

ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM

Section 1. Purpose

The purpose of this policy is to establish a personnel system that will promote a fair and effective means of employee recruiting and selection, develop, and maintain an effective and responsible work force and provide the means for removal of unsatisfactory employees . This policy is established under the authority of Chapter 153A-Article 5 and Chapter 126 of the General Statutes of North Carolina.

Section 2. Coverage

(a) All employees in the county's service shall be subject to this policy except as provided in this section.

(b) The following officials and employees are exempt except for longevity covered under Article III, Section 3(b):

- (1) elected officials;
- (2) the county manager

(c) The following employees shall be covered only by the specifically designated Articles and Sections:

(1) employees governed by the State Personnel Act shall be subject to Article I; Article III, Section 3(b), 7, 8, 9, Article V; Article VI; Article VII, Section 5, Article VIII; Article IX; Article X; and Article XI;

(2) employees of the North Carolina Agricultural Extension Service shall be subject to Article V, Section 1 and Article VI, Sections 1 - 3;

(3) the supervisor of elections shall be subject to Article II and III, Article IV, Sections 1 - 7; Articles V and VI; Article VII, Sections 2, 6, 13,

(4) temporary employees shall be subject to Article I; Article III, Section 9; Article IV, Sections 1 - 9; Article V; Article VI, Sections 1, 19; Article VIII, Section 5; Article X; and Article XI.

(5) Notwithstanding anything to the contrary in this policy, any employee who has less than one year of service for the County or whose average hours over the calendar year are less than 30 hours per week shall not be entitled to any benefits contained herein for such period of time except for workers' compensation or social security. Any employees who have more than one year of service and who average more than 30 hours per week over the calendar year, shall be entitled to all benefits contained herein, said benefits to be based upon the calculation as set forth in Article VI, Section 17 of this policy. Benefits so granted are those set forth in Articles VI and IX.

Section 3. Definitions

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

Anniversary Date: The employee's original date of employment with the county service in a permanent position.

Appointing Authority: Any county board or official with the legal authority to make hiring decisions.

Class: Positions or groups 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.

Competitive service employee: An employee of the department of social service, the department of public health, the department of mental health, developmental disabilities, and substance abuse services, or the office of emergency management receiving federal grant-in-aid funds and subject to the state personnel act.

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

Emergency: An event which takes place at such a time or in such a manner as to physically limit an employee from contacting their supervisor prior to beginning their work day or shift.

Full-time employee: An employee appointed to a permanently established position who is regularly scheduled to work at least 37 1/2 hours per workweek, and is designated by the board of commissioners as fulltime.

General county employee: A county employee assigned to a department not subject to the state personnel act.

Grievance: Any matter of concern or dissatisfaction arising from an event or the working conditions of an employee, subject to the control of the county.

Hiring rate: The salary paid an employee when hired into county service, normally the first step of the salary range.

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

Merit increase: An increase in salary above the standard job rate based on service that exceeds the standard and/or expected performance of the assigned position.

Part-time employee: An employee appointed to a position who is regularly scheduled to work less than 37 1/2 hours per work week, is paid on an hourly basis.

Pay plan: A schedule of pay ranges arranged by sequential rates including minimum, mid-point, and maximum steps for each class assigned to a salary range.

Performance evaluation system: An annual review of an employee's performance, designed to facilitate fair and equitable merit pay decisions, recognizing performance as the basis for pay increases within the established pay range.

Permanent employee: An employee appointed to a permanent position who has satisfactorily completed the probationary period for county service and has been approved for permanent status by his or her department head (with the approval, where applicable, of the county manager) Employees in this status shall receive benefits with respect to sick leave, annual leave, and retirement benefits as provided by state law, worker's compensations, social security, and longevity pay.

Permanent full time position: A position that has been approved by the board of county commissioners, the duties and responsibilities of which are required to be performed on a continuous basis, normally requiring full-time employment of an individual.

Permanent part-time position: A position that has been approved by the board of county commissioners, the duties and responsibilities of which can be performed in less than a regular work day and/or workweek.

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

Position classification plan: A plan approved by the board of county commissioners that assigns classes (positions) to the appropriate pay grade.

Probationary employee: An individual appointed to a permanent position who has served less than 6 months if a county employee or less than 1 (one) year if a sheriff's dept. employee in that position.

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 the classification from which the reassignment is made.

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

Salary grade: All positions that are sufficiently comparable to warrant one range of pay rates.

Salary plan revision: The uniform raising or lowering of the salary ranges of every grade within the salary plan.

Salary range: The minimum and maximum salary levels for a given classification for hiring purposes.

Salary schedule: A listing by grade and step of all the approved maximum, mid-point, and minimum salary ranges authorized by the board of county commissioners for various position classifications of county government for hiring purposes.

Supervisor: An employee whose job duties include the responsibility of other employees. This employee may or may not also be a Department Head.

Temporary employee: An individual appointed to serve in a position for a definite duration, but not to exceed twelve (12) months.

Temporary position: A position for which the duties and responsibilities are required to be met for a specific short period of time, normally not to exceed twelve (12) months, and which may or may not require attendance by a person for a full work day and/or workweek.

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

Section 4. Merit Principle

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

Section 5. Responsibility of Board of Commissioners

The Board of Commissioners shall establish personnel policies and rules, including the classification and pay plan and shall make and confirm appointments when so required by law.

Section 6. Responsibility of County Manager

The county manager shall be responsible to the Board of Commissioners for the administration of the personnel policies. The county manager shall appoint, suspend, and remove all county officers and employees except those elected by the people or whose appointment is otherwise provided for by law. The county manager shall make appointments, dismissals, and suspensions in accordance with 153A-82 of the General Statutes of the State of North Carolina and Article IV, VII, and VIII of this personnel administration 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 153A-103 of the General Statutes of the State of North Carolina.

Section 7. Responsibility of the Personnel Director

The county manager, subject to the approval of the board of county commissioners, shall appoint a personnel director who shall assist in the preparation and maintenance of the position classification plan and the pay plan, and perform such other duties in connection with a modern personnel program as the manager shall require such as:

All matters dealing with personnel shall be routed through such official, who shall maintain a complete system of personnel files and records. He/she shall also coordinate the grievance procedures as hereinafter set forth.

ARTICLE II. CLASSIFICATION PLAN

Section 1. Adoption

The position classification plan, as set forth in the document entitled "Position Classification Plan", is hereby adopted as the position classification plan for the county.

Section 2. Allocation of Positions

The county manager shall allocate each position covered by the classification plan to its appropriate class in the plan.

Section 3. Administration of the Position Classification Plan

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. Department heads shall be responsible for bringing to the attention of the county manager (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classifications of any existing positions.

New positions shall be established only with the approval of the Board of Commissioners after which the county manager shall either (1) allocate the new position to the appropriate class within the existing classification plan, or (2) recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the new position may be allocated.

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 (1) direct that the existing class specification be revised, (2) reallocate the position to the appropriate class within the existing classification plan, or (3) recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the position may be allocated.

Section 4. Amendment of Position Classification Plan

Classes of positions shall be added to and deleted from the position classification plan by the Board of Commissioners based on the recommendation of the county manager.

ARTICLE III. THE PAY PLAN

Section 1. Adoption

The salary schedule, reflecting both grade level and step, as approved by the Rutherford County Board of Commissioners as set forth in the document entitled Rutherford County Pay Plan, is hereby adopted as the pay plan for the Rutherford County.

Section 2. Maintenance of the Pay Plan

The county manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the comparable rates of pay for position in private and public employment in the area, changes in the cost of living, the financial conditions of the county, and other factors. To this end, the county manager shall from time to time make comparative studies of all factors affecting the level of salary ranges and shall recommend to the Board of Commissioners such changes in salary ranges as appear to be warranted.

Section 3. Use of Salary Ranges

Salary ranges are intended to permit the recognition of individual performance. The following general provisions shall govern the granting of within-range pay increments:

(a) EFFECTIVE WITH NEW EMPLOYEES HIRED AFTER JULY 1, 2004 and continuing the longevity increases will be as follows:

- 1 year to less than 5 years full time service - \$50.00 annually
- 5 years but less than 10 years full time service - .5% of annual salary
- 10 years but less than 15 years full time service - .75% of annual salary
- 15 years but less than 20 years full time service - 1.125% of annual salary
- 20 years but less than 25 years full time service - 1.25% of annual salary
- 25 years and beyond full time service - 2.25% of annual salary

Longevity pay will be issued annually and will not be added to the employees base salary.

(b) Other than the steps for longevity reward, pay steps above the minimum rate are reserved to reward employees for meritorious service. Each year, the county manager may require department heads to consider the eligibility of employees to receive merit pay adjustments. Department heads shall consider all factors in writing, giving the reasons whether to advance the employee or retain him at the same rate. All such advancements and retentions must be approved by the county manager.

(c) The implementation of longevity and merit increases shall be implemented as funds are budgeted.

(d) Certain positions including but not limited to Building Inspectors, Fire Inspectors, Deputies, Jailers, and some employees of the Dept. of Social Services will receive increases based upon successful completion of state certification programs.

Section 4. Payment at a Listed Rate

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

Section 5. Salary of Trainee

An applicant hired or an employee promoted to a position in a higher class, who does not meet all the established requirements of the position, may be appointed at a rate in the pay plan below the minimum established for the position. An employee will remain on the trainee step until the department head certifies that the trainee is qualified to assume the full responsibilities of the position and the county manager or his/her designee approves the certification. The department head shall review the progress of each employee in a trainee status every six (6) months or more frequently as necessary to determine when the trainee is qualified to assume the full responsibilities of the position.

Section 6. Pay Rates in Salary Range Revisions

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

- (a) When a class of positions is assigned to a higher pay range, employees in that class shall receive an appropriate increase in pay or an increase to the minimum step of the new range, whichever is higher.
- (b) When a class of positions is assigned to a lower pay range, the salaries of employees in that class will remain unchanged. If this assignment to a lower pay range results in an employee being paid at a rate above the maximum step established for the new class, the salary of the employee shall be maintained at that level until such time as the employee's pay range is increased above the employee's current salary.

Section 7. Pay for Part-Time Work

- (a) The pay plan established by this policy is for full-time service. An employee appointed for less than full-time service will be paid a pro-rated amount determined by converting the established salary for the position to an hourly rate.
- (b) To the extent allowed by law, and pursuant to authority conferred pursuant to G.S. 143-166.42, any county law enforcement employee who has retired and been declared eligible for the special separation allowance for local officers as set forth in G.S. 143-166.42 shall remain eligible for the same if they are reemployed by Rutherford County on a parttime basis and do not exceed the guidelines set by the retirement systems then in effect for Rutherford County wherein other general retirement benefits would be lost.

Section 8. Overtime

Overtime work shall be that work performed by an employee which exceeds the number of hours set forth in the Pay Plan as constituting the established work-week for the employee's position. Overtime opportunities will be distributed as equally as practicable among employees in the same job class, department and shift regardless of age, sex, race, color, creed, religion, national origin, political affiliation, or physical handicap.

Employees required to work overtime will be compensated with time off or paid for such overtime on the basis of one and one-half times the overtime hours worked provided that:

- (a) the work is of an unusual, unscheduled, or emergency nature and is directed by the department head or the authorized representative of the department head, or the County Manager.
- (b) the position does not involve administrative, professional or executive work excluded from these overtime provisions by the county manager;
- (c) compensatory time off shall be granted at one and one-half times the overtime hours worked whenever possible and shall be approved by the Department Head. Compensatory time off should be taken within three (3) months from

time it is earned if approved.:

(d) department heads may with the prior approval of the county manager authorize pay to employees for overtime work when it is not feasible to permit their absence for the purpose of taking compensatory time off; and

(e) the payment of overtime pay shall depend upon the availability of funds in the departmental budget.

Section 9. Call Back Pay (Optional Provision)

Any county employee eligible to receive overtime compensation under this policy will be guaranteed a minimum payment of two (2) hours wages for being called back to work outside of normal working hours.

Section 10. Payroll Deductions

Payroll deductions specifically mandated or authorized by federal or state act will be deducted at each pay period from each employee's pay. These include federal and state withholding taxes, social security taxes and garnishments. Other deductions as requested and authorized by each employee may be made for benefits such as insurance and deferred compensation.

Section 11. Direct Deposit

Employees of Rutherford County will be paid by electronic transfer of funds to their designated bank account(s). Employees receive written documentation of their wages and deductions each pay period.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Statement of Equal Employment Opportunity Policy

It is the policy of Rutherford County to maintain a systematic, consistent recruitment program to promote equal employment opportunities and to identify and attract the most qualified applicants for employment with the county. This policy is to be achieved by announcing all position vacancies and by evaluating all applicants using the same criteria. The county shall select employees on the basis of applicants qualifications and without regard to age, sex, race, color, creed, religion, political affiliation, national origin, or non-disqualifying handicap.

Section 2. Implementation of EEO Policy

All personnel responsible for recruitment and employment shall implement this personnel policy through procedures that will assure equal employment opportunity based on reasonable performance-related job requirements. Notice with regard to equal employment matters shall be posted in conspicuous places on county government premises in places where notices are customarily posted.

Section 3. Recruitment

When positions are to be filled within the county, department heads shall notify the personnel director concerning the number and classification of positions which are to be filled. The personnel director shall publicize these opportunities for employment including applicable salary ranges and employment qualifications. Information on job openings and hiring practices shall be provided to recruitment sources including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. The personnel director shall also make available to the department heads for consideration current applications on file with the county. Individuals shall be recruited from a geographic area as wide as is necessary to insure that well qualified applicants are obtained for county service.

Section 4. Job Advertisements

Employment advertisements shall contain assurances of equal employment opportunity and shall comply with federal and state statutes regarding discrimination in employment matters.

Section 5. Applications for Employment

All persons expressing interest in employment with the county shall be given the opportunity to file an application for any positions posted.

Section 6. Application Reserve File

Upon applying, each applicant shall be informed of the availability of current job openings. Applications shall be kept in a reserve file for a period of 6 months, in accordance with Equal Employment Opportunity Commission guidelines.

To the extent that it is practical, reference to these files shall be made periodically in connection with the county's employment requirements to insure that equal consideration is given to all applicants.

Section 7. Qualification Standards

(a) Employees shall meet the employment standards established by the position classification plan and such other reasonable minimum standards of character, aptitude, ability to meet the public, and physical condition as may be established by the county manager with the advice and recommendations of the department heads.

(b) Qualifications shall be reviewed periodically to assure that requirements are fair and conform to the actual job performance requirements.

(c) The county may employ an applicant in a trainee capacity who does not meet all minimum qualifications for a particular job if the deficiencies can be eliminated through orientation and on-the-job training.

Section 8. Selection

Department heads shall make such investigations and conduct such examinations as deemed appropriate to assess fairly the aptitude, education and experience, knowledge and skills, character, physical fitness and other qualifications required for positions in the service of the county. All selection devices administered by the county or by persons or agencies for the county shall be valid measures of job performance.

Section 9. Appointments

It is the county's policy to create career opportunities for its employees when possible. Therefore, when a current employee applying for a vacant position possesses the best qualifications of all applicants, that applicant shall be appointed to that position. However, if other applicants possess comparable qualifications the county will carefully consider the qualifications of other applicants in filling the position.

Before any commitment is made to an applicant, the department head shall forward the applicant's completed application form to the personnel director with a recommendation concerning the classification of the position to be filled, the salary to be paid and the reasons for selecting the particular applicant over others. After investigating the qualifications and experience of the applicant, the county manager or his/her designee shall approve or reject the appointment and determine the classification and starting salary of the employee, except that the sheriff and the register

of deeds shall make the appointment and the county manager will determine the classification and starting salaries of new employees in those departments. Each Sheriff and Register of Deeds elected by the people has the exclusive right to hire and discharge the employees in his/her office.

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

Section 10. Employment Relationship

Each employee understands that the employer/employee relationship is an "at will relationship" and does not constitute a contractual agreement between Rutherford County and the employee. The employee is free to resign at any time and Rutherford County reserves the right to terminate employment, with or without cause and without prior notice. No representative of Rutherford County has the authority to make assurances to the contrary.

Section 11. Probationary Period of Employment

An employee appointed or promoted to a permanent position shall serve a probationary period of six (6) months, except that law enforcement officers shall serve a twelve (12) month initial appointment probationary period. An employee serving a probationary period following initial appointment may be dismissed at any time during the probationary period. A regular employee serving a probationary period following a promotion shall be demoted as provided in Section 12 of this article if unable to perform assigned duties of the new job satisfactorily.

Before completion of the probationary period, all department heads except the sheriff and register of deeds shall indicate in writing to the personnel director:

- (a) that the employee's supervisor has discussed the new employee's progress (accomplishments, strengths, and weaknesses) with the new employee;
- (b) whether the new employee is performing satisfactory work;
- (c) whether the probationary period should be extended; and
- (d) whether the employee should be retained in the present position or should be released, transferred or demoted.

Section 12. Promotion

(a) Candidates for promotion shall be chosen on the basis of their qualifications and their work records - without regard to age, sex, race, color, creed, religion, political affiliation, national origin, or physical handicap. Performance appraisals and work records for all personnel meeting minimum qualifications for the positions shall be carefully examined when openings for position in higher classifications occur.

(b) Vacancies in positions shall be filled as far as practicable by the promotion of employees in the service of the county. However, consideration should be given to all qualified applicants.

(c) If a current county employee is chosen for promotion, the Department Head shall forward the employee's name to the personnel director with recommendations for classification and salary and reasons for selecting the employee over other applicants. After considering the supervisor's comments, the county manager or his/her designee shall make the appointment and determine the classification and starting salary.

In the Sheriff's department and Register of Deeds' office, the respective department head will forward the employee's name to the county manager or his/her designee with recommendations for classification and salary.

Section 13. Demotion

Any employee whose work in his present position is unsatisfactory or whose personal conduct is unsatisfactory may be demoted provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion for failure in job performance shall be subject to the provisions of Article VII, Section 7.

Representative causes for demotion because of failure in work performance and failure in personal conduct are listed in Article VII, Section 7 and 8.

An employee who wishes to accept a position with less complex duties and responsibilities may be demoted for reasons other than unsatisfactory performance of duties or failure in personal conduct.

Section 14. Transfer

If a vacancy occurs and an employee in another department is eligible for a transfer and is selected, the department head wishing to hire the employee shall request the transfer which shall be subject to the approval of the county manager or his/her designee. Any employee transferred without his having requested it may appeal the action in accordance with the grievance procedure outlined in Article VIII.

Any employee who has successfully completed a probationary period may be transferred to the same or similar class in a different department without serving another probationary period.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Workweek

Full-time employees normally work five (5) seven and one-half (7-1/2) hour days per workweek and are subject to the overtime provisions set forth in Article III, Section 8. Employees in administrative, professional or executive positions shall work the number of hours necessary to assure the satisfactory performance of their duties. Law enforcement officers shall work an average of forty-two (42) hours in a workweek.

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.

Section 2. Gifts and Favors

(a) No official or employee of the county shall accept any gift, whether in the form of service, loan, thing or promise from any person who to the employee's knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the county.

(b) No official or employee shall accept any gift, favor of thing of value that may tend to influence that employee in the discharge of duties.

(c) No official or employee shall grant in the discharge of duties any improper favor, service, or thing of value.

Section 3. Political Activity Restricted

Each employee of Rutherford County has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no employee of Rutherford County shall (1) engage in any political or partisan activity while on duty; (2) use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; (3) be required as a duty of employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes; (4) coerce or compel contributions for political or partisan purposes by another employee of the county; or (5) use any supplies or equipment of the county for political or partisan purposes.

Competitive service employees and employees in certain federally-aided programs are subject to the Hatch Act as amended in 1975. This federal act, in addition to prohibiting (2), (3), and (4) above, also prohibits candidacy for elective office in a partisan election.

Any violation of this section shall subject such employee to dismissal or other disciplinary action.

Section 4. Sexual Harassment

Rutherford County opposes sexual harassment by supervisors and coworkers in any form. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or the effect of unreasonably interfering with an individual's work performance or creating an intimidating or hostile, or offensive working environment.

Any employee who believes he or she may have a complaint of sexual harassment may file the complaint directly with the personnel director. The personnel director will conduct an investigation into any allegation of sexual harassment and advise the employee and appropriate management officials of the outcome of the investigation.

Section 5. Outside Employment

The work of the county will take precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission, and all self-employment must be reported to the employee's department head who in turn will report potentially conflicting employment of the county manager. Conflicting outside employment will be grounds for disciplinary action up to and including dismissal.

Section 6. Limitation of Employment of Relatives

The employment of close relatives within the same department is to be avoided unless significant recruitment difficulties exist.

(a) No two members of an immediate family shall be employed within the same department at the same time if such employment would result in one member directly or indirectly supervising the other member of the immediate family, or if one member occupies a position that has influence over the other members employment, promotion, salary administration or related management or personnel considerations.

(b) This policy shall not be retroactive, and no action will be taken concerning those members of the same family employed in conflict with paragraph (a) above prior to the adoption of this policy.

(c) Immediate family is defined for the purpose of this section as an employee's spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law, and adopted relationships that can be derived from the family members named herein.

(d) Special limitations exist for employment of relatives in the Sheriff's Department and in the Register of Deeds Office. By the authority of Chapter 153A-103 of the North Carolina General Statutes, "Each sheriff and register of deed elected by the people has the exclusive right to hire, discharge, and supervise the employees in his office. However, the board of commissioners must approve the appointment by such an officer of a relative by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of a crime involving moral turpitude."

ARTICLE VI. LEAVES OF ABSENCE

Section 1. Holidays

The following days and such other days as the Board of Commissioners may designate are holidays with pay for employees and officers of the county working the basic workweek.

New Year's Day Labor Day
Martin Luther King's Birthday Veteran's Day
Good Friday Thanksgiving Day
Memorial Day Day after Thanksgiving
Independence Day Christmas -- Two (2) or
three (3) workdays (See
following Christmas Holiday
schedule)

When a designated holiday falls on Saturday, the preceding Friday will be observed and when the holiday falls on Sunday, the following Monday will be observed. This is subject to change to reflect the days which the State of North Carolina recognizes for a holiday.

When Christmas Day falls on: The County observes:

Sunday Friday and Monday
Monday Monday and Tuesday
Tuesday Monday, Tuesday, and Wednesday
Wednesday, Tuesday, Wednesday, and Thursday
Thursday Wednesday, Thursday, and Friday
Friday Thursday and Friday
Saturday Friday and Monday

Holiday leave earned by employees having a workweek with greater or fewer hours than the basic workweek shall be

determined in accordance with the formula set forth in Section 17 of this article.

In order to be eligible for holiday pay, a county employee must have worked a full regularly scheduled workday before and after the holiday, unless they are in a pay status or excused by the county.

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

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

Section 3. Holiday - When Work Required

Employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid at their hourly rate for the hours actually worked in addition to any holiday pay to which they may be entitled. Compensatory time shall be granted whenever feasible and taken within three (3) months from the time it is earned.

Section 4. Vacation Leave

Vacation leave shall be used for rest and relaxation, and may be used for medical appointments.

For the purpose of earning and accruing annual leave the period of twelve (12) calendar months between January 1 and December 31 is established as the leave year.

Section 5. Vacation Leave - Initial Appointment Probationary Employees

Employees serving a probationary period following initial appointment may accumulate vacation leave but shall not be permitted to take vacation leave during the probationary period unless the denial of such leave will create an unusual hardship. Vacation leave may be taken during this period only with the prior approval of the appointing authority. Law enforcement officers shall be allowed to take accumulated vacation leave after six (6) months of service.

Section 6. Vacation Leave - Manner of Accumulation

Any employee working the basic workweek of 37 1/2 hours shall earn vacation leave at the following rates:

Days Earned	Hours Earned	Hours Earned In One Year
	Each Pay Period	In One Year

- (a) Less than 2 yrs. 5.76 hrs.. 75 hrs. 10 days
- (b) 2 but less than 5 yrs. 6.92 hrs.. 90 hrs. 12 days
- (c) 5 but less than 10 yrs. 8.66 hrs. 112-1/2 hrs. 15 days
- (d) 10 but less than 15 yrs. 10.38 hrs.. 135 hrs. 18 days
- (e) 15 or more yrs. 12.12 hrs.. 157-1/2 hrs. 21 days

Vacation leave earned by employees having a workweek with greater or fewer hours than the basic workweek shall be determined in accordance with the formula set forth in Section 17 of this article.

Section 7. Vacation Leave - Maximum Accumulation

Annual leave may be accumulated without any applicable maximum until December 31 of each calendar year. An employee who separates from service will be paid the hours of earned annual leave, not to exceed a maximum of 225 hours.

Employees are cautioned not to retain excess accumulation of annual leave until late in the calendar year; due to the necessity to keep all county functions in operation, large number of employees cannot be granted annual leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having annual leave scheduled or in receiving any exception to the maximum accumulation.

Section 8. Vacation Leave - Conversion to Sick Leave

At the end of each benefit year on January 1 any county employees with accrued annual vacation leave in excess of 225 hours shall have this leave converted to sick leave. This converted sick leave shall be used in the same manner as accrued sick leave and may be used for authorized sick leave purposes. And, like regular sick leave, any unused converted sick leave may be counted toward creditable service at retirement up to a maximum of 12 total sick leave days per year of service.

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Section 7, 10, 11

Section 9. Vacation Leave - Manner of Taking Leave

Vacation leave may be taken as earned by a regular employee subject to the approval of the supervisor, with the exception that all department heads and other employees so designated by the county manager must take at least five (5) consecutive workdays of accrued vacation leave per calendar year.

An employee who has worked a full fiscal year without taking a full day of sick leave or a cumulative amount of sick time not equal to a full day of sick leave shall receive one (1) additional vacation day at any time during the proceeding fiscal year.

Section 10. Vacation Leave - Terminal Pay and Repayment of Vacation Leave

An employee who is separated without failure in the performance of duties or personal conduct, shall be paid for vacation leave accumulated to the date of separation, not to exceed a maximum of 225 hours. For involuntary separation due to failure in performance of duties or personal conduct as outlined in Article VII, Sections 7 and 8, accumulated vacation leave may be withheld at the discretion of the county manager at the time of an employee's separation. Any vacation leave owed the county shall be deducted from the employee's final compensation.

Section 11. Vacation Leave - Payment for Accumulated Vacation Leave with Death

The estate of an employee who dies while employed by the county shall be entitled to payment of all of the accumulated vacation leave credited to the employee's account at the time of death, not to exceed a maximum of 225 hours.

Section 12. Sick Leave

Sick leave with pay is not a right which an employee may demand but a privilege granted by the Board of Commissioners for the benefit of an employee when sick.

Sick leave shall be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease when continuing to work might jeopardize the health of others. Sick leave may be used for death in the employee's immediate family but may not exceed three (3) days for any one occurrence, except by special permission from the department head. It may also be used for illness in an employee's family when the care of the employee is required.

Immediate family is defined for the purpose of this section to include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or not later than the beginning of scheduled workshift/workday. True emergencies may preclude notification prior to the beginning of the scheduled shift/workday. These will be handled on an individual basis by the Department Head in consultation with the Personnel Director.

Section 13. Sick Leave - Manner of Accumulation

Each qualified employee under Article I, Section 2, Subparagraph (5) working the basic workweek of 37 1/2 hours shall earn sick leave computed at the following rate

Hours Earned Each Pay Period	Hours Earned Each Year	Days Earned Each Year
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6.92 hrs.	90 hrs.	12 Days sick leave
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Sick leave earned by such qualified employees under Article I, Section 2, Subparagraph (5) having a workweek with greater or fewer hours than the basic workweek shall be determined in accordance with the formula set forth in Section 17 of this article.

The department head may advance sick leave to an employee who has exhausted sick leave. This sick leave may not exceed the 12 days an employee can earn during any twelve month period.

At the time of an employee's separation, any sick leave owed the county shall be deducted from the employee's compensation. Accrued sick leave is not reimbursable at time of separation.

Section 14. Sick Leave - Maximum Accumulation

Sick leave will be cumulative for an indefinite period.

Section 15. Sick Leave - Physician's Certificate

The employee's supervisor or department head may require a physician's certificate concerning the nature of the illness and the employee's physical capacity to resume duties for each occasion on which an employee uses sick leave to insure that there is no abuse of sick leave privileges.

Section 16. Sick Leave - Retirement Credit for Accumulated Sick Leave

One (1) month of retirement credit is allowed for each twenty (20) days accrued in an employee's sick leave account at time of retirement to employees who are members of the North Carolina Local Governmental Employees' Retirement System.

Section 17. Calculation of Holiday Leave, Vacation Leave, and Sick Leave

Holiday leave, vacation leave, and sick leave earned by employees qualified under Article I, Section 2, Subparagraph (5) having a workweek with greater or fewer hours than the basic workweek shall be determined in accordance with the following formula:

- (a) The number of hours worked by such employees shall be divided by the number of hours in the basic workweek.
- (b) The proportion obtained in step(a) shall be multiplied by the number of hours of leave earned annually by employees working the basic workweek.
- (c) The number of hours in step (b), divided by thirteen, shall be the number of hours of leave earned each pay period by the employees concerned.

Section 18. Leave Without Pay - Policy

A regular employee may be granted a leave of absence without pay for up to (6) months by the appointing authority. The leave shall be used for reasons of personal disability, continuation of education, special work that will permit the county to benefit by the experience gained or the work performed, or for other reasons deemed justified by the appointing authority.

The employee shall apply in writing to the Department Head for leave. The employee must apply prior to the need for the leave. In cases of personal disability the employee must use all sick and the desired amount of annual leave available before requesting leave without pay. In cases of personal disability, Family Medical Leave and Leave without pay run concurrently for the first twelve weeks. Permission to take or denial of permission to take a leave without pay shall be granted by the Department Head in consultation with the Personnel Director. Copies of the request for and permission to take or denial of permission shall be placed in the employee's personnel file.

The employee is obligated to return to duty within or at the end of the Leave Without Pay. The employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority and pay for which the employee is qualified. If an employee has not been absent for a total of six months, the employee may request an extension. Requests for extensions must be submitted, in writing, by the end of the business day on the last day of the leave.

If an employee does not return to work, the supervisor should be notified immediately. The supervisor must report this to the appointing authority or their agent immediately. Failure of any employee to return to work at the expiration of a Leave of Absence Without Pay, shall be considered a resignation.

Section 19. Leave Without Pay - Retention and Continuation of Benefits

An employee shall retain all unused vacation and sick leave while on leave without pay. An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the county's group insurance plans, subject to any regulations adopted by the Board of Commissioners and the regulations of the respective insurance carriers, but may be required to pay for insurance benefits if this leave is not concurrent with Family Medical Leave.

Section 20. Family Leave

- (a) Eligibility: Any employee who has been employed by Rutherford County for at least 12 months and who has served at least 1,250 hours with Rutherford County during the previous 12 month period prior to the requested leave shall be eligible for family leave.
- (b) Duration of Leave and Reasons for Leave: Eligible employees may take up to 12 weeks of unpaid leave during any 12 month period for the following reasons:

- (1) The birth or adoption of a child
- (2) The care of an immediate family member (spouse, child, or parent) with a serious health condition.
- (3) The employee's own serious health condition

(c) Application Of Accrued Paid Vacation: An employee will be required to substitute accrued paid vacation leave, personal leave, or family leave, to the extent available, for leave, provided hereunder for the birth or adoption of a child or for the care of a spouse, child, or parent.

An employee will be required to substitute accrued paid vacation, personal leave, or medical/sick leave for leave provided hereunder to care for a child, spouse, or parent with a serious health condition or for their own serious health condition.

(d) Notice of Leave: When the necessity for leave is foreseeable, the employee must give at least 30 days written notice to the County of the need for the leave. If the need for leave is not foreseeable, the employee shall give as much notice in writing to the County as is practicable. Permission to take Family Medical Leave shall be given in writing to the employee by the Department Head with a copy forwarded to the Personnel Department.

(e) Certification of Need for Leave: The County reserves the right to require any employee to submit a certification of the need for the requested leave. The County also reserves the right to require that the employee obtain a second opinion from a physician chosen by the County, but said opinion shall be at County expense. If the second opinion differs from the first, the County may require a third opinion from a health care provider approved jointly by the County and the employee. In such event, the opinion the decision of the third health care provider shall be final and binding on the county and the employee.

(f) Continuation of Insurance: During the leave period provided hereunder, the County shall maintain the employee's coverage under any group health plan as it had previously provided. However, if the employee fails to return to work at the end of the leave period for reasons other than (2) the continuation of a serious health condition of the employee or the employee's parent, spouse, or child, or (2) for other reasons beyond the control of the employee, the employee must reimburse the County for any health care coverage paid on the employee's behalf.

(g) Restoration of Employment: An employee taking leave under this policy shall be restored to the employee's old position or an equivalent position at the end of the leave. However, the County may deny restoration to salaried employees who are among the highest paid 10 percent of the employees employed by the County if (1) such denial is necessary to prevent substantial and grievous economic injury to the operations of the County; (2) the County notifies the employee of the intent of the County to deny restoration at the time the County determines that substantial and grievous economic injury would occur, and (3) if the employee has begun leave, the employee elects not to return to employment after receiving such notice.

Section 21. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may receive Workers' Compensation benefits and elect to use accumulated vacation and sick leave as a supplemental payment for the difference between his regular salary and the payments received under the Workers' Compensation Act. Such an employee may have deducted from his accumulated vacation or sick leave that fraction of a day which is the same as the fraction that the supplemental payment for one day is of a regular day's pay. Upon reinstatement, an employee's salary will be computed on the basis of the last salary earned plus any increment or other salary increase to which the employee would have been entitled during the disability covered by Workers' Compensation. No vacation or sick leave will be accumulated while on Workers' Compensation leave.

Temporary employees will be placed in a leave without pay status and will receive all benefits for which they may be adjudged eligible under the Workers' Compensation Act.

Section 22. Maternity Leave - Employee Responsibility

An employee desiring to take a leave of absence from work for reasons caused by or contributed to by pregnancy or complications associated with pregnancy shall apply in writing to her supervisor stating the nature of her condition, the anticipated dates and duration of the requested leave and the types of leave requested. (The supervisor shall forward her request to the appointing authority for approval. The leave may be granted in writing by the Department Head with a copy forwarded to the Personnel Dept.) She is obligated to return to duty by the end of time determined appropriate by her physician. If she finds she will not return to work, she shall notify her supervisor immediately. Failure to report to work at the expiration of a leave of absence unless an extension has been requested and approved shall be considered a resignation.

Section 23. Military Leave

Permanent employees who are members of the National Guard or Armed Forces Reserve will be allowed twelve (12) workdays military training leave annually with partial compensation. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a county employee, the employee shall receive partial compensation equal to the difference in the base salary earned as a reservist or a guardsman and the salary that would have been earned during this same period as a county employee. The effect will be to maintain the employee's salary at the normal level during this period. If such military duty is required beyond this twelve (12) workday period, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status. While taking military leave with partial pay or without pay, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the county during this period. Permanent employees who are guardsmen and reservists have all job rights specified in the Veterans Readjustment Assistance Act.

Section 24. 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 vacation or sick leave.

An 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 or travel allowances awarded by that court for court appearances in connection with official duties.

Section 25. Educational Leave With Pay

A leave of absence at partial pay during regular working hours may be granted to an employee to take one (1) course at a time which will better equip the employee to perform assigned duties upon the recommendation of the department head, and with the approval of the county manager or his/her designee. An employee may receive reimbursement for one (1) course at a time taken outside of working hours which will better equip the employee to perform assigned duties, subject to the approval of the department head and the county manager or appointing authority. The county may reimburse the employee for tuition, fees, and books for the course, provided the employee submits a receipt of course expenses and a notice of successful completion (passing grade or better) of the course. Reimbursement eligibility for tuition fees and books must be approved prior to taking the course

Section 26. Involvement in Children's Schools Leave

A parent, guardian or any person standing "in loco parentis" of a school aged child shall be granted up to four hours

of leave per year to attend or otherwise be involved in activities at the child's school subject to the following conditions:

- (a) The leave shall be at a mutually agreed upon time between the employer and employee.
- (b) The employer may require an employee to provide the employer with a written request for the leave at least 48 hours before the time desired for the leave.
- (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 the leave.

Section 27. Leave -Adverse Weather Conditions

County offices and departments shall remain open for the full scheduled working day during periods of inclement weather unless authorization for early closing or other deviation is received from the County Managers Office. All departments and offices will be given sufficient advance notice of any authorized closings.

Employees who leave work before an official early closing time, as well as employees who report later than a delayed opening time, or who do not report for work at all will be required to use vacation leave for hours or days taken.

If the non-emergency county offices are closed for more than (4) four hours in a day, those employees who are required to work when the other offices are closed will be compensated by receiving compensatory time or time and one-half for the hours worked.

Section 28. Voluntary Shared Leave

When a medical condition of an employee or a family member of such employee requires an employee's absence from duty for a prolonged period of time resulting in possible loss of income due to lack of accumulated leave, fellow employees may wish to voluntarily donate some of their leave. Voluntary Shared Leave provides an opportunity to provide assistance.

a. Requirements for qualifying as a recipient are:

1. Employee must be permanent
2. An employee may not ask other employees for shared leave, however, an employee may be nominated by a fellow employee. An employee who wishes to nominate a fellow employee should contact the Human Resource Office.
3. Request will be reviewed by the appropriate Department head and the Human Resource Director. If a request is approved, the recipients name and need will be advertised throughout the County agencies.
4. An employee nominated for shared leave must complete a form VSL-1 (Request to Use Shared Leave) and forward it to the Human Resource Department.
5. Before an employee is considered to be a recipient they should follow the advanced sick leave policy in Article VI, Section 13 of the Rutherford County Personnel Ordinance.
6. An employee who is approved to be a recipient must use the balance of their annual, sick, and compensation leave before accepting the donated leave.
7. There is a 20 day waiting period for an employee to be eligible for shared leave. This condition may be satisfied by utilization of number 5 above. However, the County Manager shall have the authority to wave the waiting period during any 12 months if the twenty day period has already been met.
8. An employee on workers' compensation leave who is drawing temporary disability compensation may be eligible to

participate in this program. Use of donated leave under the worker's compensation program would be limited to use during the required waiting period and to the supplemental leave schedule.

9. Leave donated to a recipients leave account is exempt from the maximum accumulation (30 days) carry over restrictions at the calendar year end.

10. Participation is limited to 6 months.

11. At the expiration of the medical condition, any unused leave in the recipients donated leave account shall be treated as follows:

Each approved emergency medical condition shall stand alone and donated leave not used in accordance with the above provisions shall be considered as having served its purpose, shall lose its identity, and shall be deleted and the account closed.

b. Requirements for participating in the program as a donor and related information are:

1. Employees wishing to donate leave may contribute vacation leave only.
2. The maximum amount of vacation leave allowed to be donated by one individual is to be no more than the amount of the individual's annual accrual rate. However, the amount donated is not to reduce the donor's vacation leave balance below one-half of the annual leave accrual rate.

Example: Employee with 5 but less than 10 years of creditable service earns 15 vacation days annually. The employee may contribute a maximum of 15 days but may not reduce vacation leave balance below 7 1.2 days.

3. Withdrawals from a recipient's leave account will be charged to the recipient's account according to usual leave policies.
4. Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave. Individual donors are not identified to the recipient.
5. The employee donating leave cannot receive remuneration for the leave donated.
6. Employee donating leave must complete the attached Form VSL-2 (Request to Transfer Shared Leave) and forward it to the Personnel Office.

ARTICLE VII. SEPARATION, DISCIPLINARY ACTION, AND

REINSTATEMENT

Section 1. Types of Separation

All separations of employees from positions in the service of the county shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, retirement, dismissal, or death.

Section 2. Resignation

A minimum of two (2) weeks' notice is expected of all resigning personnel. Such notice should be given to the

department head (or in the case of department heads, to the county manager).

Section 3. Reduction in Force

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, organizational needs, and seniority in determining those employees to be retained. Employees who are laid off because of reduction in force shall be given at least two (2) weeks' notice of anticipated lay-off. No regular employee shall be separated while there are temporary employees serving in the same class in the department, unless the permanent employee is not willing to transfer to the position held by the temporary employee.

Section 4. Disability

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. Action may be initiated by the employee or the county but in all cases it shall be supported by medical evidence as certified by a competent physician. The county may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the county's service for which the employee may be suited.

Section 5. Death

All compensation due in accordance with Article VI, Section 11 of this policy will be paid to the estate of a deceased employee. The date of death shall be recorded as the separation date for computing compensation due.

Section 6. Disciplinary Actions

An employee may be reprimanded, suspended, demoted or dismissed by the department head with the approval of the County Manager because of failure in performance of duties or failure in personal conduct. The department head shall provide the employee with a written notice including the recommended effective date, reasons for the action, and appeal rights available to the employee.

Section 7. Failure in Performance of Duties

An employee whose work is unsatisfactory over a period of time shall be notified by the supervisor in what way the employee's work is deficient, and what must be done if the work is to be satisfactory.

An employee who is suspended, demoted or dismissed for unsatisfactory performance of duties shall receive at least three (3) warnings before disciplinary action is taken. This procedure must be followed:

(1) Oral warnings must be issued to the employee by the supervisor. Warnings must specify the violations, the date of the violation, the need for and the corrective action to be taken and the consequences of not following the corrective action. The warning can be given verbally, but must be documented with the date of the oral warning, the violation(s) that has occurred, the date of the violation(s), the corrective action to be taken, the date upon which the corrective action must be completed. This documentation will be placed in the employee's Personnel file.

(2) A second oral warning with a follow-up letter issued by the supervisor to the employee. The follow-up letter must include the date of the oral warning, the violation(s) that has occurred, the date the violation (s) occurred, the corrective action to be taken, the date upon which this corrective action must be completed. This letter will be given to the employee and a copy placed in the employee's personnel file.

(3) A written warning must be issued by the department head to the employee. This warning must include the date of the written warning, the violation(s) that has occurred, the date of the violation(s) and the corrective action that must be taken. This warning must also serve notice upon the employee that if corrective action is not taken immediately, disciplinary action will be taken.

The employee must be allowed at least three (3) workdays to respond to the charges before any determination is made by the department head concerning a suspension or a demotion or a determination is made by the appointing authority concerning dismissal.

The following list of causes relating to failure in the performance of duties are representative of those considered to be adequate grounds for suspension, demotion, or dismissal, but is not considered to be all inclusive:

- (a) inefficiency, negligence or incompetence in the performance of duties;
- (b) careless, negligent or improper use of county property or equipment;
- (c) physical or mental incapacity to perform duties;
- (d) discourteous treatment of the public or other employees;
- (e) absence without approved leave;
- (f) habitual improper use of leave privileges; and
- (g) habitual pattern of failure to report for duty at the assigned time and place.

Section 8. Failure in Personal Conduct

An employee may be reprimanded, suspended, demoted or dismissed for any reasons of misconduct that is detrimental to county service (1) in order to avoid undue disruption of work, (2) to protect the safety of persons or property, or (3) for other serious reasons. These actions can be taken without prior warning or disciplinary action having been given to the employee.

The following list of causes relating to failure in personal conduct are representative of those considered to be adequate grounds for suspension, demotion or dismissal, but is not considered to be all inclusive.

- (a) fraud in securing appointment;
- (b) conduct unbecoming a public officer or employee;
- (c) conviction of a felony or of a misdemeanor which would adversely affect performance of duties, or entry of a plea of "no contest" to either;
- (d) misappropriation of county funds or property;
- (e) falsification of county records;
- (f) reporting to work under the influence of alcohol or narcotic drugs or partaking of such things while on duty or while on public property, except that prescribed medication may be taken within the limits set by a physician so long as medically necessary.
- (g) willful damage or destruction of property;

- (h) willful acts that would endanger the lives and property of others;
- (i) acceptance of gifts in exchange for "favors" or "influence;"
- (j) incompatible employment or conflict of interest;
- (k) violation of political activity restrictions.

An employee demoted for causes relating to personal conduct shall be given a statement of the charges, be allowed to respond in writing, and be given a prompt written statement of the decision of the department head or county manager or his/her designee. These steps shall be taken before the disciplinary action except in cases of suspensions where a written statement will be sent to the employee by certified mail.

Section 9. Disciplinary Suspension

An employee who is suspended for disciplinary reasons shall be relieved temporarily of all duties and responsibilities and shall receive no compensation for the period of suspension.

An employee may be suspended without notice by the department head for causes related to personal conduct to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a department head suspends an employee he shall tell the employee to leave county property at once and remain away until further notice. The department head shall notify the personnel director immediately. The suspension may be immediate if necessary.

A written summary giving the circumstances and facts leading to the suspension shall be prepared; one copy shall be mailed to the employee by certified mail, and one copy shall be filed in the employee's folder.

Section 10. Non-Disciplinary Suspension

During the investigation, hearing or trial of an employee on any criminal charge or during the course of civil action involving an employee, the department head may suspend the employee without pay for the duration of the proceeding as a non-disciplinary action. However, the investigation, hearing, trial, or civil action must involve matters that may form the basis for disciplinary suspension, demotion or dismissal in order for the non-disciplinary suspension to be allowed. Said suspension may be immediate upon learning of the charge or civil action and may be conditioned upon the county's own review to determine if cause exists for disciplinary action which may include demotion, dismissal or suspension.

Full recovery of pay and benefits for the period of non-disciplinary suspension will be authorized by the Board of Commissioners, if the suspension is terminated with full reinstatement of the employee.

Section 11. Dismissal

All dismissals for failure in job performance or personal conduct shall be preceded by an automatic three (3) day suspension without pay pending completion of a review by the appointing authority. If the appointing authority determines that a dismissal action is appropriate, such dismissal shall be effective at the end of the three (3) day suspension. If a dismissal is made at the end of this period, a written summary giving the circumstances and facts leading to the dismissal shall be prepared. A copy of the summary shall be delivered to the employee by certified mail and one copy shall be filed in the employee's personnel folder.

Section 12. Employee Appeal

A permanent employee wishing to appeal a demotion, suspension or dismissal may present the matter in accordance

with the provisions of the grievance procedure prescribed in Article VIII of this ordinance.

Section 13. Reinstatement

An employee who resigns while in good standing or who is separated because of reduction in force may be reinstated within one (1) year of the date of separation, with the approval of the department head and the county manager or his/her designee. An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service or with a Reserve component of the Armed Forces will be granted reinstatement rights commensurate with Chapter 43 of Public Law 93-508. An employee who is reinstated shall be credited with previous service and previously accrued sick leave and will receive all benefits provided in accordance with this policy and state law. The salary paid a reinstated employee shall be as close as reasonably possible, given the circumstances of each employee's case, to the salary step previously attained by the employee in the salary range for the previous class of work, plus any across-the-board pay increases.

ARTICLE VIII. GRIEVANCE PROCEDURE; DISCRIMINATORY AND ADVERSE ACTION APPEAL

Section 1. Organization of Advisory Personnel Board

(a) The board of commissioners shall appoint an advisory personnel board to consist of three (3) members. Members of the advisory personnel board shall serve three-year staggered terms. Members shall be appointed by the board of commissioners at their first regular meeting in January of each year. A member of the advisory personnel board may be removed by the board of commissioners only for cause and after being given a written statement of the charges and a public hearing thereon, if so requested. Vacancies in an unexpired term shall be filled by the board of commissioners by appointment for the remainder of the term.

(b) Each member of the advisory personnel board shall be a active voter of the county, and shall be known to be in sympathy with the merit principle of personnel administration. No person who has actively participated in the immediately preceding county election by seeking office, soliciting funds or votes, either by letter, telephone, personal contact or speeches, on behalf of any candidate for county office, and no county employee or officer shall be eligible to serve on the advisory personnel board. One member of the advisory personnel board shall have had experience in public or private personnel administration. Any member of the advisory personnel board who becomes a candidate for political office, or actively participates in county elections, in the manner hereinbefore set forth, shall be deemed to have vacated his position as a member of the advisory personnel board. Members of the advisory personnel board shall not be eligible for more than two (2) consecutive three-year terms on the board.

(c) The advisory personnel board at the first meeting in January of each year shall elect one of its members as a chairman, who shall preside at all meetings, and shall be responsible for calling all such meetings. Meetings shall be held from time to time as necessary, and two (2) members shall constitute a quorum. Members of the advisory personnel board shall serve without compensation. The county shall provide clerical support to the board to perform such duties as the board may direct. The advisory personnel board shall:

(1) Advise the board of commissioners and the county manager on county personnel problems;

(2) Conduct hearings upon the request of the board of commissioners or of discharged, suspended or demoted county employees. The board shall have all powers necessary to complete investigation of the action taken, including the power to call and examine witnesses and papers. The board shall inform the employee and the board of commissioners in writing of its findings and recommendations; and

- (3) Keep an accurate record of all its proceedings, findings, and recommendations.

Section 2. Grievance Procedure and Adverse Action Appeal - Policy

(a) In order to maintain a harmonious and cooperative relationship between the county and its employees, it is the policy of the county to provide for the settlement of problems and differences through an orderly grievance procedure. Every permanent employee shall have the right to present his problem, grievance or adverse action appeal in accordance with the established policy free from interference, coercion, restraint, discrimination or reprisal.

(b) It is the responsibility of the supervisor at all levels, consistent with authority delegated to them to consider and take appropriate action promptly and fairly on a grievance or adverse action appeal of any employee.

(c) In adopting this chapter, the county sets forth the following objectives to be attained in this program.

(1) Assure employees of a way in which they can get their problems or complaints considered rapidly, fairly and without fear of reprisal.

(2) Encourage the employee to express himself about how the conditions of work affect him as an employee.

(3) Get better employee understanding of policies, practices and procedures which affect them.

(4) Provide employees with assurance that actions are taken in accordance with policies.

(5) Provide a check on how policies are carried out by supervisors.

(6) Give supervisors a greater sense of responsibility in their dealings with employees.

Section 3. Same - Nondiscrimination.

Any permanent county employee having a problem or grievance arising out of or due to his employment and who does not allege discrimination because of his age, sex, race, color, national origin, religion, creed, physical disability or political affiliation shall first discuss his problem or grievance with his supervisor and follow the grievance and adverse action appeal procedure established by the county.

Step one (1). The employee with a grievance or adverse action appeal shall present the matter orally or in writing to his immediate supervisor within thirty (30) working days of its occurrence or within thirty (30) working days of the time the employee learns of its occurrence, with the objective of resolving the matter informally. If the exact date cannot be established for the occurrence of a grievance circumstance, the thirty (30) working day limit will be waived, but the employee should file the grievance within a reasonable time period. The supervisor should be and is encouraged to consult with any employee or officer deemed necessary to reach a correct, impartial and equitable determination and shall give the employee an answer as soon as possible, but within five (5) working days.

Step two (2). If the decision is not satisfactory to the employee in step one, or if he fails to receive an answer within the designated period provided in step one, he may file the grievance in writing within ten (10) working days with the department head, who shall hear the grievance and render a decision in writing within a maximum of ten (10) working days.

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 heads.

Step three (3) grievance.

Permanent employee. If the decision is not satisfactory to a permanent employee in Step 2, or if he or she fails to receive an answer within the designated period provided in Step 2, an employee may file the grievance with the county manager. The county manager shall hear the grievance appeal and render a decision in writing within five (5) working

days. The manager's decision shall be final regarding the grievance.

Step three (3) adverse action.

Permanent employee. In an adverse action case (demotion, dismissal, reduction in pay, layoff or an undesirable transfer or suspension), the regular employee may either appeal to the county manager or to the advisory personnel board.

The county manager shall hear the adverse action appeal and render a decision in writing within five (5) working days or may refer the matter to the advisory personnel board. If the manager hears the adverse action appeal, he shall report his decision to the employee and to the Board of County Commissioners within five (5) working days.

If a permanent employee shall appeal an adverse action to the advisory personnel board or if the county manager shall refer an adverse action appeal to the advisory personnel board established in accordance with these rules, the advisory personnel board shall hold a hearing thereon within ten (10) working days. Within five (5) days of the hearing, the advisory personnel board shall render a written advisory opinion to the employee and the manager. In a hearing before the advisory personnel board, the county must produce evidence to justify the adverse actions taken by the county regarding the employee. The employee must be given the right at the hearing to examine all the evidence and to cross examine witnesses. The employee has the right to be represented by a person of his choice. The advisory personnel board may hold an executive session for the purpose of making its decision. The advisory opinion of the personnel board shall be forwarded to the employee, the county manager, and the Board of County Commissioners.

Step three (3) competitive service employee.

If a competitive service employee is not satisfied with the step two decision, or if he fails to receive an answer within a reasonable period of time, he may file the grievance or adverse action appeal with the state personnel commission within thirty (30) days after receipt of notice of the local department head's step two decision. The request should be filed through the state personnel director.

The state personnel director or any other person or persons designated by the commission shall investigate the disciplinary action or alleged discrimination which is appealed to the commission. The state personnel commission may hear the case or direct the state personnel director or other person or persons designated by the commission to conduct a hearing of the facts and issues. If following the investigation and hearing, a settlement is agreed to by both parties, the state personnel director or the designated agent shall certify the settlement to the commission. If following the investigation and hearing, there are issues and facts on which agreement cannot be reached, the state personnel director or the designated agent shall report his findings to the commission with his recommendations. The commission at its next meeting, or as soon as possible thereafter, shall consider the report and modify, alter, set aside or affirm said report and certify its findings to the local appointing authority. Decisions which may be made by the commission include the reinstatement of an employee to the position from which he has been removed, the employment, promotion, transfer or salary adjustment of an individual to whom it has been wrongfully denied or other suitable action to correct the abuse which may include requirement of payment for any loss of salary which has resulted from the improper discriminatory action of the appointing authority.

The decisions of the state personnel commission shall be binding in appeals of local employees subject to the State personnel act if the commission finds that the employee has been subjected to discrimination or in any case where a binding decision is required by applicable federal standards. However, in all other local employee appeals, the decisions of the state personnel commission shall be advisory to the local appointing authority.

Section 4. Same - Discrimination

Any applicant for county employment, county employee or former county employee who has reason to believe that employment, promotion, training or transfer was denied him to that demotion, layoff or termination of employment was forced upon him because of his age, sex, race, color, religion, national origin, creed, political affiliation or physical disability except where specific age, sex or physical requirements constitute a bona fide occupational qualification

necessary to proper and efficient administration, shall have the right to appeal directly to the county manager (in the case of general county employment) or the state personnel commission (in the case of competitive service employment). A permanent county employee has the right to appeal using the grievance procedure outlined in Section 4 if he so desires. An employee or applicant must appeal an alleged act of discrimination within thirty (30) days of the alleged discriminatory action.

ARTICLE IX. EMPLOYEE BENEFITS

Section 1. Insurance Benefits

The county provides hospital and medical, dental, and life insurance for all employees including the following:

(a) **Employees and Retirees with Less than 20 Years Service.** All retired employees of Rutherford County who have continuously maintained their health coverage since their last day of work and who are receiving benefits under the North Carolina Local Governmental Employees' Retirement System will be eligible as of January 1, 1988 for health coverage under a non-group certificate provided such employees meet the requirements of the Administrative Services Agreement between Rutherford County and the Health Insurance Carrier the same may be amended from time to time, and provided such employee pays the requisite premium associated with such coverage. Surviving spouses of deceased retirees who maintained their health coverage from their last day of work until their death and who receive a survivor's alternate benefit under the North Carolina Local Governmental Employees Retirement System will be eligible for this same benefit provided they meet the requirements stated above. This policy is subject to amendment upon majority vote of the County Commissioners.

(b) **Employees with 20 Years Service.** All county employees who retire after January 1, 1988 and who have twenty years creditable service with Rutherford County and who receive benefits under the North Carolina Local Government Employees' Retirement System upon retirement will have their health insurance premiums under the county health plan paid for by Rutherford County if said employee is in the employment of the county at the time of retirement. All retired employees of Rutherford County who have twenty years creditable service with Rutherford County and who are covered as of January 1, 1988 under the county health plan will be eligible for this same benefit.

(c) **Totally and Permanently Disabled Employees.** Health insurance premiums will be paid by Rutherford County as of January 1, 1988 for all employees who become totally and permanently disabled while in the employment of Rutherford County and are eligible for disability retirement benefits under the North Carolina Governmental Employees' Retirement System. Those employees who are currently receiving disability benefits under this system are totally and permanently disabled, and are currently covered under the county health plan will be eligible for this benefit.

(d) **Commissioners and Coroners.** As of January 1, 1988, health premiums will be paid by Rutherford County for all County Commissioners and Coroners with twenty years service with Rutherford County which includes both time as an employee of the county or as an elected official of the county provided he/she is provided coverage after January 1, 1988.

The county may make other group insurance plans available for its employees upon authorization of the Board of Commissioners.

Section 2. Unemployment Insurance

In accordance with Public Law 94-566 and Chapter 1124 of the Session Laws of 1977 of the North Carolina General Assembly, local governments are covered by unemployment insurance effective January 1, 1978. County employees who are laid off or released from the county service may apply for unemployment compensation through the local office of the Employment Security Commission who will determine the employee's eligibility for this benefit.

Section 3. Old Age and Survivor's Insurance

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 4. Retirement Benefits

The county provides retirement benefits for its employees. The county provides a retirement program for employees through the North Carolina Local Governmental Employees' Retirement System and the Law Enforcement Officers' Benefits and Retirement Fund.

Each employee appointed to a permanent position shall be required to join one of the county retirement plans.

ARTICLE X. PERSONNEL RECORDS AND REPORTS

Section 1. Personnel Records Maintenance

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the county manager. The county shall maintain in personnel records only information that is relevant to accomplishing personnel administration purposes.

The following information on each county employee shall be maintained:

- (a) name;
- (b) age;
- (c) date of original employment or appointment to county service;
- (d) current position title;
- (e) current salary;
- (f) date and amount of most recent change in salary;
- (g) date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and
- (h) office to which the employee is currently assigned.

Section 2. Access to Personnel Records

As required by G.S. 153A-98, any person may have access to the information listed in Section 1 of this article for the purpose of inspection, examination, and copying, during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of Commissioners may adopt. Access to such information shall be governed by the following provisions:

- (a) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: Name of employee; information disclosed; date

information was requested; name and address of the person to whom the disclosure is made; purpose for which information is requested. This information must be retained for a period of two years.

(b) Upon request, records of disclosure shall be made available to the employee to whom it pertains.

(c) An individual examining a personnel records may copy the information; any available photocopying facilities may be provided and the cost may be assessed to the individual.

(d) Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

Section 3. Confidential Information

All information contained in a county employee's personnel file, other than the information listed in Section 1 of this article will be maintained as confidential in accordance with the requirement of G.S. 153A-98 and shall be open to public inspection only in the following instances.

(a) The employee or his duly authorized agent may examine all portions of his personnel file, except, (1) letters of reference solicited prior to employment, and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.

(b) A licensed physician designated in writing by the employee may examine the employee's medical record.

(c) A county employee having supervisory authority over the employee may examine all material in the employee's personnel file.

(d) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.

(e) An official of any agency of the State or Federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such information is deemed by the county manager to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability.

(f) Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.

(g) A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).

Section 4. Records of Former Employees

The provisions for access to records apply to former employees as they apply to present employees.

Section 5. Remedies of Employees Objecting to Material in File

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

Section 6. Penalty for Permitting Access to Confidential File by Unauthorized Person

G.S. 153A-98 provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars.

Section 7. Penalty for Examining and/or Copying Confidential Material Without Authorization

G.S. 153A-98 provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars.

Section 8. Destruction of Records Regulated

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

ARTICLE XI. IMPLEMENTATION OF POLICY

Section 1. Conflicting Policies Repealed

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

Section 2. Separability

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

Section 3. Violations of Policy Provision

An employee violating any of the provisions of this policy shall be subject to suspension and/or dismissal, in addition to any civil or criminal penalty, which may be imposed for the violation of the same.

Section 4. Effective Date

This policy shall become effective as of November 1, 1997.

