chapter 153A-103 of the North Carolina General Statutes, the Board of County Commissioners must approve the appointment by the Sheriff or Register of Deeds of a relative by blood, marriage or nearer kinship than first cousin or a person who has been convicted of a crime of moral turpitude.

Section 4.09 Probationary Period

An employee appointed or promoted to a regular position shall serve a probationary period. Employees shall serve a six-month probationary period, except that sworn law enforcement personnel and department heads shall serve a twelve-month probationary period. Employees in trainee appointments will have specific time frames established for their probationary period. The introductory period for employees of Social Services and Public Health is described in the State Human Resources Act. Employees of those departments should seek further information on their introductory period from their department.

During probationary period, supervisors shall monitor an employee’s performance and communicate with the employee concerning performance progress. Before the end of the probationary period, the supervisor shall determine whether or not the employee is performing satisfactory work and meeting job expectations. The employee’s progress (accomplishments, strengths, and weaknesses) will be discussed with the employee and a written record maintained in the employee’s personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of three additional months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period without following the steps outlined in Article IX of this Policy. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Employees may not appeal disciplinary actions taken during the probationary period.

Employees shall not apply for other county positions during their probationary period, except where state statute mandates differently.

Section 4.10 Promotion

Candidates for promotion shall be chosen on the basis of their qualifications and their work records without regard to race, religion, color, national origin, sex, age, disability or genetic information. Performance appraisals and work records for all personnel meeting minimum qualifications for the position shall be carefully examined when openings for positions in higher classifications occur. It is the County’s policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be promoted to that position. The County will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within, 2) providing equal employment opportunity and a diversified workforce to the community, 3) obtaining the best possible employee who will provide the most productivity in that position. Candidates shall apply for promotions using the same application process as external candidates. When a current employee is chosen for

a vacant position, the Department Head shall forward the request to the Human Resources Director with recommendations for classification and pay along with reasons for selecting the employee over other applicants. After considering the recommendations, the Human Resources Director shall confirm or reject the appointment and determine the starting pay rate of the employee.

Section 4.11 Demotion

An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such demotion shall follow the disciplinary procedures outlined in Article IX of this Policy.

An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a demotion for reasons other than unsatisfactory performance or failure in personal conduct. In accepting a voluntary demotion, the employee will be placed in the lower salary grade with a corresponding decrease in pay for each pay grade reduced.

Section 4.12 Transfer

If a vacancy occurs and an employee wishes to be considered for transfer to the vacant position, an application must be forwarded to the Human Resources department during the recruitment period for the position. All normal conditions of recruitment shall apply. A condition of a transfer from one department to another may include a new probationary period.

Article V. CONDITIONS OF EMPLOYMENT

Section 5.01 Work Schedule

The standard workweek for all employees of the various departments of the county, with the exception of law enforcement, emergency medical service personnel, library personnel and waste management, shall be from 8:00 a.m. until 5:00 p.m., Monday through Friday. When the activities of a particular department require some other schedule to meet work needs, the county manager may authorize a deviation from the normal schedule. The work week used for calculation of overtime shall be from 12:01AM Saturday until 12:00pm on Friday, except for law enforcement and emergency medical service personnel.

Alternative schedules must be pre-approved in writing by the Department head for employees. Likewise, alternative schedules must be pre-approved in writing by County Manager for Department Heads.

Section 5.02 Attendance, Absenteeism, Tardiness

The quality of service provided to the public is a reflection of the consistent and dependable performance of County employees. Unscheduled absence or tardiness places a burden on co-workers and hinders effective County operations. In situations where an employee must be tardy or absent, they must notify his/her immediate supervisor within the 30-minute period following the normal reporting time.

Supervisors may use discretion when there is sufficient documentation.

Excessive tardiness and absenteeism may result in disciplinary actions up to and including dismissal. Any absence of three consecutive workdays without notification to the department or prior approval from the department shall be deemed to be a voluntary resignation.

Section 5.03 Political Activity

Each employee has a civic responsibility to support 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 of North Carolina, and in accordance with the Constitution and laws of the United States of America. However, no employee shall:

- (a) Engage in any political activity while on duty;
- (b) Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election of office;
- (c) Be required as a duty of employment or as a condition for employment, promotion or tenure of office to contribute funds or time for political or partisan purposes;
- (d) Coerce or compel contributions from another employee of the County for political or partisan purposes; or
- (e) Use funds, supplies or equipment of the County for political or partisan purposes.

Employees subject to the Hatch Act may not be candidates for elected office in a partisan election.

Any violation of this section shall be deemed improper conduct and shall subject the employee to disciplinary action up to and including dismissal under this policy.

Section 5.04 Expectation of Ethical Conduct

The proper conduct of all employees is necessary to ensure a safe, productive and pleasant working environment. County employees are expected to conduct themselves in accordance with the following guidelines:

- Know and observe relevant County policies and procedures.
- Perform the job assigned as instructed by the supervisor.
- Be prompt in reporting to work and devote full attention to work while on duty.
- Know and abide by the rules of the County for personal protection and for protection of co-workers and the public.
- Be fair, courteous and cooperative in dealing with the public and with fellow employees.

The following actions are not permitted. Any employee discovered committing any of the following offenses while employed by Burke County is subject to disciplinary action up to and including dismissal. This list is not all-inclusive.

- Displaying disrespect toward or refusing to carry out the instructions of a supervisor or other authorized person unless those instructions are unsafe or illegal.
- Going outside the supervisory chain of command with the intent to disrespect or discredit a supervisor or co-worker(s) based on an issue of personal dissatisfaction in the workplace not otherwise provided for in the personnel policy.
- Making comments or engaging in behavior that is untruthful or directed as a personal attack on the professional conduct of others.
- Repeatedly disappearing from the work area without permission or without an acceptable reason.
- Allowing personal relations in the workplace to become disruptive.
- Removing County property from the premises without permission from the proper authority.
- Theft or misuse of County property or services (e.g., mailing personal things, personal use of a County car, extensive use of cell phone or office phone for personal calls, billing personal long-distance phone calls to the County, personal use of tools or supplies, etc.).
- Intentionally falsifying County records.
- Using County internet access, e-mail, the telephone, or a facsimile machine to view, generate, send or receive materials that could be construed as fraudulent, illegal, harassing, obscene, indecent, profane or intimidating.
- Violating the Burke County drug and alcohol-free workplace policy.
- Fighting or provoking a fight on County property; using abusive, obscene, profane or threatening language; or engaging in immoral conduct while on duty.
- Engaging in workplace violence which includes, but is not limited to intimidation, threats, physical attack, domestic violence or property damage.

- No County employee shall possess or carry, whether openly or concealed, any weapon, as described in G.S. 14-269(a) and G.S. 14-269(a1) of the NC General Statutes: in or on the grounds of real property or buildings owned by or leased to Burke County; in or upon County motor vehicles; or while on duty or when expected to perform services on behalf of the County. This section shall not apply to officers or employees of the County, charged with the execution of the laws of the state, when acting in the discharge of their official duties if authorized by law to carry weapons or full-time sworn law enforcement officers when so authorized by the sheriff as provided by law.
- Operating a County vehicle without a valid N.C. driver's license or otherwise in violation of policies regarding the use of County vehicles.
- Unwelcome or unsolicited speech or conduct based on age, race, color, religion, sex, national origin, disability or any other factor that creates a hostile work environment.

Section 5.05 Secondary or Outside Employment

The work of the County shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported in advance by completing the Request for Approval of Secondary Employment Form and submitting the form to the employee's supervisor and the department head for approval and who in return will forward it to the Human Resources Director. The Human Resources Director will review such employment for possible conflict of interest and then approve or deny the secondary or outside employment. The assumption of secondary or outside employment without prior approval by the County may be deemed improper conduct and subject the employee to disciplinary action, up to and including dismissal. If an employee changes positions during their employment with Burke County, they must resubmit a request to continue their secondary employment. All forms will be maintained by Human Resources and placed in the employees' personnel file.

Section 5.06 Limitation on Employment of Relatives

No two members of any immediate family or two persons living together in a close relationship, shall be employed within the same department (or within the County) if such employment will result in one member supervising the other or in one member occupying a position that has influence over the other's employment, promotion, salary administration, or related management or personnel considerations.

The provisions of this section shall not be retroactive, and no action will be taken concerning members of the same family employed in conflict with this section before the adoption of this policy.

The Board of County Commissioners shall approve the appointment by the Sheriff or the Register of Deeds of a relative by blood or marriage or nearer kinship than first cousin as required by Chapter 153A-103(1) of the North Carolina General Statutes.

Section 5.07 Residency Requirement

Any person hired or promoted into the positions of County Manager, Deputy County Manager, Assistant County Manager, Clerk to the Board of Commissioners or any department head level position must be or become residents of the geographic limits of the county within twelve months from the date of the appointment or employment. The County Manager may waive this requirement as determined and approved by the Board of Commissioners. It shall be the responsibility of each employee filling a position subject to this policy to furnish and provide information and documentation to the County Manager to establish the employee’s compliance with this policy.

Section 5.08 Workplace Harassment

Burke County has a zero-tolerance policy against any form of unlawful workplace harassment, including harassment defined as sexual, race, religion, color, national origin, sex, age, color, disability, or genetic information. No employee, regardless of position, may engage in conduct that falls under the definition of unlawful workplace harassment. This is generally defined as unwelcome or unsolicited comments or conduct based upon race, religion, color, national origin, sex, age, disability, or genetic information that creates a hostile work environment or circumstances involving quid pro quo situations. All employees have the expectation of working in an environment free from unlawful harassment and retaliation. Indifference by supervisors and other employees with authority will not be condoned either. All complaints made by employees will be investigated and appropriate remedial or disciplinary action taken on complaints that are substantiated.

- (a) Reporting a complaint of any kind is difficult, since complaints generally involve a supervisor or coworker. However, an employee who believes that they may have a complaint of harassment is advised to file the complaint according to the procedures outlined in Article X Section 10.04 of this policy.
- (b) All complaints will be investigated pursuant to the procedure outlined in Article X Section 10.04.

Section 5.09 Use of County Time, Equipment, Supplies and Vehicles

County supplies and equipment are to be used exclusively for the County’s business. During working hours, an employee shall only engage in County Business. Use of County time, supplies, or equipment for personal or other purposes not related to the employee’s County duties and responsibilities is prohibited and subjects the employee to disciplinary action, up to and including dismissal.

All employees who use County vehicles are required to follow applicable motor vehicle and safety requirements. Violation or misuse of County vehicles also subjects the employee to disciplinary action, up to and including dismissal.

Section 5.10 Acceptance of Gifts and Favors

No official or employee of the County shall accept any gift, favor, or thing of value (whether in the form of a money, service, loan, or promise) from any person, firm or corporation that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service or thing of value. Gratuities shall be refused by all County officials and employees.

Any honorarium or payments granted while on County time, monies shall be reimbursed to the County, excluding jury duty. If annual leave is taken for a time away from work, then no reimbursement will be required.

Section 5.11 Technology Appropriate Use Policy

PURPOSE

This policy covers the use of all technology resources belonging to the County. It includes, but is not limited to, pagers, radios, all computer systems of any size and function and their attached peripherals, phones, cellular phones, faxes, voice mail systems, e-mail systems, network resources and Internet resources. All technology resources owned by the County are in place to enable the County to provide its services in a timely and efficient manner. This is the primary function of these resources and any activity or action that interferes with this purpose is prohibited. Because technology systems are constantly evolving, the County requires its employees to use a common-sense approach to the rules set forth below, complying not only with the letter, but also the spirit, of this policy.

DEFINITIONS

- a) **E-mail:** Electronic mail, most commonly abbreviated email or e-mail, is a method of exchanging digital messages. E-mail systems are based on a store-and-forward model in which the e-mail server computer systems accept, forward, deliver and store messages on behalf of users, who connect to the e-mail infrastructure, typically an e-mail server, with a network-enabled device for the duration of message submission or retrieval. This includes internal e-mail, external e-mail and Internet e-mail.
- b) **Internet and the World Wide Web:** The World Wide Web, abbreviated as www and commonly known as The Web, is a system of interlinked hypertext documents contained on the Internet. With a web browser, one can view web pages that may contain text, images, videos and other multimedia and navigate between them by using hyperlinks.

POLICY

Information Access and Ownership: All technology resources and all information transmitted by, received from or stored on County systems is the property of the County and, as such, are

subject to inspection by County officials, including Department Heads and Supervisors at any time.
County Officials,

Department Heads and Supervisors reserve the right for business purposes, to enter, review and monitor the information on all systems, including voice mail, electronic mail and information stored on computer systems or media, without advance notice. This might include investigating theft, unauthorized disclosure of confidential business or proprietary information, personal abuse of the system or monitoring workflow and productivity.

Anytime information is transmitted through electronic media, there is the possibility that it could be intercepted. Therefore, no confidential County information may be transmitted electronically without the prior approval of the Supervisor or his/her designee. If the employee is uncertain whether information is confidential, err on the side of caution and obtain approval before transmitting.

Employees are responsible for the safekeeping of all IT equipment (cell phones, tablets, laptops, radios) and must immediately alert their supervisor in the event equipment is lost, stolen, or damaged in order to protect sensitive County data. Employees are expected to immediately return all equipment upon the request of their supervisor or at the direction of the IT Director.

If the County determines that an employee has used technology resources in a manner that violates this policy or other County policies, the County will take appropriate disciplinary action up to and including dismissal.

Personal Use: Personal use of a County owned technology resource by County employees is subject to the following restrictions:

- a) Personal use of a County owned technology resource is still subject to all of the rules in this policy including inspection and monitoring.
- b) There must be no cost to the County.
- c) Use must not interfere with the employee or other employees performing their jobs or undermine the use of the County resources for official purposes.
- d) Personal use of computer or Internet must be conducted on an employee's own time (lunch or authorized breaks). Employees may not take equipment home or on vacation for personal use.
- e) Use of the County's technology resources for operating a personal business or soliciting of any kind is prohibited.

INTERNET CODE OF CONDUCT

Acceptable Uses of the Internet: Employees accessing the Internet are representing the County. All communications should be for professional reasons. Employees are responsible for seeing that the Internet is used in an effective, ethical and lawful manner.

Unacceptable Uses of the Internet: The Internet should not be used for personal gain or advancement of individual views. Solicitation of non-County business or any use of the Internet for personal gain is strictly prohibited. Use of the internet must not disrupt the operation of the County network or the networks of other users. It must not interfere with employee productivity. Access to social media websites (such as but not limited to Facebook, MySpace and Pinterest) and streaming

audio/video services (such as but not limited to Pandora, Rdio, Spotify, Hulu and Netflix) for personal use are strictly prohibited. The use of video chat such as Skype, Facetime, or Google hangouts are generally prohibited for personal use.

Exceptions: The department head may make a request to the IT Director and HR Director for an exception to Section 5.11 of the Burke County Personnel Policy Manual. The IT Director and the HR Director will in turn consult with the County Manager for a final decision.

E-MAIL USAGE POLICY

This policy is established to provide specific guidance regarding the access and disclosure of electronic mail messages created, sent or received by County employees using the County's electronic mail system.

Because of ever changing technological advances, Burke County reserves the right to change this policy at any time as may be required, necessary and appropriate.

1. The County maintains an electronic mail system to assist employees in the efficient performance and accomplishment of their assigned duties and responsibilities. The use of e-mail is for official business only.
2. The electronic mail system hardware is County property. Additionally, all messages composed, sent or received on the electronic mail system, including personal password-protected emails, are and remain the property of the County. They are not the private property of any employee.
3. The electronic mail system may not be used to solicit or proselytize for commercial ventures, religious or political causes, outside organizations or other non-related solicitations.
4. The electronic mail system is not to be used to create any offensive or disruptive messages. Among those which are considered offensive are any messages which contain sexual implications, racial slurs, gender-specific comments or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin or disability.
5. The electronic mail system shall not be used to send (upload) or receive (download) copyrighted materials, trade secrets, proprietary financial information or similar materials without prior authorization.
6. The County reserves and intends to exercise the right to review, audit, intercept, access and disclose all messages created, received or sent over the electronic mail system for any purpose. The contents of electronic mail properly obtained for legitimate business purposes may be disclosed within the County without the permission of the employee.
7. The confidentiality of any message should not be assumed. Even when a message is erased, it is still possible to retrieve and read that message. Further, the use of passwords for security does not guarantee confidentiality.

8. Notwithstanding the County's right to retrieve and read any electronic mail messages, such messages should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not authorized to retrieve or read any e-mail messages that are not sent to them. Any exception to this policy must receive prior approval by the employee.
9. Any employee who discovers a violation of this policy should notify their supervisor.

TEXT MESSAGING POLICY

In general, texting is not an authorized form of communication for conducting day- to- day County business regardless if the message is transmitted using a County issued or personal device. In the event a County employee must utilize texting as a means of communication, the employee is responsible for assuring compliance with North Carolina Public Records Law and preserving any and all communication records.

SECURITY

Each employee is responsible for all actions taken while using his/her user profile, password or access code. None of these are allowed to be shared with anyone else (including other employees of the County). They should not be written down and stored, posted anywhere, programmed into a macro or stored on the computer system in an unencrypted form.

The examination, modification, copying or deletion of files and/or data belonging to other employees without their prior consent is prohibited.

Software may not be loaded onto any County computer system through any of the above methods (cd/DVD roms, diskettes, flash drives or files downloaded from the Internet) without prior approval from the IT Department. This includes shareware, freeware, personal software or Internet distributed programs.

Section 5.12 Personal Phone Use

Burke County realizes that all people have personal matters that need to be attended to from time to time. However, personal phone calls can be a disruption in the workplace and should always be kept short. Excessive time spent on personal phone calls can be grounds for discipline up to and including dismissal.

Section 5.13 Drug and Alcohol-Free Workplace Policy

Burke County is committed to the goal of a drug and alcohol-free workplace. This commitment is based on the belief that it is the County's responsibility to maintain a safe and healthy working environment for employees and a productive, effective workforce for the citizens of the county. This policy is intended to comply with all applicable federal and state laws governing anti-drug and alcohol programs, including those adopted by the U. S. Department of Transportation (DOT), and is designed to safeguard employee privacy rights to the fullest extent of the law.

This policy covers applicants and all County employees to include regular employees, temporary employees and contract employees. Under federal guidelines, certain classes of employees are subject to special actions, such as random testing. For the County, these classes include employees in safety-sensitive and security-sensitive positions. The Human Resources Director will maintain a comprehensive list of these positions subject to special actions, but generally the list will include, but is not be limited to, sworn law enforcement officers; detention officers; employees who are responsible for testing and treating water, raw sewage or wastewater; employees who handle hazardous materials in large quantities; anyone who operates, maintains, or provides direct supervision of the operation or maintenance of heavy equipment or any vehicle requiring a CDL to operate.

This policy prohibits:

- (a) The unauthorized use, consumption, possession or storage, manufacture, distribution, dispensation or sale of alcohol, controlled substances, illegal drugs or drug paraphernalia on County premises or any County work area, in County vehicles, or while on County business.
- (b) Reporting to work or working while under the influence of illegal drugs, non-prescribed drugs or alcohol, on County premises or any County work area, in County vehicles, or while on County business.
- (c) The use or possession of alcohol or illegal drugs off County premises and while not on duty where such conduct could likely have a direct and material adverse impact on the County's interests, including public image.
- (d) Conviction of selling illegal drugs or of possession with intent to sell illegal drugs at any time or place. Conviction of any criminal drug or alcohol statute at any time or place— for some positions, to be evaluated on a per case basis for relevancy to job.
- (e) Failure to notify the County of any arrest or conviction under any criminal drug or alcohol statute by the next workday following the arrest or conviction.
- (f) Failure to notify the employee's supervisor, before beginning to work, that the employee is taking prescription or over-the-counter drugs which may interfere with the safe and effective performance of duties.
- (g) Refusal to immediately submit to an alcohol and drug test when requested by a supervisor, in accordance with this policy.
- (h) Failure to adhere to the requirements of any drug or alcohol treatment program in which the employee is enrolled as a condition of continued employment.

- (i) Tampering with or obstruction of a drug or alcohol test being administered by or for the

County.

RESPONSIBILITY

The Human Resources Director is responsible for administering this policy and ensuring that employees are informed of the County policy during the new employee orientation. The Human Resources Director, under the direction of the County Manager, will approve and be the focal point for the selection of new employees and for disciplinary measures to be taken with current employees based on guidelines described in this policy. Any confidential information on substance abuse may be communicated by the Human Resources Director to the proper authority on a need-to-know basis.

Alcohol and drug free workplace issues in the Sheriff's Office will be the responsibility of the Sheriff. The Sheriff will be responsible for reporting tests results as required to the North Carolina Sheriff's Education and Training Standards Commission on employees holding certification from that Commission.

Department directors are responsible for the proper application of the procedures in their departments and for holding supervisors accountable for the daily implementation of the policy. Department directors and supervisors shall be responsible for identifying abuse related behavioral and performance problems, following the proper referral for testing, and taking appropriate disciplinary measures. Failure to take action when the supervisor has reasonable cause to believe an employee is impaired while at work will result in disciplinary action being taken against the supervisor. If in doubt about what action to take, the supervisor should consult with the department director, the Human Resources Director or the County Manager. It is also the supervisor's responsibility to protect the privacy, confidentiality, and dignity of employees by minimizing the number of employees who learn of suspicions involving a co-worker's possible substance abuse or actions taken against that employee.

As a condition of employment, all employees are responsible for knowing and following the requirements of this policy. Employees are expected to report for work and perform their jobs in a sober condition, free of any illegal drugs or alcohol, or abuse of any legal prescribed or over-the-counter drugs. Employees shall inform their supervisor if they are taking or intending to take any prescribed or over-the-counter drugs or other substance which might impair their ability to satisfactorily and safely perform their job. They need not give the supervisor specific medical information, but rather simply inform the supervisor of the impact on job

performance to allow the supervisor to evaluate and determine the appropriate course of action.

PROCEDURES—Employee Rehabilitation

An employee who voluntarily notifies his supervisor of a substance abuse problem or dependency may be granted a medical leave in accordance with County policy to undergo an agreed-to certified rehabilitation program which requires the employee to be absent from his duties. Return to work will be authorized upon certification to the Human Resources Department of successful completion of the program and a negative test result. Return to work will be conditional upon consent for random follow-up testing for a period of two (2) years. Positive results on a test will result in immediate dismissal with no opportunity for reemployment.

PROCEDURES—Conditions and Procedures for Testing

To enforce this policy, drug/alcohol tests may be administered as follows:

- (a) Pre-employment: Applicants accepting a conditional offer of employment in any position will be required to submit to a test before being hired. Failure to submit to a test or a positive test will exclude an applicant from being hired. Applicants who test positive will not be considered for employment with the County for two (2) years after the test date and then only when they have presented acceptable proof of successful completion of a rehabilitation program and they pass a pre-employment drug/alcohol test. When the hiring department makes a conditional offer to a candidate, it arranges for the candidate to be tested. The Human Resources Department receives the results and notifies the hiring department.
- (b) Reasonable Suspicion: Employees may be required to submit to a test if reasonable suspicion of illegal drug use or drug/alcohol use/abuse exists. "Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonable person to suspect an employee is impaired and incapable of satisfactorily and safely performing assigned duties and responsibilities. It is a quantity of proof or evidence that is more than just intuition or strong feeling; it must be based on facts. Facts supporting a reasonable suspicion determination include, but are not limited to, any one or more of the following: direct observation of prohibited drug or alcohol use; slurred speech; irregular or unusual speech patterns; impaired judgment; marijuana or alcohol odor; uncoordinated walking or movement; unusual or irregular behavior such as inattentiveness, listlessness, hyperactivity, hostility or aggressiveness; a pattern of excessive absenteeism, tardiness or deterioration in work performance; a pattern of unexplained preventable accidents or information based on specific, objective facts that an employee has caused or contributed to an accident at work while under the influence of alcohol or drugs; a report of alcohol or drug use by an employee while at work by a credible source; possession of alcohol or drugs; evidence an employee is involved in the unauthorized possession, sale, solicitation or transfer of alcohol or drugs

while working or while on the County's premises or operating a County vehicle, machinery or equipment; arrests, citations and deferred prosecutions associated with drugs or alcohol.

When there is reasonable suspicion, the supervisor shall:

- i. Arrange for another supervisor to verify reasonable suspicion, if possible.
 - ii. Confront the employee privately about the performance/behavioral issues, stating suspicions, and allow the employee to state a reasonable explanation. A second party, preferably the department head or another supervisor, should be present.
 - iii. The supervisor will inform the employee that a reasonable suspicion test is an obligation and refusal to submit to it will result in termination. If the employee agrees to take the test, the employee will be informed that s/he is suspended with pay and will be notified whether or not and under what circumstances s/he will be allowed to return to work. The supervisor will transport the employee to the appropriate testing facility. The sample should be taken as soon as is practicable from the time the employee is suspected, but no later than two (2) hours following the determination of reasonable suspicion. If the test is not administered within two (2) hours, the supervisor must document the reason(s) that the test was not properly administered. If the testing is not done within two (2) hours due to some reason other than the employee's refusal, the following should occur:
 - iv. The employee shall not be allowed to remain on duty until a negative test result is obtained or twenty-four hours have elapsed following the determination of reasonable suspicion.
 - v. If an employee is observed using a suspected substance, the supervisor may demand that the employee surrender the item and related paraphernalia.
 - vi. Any employee who is unable to drive safely or is in need of medical assistance will be transported by a supervisor to a medical facility or to his/her home, as appropriate. If the employee refuses, s/he will be advised that local law enforcement authorities will be notified that an employee who seems to be "under the influence" is trying to leave the premises.
 - vii. If the employee refuses to take the test, s/he will be suspended without pay and any the department head shall determine any other appropriate disciplinary action.
- (c) Post-accident: Employees will be tested following an on-the-job accident or other occurrence that involves one or more of the following events: a fatality, a serious injury to an employee or other individual, substantial damage to vehicles or other property, or if the employee receives a citation under state or local law for a moving traffic violation

arising from the accident. Employees may also be tested after a series of minor on-the-job accidents or injuries as determined by the department director.

Following such an accident, the employee must immediately notify the supervisor and must submit to a test as soon as is practicable. The supervisor is responsible for transporting the employee to the appropriate testing facility. If a test is conducted by a law enforcement officer at the scene of the accident, the employee is required to immediately contact his/her supervisor to report the test result and to provide the supervisor with the name, badge number, and telephone number of the law enforcement officer who conducted the test. If the employee is hospitalized for injuries, arrangements will be made for the testing to be conducted at the medical facility to which the employee has been admitted.

- (i) Post-accident tests will be administered as soon as possible, but ideally not more than eight (8) hours after the accident. An alcohol test should be administered within two (2) hours of an accident. If unable to test within (2) hours, the supervisor must document the reason(s) for the time delay. If the test is not performed within eight (8) hours, the supervisor will cease attempts to administer the test and will document the reason(s) why the test was not conducted. The employee must refrain from consuming alcohol for eight (8) hours following an accident or until the alcohol test has been completed, whichever comes first. The employee must remain available for drug and alcohol testing or it will be considered a refusal, unless the employee is seriously injured.
- (d) Return-to-duty and follow-up: Employees who have voluntarily removed themselves from their job duties and have voluntarily undergone and successfully completed treatment for drug or alcohol abuse must submit to and furnish a negative test result prior to returning to duties. The return-to-duty test may involve both drug and alcohol tests, if the treating substance abuse professional indicates a multiple-substance abuse problem exists. These employees will also be subject to random, unannounced tests six (6) times a year for a period of up to two (2) years, as a condition of continued employment.
- (e) Random: Employees in designated safety-sensitive and security-sensitive positions will be subject to random, unannounced drug and alcohol screening. The Human Resources Director will develop and maintain a list of jobs approved for random testing. The rate of random selection for drugs and alcohol will be a percentage of the annual average employee base. Every employee in the pool has an equal chance of being chosen each time a random selection is made. When an employee is required to submit to random testing, s/he will be notified verbally by a supervisor. Failure to submit to testing will result in termination of employment.

PROCEDURES—Inspections and Searches

When there is reasonable suspicion, the County reserves the right to search employer owned items used by employees (e.g., desks, lockers, vehicles, equipment, etc.) and employees should not expect privacy in these containers. Search efforts may be conducted by the employee's supervisor or department director and a minimum of one (1) individual in a management, administrative or Human Resources position. Law enforcement officials and department directors will be notified in appropriate cases.

PROCEDURES—Employee Options

Employees may appeal disciplinary actions resulting from violations of this policy in accordance with the County grievance procedure outlined in this policy.

Section 5.14 Travel Rules and Regulations

The policy of the County is to reimburse employees traveling on authorized County business for work related expenses incurred as a result of the travel. Each department head is responsible for authorization of employee travel and the reimbursement of travel expenses in accordance with procedures issued periodically by the Finance Department.

Section 5.15 Safety

It is the objective of Burke County to conduct all operations as safely and efficiently as possible. To accomplish this objective, the responsibility, authority and accountability for safety is given to all department heads and supervisory personnel within their individual area of operations. The County Manager shall appoint a Safety Coordinator. All employees and managers are responsible for active participation in the safety program activities; the Coordinator's role is to support and coordinate this participation to ensure the program functions efficiently.

Acknowledgement

A multi-department Safety Committee shall exist to review the safety program and make safety recommendations that pertain to services that Burke County provides.

All employees will have the responsibility of performing their own work in a safe and efficient manner and shall report unsafe conditions to their department head or supervisor for prompt correction. All employees are also to report all work-related injuries to their supervisor immediately.

All Department heads shall participate in all county wide safety training, including but not limited to "Defensive Driving" training. Failure to participate in safety training shall lead to disciplinary action including but not limited to dismissal.

Section 5.16 Violence in the Workplace

Burke County recognizes its responsibility to build and maintain a respectful workplace, where all employees and citizens enjoy an environment in which the dignity and self-respect of every person is valued, and which is free of offensive remarks, material or behavior. Therefore, it is the policy of the County to expressly prohibit any acts or threats of violence by any County employee in or about County facilities or while conducting County business. The County also will not tolerate any acts or threats of violence against County employees or visitors on County premises at any time or while they are engaged in business with, or on behalf of, the County, on or off County premises.

Any employee who displays a tendency to engage in violent, abusive, or threatening behavior, or who otherwise engages in behavior that the County, in its sole discretion, deems offensive or inappropriate will be subject to disciplinary action, up to and including immediate dismissal. This list of behaviors, while not inclusive, provides examples of conduct that is prohibited:

- (a) Any act or threat of bodily harm or property damage, including subtle or implied threats to an individual or his or her family, friends, or associates. (A threat is the expression of an intent to cause physical harm or property damage as would be perceived by a reasonable person, without regard to whether the party communicating the threat has the present ability to carry it out; whether the threat is subtle or overt in nature; or whether the expression is contingent, conditional or future).
- (b) Fighting or other physical altercations. (A physical altercation is unwanted or hostile physical contact such as fighting, hitting, pushing, shoving, throwing objects, grabbing, touching or any unwanted physical contact.)
- (c) Making obscene, abusive or threatening remarks;
- (d) Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- (e) Intentionally damaging or threatening to damage employer property or property of another employee;
- (f) Unauthorized possession or use of any weapon or caustic/dangerous chemicals, whether concealed or visible, on County property, except by sworn law enforcement officers or other employees as required to perform their job duties.
- (g) Use or threat of use of weapon on/in County property. (A weapon includes, but is not limited to, firearms, explosives, caustics/chemicals, ammunition, knives or other dangerous or deadly weapons.) Use of other items as weapons, such as a tool or furniture, is also prohibited.

- (h) Use of language which would be regarded by a reasonable person as likely to invoke violence.
- (i) Committing acts motivated by or related to sexual harassment or domestic violence.
- (j) Repeated following of another individual, known as "stalking" or threatening another person with the intent to place the other person in reasonable fear of his/her safety.
- (k) Making harassing or threatening phone calls, letters or other forms of written or electronic communications.

Burke County will take appropriate action when dealing with citizens, former employees, or visitors to County facilities who engage in such behavior. Such action may include notifying the police or other law enforcement personnel and prosecuting violators of this policy to the maximum extent of the law.

In furtherance of this policy, employees have a "duty to warn" their supervisors, security personnel, or Human Resources Director of any suspicious workplace activity, situations, or incidents that they observe or that they are aware of, involving other employees, former employees, contractors, or visitors that appear problematic. This includes, for example, threats or acts of violence, aggressive behavior, offensive acts, threatening or offensive comments or remarks, and the like. Employee reports made pursuant to this policy will be held in confidence to the maximum extent possible. The County will not condone any form of retaliation against any employee for making a report under this policy.

Section 5.17 Financial Obligations to Burke County

It is the condition of every employee's continued employment with Burke County that he or she remains current in all monetary obligations to the County. "Monetary obligations" include, but are not limited to, all real and personal ad valorem taxes, any water or sewer charges which the employee may incur or be responsible for, and any cost or charge applicable to the general public for services rendered by the County. Failure to timely pay any monetary obligation to the County shall lead to disciplinary action including but not limited to dismissal. Nothing herein shall prevent an employee from following prescribed procedures available to the general public for challenging or appealing any tax, fee, cost or charge thought to be in error.

Section 5.18 Telecommuting Policy and Procedure

Objective

Telecommuting is defined as an alternative work arrangement allowing an employee to perform their primary work duties from home for part or all the workweek. There may be situations where it is mutually beneficial for the County and the employee to enter into a Telecommuting Agreement in

order to best meet the departmental service demands. Burke County has an obligation to ensure that the service needs of our customers are being met with maximum efficiency and productivity. Telecommuting may be appropriate for some employees and jobs, but not for others. Telecommuting is not an entitlement, nor available to all employees as a countywide benefit. Telecommuting agreements do not change any terms and conditions of employment, and telecommuting agreements can be revoked at any time, for any reason, by Burke County.

Procedures

Telecommuting can be informal, such as working from home for a short-term project or on the road during business travel, or a formal, set schedule of working away from the office as approved by all required parties.

The employee will be required to sign and date a "Telecommuting Agreement." All telecommuting agreements must be submitted in writing by the employee's department head and approved and signed in advance by the County Manager, Deputy County Manager/Finance Director and the Human Resources Director.

Any telecommuting arrangement made will be on a trial basis for the first three months and may be discontinued "at will" and at any time at the request of the County. Every effort should be made by the supervisor to provide reasonable, advance notice of any suspension, modification, or termination of a telecommuting arrangement. There may be instances, however, when limited or no notice is possible.

Eligibility

Telecommuting is not appropriate for every position. The employee and supervisor will discuss the job responsibilities and determine if the job is appropriate for a telecommuting arrangement.

Before entering into any telecommuting agreement, the employee and department head, with the assistance of the Human Resources Director, will evaluate the suitability of such an arrangement, including but not limited to, reviewing the following areas:

- Employee must be classified as regular full-time or regular part-time, and not temporary.
- The employee must have completed 12 months of continuous, non-temporary employment with Burke County with no unsatisfactory personal conduct or performance issues in the past 18 months, unless otherwise approved by the County Manager.
- The essential functions and job duties must all lend themselves well to telecommuting with no negative impact to the team, customers or clients.
- The job/position should require negligible or no face-to-face customer/client contact at the office location.
- The supervisor will assess the needs and work habits of the employee compared to traits customarily recognized as appropriate for successful telecommuters. It must be the supervisor's determination that the employee is self-directed, self-motivated and able to work productively with limited or no direct supervision.
- The supervisor must have a well-developed work plan with clear and measurable objectives which ensure full performance accountability.
- Information security must be maintained with no or negligible costs to the County.

- All needs of customers/clients and co-workers must be met and maintained.
- The employee must be available to attend onsite staff meetings and other business meetings, including meetings with little or no advance notice. The supervisor should provide as much advance notice as practicable.
- The employee must be willing to revert to working at the office to cover for absenteeism, vacations, leaves, and other business needs. The Supervisor may not always be able to provide advance notice of such needs but should provide as much advance notice as practicable.
- Burke County reserves the right to afford special consideration to those employees with permanent situations covered by the Americans with Disabilities Act, and/or temporary, physician-documented medical conditions.
- The department head, supervisor and employee will review the equipment needs and physical workspace needs and the appropriate location for the telework.
- The employee must determine any tax or legal implications under IRS, state and local government laws, and/or restrictions of working out of a home-based office. Responsibility for fulfilling all obligations in this area rests solely with the employee.
- During work hours, the telecommuting employee is required to have the same childcare as they would if working at the office, so that with limited or no notice, the employee can be called upon to come to the office to meet the needs of the team and/or the County. Employees working at home will be required to manage dependent care and all personal responsibilities in a manner that allows them to perform all job duties as though they were working at a County office.
- Any situations which will involve the employee being away from their home office work site, other than normal, agreed upon breaks and lunches, must be approved in advance by the Supervisor the same as if the employee were working at a County office.

An appropriate level of communication between the telecommuter and supervisor will be agreed upon as part of their regular communication plan and will be more frequent during the trial period. Evaluation of telecommuter performance during the trial period should include regular interaction by phone and email between the employee and the supervisor, and weekly discussions regarding work outcomes and problems. The supervisor may elect to video conference regularly to include the telecommuting employee in business communication.

After conclusion of the trial period, the supervisor and telecommuter will communicate in a manner consistent with employees working at the office. Performance evaluations will be provided consistent with that received by employees working at the office in both timing, content and frequency.

Equipment

On a case-by-case basis, Burke County will determine, with information supplied by the employee and the supervisor, the appropriate equipment needs (including hardware, software, modems, phone and data lines and other office equipment) for each telecommuting arrangement. The supervisor and Information Technology departments will serve as resources in this matter. Equipment supplied by the organization will be maintained by the organization. Equipment supplied by the employee, if deemed appropriate by the organization, will be maintained by the employee. Burke County accepts no responsibility for damage or repairs to employee-owned equipment. Burke County reserves the

right to make determinations as to appropriate equipment, subject to change at any time. Equipment supplied by the organization is to be used for business purposes only. All County computer hardware and software will be used solely by the County employee and only for official County business. County equipment may not be used for personal activities either on or off the clock.

Burke County will supply the employee with appropriate office supplies as deemed necessary. Burke County will also reimburse the employee for business-related expenses that are pre-approved and reasonably incurred in carrying out the employee's job.

The telecommuter must sign an inventory of all Burke County property received and agree to take appropriate action to protect the items from damage or theft. Upon termination of employment, all County property will be returned immediately, unless other arrangements are agreed to by the County.

The employee will establish an appropriate work environment within his or her home for work purposes. Burke County will not be responsible for costs associated with the setup of the employee's home office, such as remodeling, furniture or lighting, nor for repairs or modifications to the home office space.

Security

Consistent with the organization's expectations of information security for employees working at the office, telecommuting employees will be expected to ensure the protection of proprietary County and customer information accessible from their home office. Steps include the use of locked file cabinets and desks, regular password maintenance, shredding of confidential documents, and any other measures appropriate for the job and the environment.

Safety

Employees are expected to maintain their home workspace in a safe manner, free from safety hazards. Burke County will provide each telecommuter with a safety checklist that must be completed at least twice per year. Injuries sustained by the employee in a home office location and in conjunction with his or her regular work duties are typically covered by the County's workers' compensation policy. Telecommuting employees are responsible for notifying the employer of such injuries as soon as practicable, but always within 24 hours of the incident. The employee is liable for any injuries sustained by visitors to his or her home worksite.

Time Worked

Employees are required to perform their work during the designated work hours and not engage in activities that are not work related. All employees are required to have overtime work approved in advance in writing by their supervisor.

Telecommuting employees who are not exempt from the overtime requirements of the Fair Labor Standards Act will be required to accurately record all hours worked using Burke County's time-keeping system. Hours worked in excess of those scheduled per day and per workweek require the advance approval of the telecommuter's supervisor. Failure to comply with this requirement may result in disciplinary action and/or in the immediate termination of the telecommuting agreement.

Article VI. EMPLOYEE BENEFITS

Section 6.01 Eligibility

All regular employees (full or part time) are eligible for "benefits" if they meet the particular requirements for each benefit unless the classification / position is excluded from one or more benefits. Benefits are subject to change at the County's discretion. Temporary employees, unless their assignment or project is expected to last more than one year, are eligible only for workers' compensation and social security.

Section 6.02 Health and Dental Insurance

The County participates in a comprehensive major medical group health insurance plan and group dental insurance plan to assist employees in the payment of related expenses in accordance with the plan. Regular full-time employees shall be enrolled in the programs in accordance with the provisions of the insurance contracts and on the first day of the month following a waiting period of 30 days (except those employees who begin work between January 27th and February 1st, who will be eligible for benefits effective March 1st.) Deductions shall be allowable, at the option of the employee to provide insurance coverage for dependents. Current premium rates are on file with the Human Resources Office. Specific coverage amounts shall be governed by the County's contract with the insurance company. COBRA benefits are offered consistent with policy and statutory authority.

Employees who are scheduled to work 30 hours or more per week on a continuous year-round basis may, if they so desire, purchase available group health through the County for themselves and qualified dependents. A pro-rated amount of the cost of coverage paid for a full-time employee shall be paid by the County with the remainder of the cost being paid by the employee. This pro-rated amount shall be based on regularly scheduled hours. Information concerning cost and benefits shall be available to all employees from the Human Resources Office.

Making Changes to Health and Dental Insurance

Burke County has established a Section 125 Benefit Plan allowable by the IRS, which allows you to avoid paying state, federal and FICA taxes on your portion of the health and dental premiums. All employees are automatically enrolled in this pre-tax premium plan. You must request and sign a waiver if you do not want to pay your premiums with pre-tax dollars. The Section 125 Plan also allows you the option to set up flexible spending accounts to pay for certain eligible medical and daycare expenses tax-free. (See Flexible Spending Accounts section)

In exchange for this tax-favorable treatment, the IRS requires that you have a valid family status change in order to change the amount of your pre-tax premium or flexible spending account. Any change you request must also be consistent with the actual family status change that has occurred. Valid family status changes, as defined by the IRS, include:

- (b) Change in legal marital status (marriage, divorce, legal separation, annulment, death of spouse)
- (c) Change in number of tax dependents (birth, adoption or placement for adoption, death)
- (d) Change in work schedule (including reduction or increase in hours by employee, spouse or dependent)
- (e) Dependent satisfies or ceases to satisfy dependent eligibility requirement (attainment of age, student status, etc.)
- (f) Change in residence or worksite of employee or dependent (moving out of HMO service area)
- (g) Termination or commencement of employment by employee, spouse or dependent
- (h) Change in coverage of a spouse under another employer's plan
- (i) Receipt of a legal court order specifically requiring insurance coverage for a dependent child

If you wish to make a change to health or dental coverage, you must complete and sign the appropriate paperwork within 31 days of one of the valid family status changes listed above. In most cases you will be required to provide written proof of the family status change. Because health and dental premiums are deducted in advance, if you do not complete the required paperwork at least one month in advance you will be required to pay missed premiums.

During the annual open enrollment for Section 125 benefits, you may add or delete dependents without a valid family status change.

Annual Open Enrollment for Section 125 Benefits

The annual open enrollment period for Section 125 benefits is normally held during the first few weeks of May. Section 125 benefits include health and dental insurance, and flexible spending accounts. For health and dental changes made during open enrollment, the new premiums will be deducted from the June paychecks with coverage changes effective July 1. Deductions for flexible spending accounts begin with the first paycheck in July with an effective date of July 1.

Section 6.03 Flexible Spending Accounts

Regular full-time and part-time County employees are eligible to participate in a benefit plan called Flexible Spending Accounts (FSAs). These accounts are allowed under Section 125 of the IRS Code and give you

the opportunity to pay eligible daycare and/or unreimbursed medical expenses (e.g., deductibles, co-pays, eyeglasses, etc.) tax-free. Enrollment is only for one year and can be renewed each year.

You may enroll in a flexible spending account as a new employee, during the annual open enrollment period, or within 31 days of an applicable family status change. (See Making Changes to Health or Dental Insurance section for a list of valid family status changes.)

Section 6.04 Group Life Insurance

The County provides paid life insurance to all full-time and part-time benefited employees. Information on costs for additional, voluntary coverage and benefits are available from the Human Resources Department.

Section 6.05 Other Optional Group Insurance Plans

The County may make other group insurance plans available to employees upon authorization of the County Manager or Board of Commissioners.

Section 6.06 Retirement

Each employee who is expected to work for the County more than 1,000 hours annually shall be enrolled in the North Carolina Local Government Employees' Retirement System as a condition of employment.

Employees contribute, through payroll deduction, six percent of their gross pay to the system. The County also contributes an actuarially determined percentage of the gross payroll each month to the system.

Provisions of this system are further outlined in the North Carolina Local Government Employees' Retirement System handbook available from the Human Resources Office or on the North Carolina Treasurer's web site.

Post-Retirement Benefits Continuation

Burke County allows for continued participation in the county's group health insurance for those employees retiring under the North Carolina Local Governmental Employees' Retirement System. Payment for this insurance will be based on actual years of service to Burke County. Years of service may include actual time served, purchased military time, and credit for sick leave. Payment of this insurance will be for the retiring employee. Should dependent coverage be needed or elected, the retiree shall pay for this coverage. The employee must be employed with Burke County at the time of retirement in order to be eligible for this benefit. The employee must have completed at least five (5) years of continuous service with the County in order to be eligible and must participate in the county health insurance plan at the time of retirement.

The County shall pay insurance premiums for the retiree based on the following schedule:

Years of Service with Burke county	Percentage County will pay
25 years or more	100% coverage
20 years but less than 25	75% coverage
15 years but less than 20	60% coverage
10 years but less than 15	45% coverage
5 years but less than 10	20% coverage

Elected Burke County Department Heads will be treated the same as a Burke County employee with 25 years of service with Burke County if the elected Department Head served Burke County in their elected office for at least 12 consecutive years and has 30 or more years of credible service in the North Carolina Local Government Retirement System.

A retiree may be eligible for this benefit until he/she (1) becomes eligible for benefits under Title XVIII (Medicare) of the Social Security Act; (2) becomes eligible for benefits under Title XIX (Medicaid) of the Social Security Act; or (3) fails to pay their portion of the premiums within 30 days of the due date.

A retiree who becomes eligible for group health insurance coverage through subsequent employment must designate the subsequent employer's health coverage as primary for both individual and dependent care coverage. The retiree may continue coverage through Burke County only as a secondary insurer. Upon becoming eligible for coverage through a subsequent employer, the retiree must notify the Burke County Human Resources Department.

Burke County shall pay 100% post-retirement insurance premiums for any Burke County employee who sustains a workplace injury or illness, incurred while performing the functions of the position held, that results in the employee's total and permanent disability, as defined in the North Carolina Workers' Compensation Act.

Any and all willful acts of negligence by the employee, as determined by the County Manager and Burke County Safety Committee, which contributed to the employee's workplace injury or illness, may disqualify the employee from this benefit.

This benefit will be in effect for those employees who meet the eligibility requirements set forth above for a period of no longer than twenty-four months from the employee's retirement date or until the retiree (1) becomes eligible for benefits under Title XVIII (Medicare) of the Social Security Act; or (2) becomes eligible for benefits under Title XIX (Medicaid) of the Social Security Act, whichever is sooner.

If the retiree does not become eligible for Medicare or Medicaid within the twenty-four month time period set forth above, the retiree's post-retirement insurance premium will cease to be covered at 100% and the retiree's post-retirement premium obligation will revert back to the established schedule set forth in this policy.

Dependent Health Insurance Coverage: The County shall offer the insurance benefits outlined in this policy to the retiree only. The retiree may continue to cover his/her dependents at their own expense. Dependent coverage can be added at the time of retirement but not after retirement. Dependent coverage is the same group rate for which the County charges all regular full-time employees. As allowed by COBRA regulations, spouses and children of retirees may continue dependent coverage for up to thirty-six (36) months subsequent to the occurrence of one of the following events: death, divorce, legal separation, retiree's entitlement to Medicare/Medicaid, or a dependent child ceasing to be a dependent under the terms of the group's coverage.

Burke County retains the right to discontinue or alter this benefit; however, all retirees will be given a 90-day notice.

Section 6.07 Supplemental Benefits

- (a) The County provides matching contributions up to 2% to a 401-K or 457 plan for all regular full-time and regular part-time employees (non-law enforcement).
- (b) The County provides contributions of 5% to a 401-K plan for regular full-time and regular part-time active law enforcement personnel as required by the State law.
- (c) Death Benefit. If an employee dies while still in active service with at least one year as a contributing member of the Retirement System, the employee's beneficiary will receive a single lump sum payment. The payment equals the highest 12 months of salary in a row during the 24 months before you die, but no less than \$25,000 and no more than \$50,000. This benefit is also paid if you die within 180 days of the last day for which you were paid a salary.
- (d) Law Enforcement Officers' Separation Allowance. Law Enforcement Officers who retire with 30 years creditable service in the NC Local Government Employees Retirement System (NCLGERS) at any age, or; with 5 years creditable service at age 55 are entitled to a special separation allowance as defined in NCGS §143.166.41(a). Payment of the separation allowance will cease if the officer (1) reaches age 62, (2) dies or (3) is reemployed in any capacity that requires participation in the North Carolina Local Government Retirement System.

Section 6.08 Social Security

The County, to the extent of its lawful authority and power, has extended Social Security benefits for its eligible employees and eligible groups and classes of such employees.

Section 6.09 Workers' Compensation

All employees of the County (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee and the supervisor. The supervisor shall file an injury report to Human Resources within 24 hours of the incident. Claims must be filed by the employee with the North Carolina Industrial Commission within two years from the date of injury. The Human Resources Director or designee will coordinate the filing of such claims.

Section 6.10 Return to Work Policy and Program

Our goal is to return to work those employees who have on the job injuries or illnesses as soon as they are medically able to return. To do so is in the best interest of the employee and Burke County. This program is designed to raise the consciousness of everyone as to the need to provide transitional duty to injured employees, and the benefits that can come from such a program for all involved. Our Return To Work Program promotes rehabilitation and enhances the recovery process of employees experiencing work-related injuries or illness, while maximizing productivity and controlling related expenditures. Our Return To Work Program will also foster compliance with the Americans with Disabilities Act and associated guidelines. This will be accomplished through a partnership including the injured employees, medical providers, and a multi-disciplined team of key county personnel working together toward the common goal of expediting the employee's return to physical and psychological well-being.

The goals of the Program are to:

- Fulfill our moral, ethical and legal responsibilities to our employees
- Create positive workplace morale through communication and support for the injured worker;
- Minimize the potential for re-injury or permanent disability;
- Reduce medical and disability costs to Burke County and;
- Increase productivity by decreasing lost work time.

As such, the County's primary goal is to return employees, to the extent feasible, to their regular jobs. Where employees face temporary medical restrictions, the County may modify regular jobs or, if necessary, place employees in other productive jobs. It is the County's goal to work with employees to get them back to work in their regular jobs as quickly as possible. If an employee is injured while working for Burke County, it is his/her responsibility to report the injury immediately to the supervisor and follow the "Return To Work Program".

The County Manager shall appoint the Return to Work Coordinator who shall consult with the Department Head as to whether or not a modified duty work assignment can be provided which will be consistent with the treating physician's work release.

- All work provided will be consistent with and not exceed the limitations set by the treating physician. The employee agrees not to work beyond his/her physical limitations and will immediately bring any such assignment which exceeds these limitations to the attention of the "Return To Work Program" Coordinator.
- While in the Modified Duty Program, the employee will dress in the appropriate attire to the modified duty work environment.

When feasible, every effort will be made to accommodate the needs of the employees by modifying his/her present work setting; however, work availability may make it necessary to transfer employees from one job function to another. Pay will be at the rate of the employee's appointed position classification. It is the option of Burke County to change regular days of and work hours while in the Modified Duty Program. If a modified duty position is offered, but the employee for personal reasons is unable to work the new shift, or refuses the position, the Supervisor & Human Resources must meet with and discuss the options with the employee.

If an employee is unable to report to work for personal reasons, he/she must call and report to the RTW Coordinator who will notify the department manager and supervisor of the employee's status.

If the employee's medical status changes, it must be reported immediately to the RTW Coordinator for assessment of restrictions.

When an injured/ill employee is released to participate in the modified duty program, he/she does not have the option to substitute paid sick leave because he/she does not personally feel ready to perform modified duty. When employees are released to their regular job duties, the information will be provided to the Coordinator for distribution to all necessary parties.

Section 6.11 Unemployment Compensation

County employees are covered by unemployment insurance. County employees who are terminated due to a reduction in force or released from County Service may apply for benefits through the local Employment Security Commission office, where a determination of eligibility will be made.

Section 6.12 Tuition Assistance Program

Full-time employees who have completed at least one year of consecutive service to Burke County may apply for tuition reimbursement for courses taken, which will improve their skills

for their current job or prepare them for promotional opportunities within the County service. Any reimbursement by the County is intended to supplement and not take the place of other financial support. Requests for tuition assistance shall be submitted to the Department Head prior to the course registration and are subject to the review and approval of Department head and County Manager, and subject to availability of funds. If approved, reimbursement is subject to the following criteria:

- (a) Reimbursement will be limited to expenses for tuition, fees, books and supplies that are not covered by public assistance such as grants or scholarships.
- (b) Reimbursement will be limited to a maximum of \$500.00 per fiscal year up to a maximum of 20 employees countywide per fiscal year. The date in which the course ended will determine which fiscal year reimbursement will be made. The County Manager shall maintain a listing of those employees pre-approved for reimbursement. This listing will be based on the order in which they were approved.
- (c) The employee must enroll in the course while employed with Burke County and be an employee upon payment.
- (d) The employee's job performance must continue at a satisfactory level.
- (e) The course must be related to the employee's present position or career potential. Courses will be looked at on an individual basis and not considered based on the fact that they are required or a part of a degree program curriculum.
- (f) The course must be provided by a reputable and legitimate deliverer of post-secondary education. This includes accredited colleges, universities, technical institutes and other deliverers of continuing education.
- (g) Requests for payment must be submitted within thirty (30) days after completion of the course(s). Payment for courses submitted more than thirty days past the completion date of the course will not be considered or approved.
- (h) Reimbursement will be limited to courses which have been successfully completed. Successful completion will be measured by the grade of "C" or better, the awarding of continuing education units (CEU's), or a certificate of completion.
- (i) A copy of the grade report and original receipts for expenditures must be included with the request.

Section 6.13 Credit Union

Membership in the Local Government Employees’ Credit Union is open to all County employees and their family members for various loan services, checking, and savings accounts. Membership in the State Employees’ Credit Union is open to all employees who are under the State Human Resources Act and their family members for various loan services, checking, and savings accounts.

Section 6.14 Employee Health and Wellness Clinic Use

The Employee Health and Wellness Clinic is available to employees as part of the County’s Health Insurance and Wellness Initiatives.

Employees and retirees must show a current health benefit insurance card and picture identification at the time of appointment. Dependents must be listed on the employees’ health benefit insurance card to be seen at the Clinic. These identifications will be checked at each visit to the Clinic.

Hours of operation are posted on the HR website as well as scheduling information.

Eligibility - Employees who are enrolled in the County’s health plan are eligible. Employees’ dependents covered by the health plan will be eligible to use the Clinic who are six (6) months and older. Burke County retirees participating in the County’s health insurance plan are also eligible.

Medical Records - All personal medical services will be confidential. The medical records will be maintained by the medical provider contracted to operate the Clinic and are not considered county records or part of an employee’s personnel file.

Use of Sick Time - In order to avoid being charged for sick leave, an employee’s intention must be to work on the day of the medical visit. If an employee is at work but visits the Clinic and then returns to work immediately following the medical visit, sick leave will not be charged.

Health Coaching/Biometric Screening - No leave is charged to employees who have a health coaching or biometric screening appointment with the medical provider at the Clinic.

Leave time must be used if an employee is accompanying a dependent to the Clinic for a medical visit.

Article VII. LEAVES OF ABSENCE

Section 7.01 Types of Leave Provided for Herein

The County shall provide for the following forms of leave as provided for herein and set forth in the adopted budget: (1) holiday leave (2) vacation leave, (3) sick leave, (4) family medical leave, (5) leave without pay, (6) educational leave without pay, (7) shared leave, (8) military leave, (9) civil leave, (10) parental school leave, and (11) workers’ compensation leave.

Section 7.02 Holidays

The policy of the County is to provide paid holiday leave to all employees in regular County positions except as provided for herein.

(a) The following holidays and such others as the Board of County Commissioners may designate shall be observed by the County:

- New Year's Day
- Martin Luther King, Jr. Birthday
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving (2 Days)
- Christmas (3 Days)

All regular employees shall receive the designated holidays with pay, providing the employee is on pay status the day before and the day after the holiday period. EMS employees are exempt from the provision of this section.

If a holiday falls on Saturday, the preceding Friday will be observed and when the holiday falls on Sunday, the following Monday will be observed. The schedule for the calendar year will be published by December 1 of the previous calendar year for the distribution to County employees.

(b) Effect on Other Types of Leave

Regular holidays that occur during annual, sick, or other leave period of any employee shall not be considered as annual, sick, or other leave. Employees who return to active status from leave without pay status must be active the day before a holiday in order to be paid for the holiday.

(c) Compensation When Work is required

If employees are assigned to work a schedule other than Monday through Friday, the holiday will be observed the day on which it actually occurs. Employees working on an observed holiday will be paid for hours worked, plus accrue 8 hours of floating holiday time. Employees with floating holidays who separate from employment with the County will be paid for any unused portion of holiday time. County employees who accrue holiday leave within any 12-month period of July 1st through June 30th, should use that leave within the same 12-month period. Each year at the end of the pay period that includes June 30th, up to a maximum of 24 hours of unused holiday leave will roll over to the next year and is available for employees to use. Like compensatory leave time, employees are required to use accumulated holiday leave before using vacation and sick at all times.

Employees of Emergency Medical Services, who work 24-hour shifts, will be paid 8 hours of holiday time for each holiday, during the pay period in which the holiday falls.

Section 7.03 Vacation Leave

Each regular full-time and regular part-time employee of the County shall earn at the following schedule (which is based on a 40-hour work week). Regular part-time employees working at least twenty (20) hours per week shall earn vacation on a pro-rated basis, depending upon the number of hours worked per week.

<u>Years of Service</u>	<u>Hours Per Year</u>	<u>Days Accrued Per Year</u>
Less than 2 years	96 Hrs.	12
2 – 4	120 Hrs.	15
5-9	144 Hrs.	18
10 – 14	168 Hrs.	21
15 – 19	192 Hrs.	24
20+	216 Hrs.	27

Vacation leave will be credited each pay period to each employee at the end of each pay period for which leave is earned. Vacation leave may not be taken until it has been earned and credited to the employee’s account.

For vacation leave accrual purposes, prior service credit will be granted to those employees who have worked for agencies where the time of service is eligible for state or local government retirement credit.

Credit shall be given for the following with proper certification received in Burke County Human Resources from the other entities:

- (a) Employment with other governmental units that are state agencies; local government agencies, including Mental Health agencies and Council of Governments eligible for memberships in the North Carolina State or Local Governmental Retirement System.
- (b) Authorized military leave from Burke County.
- (c) Employment with out of state agency, political subdivision, or local government agency.
- (d) Previous employment with Burke County.
- (e) Employees on Leave Without Pay status receive full credit toward their service time for up to a maximum of three (3) months per occurrence.

Vacation leave may be accumulated without any applicable maximum until December 31 of each calendar year. At the end of the pay period that includes December 31, any employee with more than thirty (30) days or 240 hours of accumulated leave shall have the excess accumulation converted to sick leave.

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department head which will least obstruct normal operations of the County. Department heads are responsible for ensuring that vacation leave does not

hinder the effectiveness of service delivery. Vacation time shall be taken in quarter $\frac{1}{4}$ hour increments.

Employees who voluntarily separate shall be paid for vacation leave accumulated to the date of separation, which is not to exceed a maximum of 30 days or 240 hours, provided notice is given to the supervisor at least two weeks in advance of the effective date of the resignation. Employees who voluntarily separate with vacation hours in excess of 240 hours may choose to have that excess vacation converted to sick leave or donate that time to an individual approved to receive shared leave.

Employees who are involuntarily separated may receive payment for accumulated annual leave subject to the 30-day maximum.

The estate of an employee who dies while employed by the County shall be entitled to payment for all the accumulated vacation leave credited to the employee's account, not to exceed the maximum of 30 days or 240 hours.

Section 7.04 Sick Leave

- (a) Sick leave with pay is not a right that an employee may demand, but a privilege granted for the benefit of an employee when sick. Notification of the desire to take sick leave should be submitted to the employee's supervisor as soon as known or not later than 30 minutes before the beginning of a scheduled workday. Failure to do so appropriately may result in disciplinary action. Elective procedures must be approved by the supervisor 15 days before the procedure date. Any compensatory time earned by an employee shall be taken prior to using sick leave account.
- (b) Each regular full-time employee will be credited sick leave hours at the end of the pay period for which leave is earned. Full-time employees (working 40 hours per week) will earn a total of 96 hours a year. Eligible part-time employees working at least twenty (20) hours per week earn sick leave on a prorated basis depending on the number of hours worked per week. Sick leave may be taken in quarter hour units.
- (c) Sick leave may be granted to an employee for any of the following reasons
 - (i) Sickness or bodily injury that prevents the employee from performing his or her regular duties.
 - (ii) Medical or dental appointments.
 - (iii) The actual period of temporary disability caused or contributed to by pregnancy, miscarriage, childbirth, or recovery there from. A doctor's certificate is required to verify the employee's period of temporary disability for these reasons.

- (iv) Exposure to a contagious disease, when continuing work might jeopardize the health of others.
- (v) To care for an immediate family member who is ill.
- (vi) Death in the employee's immediate family, not to exceed three (3) days, for any one occurrence. Additional leave time, under exceptional circumstances, may be authorized by the Department Head.

Sick leave may be used for the first seven days after filing for Workers' Compensation. Sick leave shall not be used to supplement Workers' Compensation leave after the initial seven days.

- (d) Sick leave will be cumulative for an unlimited number of days. Sick leave is allowed as creditable service at the time of retirement to employees who are members of the North Carolina Local Government Employees' Retirement System and shall be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees Retirement System.
- (e) A former employee who is reemployed by the County within five years from the date of separation shall be credited with the balance of sick leave at the time of separation except when the employee retired under the North Carolina Retirement System or the terminated employee transferred the balance of sick leave to another employer. If the terminated employee who transferred sick leave to another employer returns to work for the County, the sick leave balance reinstated will be the balance remaining after the transfer.
- (f) New or re-employed County employees may transfer to the County hour-for-hour their unused sick leave accumulated from their previous employer, if that employer participates in the North Carolina Retirement System. The transfer of sick leave is contingent upon the employee having no longer than a five-year break in the Retirement System and Human Resources receiving sick leave verification directly from the previous employer. Transferred sick leave can be used by employees when needed and is eligible to be reported to the Retirement System at retirement.
- (g) All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the County, except as stated for employees retiring.
- (h) Department heads may require a physician's certificate as to the nature of an illness relating to sick leave and as to the employee's physical capacity to resume his/her duties for each occasion on which an employee uses sick leave. The employee may be required to submit to such medical examination or inquiry as the department head or County Manager deems necessary. The department head shall be responsible for the application of this provisions to the end that (a) employees shall not be on duty when they might endanger their health or the health of other employees; (b) when due to

temporary disability or illness the employee cannot perform duties required by the job; and (c) there shall be no abuse of sick leave privileges. Any county mandated exam shall be paid for by the County.

- (i) Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action.

Section 7.05 Leave Pro-Rated

Holiday, vacation and sick leave earned by full-time and part-time employees with fewer or more than the basic work week shall be determined by the following formula:

- (a) The number of hours worked by such employees shall be divided by the number of hours in the basic work week (usually 40 hours).
- (b) The proportion obtained in step (A) shall be multiplied by the number of hours of leave earned annually by employees working the basic workweek.
(example, an employee who works 12-hour shifts works an average of 42 hours per week. 42 divided by 40 equals 1.05. For sick leave, the accrual would be 96 hours multiplied by 1.05 for a total of 100.8 hours annually).

Section 7.06 Family Medical Leave Act

Burke County will comply with the Family and Medical Leave Act and posts the mandatory FMLA Notice and upon hire provides all new employees with notices required by the U.S. Department of Labor (DOL) on Employee Rights and Responsibilities under the Family and Medical Leave Act. The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law. Under this policy, Burke County will grant up to 12 weeks (or up to 26 weeks for military caregiver leave to care for a covered servicemember with a serious injury or illness) during a 12-month period to eligible employees. Employees are eligible if they have worked for Burke County for at least 12 months and at least 1250

hours during the previous 12 months. The FMLA permits, and Burke County requires, that while utilizing FMLA leave employees exhaust all accrued paid sick leave consistent with current County policy and all annual leave, compensatory leave and holiday leave, as applicable, prior to using any unpaid leave. All leave (paid or unpaid) taken for FMLA reasons will count toward the employee's annual FMLA leave entitlement. In determining how much remaining FMLA leave an employee has, Burke County looks at usage in the previous 12 months.

Burke County has the right to ask questions of an employee when they are absent from work to determine if the leave is protected by the Family and Medical Leave Act of 1993 (FMLA). All

leave that qualifies will be recorded as protected time. Employees (or their supervisors, if the employee so authorizes due to the employee's inability to do so himself/herself) shall indicate FMLA time on their time sheet.

Reasons for Taking FMLA Leave

Reasons for taking FMLA leave will be granted for any of the following reasons:

- To care for the employee's child after birth, or placement of a child with an employee for adoption or foster care (Sick leave can only be used for the period of disability designated by a doctor.)
- To care for the employee's spouse, child, or parent, who has a serious health condition
- A serious health condition that makes the employee unable to perform his/her job
- Qualifying exigency leave for families of members of the National Guard and Reserves or of a regular component of the Armed Forces when the covered military member is on active duty or called to active duty.
 - An employee whose spouse, son, daughter or parent has either been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following: 1) short-notice deployment, 2) military events and activities, 3) child care and school activities, 4) financial and legal arrangements, 5) counseling, 6) rest and recuperation, 7) post-deployment activities and, 8) additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.
 - "covered active duty" means (a) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign county; and (b) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.
 - The leave may commence as soon as the individual receives the call-up notice. This type of leave would be counted toward the employees' 12-week maximum of FMLA leave in a 12-month period.
- Military caregiver leave, to care for an injured or ill servicemember or veteran.
- An employee whose son, daughter, parent or next of kin is a covered servicemember may take up to 26 weeks in a single 12-month period to take care for that servicemember. Next of kin is defined as the closest blood relative of the injured or recovering servicemember.
 - The term "covered servicemember" means:

- A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is in otherwise on the temporary disability retired list, for a serious injury or illness; or
- A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- Employees requesting this type of FMLA leave must provide certification of the family member or next-of-kin's injury, recovery or need for care.
- This is the only type of FMLA leave that may extend an employee's leave entitlement beyond 12 weeks to 26 weeks. Other types of FMLA leave are included with this type of leave totaling the 26 weeks.

Advance Notice and Medical Certification

The employee shall provide advance leave notice and medical certification. The leave request may be denied if the following requirements are not met:

- The employee shall provide 30 days advance notice to his/her Department Head when the need for leave is foreseeable. If unable to give 30 days' notice, the employee shall provide notice as soon as practical.
- Burke County requires acceptable certification to support a request for leave.
- Medical recertification may be required every 30 days. In certain cases, the County may require a second or third opinion of a health care provider at County expense.
- Burke County may require the employee to provide a fitness-for-duty certification to his/her Department Head prior to returning to work if the leave involves an employee's serious health condition.

Job Benefits and Protection

- The employee will not be penalized for absences which are FMLA-qualified or for any decreases in productivity that result directly and solely from taking FMLA-qualified leave.
- For the duration of the FMLA leave, Burke County will maintain health insurance coverage under the employee group health insurance plan so long as the employee meets the obligation for payment of premiums and pays the employees' portion of the insurance premiums: (1) through normal payroll deductions while on paid FMLA leave; and/or (2) by direct payment to the County during any period of unpaid leave. Direct payments are due in the Human Resources Department by the 20th of each month to pay for the next month's coverage.

- With certain exceptions, upon return from FMLA leave, the employee will be restored to original position or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. Any unpaid amount of the employee's portion of insurance premiums will be deducted from the first paycheck after the employee's return to duty.
- The use of unpaid FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of FMLA leave.
- While on FMLA leave, employees are required to contact supervisor at least once per month and indicate the employee's intention to return to work as scheduled.

If you exhaust all FMLA protected leave and are still unable to return to work, you may request up to a 6 week leave of absence without pay through your Department Head. (See the Leave of Absence Without Pay section.) If the leave is not granted, this will be considered the end of your employment with Burke County and COBRA benefits will be offered.

Section 7.07 Leave Without Pay

When all leave is exhausted, you may request, subject to the approval of your Department Head, a leave of absence without pay for up to 6 weeks. This is in addition to the 12 weeks of protected leave (with or without pay) discussed in the section on FMLA. This leave of absence would be for reasons of personal or family illness, maternity or paternity leave. Such requests for leave without pay must be made in writing 30 days prior to the anticipated date to the department head.

Requests for reasons other than those listed above must be approved by the County Manager and will only be granted for reasons deemed in the best interest of both the employee and the County. The job will be held for the employee during an approved leave of absence. Failing to return to work at the end of the granted leave will be considered a voluntary resignation.

The employee's request will be granted if it is reasonable for the department to manage the workload in the absence of the employee. If the request is denied and the employee is unable to return to work, this will be considered the end of employment with Burke County. When the employee is ready to seek reemployment, and if the employee is selected for an opening, the employee would receive credit for previous service.

Employees on approved leave without pay shall not accrue vacation, sick or holiday leave and upon returning to work from an approved leave without pay, shall return either to the position they left when the leave began, or to an equivalent position with the same benefits, pay, and other terms and conditions of employment.

The Department Head shall promptly notify the Human Resources Office in writing of any leave without pay absences.

Continuation of Benefits

Employees transferring from active pay status to leave without pay under the FMLA, workers' compensation, or Military Leave may continue to benefit from County-paid insurance premiums for the duration of the leave but will be responsible for timely paying the employee portion of any insurance premiums.

Employees transferring to or in a leave without pay status for any other reason shall become ineligible to benefit from County-paid insurance premiums beginning the first pay period in which they are paid for less than 1/2 of their regularly work schedule. The employee, however, may elect to pay the total premium for their insurance(s) coverage during such periods of leave without pay. Failure to pay premiums within 30 days of the due date will result in termination of insurance coverage.

Section 7.08 Educational Leave Without Pay

A leave of absence without pay may be granted to an employee, who has been employed for one (1) consecutive year or more, upon the recommendation of the Department Head and County Manager to permit an employee to take courses of study which will better equip the employee to perform his/her duties. An employee granted educational leave will be placed in a leave without pay status during the period of educational leave.

Employees on approved educational leave without pay shall not accrue vacation, sick or holiday leave and upon returning to work from an approved leave without pay, shall return either to the position they left when the leave began, or to an equivalent position with the same benefits, pay, and other terms and conditions of employment.

Employees in a leave without pay status for educational leave shall become ineligible to benefit from County-paid insurance premiums beginning the first pay period in which they are paid for less than 1/2 of their regularly work schedule. The employee, however, may elect to pay the total premium for their insurance(s) coverage during such periods of leave without pay. Failure to pay premiums within 30 days of the due date will result in termination of insurance coverage.

Section 7.09 Shared Leave

The purpose of this policy is to provide employees an opportunity to assist fellow employees affected by serious and prolonged medical conditions. Some prolonged medical conditions cause employees to exhaust all available leave and as a result, be placed on leave without pay status. This voluntary shared leave program provides an opportunity for employees to donate some of their accrued leave so as to provide assistance to fellow county worker(s). For purposes of this policy, medical condition means major illness, bodily injury, or medical condition diagnosed by a physician of an employee that is likely to require an employee's

absence from duty for a prolonged period of time (at least twenty (20) consecutive workdays) and to result in a substantial loss of income (equal to or greater than 50% of employees pay for the pay period) to the employee due to the exhaustion of accrued leave in the employee's account. It is not the intent of this policy to apply to incidental, normal, shorter medical conditions. There is no guarantee that one who qualifies for shared leave will receive any leave. Any employee may not intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using leave under this program. Such action shall be grounds for disciplinary action up to and including dismissal on the basis of personal conduct.

Eligibility Guidelines of the Recipient

In order to receive voluntary shared leave, an employee must meet the following standards:

- (a) Must be a regular full-time or part-time benefited employee with one (1) year of consecutive service with Burke County.
- (b) Must have, or an immediate family member must have, a serious medical condition and, in all cases, submit a physician's statement of diagnosis, prognosis and estimated duration of medical leave necessary. (FMLA Certification will normally be sufficient documentation)
- (c) Complete a request to receive voluntary shared leave and be approved.
- (d) All applicable leave balances must be at or near zero at the time of request (to include vacation, sick, holiday and compensatory time).
- (e) Must have responsibly managed earned leave during the past years of service.
- (f) Non-qualifying conditions: The policy will not ordinarily apply to short-term or sporadic conditions or illnesses. This would include such things as sporadic, short-term recurrences of chronic conditions, short-term absences due to contagious diseases, short-term recurring medical or therapeutic treatments. These illustrative examples are not all inclusive. Each case must be examined and decided based on its conformity to policy intent and must be handled consistently and equitably. An employee on Workers' Compensation leave, who continues to draw payment from Workers' Compensation, is not eligible as a recipient. Voluntary shared leave cannot be used for prenatal care of a newborn child absent a documented prolonged health condition.
- (g) A prospective recipient must request leave in writing by completing the Shared Leave Request form and submitting the physician's medical certification of the need for leave and the period of absence. Incomplete paperwork or documentation will not be considered.

- (h) The request for leave must be reviewed and approved by the Department Director and Human Resources Director. If either the Department Director or Human Resources Director disapprove the request, the request must be forwarded to the County Manager for review for a final decision. The Director's justification must be indicated for the County Manager to consider.
- (i) An employee may not file a grievance or an employee appeal if his/her request to receive donations is denied.
- (j) Leave hours shall be credited to the recipient's sick leave balance as needed and deducted from the donor's leave accounts in the order in which they are received.
- (k) The Privacy Act makes medical information confidential. When disclosing information on an approved recipient, only a statement that the recipient met the requirements for receiving shared leave will be made. If the employee wishes to make the medical status public, the employee must sign a release to allow the status to be known.
- (l) Individual leave records are confidential and only individual employees may reveal their donating or receipt of leave. Individual donors are not identified to the recipient.
- (m) An employee may begin using voluntary shared leave after all available leave has been exhausted. While using shared leave, employees continue to earn leave, holidays, and benefits offered under the County's group insurance policies. Leave accrued while using shared leave should be used first.
- (n) An employee may not ask other employees for shared leave. If an employee is approved for shared leave, the recipient's name and need will be advertised throughout the County Departments.
- (o) Participation is limited to six months. However, a continuation may be granted on a month by month basis for a maximum of one year with the approval of both the Department Head and County Manager.
- (p) Leave cannot be applied retroactively.

Donor Guidelines

- (a) Leave must be donated in one-hour increments.
- (b) Employees wishing to donate leave may donate either annual or sick leave according to The guidelines below:
 - (i) There is no maximum to the amount of vacation leave that an employee may donate, however the amount donated is not to reduce the donor's vacation leave balance below 40 hours.

- (ii) The maximum amount of sick leave allowed to be donated by one individual is 40 hours per calendar year. The amount donated is not to reduce the donor's sick leave balance below 40 hours.
- (c) Employees wishing to donate leave must complete the Request to Donate Leave form and forward it their department head for approval, who will then forward it to Human Resources for approval.
- (d) Employees separating from service with Burke County may donate vacation leave, but cannot donate sick leave.
- (e) Any employee who voluntarily donates leave cannot and shall not receive any pay, benefits, or other compensation/enumerations for the donated hours.

Section 7.10 Military Leave

If an employee participates in the armed services the employee will be granted a leave of absence without pay during such participation and will be treated in accordance with state and federal law, including but not limited to the Uniformed Services Employment and Reemployment Rights or its successor. The employee has the option to use accrued annual leave instead of leave without pay for the duration of such military time. The employee shall provide the County with a copy of the orders requiring military service.

If an employee is called to armed/uniformed services, rather than routine training, and has exhausted all paid leave, the employee shall be eligible for additional military benefits, these include:

- Health insurance premiums the same as active employees
- Dental insurance premiums the same as active employees
- Continued basic life insurance paid by the County
- Credit for the time spent in military service for annual leave accrual purposes
- Credit for the time spent in military service for retirement purposes
- Law enforcement 401(k) contribution with honorable discharge

Section 7.11 Civil Leave

A County employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation;

except, that employees must turn over to the County any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty. Department Heads may request the employee to seek a rescheduling of the civic leave if critical operations or projects would be impacted by said leave.

Section 7.12 Parental School Leave

Chapter 509 of the 1993 Session Laws amended G.S. 95-28.3 to require at least four (4) hours of leave per year, effective December 1, 1993, so that a parent, guardian or any person standing "in loco parentis" of a school-aged child may attend or otherwise be involved in activities at the child's school under the following conditions:

- (a) The leave shall be at a mutually agreed upon time between the employer and employee and needs to be requested and approved to ensure absences do not adversely affect the County's operations.
- (b) The employer may require an employee to provide the employer with a written request for the leave at least forty-eight (48) hours before the time desired for the leave; and
- (c) The employer may require that the employee furnish written verification from the child's school that the employee attended or was otherwise involved at that school during the time of leave.

The definition of school includes public and private schools, church schools, and preschools. It also includes day care facilities as defined under G.S. § 110-86. Burke County supports involvement of employees in the educational development of their children. Therefore, employees are granted four (4) hours of paid leave annually (each calendar year) for this purpose. Leave not taken during the calendar year will be forfeited. If you leave County service, you will not be paid for unused parental school leave.

Section 7.13 Workers' Compensation Leave

Under the N.C. Workers' Compensation Act (hereinafter referred to in this section as the Act), employees may be compensated for absence from work due to injury or illness covered by the Act, subject to the following leave provisions:

- (a) For the first seven (7) calendar days of absence from work due to the injury or illness, employees have two leave options: They may either use approved sick, vacation, compensatory, or holiday leave or they may take leave without pay. (Under the Act, employees are not compensated for the first seven calendar days of the absence, unless the expected duration of the absence is twenty-one or more calendar days. If

the duration turns into twenty-one or more calendar days, they receive retroactive workers' compensation for the first seven calendar days).

- (b) Beginning on calendar day eight (8) following the injury or illness, employees who have not returned to work shall be placed in a Workers' Compensation Leave Without Pay status until their return to work.
- (c) Employees in a leave without pay status will retain all accumulated sick and personal leave while receiving Workers' Compensation benefits. However, while out on workers compensation, additional vacation and sick leave do not accrue.
- (d) Temporary employees will go directly to a leave without pay status and will receive all benefits for which they are eligible under the Act.
- (e) Upon reinstatement, an employee's pay will be computed on the basis of the last pay rate plus any pay increase to which the employee would have been entitled during the absence covered by Workers' Compensation benefits.
- (f) When an employee with a Workers' Compensation claim who has returned to work is directed by County, as part of the treatment plan, to be absent from work for follow-up doctor's visits or medical treatment, the absences during his or her normal work hours will be compensated as hours worked.
- (g) Any period of leave for a Workers' Compensation injury or illness that qualifies as a "serious health condition" under the Family and Medical Leave Act (FMLA) will run concurrently with FMLA leave.

Burke County's personnel policies shall continue to apply to an employee on Workers' Compensation leave in the same manner as they would apply to an employee who continues to work or is absent while on some other form of leave.

Section 7.14 Adverse weather – Unusual Conditions

It is the policy of the County that County offices will usually be open and operate on a regular schedule during periods of adverse weather. Each Department head is responsible to ensure that his/her department or office is open to the public at the usual times.

In cases where exceptionally adverse weather conditions exist, producing very hazardous traveling conditions, County offices may be delayed in opening, may be closed early, or closed for the entire day. Decisions regarding the closings due to adverse weather shall be made by the County Manager or in the manager's absence by the Deputy County Manager.

Even though other offices may be closed or delayed in opening, employees in some County positions which are identified as critical services may be required to work. Those employees will be notified by their supervisors of this status and will be advised that attendance at work for their normal shift during inclement weather is a condition of employment. Employees in those positions will not be excused from scheduled work on inclement days except in the most, dire of extenuating circumstances.

Because everyone's situation is different, each employee must evaluate the circumstances and use his/her judgment in deciding whether to report to or leave work. Individual safety should be the primary consideration for each employee. Any employee who is unable to report to work must notify the department head or his/her supervisor within one hour of the start of the scheduled work time. An employee leaving early due to weather conditions may do so only with the approval of his/her supervisor.

Employees who leave work early, report to work late, or do not report for work at all will be required to first use previously accrued compensatory time and then earned vacation time for the days or hours taken. Once an employee has exhausted all compensatory and vacation time, any remaining time will be counted as leave without pay.

Article VIII. SEPARATION AND REINSTATEMENT

Section 8.01 Types of Separations

All separations of employees from positions in the service of the County shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, retirement, dismissal, or death. Your end of employment date will be the same as your last day worked for all cases of separation except in the case of retirement and/or certain FMLA leave periods. Employees retiring can use vacation for their last day. For all other separations, you may not use accrued leave beyond your last day worked.

Section 8.02 Resignation

Resignation in good standing

An employee may resign by submitting the reasons for resignation and the effective date in writing to their immediate supervisor as far in advance as possible. The minimum notice requirement is 30 calendar days for Department Heads, and two (2) weeks for all other positions. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived upon recommendation of the County Manager in the case of Department Heads, the Department Head and County Manager for all other positions. In no case shall an employee be permitted to extend his/her last working day by using unused accrued sick, vacation, compensatory or holiday leave. Therefore, employees are required to be on the job during their last official working day, except as defined in Section 8.01, Types of Separations.

Resignation not in good standing

Resignation not in good standing occurs when:

- (a) An employee fails to submit and work their entire written notice of resignation prior to the effective date of the resignation;
- (b) An employee fails to report to work following a leave of absence without pay;
- (c) An employee is absent from work three (3) consecutive working days without authorized leave – separation pursuant to this policy should not occur until the employing agency has undertaken reasonable efforts to locate the employee and determine when or if the employee is intending to return to work;
- (d) An employee resigns to avoid announced disciplinary action.

Such separations are described above are voluntary separations from agency employment and create no right of grievance or appeal.

Section 8.03 Reduction in Force

Reduction in force is the involuntary separation of an employee due to lack of work or funds, or elimination of the employee's position due to reorganization. In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational

needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks' notice of the anticipated action. No regular employee shall be separated while there are temporary or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee. If a reduction in force occurs:

- (a) Together with the Departmental Director(s) involved, and the Human Resources Director shall determine the employee(s) affected by the reduction in force.
- (b) The Human Resources Director shall determine and list all employees, subject to the authority or control of the County Manager, serving in the same class throughout the County who are on that date listed as temporary or probationary employees. Furthermore, the Human Resources Director shall add to that list any position(s) which, on that date, is not filled or is being advertised within the same class which is affected by the reduction in force.
- (c) No regular employee, subject to the authority or control of the County Manager, shall be separated while there are unfilled positions or temporary or probationary employees serving within the County in the same class unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.

- (d) The Department Director will be involved, and the Human Resources Director shall make their final determination(s) by giving consideration to the employee(s) involved by:
 - (i) Showing organization needs;
 - (ii) Performance; and
 - (iii) Seniority
- (e) The Departmental Director will be involved, and the Human Resources Director shall advise and provide documented recommendations to the County Manager as to those employees who shall be separated because of reduction in force.
- (f) Rather than just the involved departments, the County Manager, who has the final authority to determine the employee(s) to be separated because of reduction in force, may consider the entire County work force, subject to his or her authority or control when making his or her decision.

Employees who are subject to a reduction in force have priority consideration, for a period of one year, for any position that becomes available if the employee is qualified. The person must submit an application to the Human Resources Department documenting their priority situation.

Section 8.04 Disability

An employee who cannot perform the required duties because of a physical or mental impairment with or without reasonable accommodation may be separated for disability. The employee or the County may initiate this action. In all cases, such action must be accompanied by medical evidence acceptable to the Department Head and the County Manager. The County may require an examination, at the County's expense, performed by a physician of the County's choice. Before an employee is separated for disability, an effort shall be made to continue the employee's service by making reasonable accommodations, including transfer of the employee to a vacant position for which the employee is qualified.

Section 8.05 Retirement

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.

Section 8.06 Death

Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

Section 8.07 Dismissal

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

Section 8.08 Reinstatement

An employee who is separated because of reduction in force may be reinstated within one year of the date of separation, upon recommendation of the supervisor and approval of the County Manager. An employee who is reinstated in this manner shall be credited with his or her previously accrued sick leave. In addition, employees affected by a reduction in force on or after June 30, 2009 and reinstated within one year of the date of separation will be credited previous continuous years of service with Burke County for the calculation of longevity pay.

Section 8.09 Rehiring

An employee who resigns while in good standing may be rehired, and shall be regarded as a new employee, subject to all the provisions of rules and regulations of this Chapter. However, the employee shall be credited with his or her previously accrued sick leave if he or she is rehired within five years and under the conditions set forth in Article VII of this Policy.

Article IX. DISCIPLINARY ACTIONS

Section 9.01 General Provisions

It is the intent of Burke County to provide employees and management with a fair, clear and useful tool for correcting and improving performance problems, as well as for providing a process to assist management in handling instances of unacceptable personal conduct. However, the following procedures are designed so as not to restrict operating personnel and, in no way, guarantee an employee a right to continued employment.

Any employee, regardless of occupation, position, or profession, may be warned, demoted, suspended or dismissed by the appointing authority. The degree and type of action taken shall be based upon the sound and considered judgment of the appointing authority. As soon as performance and/or conduct problems occur, supervisors are encouraged to counsel or give verbal warning to employees. When one or more verbal warning fails to resolve the problem, supervisors should proceed with the appropriate disciplinary measures.

The disciplinary procedure for employees of the departments of Public Health and Social Services are determined by the provisions of the State Human Resources Act and are different from the process described in this section. Employees in those departments who need information about their department's disciplinary procedure may access that information on the website for the Office of State Human Resources. They may check with their respective department head or a Human Resources staff member if they need further assistance locating this information.

Disciplinary action can be a result of one or a combination of the following:

- (a) Unsatisfactory job performance, defined as work-related performance that fails to satisfactorily meet job requirements as specified in the relevant job description, work plans or as directed by management of the work unit or agency.
- (b) Grossly inefficient job performance, defined as instances in which the employee fails to satisfactorily perform job requirements as specified in the relevant job description, work plans or as directed by the management of the work unit or agency when that failure results in:
 - (i) 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
 - (ii) the loss of or damage to agency property or funds that results in a serious impact on the agency and/or work unit.
- (c) Failure in personal conduct. The following causes related to failure in personal conduct are representative of, but not limited to, those considered to be adequate grounds for disciplinary action, up to and including dismissal:
 - (i) conduct for which no reasonable person should expect to receive prior warning;
 - (ii) job-related conduct which constitutes a violation of state or federal law;
 - (iii) conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the agency;
 - (iv) the willful violation of known or written work rules;
 - (v) misuse of County funds;
 - (vi) conduct unbecoming of an employee or public officer;
 - (vii) the abuse of a client(s), patient(s), student(s) or person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the County;

- (viii) falsification of an employment application or other employment documentation;
 - (ix) insubordination, defined as the willful failure or refusal to carry out a reasonable order from an authorized Supervisor;
 - (x) absence from work without prior approval after all authorized leave credits and benefits have been exhausted.
- (d) Failure to maintain required credentials. Employees in classifications that require a certain license, registration, or certification in order to perform assigned job duties are responsible for obtaining and maintaining said credentials, and a failure to do may result in disciplinary action.

Section 9.02 Types of Disciplinary Actions

Disciplinary and Administrative Suspension

The department head, in consultation with the Human Resources Director, must determine whether a disciplinary or administrative suspension is appropriate, based on all relevant facts and circumstances surrounding the situation or incident. All employees, hourly, salaried, exempt and nonexempt, may be suspended for one or more whole days without pay for matters of inappropriate conduct or violations of work-safety or other rule. An employee may not take vacation, sick, holiday or compensatory leave while on suspension without pay.

- (a) Disciplinary Suspension without pay.
 - (i) A suspension without pay for a pre-determined period of time may be used as the appropriate
 - (ii) disciplinary measure to correct work performance or personal conduct deficiencies. A disciplinary suspension normally accompanies a written warning meeting the standards set below.
 - (iii) In some cases, it may be determined that the removal from the workplace of an employee would be in the best interest of the employer and/or the employee. Possible reasons include, but are not limited to, to avoid disruption of work, to protect the safety of persons or property, or for other serious reasons.
 - (iii) Such a suspension may also be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status.
- (b) Administrative Suspension with pay. The department head, in consultation with the Human Resources Director or designee, may suspend an employee with pay for a period not to exceed fifteen (15) working days (unless an extension is granted by the County

Manager), during the investigation of that employee on any presumed violations of established internal policies and/or procedures if the following conditions exist:

- (i) Available evidence is not substantial enough to suspend without pay;
- (ii) The employee's presence in his/her usual work environment causes undue disruption of work or poses a threat to persons or property for reasons not attributable to any actions by that employee;
- (iii) A suspension with pay shall not be used for the purpose of delaying an administrative decision or an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

Written Warning

When a supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the normally the first type of disciplinary action that an employee will receive. Written warnings for grossly inefficient job performance or unacceptable personal conduct may be issued at the election of the Supervisor.

- (a) For a written warning to be official, a Supervisor must:
 - (i) provide the employee with a written warning that meets the requirements of "b" below; and
 - (ii) forward a copy to the Human Resources Director to be placed in the personnel file.
- (b) A written warning must:
 - (i) clearly inform the employee that it is an official written warning;
 - (ii) clearly inform the employee of the specific issues that are the basis for the warning;
 - (iii) state the specific improvements, if applicable, that must be made to address these specific issues;
 - (iv) state the time frame allowed for making the required improvements/corrections.
 - (v) correction is required for grossly inefficient job performance or unacceptable personal conduct; and
 - (vi) clearly inform the employee of the consequences of failing to make the required improvements/corrections.

Demotion

A demotion to a lower position classification may be used as the appropriate disciplinary measure to correct work performance or personal conduct deficiencies. Employees demoted for disciplinary or performance-based reasons should expect to have their pay reduced, with the amount of reduction contingent on the severity of the offense or deficiency and to be

determined by the department head and approved by the Human Resources Director. A proposed demotion which necessitates the reclassification of a position to an existing classification must be approved by the Human Resources Director and County Manager. The reclassification of a position to a classification not in the position classification plan must be approved by the Human Resources Director, the County Manager, and the Board of County Commissioners.

Dismissal

- (a) An employee who continuously fails to achieve the performance levels established and communicated by the respective supervisor(s), faces the possibility of dismissal as the appropriate disciplinary action to be taken by the appointing authority. Dismissal for performance deficiencies will normally be preceded by oral coaching and counseling and at least one or more written warning, or, in the case of a serious infraction, may result from one incident.

- (b) An employee may be dismissed on the basis of inefficient job performance, unacceptable personal conduct, or failure to maintain required credentials without any prior disciplinary action. However, nothing in this Article precludes management from using other disciplinary actions prior to proceeding to dismissal.

Section 9.03 Disciplinary Authority

It is important to note that Burke County department heads have varying authority related to disciplinary action (see below).

Department heads that are not appointed by the County Manager have the authority to suspend, demote, or dismiss employees. However, they typically consult with the Human Resources Director and/or County Manager on disciplinary actions. These department heads are the Board of Elections Director, NC Cooperative Extension Director, Public Health Director, Register of Deeds, Sheriff, Social Services Director and Tax Administrator.

All other department heads are required to consult with the Human Resources Director prior to taking action to suspend, demote or dismiss an employee.

Section 9.04 Inactive Disciplinary Action

Any disciplinary action is deemed inactive for the purpose of the section in the event that:

- (a) The department head notes in the employee's personnel file that the reason for the disciplinary action

has been resolved or corrected: or

- (b) 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 agency has not, prior to the expiration of the eighteen-month period, issued the employee written notice, including reasons, of the extension of the period. In no case shall formal disciplinary actions be removed from the employee's personnel file once the action becomes inactive.

Article X. GRIEVANCE PROCEDURE

Section 10.01 Purpose

The purpose of the grievance procedure is to provide an adequate and fair means for hearing matters of concern to County employees. This procedure exists to insure employees the opportunity to be heard without fear of reprisal or retaliation, and to be heard fairly and promptly. Grievances which are not received within the time allowed as prescribed in this section or which are not filed with the Human Resources Director as prescribed in this section shall be dismissed. In this Article, the term "days" refers to calendar days.

Section 10.02 Conflict Resolution

Conflict resolution is an informal process whereby employees discuss their employment concerns with their Supervisor or Department Head in order to reach a mutual understanding or solution. This process is used to deal with concerns other than harassment/discrimination and adverse action. This is available to all employees and can be instituted by verbal request to his/her supervisor.

Section 10.03 Grievance – Adverse Action

- (a) When a regular employee is dissatisfied with an adverse action of demotion, suspension without pay, or dismissal, he/she may file a formal written grievance with his/her Department Head as provided below. Employees in a probationary period are not included in this grievance process.
- (b) In order to be considered, a grievance must be filed within fifteen (15) days from the date that the issue is made known to the employee. While every effort shall be made to expedite the grievance process, the time limits contained in this Section may be extended when mutually agreed upon or approved by the Human Resources Director. Provided, however, that the fifteen (15) daytime limit to initially file a grievance shall not be extended. Grievances filed outside of this fifteen (15) daytime period shall be dismissed.
- (c) In filing a grievance, the following steps shall be taken:

(i) The employee shall present the grievance in writing to the Department Head within the fifteen (15) daytime period outlined in (b) above. The grievance should contain the following

information: the decision or action that the employee does not agree with, the basis on which the action is wrong or unfair, and the proposed resolution that the employee is seeking. The employee shall also file a copy of the grievance with the Human Resources Director.

- (ii) Upon receipt of the grievance, the Department Head shall arrange for the employee to present his/her case within fifteen (15) days. The employee may not be represented or assisted by others at this level of the grievance but may present evidence or have witnesses testify. The Department Head will make a decision within ten (10) days after the hearing, and a written copy of this decision will be immediately furnished to the employee, the Human Resources Director and the County Manager.
- For employees in the Sheriff's Department and the Register of Deeds office, there shall be no appeal beyond the decision of the respective department head.
- (iii) If the employee is not satisfied with the Department Head's decision, the employee may request that the grievance be referred to the County Manager. This request must be made to the Human Resources Director, in writing, within ten (10) days after the Department Head's decision.
- (iv) The County Manager shall hear the employee's concerns, review the written documents and supporting evidence, and consult with whatever other sources he deems appropriate. The County Manager shall present his decision, in writing, to the employee and the Department Head within fifteen (15) days after completing the hearing.
- (d) The decision of the County Manager ends the formal grievance process and is the final and binding decision of the County, except for those employees subject to the State Human Resources Act (See Section 10.05 below).

Section 10.04 Complaints of Unlawful Workplace Harassment and/or Discrimination

I. PURPOSE

- a. To establish procedures for the reporting and investigation of discriminatory incidents in the workplace; to emphasize that discrimination, harassment, and retaliation will not be tolerated in the workplace.

II. REFERENCE

- a. Age Discrimination in Employment Act of 1967, as amended (ADEA), 29 U.S.C. '621 et seq.
b. Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. '12111 et seq.
c. Code of Federal Regulations Title 29, Part 1605.1
d. Pregnancy Discrimination Act (PDA)
e. Title VII of the Civil Rights Act of 1964, as amended (Title VII), 42 U.S.C. '2000e et seq.

- f. Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. '4301 et seq.

III. GENERAL

It is the policy of Burke County to comply with all applicable federal and state laws, rules, regulations, and guidelines regarding employment discrimination and retaliation. Discrimination or harassment against employees and applicants due to race, religion, color, national origin, sex, age, disability, military status or genetic information is illegal. 43It is unlawful for any person to discriminate in any manner against any other person because that person has opposed any unlawful discrimination practice. It is also unlawful to retaliate against any person who has made a charge of employment discrimination, testified, assisted or participated in any manner in an investigation, proceeding, or hearing.

Burke County encourages all employees to assist in the effort to achieve equal opportunity in the workplace. Violations of this policy may be cause for disciplinary action, including termination.

All existing Burke County employees and newly hired employees will receive a copy of this policy and will sign an acknowledgement that they have received this policy.

This policy shall be posted throughout county buildings and will be available on the Burke County website www.burkenc.org

IV. DEFINITIONS

- a. Age Discrimination means discrimination or harassment based on years of age (40 years or over.)
- b. Color Discrimination means discrimination or harassment based on skin-tone. Equal opportunity cannot be denied to any person based on his or her racial group or perceived racial group, his or her race linked characteristics (e.g. hair texture, color, facial features), or because of his or her marriage to, or association with, someone of a particular race or color.
- c. Disability Discrimination means discrimination or harassment based on a physical or mental impairment that substantially limits one or more major life activities or the individual including having a record of such impairment or being regarded as having such impairment, (42 U.S.C '12102(2).)
- d. EEOC is the abbreviation for the U.S. Equal Employment Opportunity Commission.
- e. Genetic Information means information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the

manifestation of a disease or disorder in an individual's family members (i.e. family medical history).

- f. National Origin Discrimination means discrimination or harassment based on birthplace, ancestral, cultural, family descent or lineage; linguistic characteristics common to a specific nationality; marriage or association with a person of a national origin group; membership or association with organizations identified with or promoting the interests of a national origin group, attendance or participating in schools, churches, temples, or mosques generally associated with a national origin group; or a surname associated with a national origin group.
- g. Race Discrimination means discrimination or harassment based on physical, tribal, ancestral, cultural, geographical or linguistic characteristics common to a specific ethnic group or stock including but not limited to persons having origins in any of the original people of the Americas, Europe, Africa, Australia, Antarctic, or Asia.
- h. Religion Discrimination means discrimination or harassment based on all aspects of religious observance and practice, as well as belief (C.F.R. Title 29, Part 1605.1.) Religious practices include moral or ethical beliefs as to what is right or wrong, which are sincerely held with the strength of traditional religious views.
- i. Sex Discrimination means discrimination or harassment against any employee or applicant for employment because of his or her sex in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under the Pregnancy Discrimination Act, which is an amendment to Title VII.
- j. Military Status Discrimination means discrimination or harassment based on service in the uniformed services which is defined as performance of a duty, on a voluntary or involuntary basis, in a uniformed service under competent authority. This includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time national guard, the commissioned corps of the public health service, and any other category of persons designated by the president of the United States in time of war or emergency, performance of duty or training by a member of an organized militia, and the period of time for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any duty in a uniformed service. USERRA prohibits

discrimination on the basis of an individual's past, current, or future military status in hiring, promotion, tenure, discharge, pay, fringe benefits, job training, classification, referral, terms, conditions and privileges of employment, or any other matter directly or indirectly related to employment. USERRA similarly prohibits discrimination based on military status or service and provides certain reemployment rights for service members returning from training or active duty.

- k. Protected Class means those classes of individuals protected by law including those classes listed in (a), (b), (c), (e), (f), (g), (h), (i), (j), and (k) above.

V. PROCEDURE

a. Reporting Discrimination, Harassment or Retaliation: Any employee or applicant for employment who believes that he or she is a victim of discrimination, harassment or retaliation should report the incident with the employee's Department Head, the Human Resources Director or the County Manager.

In filing a complaint, the following steps should be taken:

1. Notification of an act of discrimination, harassment or retaliation, should be made within thirty (30) days of the alleged act. The complaint may be made orally to the employee's Department Head, Human Resources Director (828)439-4357 or County Manager (828)439-4340. The employee also has the option to complete and submit an EEOC Discrimination Form which can be found on the Burke County Human Resources website (www.co.burke.nc.us) This form should be completed and submitted to the employee's Department Head, Human Resources Director or County Manager within thirty (30) days of the alleged act. Any Department Head or County Manager who receives a complaint of harassment or discrimination shall report the matter to the Human Resources Director immediately, unless the complaint directly involves the Human Resources Department. If the complaint directly involves the Human Resources Department, the employee should notify and file a complaint directly with their Department Head and County Manager. If the complaint directly involves the employee's Department Head or Supervisor, the complaint should be filed directly with the Human Resources Director and County Manager. If the complaint directly involves the County Manager, the complaint should be filed with the employee's Department Head and the Human Resources Director.
2. A Thorough investigation of the complaint shall be conducted. This investigation shall be conducted by the Human Resources Director, or designee, and when appropriate, with the Department Head. If the complaint of harassment or discrimination directly involves the employee's Department Head, the Human Resources Director and County Manager will

conduct the investigation. The County Manager or his/her designee shall investigate complaints involving the Human Resources Department. The Human Resources Director or his/her designee shall investigate complaints involving the County Manager. Confidentiality and the dignity of those involved in a complaint are important. Considering the sensitive nature of these complaints, every effort will be made to keep the complaint and the name of the employee(s) confidential and on a need to know basis. However, due to the importance of conducting a thorough investigation, confidentiality cannot be guaranteed. Employees involved in an investigation, whether as a complainant, alleged harasser, witness or investigator, should keep all discussions or communications confidential.

3. The County has sixty (60) days to take remedial action, if any, in response to the complaint.
4. The decision referenced in (a)(3) above ends the complaint process and is the final and binding decision of the County, except for those employees subject to the State Personnel Act (See section 10.05.)
5. Employees can file complaints directly with the Equal Employment Opportunity Commission (EEOC) within one hundred and eighty (180) days of the last act of discrimination.

VI. SUPERVISORY/MANAGEMENT REPORTING REQUIREMENTS

When a supervisor or management employee witnesses, is notified of, or otherwise becomes aware of offensive conduct that is based on membership in a protected class as defined by this policy, the supervisor or manager must report the conduct to the Human Resources Director. Reporting under this requirement is mandatory, not discretionary, and full disclosure of all information known to the supervisor or management employee about the incident is required.

VII. INVESTIGATIVE PROCESS

The Human Resources Director will conduct a formal investigation of the complaint. In most circumstances, the Human Resources Director will render a decision within thirty (30) days of the filing of the complaint whether probable cause exists to believe that an act of discrimination, harassment, or retaliation occurred.

The complainant may request a hearing within fifteen days (15) calendar days of receipt of the findings through the County Manager, if he or she is not satisfied with the Human Resources Director's decision.

The County Manager will schedule a time to meet with the complainant, review the case and render a decision on the case.

VIII. ENFORCEMENT

Acts of discrimination, harassment, and retaliation in the workplace are inappropriate and will not be tolerated. Acts of discrimination, harassment and retaliation may be cause for disciplinary action, up to and including termination.

Section 10.05 Employees Subject to the State Human Resources Act

- (a) Employees subject to the State Human Resources Act must exhaust the County grievance procedure contained in this Article before appealing to the Office of Administrative Hearings.
- (b) Copies of the grievances/complaints filed under this Section must also be sent to the Department Head, the Human Resources Director, and the County Manager.

Section 10.06 Maintenance of Records

- (a) The Human Resources Director shall keep a record of all grievances and complaints filed. If a grievance/complaint is withdrawn, the record shall include any statement from the complainant indicating the reason for withdrawal.
- (b) Investigation files shall remain separate and apart from personnel files. Neither the complainant, nor the alleged harasser has a right to the contents of these files. Any personnel action, such as discipline, resulting from an investigation, shall be filed in the employee's personnel file.
- (c) The records above shall be retained by the Human Resources Director for a minimum of three (3) years.

Article XI. PERSONNEL RECORDS PUBLIC RECORDS POLICY

Section 11.01 Personnel Records Maintenance

Any and all personnel records as are necessary for the proper administration of the personnel system will be maintained by the Human Resources Director. The Human Resources Director may designate an individual or individuals within the Human Resources Department to act as records custodian. The records custodian is responsible for the proper maintenance and documentation of personnel record in accordance with state and local law. The county shall maintain in each employee's personnel record only information that is necessary and relevant to accomplishing legitimate personnel administrating needs.

Section 11.02 Confidential Information

All information contained in a County employee's personnel file, other than the information listed in Section 11.03 of this Article, will be maintained as confidential in accordance with the requirement of General Statute 153A-98.

No county employee or official shall use or disclose information gained in the course of employment or by reason of position for purposes of advancing a financial or personal interest, a business entity in which there is an ownership interest, a financial or personal interest of a household member or a family member as defined by this policy, or any other private or political interest. No employee or official shall disclose confidential or privileged information concerning personnel matters, property, contract negotiations, litigations-related matters, or other affairs of the county which are afforded protection under state law.

Section 11.03 Public and Confidential Information Defined

The following information on each County employee is public information but may only be disclosed by the Human Resources Director or a representative of the Human Resources Department.

- (a) Name
- (b) Age
- (c) Date of original employment or appointment to County service.
- (d) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the County has the written contract or a record of the oral contract in its possession.
- (e) Current position title
- (f) Current Salary/pay rate
- (g) Date and amount of each increase or decrease in salary with the County
- (h) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the County
- (i) Date and general description of the reasons for each promotion with the County
- (j) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the County. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the County setting forth the specific acts or omissions that are the basis for the dismissal.
- (k) Office to which employee is currently assigned.

All information contained in a county employee's personnel file, other than the information listed above, will be maintained as confidential in accordance with the requirements of G.S. 160A-168 and shall be open to public inspection only in the following instances:

- (a) The employee or a duly authorized agent may examine all portions of the employee's personnel file, except:
 - (i) Letters of reference solicited prior to employment; and
 - (ii) Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient.
- (b) A licensed physician designated in writing by an employee may examine the employee's medical record.
- (c) A county employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (d) By order of a court or competent jurisdiction, any person may examine all material in the employee's personnel file.
- (e) An official of any agency of the state or federal government or any political subdivision of the state may inspect any portion of a personnel file when such information is deemed by the person having custody of the file to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability.
- (f) An employee may sign a written notarized statement authorizing release of other specified information to prospective employers, educational institutions, or other specified persons.
- (g) The County Manager, with the concurrence of the Board of Commissioners may inform any persons of the employment or non-employment, promotion, demotion, suspension, or other disciplinary action, reinstatement, transfer, or termination of a county employee and the reasons for that personnel action. Before releasing the information, the Manager shall determine in writing that the release is essential to maintaining public confidence in the administration of county services or to maintaining the level of quality county services. A record shall be maintained in the personnel file and as part of the public record in the office of the clerk to the board.

(h) Even if considered part of an employee's file, the following information may be withheld from an employee

- (i) Testing or examination material used solely to determine qualification when disclosure would compromise testing.
- (ii) Investigative reports concerning possible criminal actions against the employee until the investigation is completed.
- (iii) Information which might identify undercover officers or informers.
- (iv) Notes, preliminary drafts, and internal communications unless used for official personnel decisions.

Section 11.04 Access to Personnel Records

As required by General Statute 153A-98, any person may have access to the information listed in Section 11.03 of this article for the purpose of inspection, examination and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of County Commissioners may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to court for writ of mandamus or other appropriate relief.

Section 11.05 Remedies and Objections

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

Section 11.06 Destruction of Records

No public official may destroy, sell, loan or otherwise dispose of any public record, except in accordance with General Statute 121-5(b), without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys a public record, will be charged with having committed a misdemeanor, and upon conviction, will be fined not less than \$10 or more than \$500, for each public record so altered, defaced, mutilated, or destroyed, as provided in G.S. § 132-3.

Article XII. IMPLEMENTATION OF PERSONNEL POLICY

Section 12.01 Conflicting Policies Repealed

All policies, ordinances, or resolutions, or portions thereof as applicable, which conflict with the provisions of this policy, are hereby repealed. This policy constitutes a Personnel Resolution and thereby, does not create any contractual or statutory guarantees of continued employment.

Section 12.02 Employee Acknowledgement

Each employee shall sign an acknowledgement sheet indicating that they have read and understand this policy.

Section 12.03 Separability

If any provision of this policy or any rule, regulation, or order hereunder of the application of such provision to any person or circumstances is held invalid, the remainder of the policy and the application of such remaining provisions of this policy to persons or circumstances other than those held invalid will not be affected thereby.

Section 12.04 Effective Date

This policy shall become effective as of July 16,
2019. (Revised July 16, 2019)